

InBrief

No. 15E - November 2006

Update on regional EPA negotiations

ESA - EU Economic Partnership Agreement



The purpose of this *Update* series is to provide relevant information on the Economic Partnership Agreement (EPA) negotiations between the 6 African, Caribbean, and Pacific (ACP) regional groupings and the European Union (EU). Each Update offers a snapshot of the progress made in the respective regions, including the main issues at stake and outstanding challenges. This Update series complements the Overview of Regional EPA Negotiations series and will be produced every 6 months until the conclusion of the EPAs.

The negotiating calendar

Following the first phase of negotiations at the all-ACP level (which started in September 2002), regional EPA negotiations between East and Southern Africa (ESA) and the European Commission (EC) were launched in Mauritius on 7 February 2004. At that first regional ministerial session, both sides agreed on a joint roadmap fixing the main goals and principles of the negotiations as well as their structure and an indicative schedule for their completion.¹

In **phase one** (March to August 2004), the parties drafted a list of negotiating priorities based on the regional integration agenda of the ESA countries and on a general framework for the negotiations. In addition, the joint Regional Preparatory Task Force (RPTF) was established, which parallel to the negotiation structure, is to facilitate linkages between the trade negotiations and development assistance.

In **phase two** (September 2004 to December 2005) substantive negotiations were launched on issues relevant to the EPAs with the aim of reaching agreement on an outline EPA. First-priority clusters were the development component of an EPA, market access for goods, fisheries and agriculture and the broader issue of ESA regional integration.

Phase three (January 2006 to December 2007) is now under way with continuation of the substantive talks. Discussions are being held on tariff issues, rules of origin (RoO) and technical regulations and standards, including technical barriers to trade (TBT), trade-related issues, trade in services and safeguard meas-

ures. This final phase is expected to produce a binding legal text laying out all the agreed principles, matters of substance and points of detail. The main points of discussion, achievements and areas of agreement or divergence are summarised below.²

The development dimension

The development dimension is a critical area of negotiation for ESA countries. The right definition of the development objectives within an EPA and their achievement, will determine the future success of an EPA for the region.³ These objectives permeate various negotiation clusters, since development is a cross-cutting theme which has implications for regional integration strategies, economic and industrial competitiveness, the policy and regulatory framework and economic development, as well as for trade related infrastructure and investment promotion. Among the tools and intervention mechanisms needed to ensure the implementation of an EPA are a set of economic reforms, the harmonisation of the regulatory framework, and the restructuring of uncompetitive sectors. Compensation mechanisms have also been called for to offset EPA implementation costs, such as the loss of tax revenue due to trade liberalisation.

ESA has underscored its lack of financial resources with which to implement economic, social and regulatory policies to improve its supply-side capacity and add value in key sectors. It has therefore insisted on binding additional resources to an EPA. To this end, the region is developing a regional development matrix to evaluate the costs of adjustments linked to EPA implementation, so as to quantify the financial resources required.

The European Commission maintains that pro-development trade arrangements between the ESA region and Europe will create jobs, forge a better business climate, improve competitiveness of key sectors and contribute to sustainable regional economic development.⁴ It argues that resources to ensure that the EPA fulfils its pro-development aims will be programmed under the 10th European Development Fund (EDF), which is the main instrument for EU assistance to ACP states. The 10th EDF covers the period 2008 to 2013. Although no additional resources are negotiable under an EPA, they could be provided by individual EU member states and other donors where appropriate.

Regional integration

Though completion of the regional integration process is not a prerequisite for the conclusion of an EPA, it must be well under way if ESA countries are to reap trade and investment benefits. According to the European Commission, the EPAs can deliver only if supported by a strong regional integration impetus. The EC argues that the region will gain from a single, simple trade regime, and this should entail the setting up of a single common external tariff (CET). ESA is currently exploring customs union options as well. However, the ESA EPA configuration still has to overcome issues of overlapping membership of various regional economic communities.

Real market access

Market access represents an essential cluster for ESA countries related to regional market integration and the tariff dismantling process as well as to the simplification, harmonisation and strengthening of various norms and

measures, such as rules of origin (RoO) and sanitary and phytosanitary (SPS) measures. To allow ESA to build a regional market and improve its competitiveness, the opening of the regional market must be gradual. Both sides agree that market liberalisation should be asymmetric to the maximum extent possible.⁵ Positions on the interpretation of the "substantially all trade" provision in article 24 of GATT on liberalisation of trade in goods are being tried by both parties and will be clarified in the coming months.

Rules of origin require special attention, as they determine in large part the level of access that ESA export goods have to the EU market. ESA has called for simplification of RoO and related administrative procedures, with the aim of improving the current cumulation of production inputs from other countries. In that respect, the region recommends a "substantial transformation" criterion through "change in tariff heading" (CTH) for some tariff subheadings, while maintaining the "wholly obtained" criterion for certain products. ESA has concluded that the ongoing reform of the EU RoO regime should result in less costly, easier to implement RoO for ACP countries.

A major impediment to EU market access for ESA exports is the region's difficulty in complying with EU SPS measures, TBT and other technical requirements. Programmes to harmonise certification and standardisation systems are needed to enable exporters to meet EU food safety and other standards. ESA is committed to engage in such programmes, provided technical assistance is available to build compliance capacity. The EC has confirmed that technical assistance will be made available for this purpose. ESA is currently undertaking audits of SPS capacity in the region, to identify constraints and capacity needs. Financial proposals will be elaborated based on these audits and submitted to the European Union for discussion.

Finally, to protect ESA production from a surge in EU imports, the region has called for safeguard measures and identification of sensitive products. The region has submitted papers on safeguards to the Commission and is awaiting comments.

Notes

- ¹ "Negotiations of an Economic Partnership Agreement between Eastern and Southern Africa and the European Community - Joint Roadmap"; European Commission; February 2004.
- ² See "EPA Negotiations Update" in *Trade Negotiations Insights*, Vol. 5 No. 2 and 3; ECDPM; 2006.
- ³ "Joint conclusions of the ESA-EU EPA 2nd ambassadorial/senior official's negotiating session on development, fisheries, agriculture and market access"; European Commission; October 2005.
- ⁴ See "A new approach in the relations between European Union and Eastern and Southern Africa countries"; European Commission; January 2006.
- ⁵ See "ESA-EC ministerial meeting: joint statement"; European Commission; February 2006.

Concerns on agriculture and fisheries

The agricultural sector, as an important economic mainstay for the region, has received special attention by both sides. ESA itself has fixed priorities for the sector with a number of factors in mind: improving food security, giving special consideration to net food importing countries, meeting EU SPS requirements, addressing the effects of the EU Common Agricultural Policy (CAP) and reviewing regional export subsidy schemes and commodity pricing. The negotiating parties, together with the Regional Preparatory Task Force (RPTF), will assess intervention mechanisms in three areas: export refunds under article 54 of the Cotonou Agreement, value addition to commodities from the ESA region and CAP and export subsidies. The region, further, has submitted a paper highlighting its concerns regarding loss of preferences in the agricultural sector and calling for further discussion to iron out outstanding issues on access of food products to the EU market.

Fisheries is another essential economic sector for the ESA region. Discussions on fisheries, however, have been slowed by differences of opinion on how to structure the cluster, and questions on whether it should be included in the EPA or concluded as a stand-alone agreement. ESA has identified a number of objectives for any EPA inclusion of fisheries. For instance, it would like to see the Fisheries Framework Agreement (FFA) it drafted used as the basis for bilateral fisheries agreements. It has further asked that due consideration be given to development issues related to fisheries, to enhance supply capacity and value addition. Protection and maintenance of preference margins will also be essential to the development of the sector. Finally, support is needed to help make the sector sustainable, to stimulate inland fisheries and aquaculture development, to strengthen fisheries infrastructure and to contribute to other related capacity building programmes. The EC has issued a non-paper in response to ESA's demands in this area. Both parties have agreed to take both the FFA and the EC contributions as the basis for further talks. The EC has reaffirmed that fisheries should be an integral part of an EPA. Further developments are expected before end 2006.

Growing importance of trade in services

Inter-regional trade in services is rapidly growing. To enhance the sector's growth potential, service-related negotiations are particularly relevant in the EPA process. COMESA is currently elaborating a regional framework for services which could serve as a basis for the EPA negotiations. While the region recognises the significance of a transparent and sustainable regulatory framework for trade in services, it insists on prioritising additional resources to cater for EPA adjustment related requirements so as to build an efficient regulatory framework.

Controversy on trade-related areas

Regarding trade-related issues, the ESA region recommends better cooperation with the European Union on investment and competition, and puts the emphasis on enhancing the capacity in all trade-related areas. For the European Commission, establishment of a regulatory framework to facilitate trade is of prime importance. It argues that transparent rules for public procurement can increase the efficiency of the use of taxpayers' money in all ESA countries. The region is already looking to adopt regional competition regulations in the context of the Common Investment Framework of the Common Market of Eastern and Southern Africa (COMESA).

In sum, the ESA configuration seems to have made considerable progress in the EPA negotiations. Discussions have advanced steadily in the main areas of the talks, leading to the elaboration of a draft EPA text that is regularly reviewed by both parties. The development dimension and finance remain the primary concern for the ESA region.

This Update InBrief is a complement to InBrief 14E.

The ECDPM acknowledges the generous support of the Swiss Agency for Development Cooperation, the Ministry of Foreign Affairs in Sweden and the Netherlands for the production of this series.

The InBriefs and Updates are available online at www.acp-eu-trade.org and www.ecdpm.org/regionalepainbriefs

This series is an initiative by the European Centre for Development Policy Management (ECDPM) under the editorial supervision of Sanoussi Bilal (sb@ecdpm.org) and Kathleen Van Hove (kvh@ecdpm.org).

'InBrief' provides summarised background information on the main policy debates and activities in ACP-EC cooperation. These complementary summaries are drawn from consultative processes in which the European Centre for Development Policy Management (ECDPM) engages with numerous state and non-state actors in the ACP and EU countries. The Centre is a non-partisan organisation that seeks to facilitate international cooperation between the ACP and the EC. Information may be reproduced as long as the source is quoted.

The ECDPM acknowledges the support it receives for the InBrief from the Ministries of Foreign Affairs in Finland, Luxemburg, the Netherlands and Sweden, the Directorate-General for Development Cooperation in Belgium, Irish Aid, the Swiss Agency for Development and Cooperation, the Instituto Português de Apoio ao Desenvolvimento in Portugal, and the Department for International Development in the United Kingdom.

European Centre for Development Policy Management
Onze Lieve Vrouweplein 21
NL-6211 HE Maastricht
The Netherlands

Tel +31 (0)43 350 29 00 Fax +31 (0)43 350 29 02
info@ecdpm.org www.ecdpm.org

ISSN 1571-7542