



# State of EPA Negotiations in January 2009

## Briefing note

Prepared by ECDPM,  
Maastricht (The Netherlands), 09 January 2009

### 1 Overview

By the end of 2007, one full regional Economic Partnership Agreement had been reached between the EU and CARIFORUM, which was signed on 15 October 2008. In all other negotiating regions, interim agreements covering mainly trade in goods were initialled between the EU and individual ACP countries and subgroups of countries, with a view to continuing negotiations towards full regional EPAs. The interim agreement between the EU and Cote d'Ivoire was signed on 26 November 2008. Signature of the interim agreements with Cameroon and Ghana has been authorised by the Council of the EU and might take place soon; the remaining interim agreements are planned to follow in early to mid 2009.

Signed agreements are now entering the ratification phase by the European Parliament as well as national parliaments. In the meantime, before ratification is completed, the (interim) EPAs are applied provisionally.

In parallel to the preparations for signature of the interim agreements, throughout 2008 negotiations towards comprehensive regional EPAs have been taking place in all regions, in line with the rendez-vous clauses contained in the interim deals. These clauses specify areas in which negotiations are to be held, in particular relating to trade in services and trade related issues, and in most cases set a deadline for concluding these by the end of 2008 (except for the agreements with ESA and EAC, which do not indicate a timeframe). However, at this point it seems very likely that work towards full EPAs may stretch into 2009 in all regions.

Some challenges for these negotiations include:

- *Timeframe for concluding full EPAs and status of interim agreements:* While actors in all regions have expressed the willingness to negotiate full EPAs that would supersede the interim agreements, it remains to be seen by when it will be possible to conclude these EPAs. Should negotiations face delays, the interim agreements might be applied over



a longer period than initially foreseen or even become the permanent agreements.

- *Contentious issues in the interim agreements:* The African Union Ministers of Trade and Finance<sup>1</sup> have identified a number of provisions contained in the interim agreements, which they demand to be reviewed during the negotiations for full EPAs. These issues include the definition of substantially all trade, transitional periods, export taxes, free circulation of goods, national treatment, bilateral safeguards, infant industry, non-execution clause and the MFN clause.
- *Thematic scope of full EPAs:* The rendez-vous clauses in the interim agreements specify areas to be addressed in negotiations (in particular relating to services and trade related issues), but cannot prescribe the outcome of these talks. Accordingly, if negotiations on services and trade related issues are concluded, there are various options of how provisions may be designed in the final agreements, ranging from comprehensive provisions to best endeavour language. Further, in order to address the specificities of individual countries and sub-regions, variable geometry might be applied within a region.
- *Harmonisation of the EPA process with regional integration initiatives in the ACP:* After interim agreements have been initialled with individual countries and sub-regions out of larger regional groupings, parties now aim at concluding full regional agreements, which harmonise commitments among all countries within a region. This is likely to be a crucial aspect in ensuring that EPAs will meet their initial objective of fostering regional integration, instead of complicating integration initiatives.
- *Development support for EPAs:* While all parties recognise the necessity of accompanying measures for EPAs, challenges relate both to the amounts and to the effective use of resources, which the EU foresees to be provided under its joint Aid for Trade (AfT) strategy. While the European Commission has made clear that it will not provide any additional finance for EPA support beyond the EDF, EU member states are expected to increase their AfT spending<sup>2</sup>. A challenge in implementing AfT is also the translation of commitments into concrete programming and the effective assessment of needs in ACP countries and regions.

---

<sup>1</sup> Addis Ababa Declaration on EPA Negotiations, adopted at the African Union Conference of Ministers of Trade and Finance, 1-3 April 2008, Addis-Ababa, Ethiopia, [http://www.acp-eu-trade.org/library/files/AU-Ministers-of-Trade-and-Finance\\_EN\\_030408\\_AU\\_Addis-Ababa-Declaration-on-EPA-Negotiations.pdf](http://www.acp-eu-trade.org/library/files/AU-Ministers-of-Trade-and-Finance_EN_030408_AU_Addis-Ababa-Declaration-on-EPA-Negotiations.pdf)

<sup>2</sup> The EU AfT Strategy specifies a concrete target of increasing EU trade related assistance (TRA) to €2 billion per year by 2010 (€1 billion each from the European Commission (EC) and from EU member states). As the EC is already close to providing its target, most of the increase in TRA is expected to come from member states. Around 50% of the increase is earmarked for ACP needs.



The ACP Council of Ministers meeting on 18 December 2008 adopted a resolution in which it expressed regret that it has not been possible to convene before the end of 2008 the consultation process between the ACP and EU leadership to address EPA concerns and interests, as foreseen and called for by the 6<sup>th</sup> ACP Summit of Heads of State and Government. They reiterated their resolve to ensure that the high level engagement takes place at the earliest opportunity in 2009 and in this regard, calls on the Presidency of the European Union to facilitate the said consultations. They also called on the European Commission to fully consult with the ACP Group as provided for in Article 12 of the Cotonou Partnership Agreement prior to making commitments to third parties that could negatively impact on ACP-EU trade relations. They further called on the European Union to provide a road map for the implementation of its commitments under aid for trade in a manner that will contribute to addressing supply side constraints and the social impact of trade liberalization as well possible loss in fiscal revenue.

The African Union Commission is also preparing, with the technical support of the United Nations Economic Commission for Africa (UNECA), an African EPA template. After consultation with and discussion by African ambassadors and senior trade officials, shall be submitted for approval to the African Ministers of Trade towards the end of January, with the ambitious objective to guide the negotiations with the EU.

## **2 Negotiations by Region**

### **2.1 Central Africa**

In the Central African negotiating region, only Cameroon initialled an interim agreement. This was scheduled to be signed on 27 November 2008; however, signature has been postponed to a yet to be determined date. Some observers speculate that the delay may be related to ACP concerns about the erosion of preferences in bananas should the EU reduce tariffs on bananas towards Central American countries in the context of FTA negotiations with the latter.

Negotiations towards a full regional EPA have been taking place in 2008 and are expected to continue in 2009. Outstanding issues include the Central African regional market access offer in goods, trade in services as well as development support in line with a Joint Orientation Document (JOD) on reinforcing production capacities and increasing economic competitiveness.

Gabon, as one of the non-LDCs in the region, had requested to be included into the GSP+ scheme, which was rejected in a decision by the European Commission on 9 December 2008, because Gabon had not ratified the International Labour Organisation Convention concerning Minimum Age for Admission to Employment No138, which is one of the conventions required to be ratified in order to benefit



from the GSP+ scheme according to the GSP regulation. There will be a new opportunity mid 2010 for countries to apply for GSP+.

In Cameroon, the Pilot Programme for Industrial Upgrading, Standardization and Quality has been launched on 11 December 2008. It is the first of several programmes carried out by UNIDO to strengthen private sector capacities in the context of EPA implementation.

The CEMAC Council of Ministers meeting on 19 December 2008 called on the CEMAC Secretariat to convene a meeting of ministerial level EPA negotiators as soon as possible to give new orientations to technical negotiators<sup>3</sup>.

The next joint meetings are expected to take place at technical and senior official level in the second half of January 2009, after the negotiation rounds foreseen in October and December 2008 have been postponed to allow the Central African region more time for internal preparation.

A regional information seminar on the EU-Central Africa EPA is scheduled for 25-26 February 2009 in Douala.

## **2.2 West Africa**

In the West African region, two separate interim agreements were initialled by Ghana and Cote d'Ivoire. The latter was signed on 26 November 2008; signature of the agreement with Ghana is expected to follow.

Negotiations towards a full regional EPA, which would supersede the interim agreements, have been going on in 2008 and aim at concluding by June 2009. In this context, the elaboration of a regional list of sensitive products and the adoption of an ECOWAS Common External Tariff have proven to be challenging but are progressing. Reportedly, the provisions on trade in goods are close to completion but some differences remain. Issues to be addressed in ongoing negotiations include rules of origin, trade in services and trade related issues. The region is further in the process of elaborating an EPA development programme (PAPED) to address development needs arising from an EPA; a draft version of this has been prepared.

Similarly to Gabon, Nigeria had requested entry to the GSP+ scheme, which according to a decision by the European Commission of 9 December 2008 was not granted because Nigeria had not ratified the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, which is part of the requirements to benefit from the GSP+ scheme according to the GSP regulation.

<sup>3</sup> Communiqué final, 18ème session ordinaire du Conseil des Ministres, CEMAC, 19 décembre 2008, [http://www.cemac.cf/Com\\_Presse/communiqué\\_finale\\_ministre\\_banqui2008.pdf](http://www.cemac.cf/Com_Presse/communiqué_finale_ministre_banqui2008.pdf), accessed on 8 January 2008



The next joint negotiation meetings at technical and senior official level are expected for 26-30 January 2009 in Dakar.

### **2.3 SADC**

In SADC, an interim agreement was initialled by Botswana, Lesotho, Namibia (BLNS), Mozambique and Swaziland. South Africa, despite forming a customs union (SACU) with the BLNS countries, has not joined the agreement so far and continues exporting to the EU under the Trade, Development and Cooperation Agreement (TDCA). Negotiations towards a comprehensive EPA are taking place and include South Africa.

Signature of the interim agreement was expected to take place by the end of 2008 but has been postponed, mainly due to the need for internal discussions in the region on how to move forward on outstanding market access offers on goods and on contentious issues in the interim EPA text which could encroach on space to use trade policy to serve economic and human development goals, to foster and develop local service sectors and to facilitate domestic regulation of service sectors. Botswana, Lesotho, Swaziland (BLS) and the EC want to now sign the IEPA so that it can be notified to the WTO and then continue negotiations towards a comprehensive, regional EPA. South Africa (and Angola and Namibia) maintains its position that changes are needed before signing the IEPA. The EC has indicated that the EU will go ahead and sign the IEPA with willing SADC states whether or not South Africa comes on board. If BLS sign against the wishes of the other members, this will result in two trade regimes operating within SACU, a situation which the EPA had intended on correcting. It was envisioned that the EPA would result in one trade regime between SACU and the EC, by rectifying the fact that there was the Cotonou Agreement for BLNS and the TDCA for South Africa. It is noteworthy that Angola, Botswana, Malawi, Mozambique, Namibia and South Africa will all go to the polls in 2009.

According to press reports<sup>4</sup>, the European Commission in December 2008 made a new market access offer to South Africa, in order to align the TDCA and the EPA with a view to preserving SACU.

In the negotiations towards a full EPA, outstanding issues remain on trade in services and investment provisions. The next joint meetings might be held in February 2009, possibly at the time proposed by the European Commission for signature of the interim agreement.

---

<sup>4</sup> South Africa: Country Welcomes Landmark European Trade Offer, Mathabo Le Roux, Business Day /allAfrica.com, 22 December 2008, <http://allafrica.com/stories/200812220101.html>, accessed on 7 January 2009



## **2.4 Eastern and Southern Africa**

After the initialling of an ESA-EC interim agreement by six countries<sup>5</sup> (with separate market access offers but a common text) and an EAC-EC interim agreement, negotiations with the EC towards a full agreement are taking place, both in the ESA and the EAC configuration and will continue in 2009. In March 2008, ESA countries announced that they were going to continue negotiations with the EC as a collective body of 16 countries. Accordingly, EAC countries participate in ESA meetings, but they nevertheless hold separate EAC-EC negotiations in parallel.

The ESA-EU interim agreement is expected to be signed by the end of April 2009 in Mauritius.

Outstanding issues in the negotiations towards a full EPA in the ESA configuration include provisions on trade in goods, trade in services, trade related issues as well as development support in line with a development matrix compiled in the region. In the EAC configuration, issues that negotiators will still need to address include the imposition of a duty or export tax in emergency cases, the MFN clause, technical barriers to trade, development cooperation, trade related issues and trade in services.

At a Tripartite Summit in October 2008, COMESA, SADC and EAC further decided to harmonise their trade arrangements with the view to a common free trade area.

The next ESA-EC technical level negotiation meetings are expected to be held in January 2009 in Brussels.

## **2.5 Caribbean**

After a full regional EPA was signed and notified to the WTO in October 2008, the EPA is (since 29 December 2008) being applied provisionally during the process of ratification by the European Parliament and Caribbean and EU national parliaments. Haiti has not yet signed the EPA. The EU may likely have to revisit scrutiny of the CARIFORUM EPA excluding Haiti before the ratification process can start.

In the Caribbean, CARIFORUM is preparing an EPA Implementation Road Map and several member states are setting up national implementation units. Caribbean Heads of State and Government are still expected to agree which organisation will be in charge of coordinating the implementation of the EPA at regional level. At a meeting of the CARIFORUM Council of Ministers held in

<sup>5</sup> Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe and Zambia initialled the agreement in 2007. Zambia submitted its market access schedule only in 2008 (initialled with the EC on 30 September 2008) and was therefore temporarily exporting under the EBA regime from January to December 2008.



December 2008, the Dominican Republic presented four options, including the CARICOM Secretariat, a new CARIFORUM EPA Implementation Authority, the Caribbean Regional Negotiating Machinery and the Caribbean Export Development Agency, expressing preference for one the last two options<sup>6</sup>.

Concrete needs on EPA support in line with the development provisions in the EPA text in the region are being determined through several studies. This process is led by the Regional Preparatory Task Force.

## 2.6 Pacific

In the Pacific region, negotiations towards a comprehensive regional EPA are taking place after an interim agreement with the EU was initialled by Papua New Guinea and Fiji. Negotiations are expected to continue in 2009.

The Pacific countries have proposed to focus the full EPA on trade in goods, fisheries and development cooperation. The region prefers not to include provisions in services at this stage, but to formulate a rendez-vous clause to negotiate trade in services at a later point.

## 3 Additional resources on [www.acp-eu-trade.org](http://www.acp-eu-trade.org)

- For **more detailed information** on the ongoing negotiations prepared by ECDPM, please refer to the longer version of the EPA Negotiations Update published in the monthly [Trade Negotiations Insights](http://www.acp-eu-trade.org/newsletter/tni.php), available at [www.acp-eu-trade.org/newsletter/tni.php](http://www.acp-eu-trade.org/newsletter/tni.php)
- **Background information** on EPAs, an **overview of the agreements** initialled and signed so far, the **texts of the agreements** and **summaries by region** are available at [www.acp-eu-trade.org/epa](http://www.acp-eu-trade.org/epa)

### Contacts:

San Bilal ([sb@ecdpm.org](mailto:sb@ecdpm.org)) and Corinna Braun-Munzinger ([cbm@ecdpm.org](mailto:cbm@ecdpm.org))

### EUROPEAN CENTRE FOR DEVELOPMENT POLICY MANAGEMENT (ECDPM)

Onze Lieve Vrouweplein 21  
NL-6211 HE Maastricht  
The Netherlands  
Tel +31 (0)43 350 29 00,  
Fax +31 (0)43 350 29 02

Rue Archimède 5,  
B-1000 Brussels  
Belgium  
Tel +32 (0)2 237 43 10,  
Fax +32 (0)2 237 43 19

**More information:** [info@ecdpm.org](mailto:info@ecdpm.org) [www.ecdpm.org](http://www.ecdpm.org) [www.acp-eu-trade.org](http://www.acp-eu-trade.org)

<sup>6</sup> The Dominican Republic shares perspective on EPA implementation, press release, CRNM, 10 December 2008, [http://www.crn.org/documents/press\\_releases\\_2008/pr0819\\_The\\_DR\\_Shares\\_Perspective\\_on\\_EPA\\_Implementation.pdf](http://www.crn.org/documents/press_releases_2008/pr0819_The_DR_Shares_Perspective_on_EPA_Implementation.pdf), accessed on 8 January 2009