

Trade Negotiations Insights

From Doha to Cotonou

Vol.4 No.3
May-June 2005

Contents

- 1 Negotiating the Trade and Development Dimensions of EPAs – A Way Forward
- 4 Commodity Protocols, the WTO and EPAs
- 6 EPA Negotiations Update
- 8 Calendar & Resources

In This Issue

A topical debate on the EPAs is whether they can guarantee the development dimension they promise. Our lead article examines some strategies for ACP countries to consider in negotiating both the trade and development angles of the EPAs with the European Union in order to maximise the full benefits of these agreements.

Our second article analyses the future of the Lomé commodity protocols - bananas, sugar, beef and veal. It looks at the impact of WTO trade disputes and negotiations on these key ACP commodities as well as the EU's internal reforms. Our usual update follows EPA regional developments.

Negotiating the Trade and Development Dimensions of EPAs – A Way Forward

Mark Pearson*

If ACP regional groupings are to complete the process of negotiating Economic Partnership Agreements (EPAs) with the European Commission (EC) they need to prepare for negotiations on two issues – trade and development. The difference between an EPA and the alternatives (Everything-But-Arms (EBA) for least developed countries (LDCs) and the generalised system of preference (GSP) for non-LDC developing countries) is that the EPA process gives ACP countries the opportunity to *negotiate* the best trade and development deal they can get, rather than simply be given what the EC thinks is a fair trade deal for ACP countries, and what the EC considers an European Development Fund (EDF) allocation which is adequate for development purposes.

Trade Negotiations on market access

Trade negotiations revolve around negotiating a Free Trade Agreement (FTA) between each of the six ACP negotiating group and the European Union (EU). This is the part of the EPA negotiations which needs to be completed by 31st December 2007.

GATT Art. XXIV¹

As things stand at present, if an ACP negotiating group wishes to negotiate an EPA it will need to have negotiated an FTA with the EU which is in conformity with Article XXIV of the General Agreement for Tariffs and Trade (GATT) 1994 by 31 December 2007.²

The main provisions of GATT Art. XXIV to consider are that duties and other restrictive regulations “are eliminated on substantially all the trade between the constituent territories in products originating in such territories” and the schedule for the formation of an FTA should be completed within a “reasonable

length of time” which should “exceed 10 years only in exceptional cases”.

FTA negotiations with the EU will need to cover trade from the EU into the ACP group and trade from the ACP group into the EU. The latter would not seem to be contentious and the EU must provide each ACP negotiating group with full market access covering 100% of all trade into the EU from the ACP negotiating group.

Most, if not all, ACP negotiating groups are a combination of developing countries and LDCs. The EU has already granted EBA to LDCs so, in order to fulfil the objective of using EPAs to strengthen the regional integration process, it must grant equal market access to all countries in an ACP negotiating group, whether they are developing countries or LDCs.

Failure to provide each member State of each ACP negotiating group with equal market access into the EU will preclude



the negotiating group from deepening its integration as, for example, the group will not be able to move towards a customs union since it will not be able to implement a Common External Tariff. It can, therefore, be reasonably assumed that the EU will grant full market access to ACP EPA negotiating groups and that this market access will be contractual.

“As there has never been an FTA negotiated between a developed country and a group of predominantly LDCs, there is a strong argument to agree the definition of “substantially all trade” [in GATT Article XXIV] to be significantly lower than a 90% average. ”

The main trade issue to be addressed by ACP negotiating groups is, therefore, the level of market access each group should provide to the EU into its markets. The level of “substantially all trade” referred to in Article XXIV of GATT is often interpreted by the EU as covering an average of 90% of trade between the parties. In the case of the EPA negotiations, if the ACP group has 100% market access into the EU, it could offer the EU 80% market access into its markets, to get an average of 90% of trade covered. However, the 90% definition of “substantially all trade” used by the EU is generally accepted as referring to FTAs between developed countries.

As there has never been an FTA negotiated between a developed country and a group of predominantly LDCs, there is a strong argument to agree the definition of “substantially all trade” to be significantly lower than a 90% average.

There is also a strong argument to suggest that the time period for full implementation should be longer than 10

years as EPA negotiations would surely qualify as an “exceptional case”.

Needs assessment

Rather than negotiating for a fixed percentage of trade from the EU into the ACP group, and a fixed transition period, each ACP negotiating group should first assess their needs. This can be done as follows:

i) Each member State of the ACP negotiating group should define the “sensitive products” for which they do not want to remove duty on EU imports. Sensitive products may be a product which a country produces, such as wheat, and products in that value chain, such as wheat flour and food products containing wheat flour.

ii) Once the member States’ sensitive products have been identified they need to be aggregated into a regional list for the ACP negotiating group. It then needs to be decided which tariff lines can be phased down, with the least sensitive products phased down first, the more sensitive phased down last, and the most sensitive products not phased down at all and kept out of the FTA.

iii) The value of the products which are to be excluded from the FTA needs to be calculated as a percentage of total trade.

iv) Finally, these policy scenarios need to be modeled so as to get a best estimate of the revenue, welfare and competitive effects of each of them. The outcomes of this modeling exercise will inform the ACP negotiating groups as to what adjustment mechanisms need to be negotiated, and the size of the adjustment mechanisms, as well as providing information on any necessary safeguard measures which would need to be put in place by the ACP negotiating groups.

If this exercise is completed and used in the EPA negotiations it is possible that each ACP negotiating group will be able to negotiate an EPA which is neutral in effects on revenue and competitiveness and positive in additional resources from the adjustment facility and in the safeguard measures, which would need to be automatically triggered if there are sharp increases in imports from the EU.

If an EPA negotiating group lacks the resources or the technical ability to carry out the above-mentioned technical work, there are a number of agencies and

other organisations that would be able to assist it. If each ACP negotiating group started on this exercise in the near future, the exercise could be completed well in advance of 31st December 2007, leaving sufficient time for each ACP negotiating group to negotiate an EPA, adjustment facilities and safeguards which are of benefit to them before the WTO EU-ACP waiver expires.

If EPAs are not negotiated within this period there is a danger that the EU will simply offer EBAs to LDCs and GSP to non-LDCs.

Should the ACP request an extension of the EU-ACP partnership waiver?

As is well known, the EC requested a waiver in the WTO from its obligations under paragraph 1 of Article I of the General Agreement with respect to the granting of preferential tariff treatment for products originating in ACP States and this waiver was agreed as part of the Doha Development Agenda. The “Decision on waiver for EU-ACP Partnership Agreement” which forms part of the Doha Ministerial Declaration considers that the “Agreement establishes a preparatory period extending until 31 December 2007, by the end of which new trading arrangements shall be concluded between the Parties to the Agreement”.

“...rather than divert scarce resources to debating whether or not the waiver should be extended, emphasis should be placed on whether there is a need for an extension of the waiver, meaning concentrating resources on assessing whether or not ACP regions can complete the components of the EPA negotiations by 31 December 2007...”

The waiver is, therefore, time-bound and expires at the end of December 2007. The initial waiver “cost” the ACP a concession of 25,000 tonnes of tuna

imports into the EU from Thailand and the Philippines at reduced tariff rates, which eroded the preference margin for tuna for ACP countries into the EU market. If the ACP countries press for another waiver it is unclear as to what the cost of the waiver to the ACP would be.

It is also unclear as to where a challenge would come from but if there is a challenge it may well come from non-ACP developing countries.

There is some debate about whether the ACP should be held to the time limits of the waiver when the Doha Development Round is far from reaching completion point, and has missed the original "single undertaking" deadline of 1st January 2005. This is particularly relevant when one considers the close link between EPA negotiations and negotiations taking place at the WTO. However, rather than divert scarce resources to debating whether or not the waiver should be extended, emphasis should be placed on whether there is a need for an extension of the waiver, meaning concentrating resources on assessing whether or not ACP regions can complete the components of the EPA negotiations necessary to be completed by 31 December 2007 in order to be in conformity with WTO requirements.

Development Negotiations

Despite the fact that preparations for negotiations on EPAs at the regional level have been on-going for a year or more, it is still not clear how the development component will be negotiated.

The interpretation of the EC would appear to be that the EDF will meet the needs of the ACP negotiating regions in implementing EPAs. This is contested by the ACP but until the ACP negotiating groups are able to quantify and articulate their needs, no progress in this debate should be expected. Development issues are both sectoral and cross-cutting.

Sectoral issues

Dealing with sectoral issues first, each ACP negotiating regional needs to determine the sectors in which they require development assistance. These will probably include the sectors of sanitary and phyto-sanitary (SPS) measures; standards; fisheries; trade facilitation (including upgrading of

infrastructure); trade in services; and intellectual property.

In these sectors, needs assessments will be required and, based on these needs assessments, a costed proposal could be produced. If the example of SPS is used, an ACP negotiating region will first need to carry out a stock-taking exercise of what is in place at present. Based on the stock-taking, the group could then do a needs assessment to meet a particular target, such as being able to conform to EU Food and Feed Regulations in cut flowers and fruit and vegetables. This needs assessment could then be costed and the resultant proposal could form the basis of negotiations with the EU.

This exercise could take place in each relevant sector. It is not necessary to complete these negotiations by 31 December 2007 to comply with WTO provisions but it may be necessary to complete this exercise as soon as possible to ensure that the EU makes the necessary budget provisions to meet these requirements.

"Despite the fact that preparations for negotiations on EPAs at the regional level have been on-going for a year or more, it is still not clear how the development component will be negotiated ... but until the ACP negotiating groups are able to quantify and articulate their needs, no progress in this debate should be expected"

Cross-cutting issues

Development as a cross-cutting issue refers to meeting of adjustment costs and removal of supply-side constraints.

There has been a lot of emphasis placed on the demand-side of the development equation, meaning that if the ACP put in place regulatory systems that are transparent, rules-based and investor

friendly, foreign direct investment will flow into ACP countries and development will take place. It is, however, probably too simplistic to argue that once the demand side is taken care of, and economic distortions are removed, each country will have a competitive advantage in something and will be able to supply this to the rest of the world.

What is required by the ACP countries is a set of tools which address the removal of supply-side, not just demand-side, constraints. The supply side involves ensuring that an infrastructure to support competitive production is put in place.

In the past, attempts to remove supply-side constraints have been general and generic. For example, there have been attempts to get donors to finance the rehabilitation and/or reconstruction of national transport networks, with varying degrees of success.

A more targeted approach to removal of supply-side constraints, which is linked to increases in productive capacity could be a more effective and efficient strategy to adopt. Each EPA negotiating region could develop such a targeted approach. In this way the ACP could be brought into a viable and sustainable multilateral trading environment which would be for the benefit of all.

Endnotes

* Advisor Regional Integration, COMESA Secretariat

¹ For further discussion on the WTO-compatibility of EPAs, see also the background documents of the recent ECDPM-ICTSD-Christian Aid meeting held in Geneva on 22 April 2005, www.ecdpm.org/trade/events

² The GATT is the predecessor of the World Trade Organisation (WTO), more information on the history of the WTO is available at http://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr01_e.htm

Commodity Protocols, the WTO and EPAs

H.E. Edwin Laurent*

Special preferential trading arrangements managed by the European Union (EU) in favour of the African Caribbean and Pacific Group of countries (the ACP) have, for several decades, provided secure access for a number of their commodity exports to the EU market, where current prices are substantially above those existing on the world market. These agreements are enshrined in various marketing arrangements and commodity Protocols notably the 1993 Common Organisation of the Market in bananas (COM) established by EC Regulation 404/93 and Protocols 3 and 4 of the ACP-EU Partnership Agreement of 2000 in respect of Sugar¹ and Beef and Veal respectively.

According to the beneficiary countries, the arrangements contribute to stability of rural incomes and employment and have been the foundation for their national economic growth and development. They argue that the preferential trading arrangements boost or even enable the development of domestic production through providing guaranteed access to lucrative overseas markets. World market prices have, in general, been too low to cover costs of production and offer a remunerative return to ACP producers. Between 1990 and 2001, average EU prices of sugar were 61.14 US cents/kg as opposed to 22.20 US cents/kg on the world market.² For bananas the price was US\$569 per tonne in the EU as opposed to \$347 on the world market. The differential was greatest for beef and veal with the average internal EU prices more than double world market prices i.e. \$4,761 per tonne as opposed to \$2,300.³

These Protocols can be seen as *de facto* 'commodity agreements,' which using various devices, provide secure market access and guaranteed prices or remunerative returns for participating suppliers. Jayant Parimal, in a survey of bilateral commodity agreements conducted for the Commonwealth Secretariat entitled, "*Bilateral Commodity Agreements- New Generation Grey Area Measures? A Scoping Study*", found that many have a major impact on prices and market access and can distort trade. His surprising finding was that a large number are between and among developed countries. They cover such products as steel, telecommunications equipment, softwood lumber, wines and spirits and automobiles. The three commodity arrangements might not therefore be the aberration that they first appear, what makes them distinct is that they benefit developing countries.

The production and export of these commodities dominates the economic life of several ACP States. Protocol

exports to the EU of beef and veal amounted to \$109,629,247 averaging a quarter of the agricultural exports of the countries. Bananas totalled \$41,011 365 while sugar was \$385,691,922.⁴

Given the heavy dependence of these countries on commodity exports, if for whatever reason changes in the character or operation of the trading arrangements result in significant price declines, income and employment stability can be jeopardised. Threats to the Protocols are emerging, principally from the WTO; the first was bananas and then sugar. This paper assesses the threats and analyses the question of whether Economic Partnership Agreement (EPA) negotiations between the EU and ACP Regions could offer solutions and if not what options are open to affected countries.

The banana dispute in the WTO

The threats to bananas can be traced to 1993 when Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela initiated a complaint in the GATT against the COM that had introduced EC Regulation 404 of 1993 as an attempt to translate the existing national import regimes into an economically equivalent but unified system. The first WTO Banana Panel was established in 1996 and ruled against crucial elements of the regime; most critically the allocation of quotas to non-substantial suppliers and the "B" licensing system, deemed incompatible with GATT Article XIII and with the GATS respectively.

In an attempt to comply, the EC introduced a new system on the 1st January 1999⁵ that abandoned the "B" licences and country specific quotas for the non-substantial suppliers, viz., Nicaragua, Venezuela and the individual ACP suppliers. The new system was again challenged, this time by Ecuador, claiming that the EC had still not fully complied. The re-established Panel ruled in favour of Ecuador. This further

defeat was compounded by the US imposition on 3rd March 1999 of \$191 million worth of trade sanctions against the EC. After intensive negotiations, the Commission in April 2001 reached agreement with the USTR and with Ecuador to end the dispute. The WTO Dispute Settlement Body at its meeting of the 16th May 2001 considered the report by the EC on the changes and withdrew the Banana Dispute from its agenda. A GATT Article XIII waiver for the ACP quota was obtained in November 2001. That quota was reduced on 1 January 2002 by 100,000 tonnes that were transferred to the MFN quota.

The single tariff for bananas

Consequent on the April 2001 Agreements, the quota-based system is set to be replaced at the start of 2006 by a single tariff that should have the equivalent impact on imports and offer the same protection.

Given the surplus of bananas on the world market, in the absence of licences and quotas, supplies will inevitably be diverted to Europe. This can lead to market over-supply and price wars. Any resulting instability is likely to threaten weaker suppliers since market prices will tumble, at least in the short-term.

After having received a Council mandate in July 2004, the Commission conducted consultations with the principal suppliers. They failed, and using the price-gap method, the Commission computed 230 euros to be the tariff equivalent of the quota system. On 30th March 2005 nine MFN suppliers jointly requested Arbitration and the WTO's Director General appointed three Arbitrators. In the current proceedings, the Commission is defending the rate of 230 euros against the MFN suppliers who are seeking 75 euros, while the ACP argues for 275 euros.

The threat to sugar

Pre-empting internal and external pressures and obligations to "liberalise" its sugar sector, the EU Commission, in

July 2004, announced plans for sugar market reform. The Plan, to be implemented over 4 years with a review in 2008 will, “*Substantially cut back sugar exports and export refunds, abolish intervention, reduce EU production and the informal sugar price and grant a de-coupled payment to sugar beet farmers*”. According to the impact projections of the Commission, support prices will drop by 33% over three years with the final implied raw sugar price falling to 329 euros per tonne.

In a communication to the European Parliament on the 14th July of that same month, the Commission proposed to reduce the support price for EU sugar in two steps firstly with the abolition of the intervention price and then the introduction of a reference price. This reference price will serve in the establishment of a minimum price of sugar beet producers. It also noted that a basis will be provided for initiating a structured dialogue with “*EU partners in the developing world on the sugar sector, in order to consider the manner in which the EU can best contribute to necessary and inevitable adjustment in sugar production in African, Caribbean and Pacific countries and India.*”

The negative economic consequences of such a major fall in prices and hence revenue will be considerable. The Commission has however confirmed that it will assist the Protocol countries and India to adapt to the new market conditions with programmes for improving the competitiveness of the sugar sector, where it is economically viable, and provide support for diversification, when improvements in competitiveness in the sugar sector are not sustainable.

Independently but concurrently, Dispute Settlement proceedings had been underway in the WTO, initiated by Australia, Philippines and Thailand. The Panel’s findings, upheld on appeal, ruled against aspects of the arrangements for the subsidies provided under the EC sugar regime, which also incorporated the framework for the guaranteed price received by ACP sugar suppliers.

What are the options?

The impact of the liberalisation process has been most dramatic in the case of bananas where the reforms and changes resulted in lower prices for the ACP and in some cases; exports have consequently fallen sharply or even disappeared.⁶ Problems of a similar nature are looming with sugar, where St Kitts announced in April 2005 that it would be halting sugar production. Unless the countries can preserve the preferential regulations that ensure relatively high prices and secure access, they will have no choice

but to reduce their costs of production or find new sources of replacement income or both.

Do EPAs offer the solution?

In light of current and possible future threats to continued preferential access for these commodities, the question facing the commodity dependent ACP States is whether to use the EPA negotiations to seek to safeguard their trade. To answer that question it would be necessary to deal separately with the commodities.

Bananas

The benefit to the ACP currently derives not from the provisions of the Protocol *per se*, but rather the tariff rate quota system. If that system is replaced by a single tariff in 2006 then the issue for EPAs will be ensuring that bananas enjoy duty free treatment like most of their other exports on all their exports. The ACP will also be seeking to preserve the beneficial features of the Protocol in EPAs.

Sugar

Protocol III is of indefinite duration and is already *acquis* (that is, part of EU law) and is not up for renegotiation in the EPA negotiations. The future for ACP sugar will instead be determined by internal EU reform and WTO negotiations. While the EPA can address price determination and related issues, the Protocol Members would have no interest in reviewing the fundamentals.

Beef and veal

Protocol IV assigns quotas to six ACP countries, which will doubtlessly be seeking to preserve them in the EPA negotiations. The only commodity whose future could well be determined by the EPA negotiations is beef and veal.

The Diversification Imperative

For ACP commodity dependent suppliers to safeguard their living standards, growth and development prospects in the context of declining earnings from their traditional exports, they must rapidly and successfully adapt to market changes and invest in new productive activities. These countries, however, face economic constraints that can preclude their successful application of conventional economic remedies; hence adjustment policies must be informed by familiarity with their circumstances. The impediments that they face include; labour market rigidities; undeveloped capital markets that are not sufficiently effective in mobilising and disbursing funds for investment; a lack of success in attracting foreign investment despite a generalised

improvement in their investment climate and the small size of the domestic market which obliges reliance on exports even in the current context of the decline of trade preferences and the intensification of international competition. Governments have critical roles to play through their clear commitment to diversification, providing a predictable, stable and supportive environment for business (both local and foreign), institutional support and investment incentives, marketing support, technology and quality improvement, promoting the upgrading and adaptation of the labour force and of managers through technical education and training. It is essential that investment incentives are coherent with the policy of diversification into areas in which the countries have existing or potential advantage.

While ACP countries understandably seek to preserve the lucrative commodity trading arrangements, there is no certainty of indefinitely preserving the benefits even with successful EPA negotiations. The countries will therefore need considerable multi-faceted external financial and other support for the adjustment and diversification of their economies as income and employment in the traditional commodity sectors decline.

Endnotes

* Special Envoy to the EU for Dominica, St Lucia and St Vincent & the Grenadines

¹ The Sugar Protocol, originally signed on 28 February 1975, committed the European Communities (EC) “*for an indefinite period to purchase and import, at guaranteed prices, specific quantities of cane sugar, raw and white which originate in the ACP States and which these States undertake to deliver to it.*” Protocol 3 of the ACP-EU Partnership Agreement, Cotonou, Benin, 2000

² Milner C. R. and Morgan L.W. “The impact of the ACP of the reduction by the EU of import export subsidies on Sugar”

³ R. Grynberg and S. Sacha, “*Preference-Dependent Economies and Multilateral Liberalisation: Impact and Options.*” Commonwealth Secretariat 2004 (Unpublished).

⁴ Grynberg and Sacha.

⁵ The EC implementation measures are contained in i) EC Regulation No. 163/1998 amending the parent EC Regulation No. 404/1993 which established the COM in bananas, ii) EC Regulation No. 2362 of 1998 which laid down the detailed rules for giving effect to Regulation 404 of 1993. Both the EC 1998 Regulations 1637 and 2362 were applied from 1 January 1999.

⁶ Major losers have included Cape Verde and Madagascar which no longer export and the Windward Islands Surinam and Jamaica whose exports have declined tremendously.

EPA Negotiations Update

By Melissa Julian, ECDPM

Central and West Africa

EC negotiators met in March in separate meetings with their West and Central African counterparts in the first joint meetings of the Technical Negotiating Groups on Customs Procedures, Trade Facilitation and Border Protection and on Technical Barriers to Trade (TBT) and Sanitary and phytosanitary measures (SPS). Discussions aimed to define the policies, instruments and capacity building support necessary to help overcome TBTs, enhance the Communauté Économique et Monétaire de l'Afrique Centrale (CEMAC) and The Economic Community Of West African States and Union Economique et Monétaire Ouest Africaine (ECOWAS/UEMOA) regional integration processes and facilitate the free circulation of goods between countries and those regions and with the EU. The meetings were the first to focus on detailed issues of substance for the EPAs.

In the Customs Procedures group, West African negotiators informed their EC counterparts that the UEMOA Common External Tariff (CET) is scheduled to be adopted by all ECOWAS Member States at its Summit in June. Trade within the region, however, needed to be improved and participants discussed how to support this in the EPA and Regional Preparatory Task Force (RPTF) frameworks. Information on most individual West African Member States was provided.

In the SPS/TBT Group, West African negotiators stressed the need for support to be provided for national and regional institutions and policies and strategies on SPS to assist regional integration and encourage trade, investment and consumer protection.

In their Customs Procedures Group, CEMAC provided information on its CET and explained the problems it faces in its application, especially in relation to the many derogations permitted. CEMAC presented a detailed list of the areas where it requires EC support to help operationalise the CET.

CEMAC's technical capacity in the area of SPS and TBT issues was evidently lower and the EC recognised the need for support to increase this. CEMAC, however, did raise specific sectoral problems and stressed the need for the EC to help address these.

At the end of April, CEMAC provided a first draft of the country by country information on Customs Procedures, Trade Facilitation and Border Protection, TBT and SPS sections of the joint report being prepared on the state of regional integration and frame of reference for the EPA. The EC is considering the text and will insert its suggestions for discussion at the next Technical Negotiating Group meetings. ECOWAS will provide draft texts in the same areas as the basis for discussion with the EC in their next meetings.

An informal seminar for West and Central African EPA negotiators was held in Brussels from 25-28 April to exchange information on the state and prospects of negotiations in each region. It provided the opportunity for discussions with EC officials (beyond DG Trade, i.e. including in areas of SPS, etc.) on the key areas of EPA negotiations. Issues discussed included *inter alia*: trade in goods; free trade areas; Article XXIV of the General Agreement on Tariffs and Trade which sanctions regional trade agreements within the WTO context; Common External Tariffs; customs legislation and procedures and cooperation; transition measures; trade facilitation; administrative capacity; institutional structure; rules of origin; trade in services; investment; technical norms; SPS; trade related issues. African negotiators added the issue of increasing productivity and competitiveness to the agenda and made detailed presentations on these issues which they would like included in the actual EPA trade negotiations (the EC maintains these are issues for the RPTFs)

Southern African Development Community

The second Southern African Development Community (SADC) EPA Grouping and EC Senior Officials Senior Officials meeting which took place in Gaborone on 28 April agreed to finalise a report on SADC Trade integration in view of establishing the starting line for the future EPA. This report should notably propose the way forward for issues related to multiple membership in trade arrangements in Southern Africa, reciprocity and differential treatment in the future agreement. Discussions continue between the two parties on the precise

final contents of the document. A final draft version is expected to be ready at the end of May. Both sides also discussed progress reports on SPS and TBT with a view to facilitate SADC access to EU legislation.

Finally both sides discussed organisation of future EPA negotiations notably deciding to open negotiations also on issues such as Rules of Origin, Trade Facilitation and Customs Cooperation. SADC also proposed to have a separate discussion on what constitutes regional integration. Both sides agreed that the list of negotiating issues remain open.

The Senior Officials meeting was preceded by the first meeting of the SADC-EC RPTF which discussed some of the non-trade related regional integration issues.

Technical working groups meetings on TBT, SPS and customs issues were held in March. Discussions focussed on identifying areas for facilitating and strengthening intra-regional integration, bi-regional cooperation, technical assistance and capacity building in the above areas.

Eastern and Southern African region

The East and Southern Africa (ESA) EPA region is in the process of consolidating their internal structures and negotiations positions on the various issues to prepare for negotiations with the EC due to be launched in the second half of this year.

A third round of training sessions/workshops was held on trade in services in March to help ESA Member States conduct an audit of services to prepare for the requests and offers phase in EPAs/WTO/General Agreement on Trade in Services (GATS) negotiations.

The First Round of Negotiations by the Regional Negotiating Forum on the Common Market for Eastern and Southern Africa (COMESA) Common Investment Area (CCIA) was also held in March. The objective of creating the CCIA was to set up one large economic space that would attract greater and sustainable levels of foreign direct investment, both regionally and international by allowing for free movement of capital, labour, goods and services across borders of Member States and opening up their countries to foreign

investment at a pace that takes into account their developmental strategies.

A WIPO (World Intellectual Property Organisation)/COMESA Researchers training workshop was held in March to prepare for an assessment of the intellectual property rights (IPR) systems in the region with a view to using IPR as a tool for development.

The first ESA dedicated session on agriculture was held in April. Discussions focused on how to maintain existing market access and the need for ESA countries to address the adverse impact of EU's subsidy regime on ACP products as well as SPS requirements and TBTs. The meeting considered specific areas that will require development support under an eventual EPA agreement in these areas. The meeting also considered the on-going WTO negotiations process and how it relates to EPA negotiations with particular reference to the compatibility of EPAs to the WTO.

The Pacific region

A fourth round of national level workshops were held in March and April in 13 of the 14 Pacific ACP States (PACPS) (only Nauru still to be held in June) to facilitate specific and detailed negotiating positions that would reflect the national interests of all the PACP States in EPA negotiations expected to commence with the EC later this year.

The workshops considered studies on a Multilateral Fisheries Partnership Agreement and a possible Tourism Partnership Agreement. They also considered studies on investment and a possible Investment Promotion and Protection Agreement Plus for inclusion in a Pacific EPA. The workshops also considered technical issues relating to GATT Article XXIV issues and market access

The Caribbean region

The second CARIFORUM-EC Technical Session on Market Access Issues relating to the Regional Integration dimension of EPA negotiations was held in Brussels on 30-31 March. Discussions focussed again on the Caribbean's regional integration processes – CARICOM Single Market and Economy (CSME) and CARICOM-Dominican Republic FTA. CARIFORUM requested EC support to prepare the legal, institutional and fiscal reforms that may be necessary to implement these. The

EC continues to call for a single Caribbean Customs Union and trade reciprocity to be applied to all its Member States, including least developed countries (LDCs) (these are currently excluded in CARICOM agreements).

On TBT, CARIFORUM called for EU support in getting the recently established regional standards body (the Caribbean Regional Organisation for Standards and Quality) up and running effectively. On SPS, the Caribbean put forward a proposal for EC support to create a regional body to coordinate and support implementation of SPS and comply with EC SPS measures at national level (the Caribbean Agricultural Health and Food Safety Agency).

A Caribbean Technical Working Group (TWG) on Services and Investment was then held on 21-22 April to prepare for the CARIFORUM-EC Technical Session on Services and Investment related to the regional integration dimension of EPA negotiations held immediately after. Both sides saw GATS as a good, but insufficient basis for work on these issues because it is not flexible enough to encompass fully development concerns. EPAs are therefore seen as an opportunity to address the limitations of GATS. Negotiators considered the draft CARICOM agreements on investment and financial services. The Caribbean requested EC support for a regional investment promotion agency. They also examined a list of restrictions, barriers to services in the CSME to dismantle by end of year. Both sides traded lists of major services that constituted their respective interests with the Caribbean enumerating telecommunications, health related tourism, business services, maritime transport, cultural and entertainment services. CARIFORUM also quizzed the EC on the architecture of their internal services regime and the impact on CARIFORUM suppliers in light of the Bolkenstein proposals that are presently under consideration by EU member states.

Ensuring Effective EU Structures to Deliver EPAs Development Objectives

There has been no official EC or EU Member State response to the UK government paper issued in March challenging several of the EC's EPA negotiating positions¹ (in fact the paper was never formally presented for

discussion). Unofficially, EC and EU Member States officials suggest that the paper was intended more for domestic use to appease NGOs during the recent UK elections.

Many feel the proposals are quite radical, even WTO incompatible, and contrary to the EC's EPA mandate agreed by all EU Member States and may jeopardise the UK's credibility on EPAs in the run up to its sixth month EU Presidency starting in July (another reason perhaps the UK itself did not push the paper further). However, it would be incorrect to dismiss this as only one EU Member States' election tactic. There are other EU Member States who are also increasingly concerned about the possible negative consequences of EPAs and how these are being addressed within EPA negotiations and in parallel to them.

There are several upcoming meetings which will provide an opportunity for Member States to discuss the EC approach and Member States views on EPAs and provide an opportunity to discuss how to provide a more effective flow of useful information to Member States.

Footnotes

¹<http://www.dti.gov.uk/ewt/epas.pdf>

Trade Negotiations Insights

Published by

- International Centre for Trade and Sustainable Development
Tel : + 41 22 917 84 92
E-mail : cbellmann@ictsd.ch
Web : www.ictsd.org



- European Centre for Development Policy Management
Tel: + 31 43 350 29 00
E-mail: tni@ecdpm.org
Web: www.ecdpm.org



Editorial Team:

- Christophe Bellman, Ricardo Meléndez-Ortiz and Yvonne Apea: ICTSD
- Sanoussi Bilal, ECDPM

This bimonthly publication is made possible through the financial contribution of the Government of the United Kingdom (DFID) and the Swiss Development Cooperation (SDC).

Trade Negotiations Insights ©
ISSN 1682-6744

Calendar		Resources
WTO Events		
14-15 June	Council for Trade-Related Aspects of Intellectual Property Rights	The Changing Landscape of Regional Trade Agreements by Jo-Ann Crawford and Roberto V. Fiorentino, WTO Discussion Paper No. 8, May 2005 http://www.wto.org/english/res_e/booksp_e/discussion_papers8_e.pdf
16 - 17 June	Committee on Technical Barriers to Trade	Ad-hoc expert group meeting and workshop on EPAs and WTO issues for Southern Africa countries – Report and Recommendations , by ECA, UNDP, UNCTAD, ADB and SADC, April 2005 http://fesportal.fes.de/pls/portal30/docs/FOLDER/COTONOU/DOWNLOADS/OFFICIAL/INTERNATIONAL/EPA+EXPERT+MEETING_REPORT+2005.PDF
16 - 17 June	Council for Trade-Related Aspects of Intellectual Property Rights - Special Session	
20 June	Dispute Settlement Body	Trade Preference Erosion: Potential Economic Impacts by Douglas Lippoldt and Przemyslaw Kowalski, OECD Trade Policy Working Paper No. 17, b April 2005 http://www.oecd.org/dataoecd/45/36/34815430.pdf
21-22 June	Dispute Settlement Body - Special Session	
21 June	Trade Negotiations Committee	
22 June	Sub-Committee on Cotton	Impact of Changes in Tariffs on Developing Countries' Government Revenue , OECD Trade Policy Working Paper No.18, by Przemyslaw Kowalski, April 2005. http://www.olis.oecd.org/olis/2004doc.nsf/LinkTo/td-tc-wp(2004)29-final
23 June	WTO Introduction Day	
27 June	Council for Trade in Services - Special Session	Africa, Value Chains and the Global Economy , by Peter Gibbon and Stefano Ponte Philadelphia, Temple University Press, 2005. www.temple.edu/tempress/titles/1792_reg.html
29-30 June	Committee on Sanitary and Phytosanitary Measures	
30 June	Council for Trade in Services - Special Session	The rules of origin in preferential trade arrangements: Orientations for the future , EC Communication, COM(2005)100 final, 16 March 2005 http://europa.eu.int/comm/taxation_customs/resources/documents/COM(2005)100_en.pdf
1 July	Committee on Sanitary and Phytosanitary Measures	
1 July	Council for Trade in Services - Special Session	Preparing for Economic Partnership Agreements , by Chris Stevens and Jane Kennan, IDS Briefing Paper, March 2005 http://www.ids.ac.uk/ids/global/pdfs/CSEPARCEBP1.pdf
4 July	Committee on Agriculture - Special Session	Making Trade Preferences More Effective , by Chris Stevens and Jane Kennan, IDS Briefing Paper, March 2005 http://www.ids.ac.uk/ids/global/pdfs/CSJKTradePreferences.pdf
<i>All WTO meeting take place in Geneva. Please contact the Secretariat for confirmation of dates (also available at http://www.ictsd.org/cal/).</i>		
ACP-EU Events		
24 June	ACP-EC Development Finance Cooperation Committee Meeting	Regional Integration and Poverty , ODI Briefing Paper, March 2005 http://www.odi.org.uk/publications/briefing/bp_march05_reg_int.pdf
20-22 June	81 st session of the ACP Council of Ministers, Luxembourg	Economic and Welfare Impacts of the EU-Africa EPAs , by UN Economic Commission for Africa, March 2005 http://www.uneca.org/eca_programmes/trade_and_regional_integration/documents/KAringi.pdf
24 and 25 June	30 th session of the ACP-EC Council of Ministers, Luxembourg	Preferential Trading Arrangements in Agricultural and Food Markets – The Case of the EU and the US , OECD, March 2005 http://www.oecd.org
In the margins of the ACP-EU Council - 8 th Meeting of ACP National and Regional Authorizing Officers, Brussels and 4 th Meeting of Heads of ACP Regional Integration Organizations, Brussels		EC Preferences white paper – Opening the Door to Development: Developing Country Access to EU Markets 1999 – 2003 , http://europa.eu.int/comm/trade/issues/global/development/pr230505_en.htm
18-23 Sept.	Ninth ACP Special Ministerial Conference on Sugar, Kenya	Complete list of resources is available at www.acp-eu-trade.org
<i>Unless specified, meetings take place in Brussels. Contact ACP Secretariat, tel: (32 2) 743 06 00, fax: 735 55 73, e-mail: info@acpsec.org, Internet: http://www.acpsec.org/</i>		