

## EU-ACP ECONOMIC PARTNERSHIP AGREEMENTS: CURRENT STATE OF PLAY

### SYNOPSIS

This note provides an overview of the EPA negotiations. It illustrates the fact that the same critical contentious issues persist in the EPAs across various regional blocs. It also highlights the concerns of the highest political authorities of ACP States regarding the EPAs and the inherent dangers for regional integration, industrialization, and the development of ACP States. In some EPA regions, negotiations have intensified; in particular in the West African region, EAC as well as the SADC EPA region. Activity is likely to increase further given the high probability that Europe will remove countries from being recipients of EU preferences provided under the EC market access regulation 1528/2007 if they have not signed or ratified their EPA by 1 October 2014.

However, EPAs should not be completed out of fear or pressure of time geared towards averting the risk of trade disruption for non-LDCs. African and Pacific countries must negotiate keeping as their primary focus the policy flexibilities they need for their development and the building of production capacities. The losses of signing an EPA (tariff revenue foregone) also outweigh the gains (the duties avoided if the EPAs are signed). Thus far, attempts at inserting ACP countries' concerns into the negotiations have been difficult due to the largely inflexible positions of the EU. In this regard, the African Union's proposal for a common and enhanced trade preference system for least developed countries (LDCs) and low income countries (LICs) should be seriously considered. ACP states should also focus on other alternatives to EPAs and policies to boost South-South trade.

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## I. INTRODUCTION

1. Following a Council Decision on 17 June 2002, the European Union (EU) is negotiating free trade agreements with the African, Caribbean and Pacific (ACP) Regions, called the Economic Partnership Agreements (EPAs). These negotiations which have been ongoing since 2002 are aimed to provide WTO-compliant agreements with a view to fostering ACP integration into the world economy thereby promoting their sustainable development.
2. However, negotiations on the Economic Partnership Agreements (EPAs) between Africa and the European Union (EU) have been dragging on for years. Most African countries are alarmed by the implications of widespread tariff elimination and other conditionalities that would be imposed on them. Negotiations are intensifying because many countries want to avoid the prospect of having a less preferential trading regime with the European Union compared to what they had under the Cotonou Agreement. This is particularly the case for non-LDCs that cannot export duty and quota-free under the EU's Everything But Arms (EBA) scheme. LDCs can take comfort in the fact that the EBA as of today is maintained for an unlimited period of time and is not subject to the periodic renewal of the European Community's scheme of generalized preferences.
3. On 30 September 2011, the European Commission (hereinafter EC) proposed to withdraw market access under Market Access Regulation (MAR) 1528/2007 by 1 January 2014, for a group of 18 countries which, according to the European Commission, had not taken the necessary steps towards signing or applying (for those that signed) an agreement.<sup>1</sup> This includes Haiti which was struck by a catastrophic earthquake in 2010, and is still struggling to recover. The MAR 1528/2007 was adopted in December 2007 as a temporary measure extending Duty Free Quota Free (DFQF) market access to ACP countries that had not concluded negotiations for an EPA in order to avoid disruption of market access to the EU following the lapse of the WTO waiver allowing non-reciprocal market access under the Cotonou Agreement in December 2007. The extension of the DFQF arrangement under the MAR

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<sup>1</sup> The countries concerned include Burundi, Botswana, Cameroon, the Comoros, Cote d'Ivoire, Fiji, Ghana, Haiti, Kenya, Lesotho, Mozambique, Namibia, Rwanda, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

1528/2007 was a unilateral decision by the EC, which has since expressed the view that it is their prerogative to withdraw it if commitments are not implemented.

4. The proposal of the European Commission to remove countries has been under considerable discussion between the European Commission, the Council of Ministers as well as the European Parliament. Following the May 2008 Treaty on the functioning of the EU for reaching an agreement, informal trilogue meetings of negotiators are held at technical or political levels, comprised of the European Parliament, the Council, and the Commission.<sup>2</sup> On 6 March 2013, a trilogue meeting was held and there was a provisional agreement on 1 October 2014 as being the withdrawal date. However, the final date will still depend on the political groups of the European Parliament. On 21 March, a vote was taken in the International Trade Committee of the European Parliament (INTA) endorsing the 1 October 2014 deadline. A formal vote will take place in April in the European Parliament, but it now looks certain that the withdrawal date would be 1 October 2014.
5. In the 14 December 2012 Sipopo Declaration signed by Heads of States and Governments of the ACP group, it was recalled that the EPAs should be negotiated as instruments of development by ensuring that agreed provisions take account of the development levels of ACP States, amongst which 40 are LDCs and the rest of the States either have a high poverty index or are vulnerable economies. Given the difficulties involved in resolving the contentious issues, the ACP Heads of States and Governments opined that “issues that are germane to WTO compatibility should be removed from the negotiations”.
6. To this date, many contentious issues still persist across the regional blocs, and in some areas, there have been deadlocks in the negotiations. Based on available information as of beginning of March, this paper provides updates of what is happening across the regional blocs. Most importantly, this paper provides a sense of the key issues that are under negotiation and on which strong divergences exist between the EU and ACP regions.

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<sup>2</sup> For more information on trilogue, see [http://ec.europa.eu/codecision/stepbystep/text/index5\\_en.htm](http://ec.europa.eu/codecision/stepbystep/text/index5_en.htm)

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## II. STATE OF PLAY IN THE VARIOUS REGIONAL BLOCS

### a) ACP-level

7. The African, Caribbean and Pacific (ACP) Group of States held its 7<sup>th</sup> Summit of Heads of State and Government on the 13 and 14 December 2012 in Malabo, Equatorial Guinea. The outcome of the Summit is reflected in the Sipopo Declaration.<sup>3</sup> Annex I contains the section on ACP-EU Trade Relations including Economic Partnership Agreements (EPAs) of the Sipopo Declaration.
8. The Summit called all ACP countries to stand together and jointly negotiate the EPAs with the EU. According to a recent report, some countries that have signed EPA's, especially the Caribbean countries have reported that there are huge problems on the concluded EPAs and many difficulties and challenges to overcome. It is important to note that the Caribbean countries have stated that they have not gained anything better after signing the EPAs with the EU, and now they are "stuck" with an agreement that they cannot implement.
9. The Sipopo Declaration also highlighted ACP members' determination to stay united as a group and retain relevance by enhancing the ACP-EU relationship as a unique North-South development cooperation model, while at the same time developing South-South cooperation and other partnerships.
10. Importantly, ACP Heads of States and Governments urged that the European Development Fund (EDF) remain outside the regular EU budget framework as a mechanism of development financing for the ACP countries, while sticking to the legal framework of the Cotonou Agreement. Heads of State and Government clearly rejected the imposition of demands by the EU within the EPAs which would limit the introduction of policy measures by ACP countries designed to grow and diversify their economies. They called on the EU stating that contentious and unresolved issues should be excluded from the EPAs particularly if they are not required to make an EPA WTO compliant.
11. As a way forward, the ACP in Sipopo stated that they intended to meet and engage with the EU at a high political level, with the aim of resolving the outstanding issues and unlocking the deadlock in the negotiations.

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<sup>3</sup> See <http://www.safpi.org/publications/acp-sipopo-declaration>

## b) West Africa (ECOWAS and Mauritania)

12. Côte d'Ivoire signed an interim EPA with the EU on 26 November 2008. The interim EPA with Ghana has been initialed but not signed. Both agreements have not been ratified.
13. The European Commission and West African negotiators met in Brussels at technical and Senior Official level from 17 to 20 April 2012. Progress was made on the text of the agreement, work continues on issues including West Africa's market access offer and the EPA Development Programme (PAPED). Both parties agreed that the regional agreement will cover goods and development-cooperation and include rendezvous clause for services and rules chapters.
14. Unresolved issues in the EU-ECOWAS negotiations include, *inter alia*, the question of the 'additionality' of development funding (now deferred to the political level), the definition of 'third countries' concerned by the MFN clause, the non-execution clause, the community levy, subsidies and domestic support, as well as Art. 106 addressing Customs Unions between the EU and third countries.<sup>4</sup>

### Box 1: Unresolved Negotiation Issues in ECOWAS

1. **Market Access**
2. Protocols on "Additionality" of development funding
3. Definition of 'third countries' concerned by the MFN clause
4. Non-execution clause
5. Community levy
6. Agricultural subsidies and domestic support
7. Clause relating to Customs Unions between the EU and third countries
8. Rules of Origin

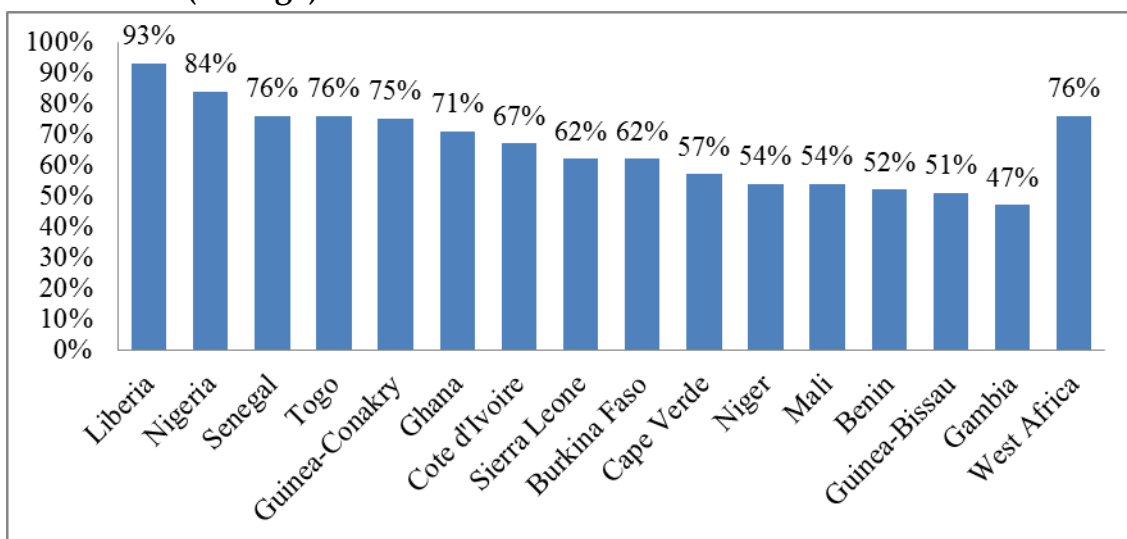
<sup>4</sup> Melissa Dalleau (2012), EPA update, Trade Negotiations Insights, Vol. 10, No. 9, available at <http://ictsd.org/i/news/tni/121337/>

15. The non-execution clause provides for the possibility for parties to take sanctions and defer contractual obligations in case a country is involved in a democratic or Human Rights violation, or non-observance of the rule of law. At the 39<sup>th</sup> ECOWAS Summit, Heads of State and Governments affirmed ‘to avoid mechanisms that would affect regional trading relations based on unilateral political sanctions within the framework of the non-execution clause’. The non-execution clause is already part of the Cotonou Agreement which will only expire in 2020. These are provided by Articles 11b, 96 and 97 of the Cotonou Agreement.

*Market access offer*

16. In a technical meeting of negotiators from the EU and West Africa held in Accra from 15-18 November 2012, the parties exchanged views on the *revised* market offer submitted by West Africa (70% liberalisation schedule over a transitory period of 25 years). The discussions focused on the revision by West Africa of the joint statistical basis behind the offer, the new categorization of specific tariff lines (and the analysis that underpinned the categorization), as well as the level of tariff classification that should be considered for this offer (HS6 vs HS10). Using the statistics taken from the ITC Trade Map, West Africa’s overall level of liberalisation would be around 76%, based on EU export data for the years 2008-2010.

**Graph - Level of liberalisation proposed by West Africa for West Africa (overall) and individual West African countries (except Mauritania), based on EU export data 2008-2010 (average)**



Source: ITC TradeMap, South Centre calculations

17. A recent South Centre paper made a first attempt to identify the 'products at risk' (South Centre Analytical Note SC/TDP/AN/EPA/30).<sup>5</sup> It found that ECOWAS has local production and exports on 1,822 6-digit tariff lines (out of 5,051 tariff lines). The current market access offer has potential negative impacts on the West African economy. For technical details, please refer to the South Centre paper.

#### *Rules of origin*

18. Rules of origin define when an importer can benefit from tariff preferences. Although the 39<sup>th</sup> ECOWAS Summit called for 'simple and development friendly Rules of Origin' in the EPAS which takes into consideration the different levels of development of the two parties, the EU and ECOWAS have not agreed to what constitutes "*simple and development friendly Rules of Origin*".
19. EU companies have a higher capacity to meet rules of origin. As such, rules of origin that '*take into consideration the different levels of development of the two parties*' imply that the rules of origin applying to EU imports from West Africa should be more relaxed compared with the rules of origin applying to West African imports from EU. In other words, asymmetry of the rules of origin should be one of the main underlying principles. This is also the West African position.

#### *EPA Development Programme*

20. The Protocol on the modalities for the implementation of the EPADP are in Article 58. It is important to note that the European Union's budget is usually allocated in 7 year cycles, called Multi-Annual Financial Frameworks (MFF). This budget includes the money that the EU gives in development aid.<sup>6</sup>
21. At present, most of the development aid to ACP countries goes through the European Development Fund (EDF). The EDF was created in 1957 as the main

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<sup>5</sup> Available at

[http://www.southcentre.org/index.php?option=com\\_content&view=article&id=1748%3Athe-epas-and-risks-for-africa-local-production-and-regional-trade&catid=101%3Aeconomic-partnership-agreements-epas&Itemid=67&lang=en](http://www.southcentre.org/index.php?option=com_content&view=article&id=1748%3Athe-epas-and-risks-for-africa-local-production-and-regional-trade&catid=101%3Aeconomic-partnership-agreements-epas&Itemid=67&lang=en)

<sup>6</sup> Action Aid. Available at <http://www.actionaid.org/eu/what-we-do/development-finance/eu-budget-2014-2020>



instrument for providing Community development aid in the African, Caribbean and Pacific (ACP) countries and the overseas countries and territories (OCTs). The current EDF covering the period 2008-2013 (the 10<sup>th</sup> EDF) has a budget of €22 682 million. Ninety-seven (97) per cent of that money is allocated to the ACP countries. Eighty-one (81) per cent of that money is allocated to national and regional indicative programmes (€17.776 million).

22. The European Development Fund is, however, not part of the EU's official budget.<sup>7</sup> The EDF is an extra-budgetary fund, and therefore is funded by the Member States according to a specific contribution key, and it is subject to its own financial rules and is managed by a specific committee.<sup>8</sup>

Given that development aid must be delivered in an efficient and effective way if it is to benefit those who are most in need, the existing eligibility criteria<sup>9</sup> which has been established by the EU for budget support programmes should be attainable by ECOWAS, especially after signing the EPAs. There are some concerns within ECOWAS States that these criteria might be unattainable and hence funding would not be disbursed.

23. There are therefore, a few key issues that need further discussion. These include the amount of finance, mandatory disbursement and of utmost importance, whether there would be additional resources injected in the EPA fund to address supply side constraints, build capacities, make up for fiscal losses in favour of the development of the West African region, cover EPA-related adjustment costs, and improve the competitiveness of ECOWAS states.
24. Regarding the issue of additionality, West African is insisting that the EU should be more transparent and provide justifications that the financing of the Economic Partnership Agreement Development Programme (EPADP) will be additional and mandatory, given that commitments from the EDF were made part of the Cotonou Agreement.<sup>10</sup>
25. ECOWAS should insist to have committal language on the amount of financing. "Commitment devices" for the funding of EPADP could be included

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<sup>7</sup> <http://www.actionaid.org/eu/what-we-do/development-finance/eu-budget-2014-2020>

<sup>8</sup> [http://ec.europa.eu/europeaid/how/finance/edf\\_en.htm](http://ec.europa.eu/europeaid/how/finance/edf_en.htm)

<sup>9</sup> The four eligibility criteria include: national/sector policies and reforms; stable macro-economic framework; public financial management; and transparency and oversight.

<sup>10</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:247:0022:0025:EN:PDF>

in the EPA text. Also, West Africa should make it clear that it talks about the combined amount of contributions by Member States and European institutions (e.g. European Investment Bank), not about “multiplied funding” or estimated private sector contributions.

26. It should be noted that further and comprehensive progress on ECOWAS-EU EPA negotiations is contingent on the establishment of the region’s common tariff regime (CET), which is the basis of West Africa’s market access offer to the European Union (EU). The latest ECOWAS Ministerial meeting on EPAs took place on 20-21 March in Cape Verde.

### **c) East African Community (EAC)**

27. The EAC initialed a framework EPA, mainly focusing on trade in goods on 28 November 2007. Till date, the EAC is still negotiating the EPA as a bloc, and there are still a number of outstanding issues under negotiations.
28. Technical officials from the East African Community (EAC) Partner States and the European Union (EU) met in Brussels, Belgium from 17<sup>th</sup> – 21<sup>st</sup> September 2012. The purpose of the meeting was to consider the Protocol and Annex II on Rules of Origin as well as the text on Institutional Arrangements, Dispute Settlement and Final Provisions.
29. Furthermore, the EAC and EU experts met during intercessional meetings from 15-17 November in Kampala, Uganda, to address the issues of economic and development co-operation, agriculture and rules of origin. The last round of negotiations at Senior Officials level focused on development co-operation, agriculture and rules of origin.<sup>11</sup>
30. Despite some remaining brackets, notably with regards to the overlap between the agriculture and the economic and development cooperation chapters, a significant portion of the language was agreed upon on development cooperation with parties reportedly deciding to remove the obligation for the

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<sup>11</sup> EU Trade European Commission, available at [http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc\\_144912.pdf](http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf) , accessed on 26 November 2012

EU to provide “additional resources”, and instead emphasizing on the need for a joint mobilisation of resources.<sup>12</sup>

31. Some of the main issues under discussions include outstanding Market access issues such as MFN, duties and taxes on exports; economic and development cooperation; agriculture; rules of origin; and dispute settlement and institutional provisions.
32. With regards to agriculture, the controversial issue of export subsidies and EU domestic support remains an issue under negotiations. Regarding rules of origin (RoO), the issue of asymmetry of rules between different negotiating blocks also requires further discussions. It should be noted that harmonized rules would help the EAC in improving the possibilities of intra-regional trade.

#### **Box 2: Unresolved Negotiation Issues in EAC**

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| <ol style="list-style-type: none"><li>1. Market access issues including <i>inter alia</i> MFN, Export taxes, Rules of Origin</li><li>2. Export subsidies and domestic support</li><li>3. Dispute Settlement</li><li>4. Final Provisions</li></ol> |
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33. The EU and EAC agreed that the EPA Development Matrix will be an integral part of the EAC-EU EPA agreement (i.e. annexed along with its benchmarks and indicators. However, it remains important that the EU takes a binding commitment clearly stating how much will be disbursed every X no of years, and explicitly state if this will be new funding.
34. Seniors officials and permanent secretaries from the European Commission (EC) and the East African Community (EAC) met in Mombasa, Kenya from 5<sup>th</sup> to 7<sup>th</sup> of February to discuss outstanding issues in the negotiations.
35. The Economic and Development Cooperation chapter of the agreement, which outlines the support measures accompanying the EPA, is now agreed upon and has been finalized at the Senior Officials level.<sup>13</sup>

<sup>12</sup> Melissa Dalleau (2012), EPA update, Trade Negotiations Insights, Vol. 10, No. 9, available at <http://ictsd.org/i/news/tni/121337/>

36. Furthermore, the agricultural chapter is almost finalized following the “package” deal struck earlier last year. The EAC dropped its demand to address domestic subsidies in the negotiations, and agreed to remove the term “trade distorting” from the body of the text in exchange for a commitment from the European Union (EU) to increase transparency of domestic agricultural support and to refrain from subsidizing goods liberalized in the agreement.
37. Export taxes remain a very important tool for EAC industrialization. Yet there are still disciplines in the text considerably constraining the possibility of introducing new export taxes. If finalized as such, this would be a significant loss of policy space especially as the EAC countries are still discovering new sources of raw materials.
38. On Rules of Origin (RoO), the question of full cumulation with South Africa and ACP countries has been deferred to discussions at the ministerial level, as part of a possible “ministerial package” that would also include other contentious issues such as the MFN clause.
39. The Trade and Sustainable Development chapter has been relegated to the rendez-vous clause. Two new issues the EU has brought into the negotiations late in the day are: Good governance in Tax matters and the “Turkey clause” concerning EU customs unions with third parties. The EAC has not agreed to have them incorporated into the EPA.
40. The next Senior Officials meeting is scheduled for mid-May 2013, preceded by a technical round.

#### **d) Southern African Development Community (SADC)**

41. During the EC-SADC EPA Senior Officials meeting held on 29-30 May 2012, an agreement was reached on how to resolve the long standing impasse on the negotiations on the SACU Agricultural market access offer to the EC. Substantial progress was made in developing a joint text on rules of origin; the parties agreed to separate provisions on bilateral and diagonal cumulation, as well as to restrict cumulation only to ACP EPA signatories as opposed to ACP at large.

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<sup>13</sup> See Roquefeuil, Q. de, 2013. EPA Update. GREAT Insights, Volume 2, Issue 2. February-March 2013

42. Negotiations on rules of origin relating to fisheries are ongoing. In addition, the request for derogation to allow Swaziland to cumulate with South Africa in the production of canned pears and peaches has been agreed, although it is restricted only to one year.

**Box 3: Unresolved Negotiation Issues in SADC**

1. Special Provisions on Administrative Cooperation - Article 29
2. Export Taxes - Article 24
3. Protection of Infant Industry - Article 23 ter
4. Bilateral Safeguards - Article 34
5. Agricultural Safeguards
6. MFN - Article 28
7. Other Trade Related Issues e.g. cooperation and capacity building

43. Furthermore, the 18<sup>th</sup> meeting of the SADC EPA Ministers and a Senior Officials meeting took place in Gaborone, Botswana on 2 November 2012. The SADC EPA Coordinator, Hon Minister D. Makgato-Malesu reminded the Ministers that in 2011, the EC announced the withdrawal of Market Access Regulation (MAR) 1528/2007 and stressed on the importance to reflect on what that withdrawal meant for the region.
44. The SADC EPA Senior Officials met in Gaborone, Botswana on 25-26 February 2013. It was recalled that if the EPA negotiations are not concluded and the Agreement not ratified by the time the EU withdraws MAR 1528/2007, SADC EPA States will be affected in various ways (see box below).

**Assessment made by SADC EPA Senior Officials on the EU withdrawal of MAR 1528/2007**

- a) Botswana and Namibia will have no recourse to any alternative preferential trade arrangement with the EU. They will lose the DFQF Market access, be excluded from the GSP arrangement as middle income countries, and face global competition under the MFN regime;

- b) Swaziland will have recourse to the GSP for as long as they remain classified as a lower middle income country. However, under the GSP, its main export products to the EU such as raw cane sugar for refining, cane sugar and its prepared and preserved fruits will attract high duties;
- c) The loss of preferences as a result of re-imposition of duties for the affected countries were estimated at over Euro 29 million, 58 million and 65 million for Botswana, Namibia and Swaziland, respectively (EU Proposal Amending Annex 1 of MAR 1528/2007). Products that will be affected include sugar, beef, fish and fruits;
- d) Botswana, Namibia and Swaziland are likely to lose investors as they relocate to countries where they can enjoy preferential market access into the EU, especially in the affected export sectors. New investments in the same sectors will also be affected.

- 45. In spite of the above, Lesotho and Mozambique will fall back to the Everything But Arms (EBA) arrangement. Angola will continue to trade under the EBA. South Africa will also be removed from the GSP, but it is currently trading on the basis of the Trade Development and Cooperation Agreement (TDCA).
- 46. While Botswana, Mozambique, Lesotho and Swaziland committed to negotiate services and investment and some of the trade related issues with the EU, the other countries have not. They were only willing to have cooperative arrangement in these areas. South Africa agreed to look at the Geographical Indications issue with the EU.
- 47. The next round of EC-SADC EPA negotiations has been scheduled for March 2013.

**e) Eastern and Southern Africa (ESA)**

- 48. Mauritius, Seychelles, Zimbabwe and Madagascar signed the interim EPA in 2009. Seychelles and Zimbabwe have ratified this EPA; Madagascar and Mauritius have notified the European Commission that they implement the

EPA. The European Union is provisionally applying the interim EPA since 14 May 2012.

49. The European Parliament's (EP) gave its "consent" to the four interim EPAs signed by Madagascar, Mauritius, the Seychelles and Zimbabwe on January 17<sup>th</sup> 2013 during the EP's plenary session in Strasbourg, securing a majority of 494 votes. The Draft Report recommending the adoption of the text by the European Parliament had gone through the European Parliament's International Trade Committee on the 18<sup>th</sup> of December 2012, with 20 votes in favor, 5 against and 1 abstention. The text has been provisionally applied since May 2012, and will officially come into force once ratified by EU Member States and ESA countries.<sup>14</sup>

#### **Box 4: Unresolved Negotiation Issues in ESA**

1. MFN Clause
2. Trade in Services – definition of enhanced Mode 4
3. Market Access Offer in Goods
4. Export Subsidies and refunds
5. Special agricultural safeguards
6. Export Taxes
7. Additional EPA funds

50. The EPA Committee and the Joint Development Committee have tentatively scheduled to meet early in 2013. However, there is no agreed date for the technical and Senior Official level meetings.
51. The EU is continuing negotiations towards 'comprehensive' agreements with the 4 countries as well as with the other countries in the agglomerate ESA region. The 'comprehensive' EPA negotiations focus on trade in goods, services, trade-related areas and development cooperation provisions.
52. Negotiations in the ESA negotiations are sluggish and many unresolved issues remain. Further progress is required on export taxes, rules of origin and special agricultural safeguards. Additionally, development support provisions, the

<sup>14</sup> See Roquefeuil, Q. de, 2013. EPA Update. GREAT Insights, Volume 2, Issue 2. February-March 2013

question of including an MFN clause (including in services), and the definition of “enhanced Mode 4” remains to be discussed.<sup>15</sup>

53. Similarly, the market access offer in goods is still under discussion, as some ESA countries are expected to submit new offers, and argue for more flexibility in this area. Unsettled issues such as export subsidies and refunds, special agricultural safeguards should be considered at the next technical level meeting.

**f) Central Africa**

54. Cameroon signed the interim EPA on 15 January 2009. However, the Agreement has not been ratified. Out of the 8 countries that make up the Central Africa EPA region, Cameroon has been the country most actively engaged with EPAs.
55. The last meeting of European and Central African negotiators took place from 26-30 September 2011 in Bangui, Central African Republic. The regional negotiations focused on market access, rules of origin, services and investment, cultural cooperation, accompanying measures such as development cooperation, and fiscal impact.
56. Although progress was made on the text of the agreement, the most contentious issues remain market access and development assistance.

**g) Pacific**

57. The EU and Papua New Guinea signed an interim EPA on 30 July 2009, and ratified it in 2011. Also, Fiji and the EU signed an interim EPA on 11 December 2009. Both countries continue to negotiate a Comprehensive EPA with the rest of the Pacific ACP Countries.
58. While Fiji and Papua New Guinea have signed interim EPA’s to access markets in the sugar and fisheries sector, both States continue to negotiate a

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<sup>15</sup> Melissa Dalleau (2012), EPA update, Trade Negotiations Insights, Vol. 10, No. 9, available at <http://ictsd.org/i/news/tni/121337/>



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Comprehensive EPA with the rest of the Pacific ACP Countries, as a single united region.

59. Fiji has been able to secure favorable Rules of Origin (ROO) for the export of cooked or processed fish (commonly known as global sourcing provision), under the Interim EPA. Thus, the PACP is the only ACP region that has secured these beneficial rules.
60. In a recent article by the Coordinator of the Pacific Network on Globalisation (PANG), it was noted that the Pacific EPA is undermining the right of the Pacific ACPs (PACPs) to self-determine the development of their fisheries industry, which is one of the most important sectors in the PACP region. This is contrary to the belief that EPAs could spur development of the fisheries industry, lead to job creation and economic development for PACP countries.<sup>16</sup>
61. In a recent workshop held in Honiara, Solomon Islands, the Minister of Foreign Affairs and External Trade stated “the EPA has great potential and we were glad of the recent progress made in Brussels but I was disappointed that the E.U. opened the most recent negotiations by backtracking on some of the benefits already contained within the Interim Agreement”.
62. Despite persistent calls from the Pacific side for the EU to give assurances that the benefits already gained by PNG and Fiji in the IEPA will be extended to all other Pacific countries, this guarantee is not forthcoming.
63. The next Joint Technical Working Group will take place in March 2013.

#### **h) Caribbean Forum of Caribbean States (CARIFORUM)**

64. The CARIFORUM signed the EPA agreement since January 2008 covering all Caribbean states. (Haiti joined in December 2009). The EU-CARIFORUM EPA covers trade in services and trade in goods.
65. CARIFORUM states also committed to other measures to boost trade, in areas such as investment, competition, public procurement, and intellectual property.

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<sup>16</sup> Penjueli, M. (2012). Available at

<http://www.pina.com.fj/?p=pacnews&m=read&co=174960793650b81928f3f197394369>

New joint oversight bodies were also established. Although 14 Caribbean states were due to make initial tariff cuts in January 2011, only 8 states have done so.

66. On 25-26 October 2012, CARIFORUM Officials met in Antigua and Barbuda for a first regional discussion on how communication and public education could support the process of implementation of the CARIFORUM-EU EPA, taking advantage of potential synergies. The creation of an online virtual network of officials allowing the sharing and knowledge was strongly encouraged.
67. The Caribbean Community (CARICOM) grouping together with the Dominican Republic will launch a five year review of the Economic Partnership Agreement (EPA).
68. It is worth noting that neither the EPA, which was signed in 2008 between CARIFORUM countries and the EU nor the Caribbean-EU Joint Strategy make specific provisions for financial support. According to the Director-General of the Caribbean Forum, the EDF, as the core source for financing development cooperation within the framework of CARIFORUM-EU relations, now faces the prospect of being scaled back and cautioned that the mechanics of the application of 'differentiation' remain internal to the European Commission.<sup>17</sup> (The EU is in the process of developing a new 'Differentiation' scheme which if applied to ACP countries could mean that countries which are in the high income or upper-middle income brackets - the situation for many Caribbean countries - may no longer be eligible for EDF funding).
69. Based on the above, there are serious concerns in the CARIFORUM over the possibility of a decrease in development assistance from the EU under the new policy.
70. Five years have elapsed since the CARIFORUM EPA was signed. However, according to the Caribbean Policy Development Centre, it is still difficult to point to any concrete benefits that have actually been realized in the region; many Caribbean countries and their private sectors are struggling under the weight of implementation of the Agreement.<sup>18</sup>

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<sup>17</sup> See

[http://www.caribbean360.com/index.php/news/guyana\\_news/665798.html?utm\\_source=Caribbean360+Newsletters&utm\\_campaign=e8562ef319-2\\_15\\_2013&utm\\_medium=email#ixzz2LBqDloVK](http://www.caribbean360.com/index.php/news/guyana_news/665798.html?utm_source=Caribbean360+Newsletters&utm_campaign=e8562ef319-2_15_2013&utm_medium=email#ixzz2LBqDloVK)

<sup>18</sup> See [www.cpdcnngo.org](http://www.cpdcnngo.org)

### III. CONCLUSIONS

71. In some regions, negotiations have intensified in particular in the West African region, EAC as well as the SADC EPA region. Many meetings have already been scheduled for the next few months. Activity is likely to further increase if the European machinery decides to remove countries from the EC market access regulation 1528/2007 by 1 October 2014 i.e. preferences for the African and Pacific countries, as well as Haiti will no longer be available if they have not yet signed or ratified their EPAs by that date.
72. This note illustrates that several persistent contentious issues exist in the EPAs across various regional blocs. It also highlights the concerns of the highest political authorities of ACP States regarding the EPAs and the inherent dangers for regional integration, industrialization, and the development of ACP States.
73. The EPAs should not be completed out of fear or pressure of time geared towards averting the risk of trade disruption for non-LDCs. African and Pacific countries must negotiate keeping as their primary focus the policy flexibilities they need for their development and the building of production capacities. The losses of signing an EPA (tariff revenue foregone) also outweigh the gains (the duties avoided if the EPAs are signed).<sup>19</sup> Thus far, attempts at inserting these into the negotiations have been difficult due to the largely inflexible positions of the EU. In this regard, the African Union's proposal for a common and enhanced trade preference system for least developed countries (LDCs) and low income countries (LICs) should be seriously considered. ACP states should focus on other alternatives to EPAs and policies to boost South-South trade.

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<sup>19</sup> See South Centre paper titled « Economic Partnership Agreements in Africa: A Cost-Benefit Analysis », available at [http://www.southcentre.org/index.php?option=com\\_content&view=article&id=1646%3Aeconomic-partnership-agreements-in-africa-a-benefit-cost-analysis&catid=101%3Aeconomic-partnership-agreements-epas&Itemid=67&lang=en](http://www.southcentre.org/index.php?option=com_content&view=article&id=1646%3Aeconomic-partnership-agreements-in-africa-a-benefit-cost-analysis&catid=101%3Aeconomic-partnership-agreements-epas&Itemid=67&lang=en)

## Annex I - Sipopo declaration

### *ACP-EU Trade Relations including Economic Partnership Agreements (EPAs)*

34. **With regard** to the bilateral ACP-EU trade relations, **we recall** that the key objectives of the trade and economic cooperation is to transform ACP's economies, improve competitiveness, promote sustainable development and thereby reduce poverty with a view to its eradication and to increase our States' share of world trade. It is for this reason that we set out to negotiate EPAs that would be instruments of development by ensuring that agreed provisions take account of the development levels of our States, 40 of which are LDCs, and the remaining have a high poverty index or have vulnerable economies due to being small, island, landlocked, in conflict or post-conflict situations.

35. **We therefore regret** that after 10 years of negotiations, the process has not yielded the desired results. To date only one region has concluded and is implementing a full EPAs. The other regions have interim agreements which they signed or initialed, motivated mainly by the need to avert the risk of trade disruption at the end of 2007, while committing to complete the outstanding areas of the negotiations. **We note** that several contentious issues that severely limit policy space or tilt the balance of rights and obligations in the EPAs persist and progress in resolving them has not been satisfactory. In order to resolve the issues and facilitate participation in the EPAs for all our States, particularly the LDCs, it is necessary to apply all possible flexibilities that will accommodate our interests and concerns. **We request** that where technical discussions on unresolved issues have been exhausted, issues that are not germane to WTO compatibility, should be removed from the negotiations.

36. **We note** that the EPAs have undermined the regional integration processes with multiple regimes governing trade with the European Union in some of our regions. **We reiterate** that the consolidation of regional integration processes should precede any trade liberalization commitment in the EPA process. Furthermore, **we affirm** that it is necessary to accord regions with a membership, whose majority is LDC states, a status equivalent to that granted to LDC States. In this regard, **we call** for further examination of the proposal for a common and enhanced trade preference system for least developed countries (LDCs) and low income countries (LICs).

37. In order to avoid negative implications for the socio-economic and political fabric of ACP States, **we call for** mitigation provisions to be injected in the EPA process in form of benchmarks, monitoring, and modulation or recalibration of schedules of commitment, as well as accompanying measures. **We request** additional resources and express the need to set up an EPA fund to provide dedicated and predictable resources to address the supply side constraints, build productive capacities, improve competitiveness as well as finance EPA related adjustment costs.

38. **We are concerned** by the proliferation of EU regulations and legislations on non-tariff measures that serve as technical barriers to trade. The conclusion of free trade agreements with third countries where the EU gives concessions that affect the competitiveness in products of export interest to our States is also a matter of concern. The EU must abide by their commitments to preserve current advantages for ACP exports into the EU market when negotiating with third parties. Tangible benefits of the EPAs must be safeguarded in free trade agreements involving ACP competitors. At all times, the EC should consult the ACP before making any concessions in compliance with the relevant articles of the Cotonou Agreement.

39. The demands by the EC to implement interim agreements initialed or signed in 2007 even as negotiations proceed and before certain aspects of the interim agreements are resolved is cause for major concern. **We call on** the European Union not to deny any ACP State market access benefits for whatever reason. In this regard, **we have taken note** of the European Parliament vote on the proposed amendment to the Market Access Regulation 1528/2007. **We call upon** the European Council to take a position that will allow the negotiations to continue without the pressure of time so that the outcome will be an agreement that satisfies all sides, and whose implementation will stand the test of time.

40. **We urge** that binding provisions that will deliver on development be injected into the EPAs so that the implementation of agreements already reached will be beneficial. **We also call** for coherence among the regional integration agenda, Economic Partnership Agreements and Doha Round commitments, by forging greater coordination between the negotiators in the three tracks to ensure consistency.

41. While the EPA negotiations are continuing in some regions, **we note with concern** that the review of the European Union Generalized System of Preferences (GSP) seeks to remove upper middle income countries and those that have signed

the EPA from having recourse to the GSP provisions. **We denounce** the use of GNI (Gross National Income) per capita as the only basis of classifying countries to be eligible for benefiting from the GSP regime and **call for** consideration of other economic and social variables such as size of the countries, economies, and populations; level of indebtedness, vulnerability, landlockedness, conflict and post-conflict situations, aridity and proneness to natural disasters. In this regard, **we affirm** that middle income countries continue to need concessional access to financial resources to sustain their level of development.

42. **We consider** that EPAs and other trade arrangements should build on the accomplishments of ACP-EU trade relations and therefore reiterate that no ACP State should remain or be made worse off at the end of the EPA processes than under the previous ACP-EU trade arrangements.

43. **We reaffirm** our commitment to continue to speed up the negotiations to conclude EPAs that will serve to boost the economic and social development of our States and regional integration within the ACP Group, and to accelerate the negotiating process on a consensual basis. To this end, and given the problems encountered in the past, and the considerable time that might be required to organise a special Summit of ACP-EU Heads of State and Government on EPAs, we have decided to set up a high-level panel to handle the dossier. The panel would give political impetus to the negotiations, and to find solutions to the contentious issues, non-resolution of which has stalled the negotiating process. The high-level panel, which will be assisted by seven (7) Experts from the EPA regional configurations, will comprise six (6) Heads of State and Government, drawn from the African Union (1), CARIFORUM (1), and from the Pacific ACP States (1), as well as Members of the Troika of the European Union (3). The panel, whose mission is to end the current impasse, should endeavour to convene its first meeting in Brussels before the end of January 2013. The meeting of the high level panel will be preceded by a preparatory meeting of the seven (7) ACP regional EPA Experts in parity with Experts from the European Commission.

44. **We call upon** the EU to ensure coherence, a basic concept to which they are greatly attached, in their development, agricultural and trade policies, and also ascertain that EU-funded development initiatives and market access opportunities offered to ACP States are not negated, or diluted by measures taken on either the domestic or international fronts.

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