

InBrief

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Update on regional EPA negotiations



Pacific - 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 EPA negotiations at the all-ACP level (which started in September 2002), regional negotiations between the Pacific ACP (PACP) countries and the European Union were launched in Nadi, Fiji, on 10 September 2004. During the first regional-level ministerial session, both sides agreed on a joint roadmap fixing the main goals and principles of the negotiations as well as the structure and an indicative schedule for their completion.¹

Substantive negotiations are scheduled from October 2004 to December 2006. The aim of this phase is to reach agreement on the basic principles and elements to be integrated into an EPA (e.g. investment, fisheries, services, etc.), linked to regional integration, and on the structure of such an agreement. Progress will be assessed in late 2006. The 'final negotiations' are to take place from January to December 2007, to translate principles, and matters of substance into a binding legal text.

Specificity of Pacific islands

Between October 2004 and October 2005, the focus of the negotiations was on the architecture of the future EPA, as well as treatment of the fisheries, investment and tourism sectors. Both sides have agreed that due consideration must be given to the unique geographical, natural, social and economic conditions of the PACP states. These peculiarities negatively affect their export capacity and possibilities for economic diversification.

Given regional specificities, the PACP countries were considering an EPA with a flexible struc-

ture, so as to accommodate the diverse interests in the region. Such an EPA would consist of a master agreement to be signed by all 14 PACP countries, covering only the principles and areas not requiring specific commitments in terms of reciprocal free trade in goods or the liberalisation of trade in services. This master agreement would further contain no provisions on trade liberalisation otherwise governed by article 24 of GATT. It would thus not require notification to the World Trade Organization (WTO). Subsidiary agreements² covering trade in goods and services, investment promotion and protection and fisheries would then be drawn up on a voluntary basis in accordance with the interests of each negotiating PACP country and their preparedness to enter into commitments in these specific areas. In this regard, several non-papers, most notably on investment and tourism, were prepared and submitted to the European Commission (EC).

The EC has shown openness to the argument that a number of Pacific states do not trade with the European Union³ and hence would have no reason to be part of a goods agreement. However a full à la carte approach for all countries in the region would be difficult to accommodate in view of the Cotonou objective to foster regional integration. Nevertheless necessary flexibilities could be part of a coherent EPA text for the region.

Little interest for trade in goods

Trade in goods is for the PACP states the EPA chapter that requires the most flexibility. The export profiles of the countries vary greatly according to their resource endowments,

manufacturing capacity and export development strategies. Presently, Fiji, Vanuatu, the Solomon Islands and Papua New Guinea appear to be the most likely signatories of such an agreement, considering their share of trade in goods with the EU. Draft modalities of an agreement on trade in goods are being developed, but the need for flexible and gradual scheduling of market opening commitments is clearly stated as a founding principle. Consultations based on the draft modalities will take place at the national level to help countries develop a negotiating position.

Trade in services

The overall approach and options for modalities of liberalisation commitments are the major focus of discussions on an agreement on trade in services. All PACP countries seem inclined to take part in such an agreement. The cross-border delivery of services through the temporary movement of persons (Mode 4 of GATS) has received substantial attention in these talks. In view of its importance and the various approaches to tourism development in the region, the sector will be given special attention.

A special fisheries agreement

PACP countries strongly support the conclusion of a stand-alone fisheries partnership agreement (FPA). The sector represents a great export and economic development potential for many Pacific countries given their abundant fisheries resources.⁴ Striking a good fisheries deal is therefore a priority. This entails the negotiation of flexible rules of origin (RoO) for fisheries products that are less restrictive than the current RoO in the Cotonou

Agreement. The EC recognises the importance of fisheries for the Pacific and will review the RoO with a view to improving current market access. However, it does not see the need for a stand-alone agreement and has pointed out that fisheries can be integrated into the EPA.

An investment agreement

Finally, PACP countries have proposed an agreement on investment as part of the subsidiary agreements. For a number of the larger PACP states, in particular, increased investment is a prerequisite for achieving growth and development goals. An agreement on investment is expected to improve on the services provided through the financial instruments of the Cotonou Agreement. Should this not be the case, than PACP countries are calling for new financial instruments. The EC has pointed out that these discussions should be pursued within the mechanisms foreseen under the Cotonou Agreement. The PACP has also stated that investment provisions should be coupled with appropriate development assistance to be fully effective and contribute to building institutional capacity. The EC has emphasised that the Regional Preparatory Task Force (RPTF) is meant to be the platform for discussions on the link between trade and development cooperation. A legal text on investment was drafted and discussed by regional negotiators and is ready for joint consideration with the European side.

Europe lukewarm on Pacific à la carte approach

The EU response to the EPA structure put forward by the Pacific EPA group has been rather mixed, for various reasons. Firstly, it questions the WTO compatibility of the proposed architecture. Secondly, it is not convinced that fragmentation of an EPA and à la carte participation would be conducive to regional market integration, investment and economic benefits. As the EC recognises the importance of special and differential treatment, it recently indicated that an agreement on trade in goods could be put on the negotiations agenda. However, the Commission is strongly pushing for an all-inclusive EPA and stresses that too much flexibility in the key areas of the agreement could undermine

economic sustainability and development in the most economically marginalised Pacific states.

The development dimension

Debate on the development dimension of an EPA has centred on the additional resources that might be required to finance adjustment costs. Support is needed to address supply side constraints, to improve competitiveness, for trade related infrastructure, for trade related capacity building as well as to finance the accompanying measures and policies. PACP states have made a clear distinction between the general development resources provided by the Cotonou Agreement through the European Development Fund (EDF), and an additional financial facility to fund adjustments as a consequence of EPA implementation. They propose an EPA with binding commitments for additional resources from the EU. The EC has argued that the development dimension of an EPA goes far beyond financial considerations. The gradual opening of markets, improved rules and economic governance, increased competitiveness and better regional and world market integration are among the prospective benefits of an agreement and constitute in themselves vital contributions to development. Trade-related assistance has been provided under earlier EDFs and will continue to be provided under the next, substantially increased 10th EDF envelope for the Pacific. Adjustment costs may arise from an EPA but will depend on the commitments made and the transition periods agreed. If one assumes significant transition periods, as suggested by the PACP, the initial adjustment costs would not likely arise under the 10th EDF but rather under subsequent envelopes. The development dimension of an EPA and the issue of a possible EPA adjustment facility for the Pacific are expected to have a significant influence on the overall outcomes of the negotiations.

Several other issues remain to be resolved. No RPTF has been set up so far, although this task force is to provide the coordination between development assistance and the EPA process. Moreover, further talks are needed to clarify negotiating positions on trade facilitation,

agricultural development, investment promotion and protection and trade-related areas.

Previous regional engagements

All PACP countries are members of the Pacific Agreement on Closer Economic Relations (PACER). This regional trade and economic cooperation agreement includes Australia and New Zealand. PACER requires members to consult with Australia and New Zealand before commencing formal negotiations with one or more developed countries outside of PACER. Australia has stressed that it would seek equivalent treatment from PACP countries than what they will offer to the EU under an EPA. This statement might prompt PACP countries to look into alternative trade arrangements. Falling back on the EU Everything-but-Arms (EBA) scheme, which is applicable to the least-developed countries (LDC), or its Generalised System of Preferences (GSP) for non-LDCs represents one way for Pacific states to circumvent the obligation posed by PACER⁵ provisions. In this case, however, elements such as investment provisions, trade facilitation, services (including under GATS Mode 4) and rules of origin would not be covered.

The way forward

A draft EPA legal text from PACP states has been submitted to the European Commission for consideration.⁶ PACP countries will have to display persuasion and unity in their negotiation positions if they want their various interests to permeate the structure and content of the final EPA. The clock is ticking to find a middle ground, and concessions from both sides might be needed to ensure that the Pacific-EU EPA, with its many implications for development and integration of the region, bear the fruit anticipated by both parties.

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Notes

- ¹ "Pacific ACP-EU EPA Negotiations - Joint Roadmap"; European Commission; September 2004.
- ² See "Update on the Pacific ACP (PACP) Region's Phase II Economic Partnership Agreement (EPA) Negotiations with the European Union (EU)"; Pacific Islands Forum Secretariat; May 2006.
- ³ Countries such as Tuvalu, the Federated States of Micronesia, Kiribati and the Republic of the Marshall Islands trade very little, if any, goods with the EU.
- ⁴ See "EU Relations with the Pacific Islands - A Strategy for a Strengthened Partnership"; European Commission; May 2006.
- ⁵ See "The Pacific ACP-EU Partnership - The Way Forward"; Pacific Islands Forum Secretariat; June 2004.
- ⁶ See "EPA Negotiations Update" in *Trade Negotiations Insights*, Vol.5 No. 2 and 3; ECDPM; 2006.

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