

## Update on regional EPA negotiations

### West Africa - 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 (September 2002 to September 2003), regional negotiations between West Africa (ECOWAS plus Mauritania) and the European Commission (EC) were launched in Cotonou, Benin, on 3 October 2003. West Africa thereby became one of the first ACP regions (with Central Africa) to formally commence EPA negotiations with the European Union. It took, however, almost a year for both parties to agree on a roadmap to guide the negotiations. Major sticking points related to how the development dimension would be framed within an EPA and to questions of financial assistance. Only in August 2004, when trade ministers met in Ghana, was a joint roadmap adopted<sup>1</sup>, setting out the main goals and principles of the negotiations, identifying priorities for regional economic integration and capacity building programmes and outlining an indicative schedule and structure for the further negotiations. A Regional Preparatory Task Force (RPTF) was also created, to facilitate linkages between the trade negotiations and development assistance. The negotiations are being held in three phases:

In the **first phase** (September 2004 to September 2005) priorities were identified for trade and economic regional integration and for a programme to upgrade and enhance competitiveness.

In the **second phase** (September 2005 to September 2006), the overall EPA architecture was drawn up and proposals made for a draft agreement on trade-related issues.

In the **final phase** (September 2006 to

December 2007), the actual negotiations on trade liberalisation for goods and services will take place and the EPA should be concluded.

#### Phase one: the regional integration priorities

As indicated in the roadmap, phase one of the negotiations was dedicated to examining the trade and economic priorities for regional integration in West Africa, given that this is to be an essential objective of the EPA. The first phase was also concerned with defining the general objectives and structure of the EPA as well as identifying necessary assistance measures. Five joint technical negotiating groups were set up, respectively, (i) on the customs union and trade facilitation, (ii) on technical standards and sanitary and phytosanitary (SPS) measures, (iii) on trade-related issues, (iv) on trade in services and investment and (v) on productive sectors.

A common approach was identified for all areas of negotiation except for the productive sector, competition and the investment sector, where differences of opinion on the manner of addressing these issues persist.

The regional integration priorities for the first phase revolved around the establishment of an ECOWAS Customs Union, common tariffs and quotas, and trade facilitation. West Africa is actually building its regional integration process on the acquis of the West African Economic and Monetary Union (UEMOA), which was founded in 1994 and comprises eight of the current ECOWAS EPA countries. The UEMOA already has a customs union and its members share a common external tariff

(CET) and a single currency. In that regard, the CET in place in the UEMOA region is likely to be extended to the remaining ECOWAS countries. The ECOWAS customs union is scheduled for implementation in 2007. Both UEMOA and ECOWAS acknowledge the huge potential for growth in intra-regional trade, provided laws are harmonised and enforced at the regional level, and the integration process decisively pursued.

#### Technical barriers to trade

In discussions on technical barriers to trade (TBT) and SPS measures, West African countries have called for better integration of the region into international standardisation and measurement systems, while emphasising the need for support, most notably to enhance SPS capacity. Recommendations on technical standards and SPS have been made based on a report on the trade impact of technical standards and regulations. Further exchanges are needed on rules of origin (RoO), so as to harmonise systems for certification of origin. Also, talks on common trade policies and non-tariff barriers (NTB) are needed, as these are still common among West African countries.

Customs procedures in the region need to be further simplified and modernised. To that end, a customs union code is being adopted, building on the existing UEMOA code.

#### Trade in services

In the negotiations on trade in services, a common understanding has been reached on the gradual liberalisation of the services sector in West Africa. ECOWAS, however, continues to stress the need for technology

transfer and appropriate capacity building programmes, in the services market in particular. It has also underlined the importance of special and differential treatment in liberalisation of services.

The talks currently focus on identification of priority services based on selection criteria such as the importance of a sector to the region, the supply of essential natural resources and the trade flow a sector represents. Areas eligible under these criteria include inter alia communication, distribution and financial services, tourism and transport. West Africa would also like to see education, health and social services prioritised. However, the European Commission has argued that these sectors are not covered by World Trade Organization (WTO) rules on trade in services, so they do not need to be factored into an EPA at this point.

### Sticking point: productive sector

Little progress has been made in discussions related to the productive sector. West Africa has submitted sectoral status reports on agriculture, fisheries and manufacture (industrial and craftwork) to the EC, putting forward the strengths and weaknesses of its production sectors and making recommendations for improving competitiveness. Measures to restructure and upgrade production facilities, to diversify the production base, to build private sector capacity and to improve regional infrastructure would stimulate competitiveness. Given the enormous task and the aspiration to reach a common understanding with the EC on this, West African countries have preferred to extend the sectoral talks into the next stage of negotiations.

### No discussion on competition and investment

Two major chapters have been largely excluded from the EPA discussions so far. First, consensus is lacking on the inclusion of investment issues in an EPA. West Africa would like to attract external investment, so

as to upgrade its production capacity and improve the competitiveness. But it is acutely aware of the lack of relevant negotiating capacity and the absence of a harmonised framework for investment within the region. Therefore, up to now it has refrained from putting the investment sector on its negotiating agenda. For its part, the EC considers the inclusion of an investment chapter in an EPA indisputable. Competition policy is another area on which West Africa seems unwilling to start discussions at this stage, though the EC has stressed the importance of competition policies for fostering a healthy business climate, economic development and investment in the region.

### Intellectual property

Regarding intellectual property rights, exchanges have revolved around the harmonisation of rules and their enforcement at the regional West African level. West African states insist that these rules be harmonised and enforced prior to the implementation of an EPA. Special consideration and protection are to be given to the region's most sensitive sectors, including public health, piracy and counterfeiting, technological transfer, industrial property and copyright. The EC approved this list of sensitive areas but dismissed the demand to add genetic resources, traditional sciences and folklore to the list, at least for now. On intellectual property rights, joint reports have been drafted and are almost agreed by both parties.

### A long route ahead

West Africa has presented a draft report on an EPA reference framework which covers the state of regional integration, competitiveness, capacity building and modalities for implementation and mobilisation of resources. The region would like to include binding commitments for additional financial resources to support EPA-related implementation and adjustment costs. The EC maintains, however, that EPAs are to constitute the trade and economic cooperation pillar of the Cotonou Agreement, while funding for development assistance is allotted through the European

Development Fund (EDF). Hence, additional funding would have to be secured through other channels such as EU Member States.<sup>2</sup>

Despite the exclusion of certain chapters, some concrete proposals and negotiation positions reached in the first stage of the negotiations could have prompted the start of the next phase and discussion on EPA legal texts. However, West Africa has insisted on the completion of work in all areas (including the production sector) before launching the second negotiation stage. Therefore, phase two, which was officially due to commence in September 2005, only started in October 2006. The EC has voiced concern about this delay, which could compromise the December 2007 deadline.<sup>3</sup>

West Africa is currently working to define which sensitive products are to be excluded from immediate liberalisation of trade in goods. After the identified objectives are achieved in this area, the Commission will submit a draft EPA text, in all likelihood, triggering negotiation of a detailed EPA text and leading the way into the final phase of negotiations.

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### Notes

- <sup>1</sup> "Road Map for Economic Partnership Agreement Negotiations between West Africa and the European Community"; European Commission and ECOWAS; August 2004.
- <sup>2</sup> "State of EPA Negotiations between West Africa and the European Community"; Third World Network Update; March 2005.
- <sup>3</sup> See "EPA Negotiations Update" in *Trade Negotiations Insights*, Vol.5 No. 2 and 3; ECDPM; 2006.

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