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EU-ACP Economic Partnership Agreements: State of Play and Key Issues for 2008

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1. INTRODUCTION

With the expiry of the Cotonou trade regime and the WTO waiver which covered it on 31 December 2007, we have passed an important milestone in the negotiations with ACP countries on Economic Partnership Agreements. The EU has, in line with both the Commission Communication of 23 October 2007¹ and the Council Conclusions on EPA at the GAERC of 19 November 2007, minimised any trade disruption for the ACP while maintaining progress to comprehensive regional EPAs. This note sets out what has been achieved so far and what remains to be done over 2008.

2. STATE OF PLAY

There is a comprehensive EPA agreed with the Caribbean region and a series of interim agreements based on new WTO compatible goods trade arrangements. All the interim agreements are explicitly drafted to provide the basis for subsequent comprehensive regional EPA agreements.

As a result, from 1 January 2008, the overwhelming majority of ACP goods enter EU markets with either improved EPA market access or continued duty and quota free access under the EU's Everything but Arms initiative. Expressed in figures, this means over 99.5% of ACP trade is free of any EU tariffs and 67 ACP countries have full duty and quota free access to EU markets, with 35 of these also benefiting from improved EPA Rules of Origin.

The remaining beneficiaries of the Cotonou trade regime which are not classified as Least Developed Countries (non-LDCs) and do not benefit from the EU's "Everything But Arms" initiative include 7 Pacific small island countries. As they have minimal exports to the EU, there was less pressure for a new goods trade regime immediately from 1 January 2008 and they are more interested in concluding a services-based regional EPA.

This leaves only three ACP countries where the introduction of GSP tariffs on some exports has the potential to cause any degree of trade disruption. These are Nigeria, Congo (Brazzaville) and Gabon. Nigeria and Congo are oil exporters who declined to negotiate interim agreements while the Gabonese Government has indicated that they wish to sign an interim EPA shortly. However, no evidence has emerged of any immediate trade disruption and, in all three cases, the majority of their exports still enter the EU duty free under all trade regimes and the negative impact is likely to be marginal – although, they will of course miss the benefits of the EPA market access offer and improved Rules of Origin.

Finally, there is South Africa who are negotiating with the SADC EPA regional grouping but already have a WTO-compatible free trade agreement with the EU that is unaffected by the expiry of the Cotonou trade regime².

¹ COM (2007) 635

² The Trade and Development Cooperation Agreement (TDCA)

The trade regime applying to ACP countries from 1 January 2008 is set out in Annex 1 and a Region by Region overview of the status of EPA negotiations is as follows:

- In the **Caribbean** we have initialled a full regional EPA with all 15 CARIFORUM countries covering all subjects, including services, rules, trade in goods and development support.
- In **Southern Africa** we have reached interim agreements with Botswana, Lesotho, Namibia, Swaziland and Mozambique and have a clear agenda and timetable for progressing towards a full EPA in 2008. We expect Angola to join the agreement soon. At this stage, South Africa has not joined the interim EPA but we expect it to remain engaged in negotiations with a view to initialling the interim EPA and possibly a full EPA, joining the other SACU countries under a harmonised, although differentiated, trade regime.
- In East Africa, reflecting the configuration issues in the region, we have an interim agreement with the **East African Community** and interim agreements with five **Eastern and Southern African** countries. Several LDCs have chosen to join the agreement, recognising its potential contribution to their development, including through improved rules of origin.
- In the **Pacific**, we have an interim agreement with the two countries that account for almost all trade with the EU – Papua New Guinea and Fiji. Other non-LDCs in the region have minimal goods trade with the EU and so did not seek WTO-compatible interim agreements at this stage. The aim is to agree a full regional EPA covering the whole region in 2008.
- In **West Africa**, we have interim agreements with two of the three non-LDCs, Ivory Coast and Ghana. Nigeria, the only other non-LDC in the region, has made clear its lack of interest in negotiating an EPA at this stage. We will now focus on working with the regional organisations to enlarge these agreements to the wider region and addressing the interests of the LDCs.
- In **Central Africa**, Cameroon has initialled an agreement and Gabon has indicated its wish to conclude an interim agreement using the same text but with a goods market access schedule for Gabon appended. We will work to enlarge these agreements to form a full regional EPA in 2008.

3. COVERAGE OF THE AGREEMENTS

All the agreements have full duty and quota free market access on the EU side and a very flexible, fully asymmetric, liberalisation schedule on the ACP side. They are fully compatible with the requirements of Article XXIV of GATT while using all the inbuilt flexibility of WTO rules to protect sensitive and growing ACP industries. As the agreements all include immediate liberalisation on the EU side³, any decision to liberalise more than 80% of trade volume over 15 years was made by the ACP

³ With short transition periods for rice (until 2010) and sugar (until 2015). In 2005 these products accounted for less than 2.5% of ACP exports to the EU.

themselves. On top of that the EPA Rules of Origin are greatly improved over Cotonou. These improvements offer the ACP the potential for important and positive development impacts in areas such as textiles, fisheries and agriculture while continuing to avoid the possibility of trade circumvention.

An initial analysis of the liberalisation coverage of the different agreements on the ACP side is summarised in [Annex 2](#). It is worth noting that some ACP countries chose to liberalise further than 80%. The ACP liberalisation schedules also focus on lowering duties on the essential goods and inputs the ACP need in the early stages while continuing to protect sensitive and growing industries.

The figures in [Annex 2](#) present an initial analysis of the liberalisation of ACP markets towards the EU after 15 and 25 years. They do not show the additional market opening over and above the situation under Cotonou or the change in tariff protection – some tariff rates included in the liberalisation analysis are either low or zero or concern tariff lines where there is no EU production or export trade.

The non-goods market access provisions of the agreement vary from a comprehensive regional EPA in the Caribbean including all issues on trade in services, rules and development cooperation to interim agreements including partial coverage of these issues and rendezvous clauses for concluding full EPAs. An overview of the content of each agreement is presented in [Annex 3](#).

4. REGIONAL INTEGRATION

All the interim agreements are explicitly drafted to provide the basis for subsequent comprehensive regional EPA agreements. The Caribbean EPA is a full regional EPA, there are rendezvous clauses in all other agreements linked to the conclusion of full regional EPAs and some agreements (such as ESA, SADC and Central Africa) contain explicit provisions for other countries in the same regions to accede.

The commitment to regional integration is supported by political declarations linked to the agreements in the West African and Pacific regions. Moreover, the choice of single and multi-country agreements in West Africa, Central Africa and the Pacific specifically avoids the implication that new economic groupings were being created contrary to existing regional integration processes.

5. DEVELOPMENT COOPERATION

All interim agreements except the Pacific and EAC contain extensive provisions on development cooperation. They follow a largely similar approach which includes: (i) a general provision referring to Cotonou rules and procedures, EDF financing and efforts from Member States and other donors and, (ii) more detailed provisions identifying areas of support, mainly trade-related rules and, in certain cases, productive sectors, fiscal adjustment costs and regional funds. Two agreements, EAC and ESA, contain a detailed chapter on fisheries, while the agreements with ESA and Central Africa also refer to accompanying documents which establish agreed broad priorities for support.

6. INSTITUTIONS

The Caribbean EPA contains the full range institutions necessary for the implementation and monitoring of the agreement. The provisions of the interim agreements vary according to the content of the agreements and the nature and scope of the rendezvous clauses. The SADC agreement foresees that further negotiations will expand the agreed interim text into a full regional EPA and therefore establishes the full range of EPA institutions. On the other hand, the West Africa agreements foresee that they will be entirely replaced by a regional EPA and therefore only establish the institutions necessary for the functioning of the goods based interim agreement.

7. NEXT STEPS

We have achieved much and, in line with the objectives of the Cotonou Agreement and the Conclusions of the GAERC of 19 November 2007, the Commission will continue to work actively to conclude full regional EPAs as the best way to support the progressive integration of the ACP into the international economy, and to make sure that the unparalleled EU market access and support for regional integration through EPAs brings real trade growth and broad-based economic development in the ACP.

This means working region by region to put in place the elements of a comprehensive trade package that supports economic growth and regional integration by including trade in services, rules that promote investment and development assistance. This is an ambitious package.

We will now begin work with our ACP partners, region by region, to identify the appropriate pace and scope of negotiations in line with their capacity and interests. It should be noted that in many cases the interim agreements already define much of this framework for negotiations and will act as building blocks to the full EPAs.

Throughout 2008, we must then build on the dynamic created by the Lisbon EU-Africa summit, moving from a relationship with the ACP based on post-colonial dependency to one of equal partners working together to put trade at the service of development. This means we need to:

- Turn sub-regional and multi-country interim agreements into genuine regional EPAs bringing in all countries, non-LDCs and LDCs alike;
- Build up the emerging EPAs to form comprehensive agreements with the greatest possible coverage on issues like services and rules. This will build on existing ACP regional integration agendas and, in a number of cases, is already foreseen as an ongoing process with commitments taken after a period of capacity building;
- Follow up on EU commitments on Aid for Trade by concluding the 10th EDF regional programmes and delivering on EU commitments in this area as set out in the EU Aid for Trade strategy;
- Take initialled texts to Council for signature, to Parliament and notify the WTO of existing agreements.

This next phase of EPA negotiations will bring further challenges, but with the commitment of ACP countries and the support of EU Member States, we should be able to deliver comprehensive agreements - EPAs that use trade to support regional integration and help drive economic growth and sustainable development in the ACP.

ANNEX 1: TRADE REGIME AFTER 01/01/08 BY ACP COUNTRY⁴

	EPA (9 LDCs, 26 non-LDCs)			EBA (32 LDCs)			GSP (10 non-LDCs) ⁵	
Caribbean	Antigua & Barb Bahamas Barbados Belize Dominica	Dom. Republic Grenada Guyana Haiti Jamaica	St Kitts & Nevis St Lucia St Vinc. & Gren. Surinam Trinidad & Tob.					
Central Africa	Cameroon			Central African Rep. DR Congo (Kinshasa) Chad	Equatorial Guinea São Tome	Gabon Rep. Congo (Brazzaville)		
Eastern / Southern Africa	<u>EAC</u> Burundi Kenya Rwanda Tanzania Uganda	<u>ESA</u> Comoros Madagascar Mauritius Seychelles Zimbabwe		Djibouti Eritrea Ethiopia Malawi	Somalia Sudan Zambia			
Pacific	Papua New Guinea Fiji			East Timor Kiribati Samoa	Solomon Islands Tuvalu Vanuatu	Cook Islands Tonga Marshall Islands Niue	Micronesia Palau Nauru	
West Africa	Côte d'Ivoire Ghana			Benin Burkina Faso Cape Verde ⁶ Gambia Guinea	Guinea Bissau Liberia Mali Mauritania	Niger Senegal Sierra Leone Togo	Nigeria	
SADC	Botswana Lesotho	Namibia Mozambique	Swaziland	Angola				

⁴ Non-LDCs are shown in **bold** and **South Africa** is not included as its TDCA trade regime is unaffected by the expiry of the Cotonou trade preferences

⁵ The Pacific countries have minimal goods trade with the EU while Nigeria and Congo (Brazzaville) declined to negotiate interim agreements

⁶ Cape Verde loses its LDC status in 2008 but will continue to benefit from GSP EBA for a transitional period

ANNEX 2: INITIAL ANALYSIS OF FUTURE ACP LIBERALISATION

Country		Volume of Trade		Main sectors including product exclusions
		15 yrs	25 yrs	
CARIFORUM				
CARIFORUM		83%	87%	Agricultural and processed agricultural products, some chemicals, furniture and other industrial products
Central Africa				
Cameroon		80%	-	Agricultural and processed agricultural products, wines & spirits, second hand clothing, wood products, some chemicals, furniture and basic industrial products
Eastern and Southern Africa (ESA)				
Comoros		80%	-	
Madagascar		80%	-	
Mauritius		96%	-	Live animals and meat, edible products of animal origin, fats, edible preparations and beverages, chemicals, plastics and rubber articles of leather and fur skins, iron & steel and consumer electronic goods
Seychelles		98%	-	Meat, fisheries, beverages, tobacco, leather articles, glass and ceramics products and vehicles
Zimbabwe		80%	-	Products of animal origin, cereals, beverages paper, plastics and rubber, textiles and clothing, footwear, glass and ceramics, consumer electronic and vehicles
East African Community (EAC)				
Burundi Kenya Rwanda	Tanzania Uganda	80%	82%	Agricultural products, wines and spirits, chemicals, plastics, wood based paper, textiles and clothing, footwear, glassware
Pacific				
Fiji		81%	-	Agricultural and forestry products as well as some non agricultural processed goods
Papua New Guinea		88%	-	
Southern African Development Community (SADC)				
Botswana Lesotho	Swaziland Namibia	86%	-	Agricultural goods, some processed agricultural goods and fisheries products
Mozambique		81%	-	
West Africa				
Ivory Coast		81%	-	Agricultural and processed agricultural goods, wines and spirits, tobacco, industrial products and vehicles, cotton textiles and clothing, some energy products, pens, soap, cement, tiles, jewellery, personal arms, certain plastic and steel products
Ghana		81%	-	

Note: This table shows an initial analysis of ACP market openness in 2023 and 2033 and not the degree of liberalisation or change in tariff protection compared to the situation under Cotonou.

ANNEX 3: CONTENT OF AGREEMENTS

Pacific	SADC	EAC	ESA	West Africa	Central Africa	Caribbean
1. Scope of Agreement						
<ul style="list-style-type: none"> - Trade in goods - Rules of Origin - Safeguards - Customs and trade facilitation - TBT & SPS - Dispute settlement - Trade committee - Rendezvous clause referring to Ministerial declaration on conclusion of full EPA 	<ul style="list-style-type: none"> - Trade in goods - Rules of Origin - Safeguards - Customs and trade facilitation - TBT & SPS - Dispute settlement - Full EPA institutions - Development cooperation - Rendezvous clause for other subjects 	<ul style="list-style-type: none"> - Trade in goods - Rules of Origin - Safeguards - Fisheries - Dispute settlement - EPA Council - Rendezvous clause for other subjects 	<ul style="list-style-type: none"> - Trade in goods - Partial Rules of Origin - Safeguards - Fisheries - Dispute settlement - EPA Committee - Development cooperation - Rendezvous clause for other subjects 	<ul style="list-style-type: none"> - Trade in goods - Rendezvous clause for Rules of Origin - Safeguards - Customs and trade facilitation - TBT & SPS - Dispute settlement - EPA Committee - Development cooperation - Rendezvous clause for other subjects 	<ul style="list-style-type: none"> - Trade in goods - Rendezvous clause for Rules of Origin - Safeguards - Customs and trade facilitation - TBT & SPS - Dispute settlement - EPA Committee - Development cooperation - Rendezvous clause for other subjects 	<ul style="list-style-type: none"> - Trade in goods - Rules of Origin - Safeguards - Customs and trade facilitation - TBT & SPS - Agriculture & fisheries - Trade in services and investment - Trade related issues (Innovation, intellectual property, competition, public procurement, environment, social aspects, personal data protection) - Safeguards - Full EPA institutions - Development Cooperation

Pacific	SADC	EAC	ESA	West Africa	Central Africa	Caribbean
2. Issues to be negotiated under rendezvous clauses						
<ul style="list-style-type: none"> - Fisheries - Services & investment - Trade related rules (competition, investment, sustainable development, intellectual, public procurement) - Development cooperation 	<ul style="list-style-type: none"> - In next 3 years: - Services (progressively) - Trade related rules (competition, public procurement) 	<ul style="list-style-type: none"> - Customs and trade facilitation - TBT & SPS - Services - Trade related rules (competition, investment, sustainable development, IPR, public procurement) - Development cooperation 	<ul style="list-style-type: none"> - Outstanding goods trade issues (Rules of Origin, EU outermost region safeguards). - Customs and trade facilitation - TBT, SPS - Services - Trade related rules (competition, investment, sustainable development, intellectual property, public procurement) - Agriculture 	<ul style="list-style-type: none"> - Early 2008: Rules of Origin Protocol - By end 2008: Services - Trade related rules (competition, investment, intellectual property, public procurement and possibly sustainable development.) 	<ul style="list-style-type: none"> - Early 2008: Rules of Origin Protocol - By end 2008: Services - Trade related rules (competition, investment, intellectual property, public procurement and possibly sustainable development.) 	<ul style="list-style-type: none"> - EPA negotiations completed other than finalising WTO compatible services schedules for Haiti and the Bahamas
3. Development Cooperation provisions						
No development chapter	Development chapter including commitments for cooperation in trade in goods, supply-side competitiveness, business enhancing infrastructure, trade in services, trade-related issues, trade data, institutional capacity building and fiscal adjustments	Limited development cooperation provision	Development chapter including commitment to support a matrix of regional needs (infrastructure, upgrading productive sectors, regional integration, trade policy & regulation, adjustment costs), possibly via a regional fund	Development chapter including commitment to cooperate on upgrading of productive sectors, implementation of trade related rules, absorption of net fiscal impact and to channel funds through regional EPA Fund if possible.	Development chapter including commitment to cooperate on upgrading of productive sectors, implementation of trade related rules, absorption of net fiscal impact and to channel funds through regional EPA Fund if possible.	Development chapter including priorities for the implementation of all chapters of the Agreement and a declaration establishing the link with the Aid for Trade strategy and EC commitment to finance a regional development fund.