

Economic Partnership Agreements: Towards the finishing line

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Public Hearing on ACP countries and EPAs at European Parliament

Key messages

First regional EPA agreed since 2007, and over 10 years after the launch of free trade talks.

West Africa remains united thanks to compromise approach from the EU and ECOWAS.

The deal is reached; can it be implemented? Parties should start worrying about the transition process.

It's about politics! If the will is there on both sides all EPA negotiations can be concluded in a more accommodating way

Economic Partnership Agreements (EPAs) have been souring European-African relations for years. Back in the mid-1990s, when they were conceived as WTO-compatible development instruments to foster the regional integration processes of the African, Caribbean and Pacific (ACP) countries and their integration in the world economy, no European policymakers would have guessed that negotiations would still be ongoing in 2014. Negotiating free trade agreements with regional groupings - comprising a mix of many least-developed countries (LDCs) and a few non-LDCs - has turned out to be much more challenging than anticipated. For many, EPAs have become 'the price to pay' to maintain (i) free market access to the EU on a few tariff lines of crucial importance, and/or (ii) the regional unity required to pursue their integration process.

Besides their direct economic consequences, EPAs have also gained higher symbolic status in defining the strategic relationship between Europe and Africa. As a consequence, addressing the remaining technical bottlenecks requires a broader geostrategic perspective, and the required political leadership, both in Europe and Africa, to preserve and strengthen the inter-continental relations.

The ECOWAS-EU EPA

In this context, the fact that over ten years after the launch of the free trade talks, West African and European trade negotiators have finally struck a deal on¹ the first regional EPA since 2007 is a significant achievement for several reasons.

Firstly, West Africa has remained united. The protracted negotiations of EPAs have threatened to split West Africa² between countries that need a free trade deal to keep their preferential access to the EU

¹ <http://www.ecdpm-talkingpoints.org/economic-partnership-agreements-west-africa-seals-deal-at-11th-hour/>

² Ramdoo, I and S. Bilal. 2013. European Trade Policy, Economic Partnership Agreements and Regional Integration in Africa. European University Institute.

market (Cote d'Ivoire and Ghana), and those that do not. Individual country bilateral deals with the EU, as happened in 2007, would have broken down the customs union the region has been setting in place³, which requires a common trade policy by all members. Besides obvious negative economic consequences, it would have created serious political tensions⁴, within the region, and with Europe. The regional EPA is therefore an important political success, for both West Africa and the EU.

Second, the conclusion of an EPA deal is the result of good will from both parties. Difficult concessions⁵ had to be made, calling for a flexible approach and requiring long overdue political leadership. Given the underlying tensions that have prevailed throughout the EPA process, reaching a compromise solution is no little achievement. The October 2014 deadline⁶ imposed by the EU to have EPAs in place has been a factor; so has the adoption in October 2013 of the common external tariff⁷ by the Head of States of the Economic Community of West African States (ECOWAS) for their customs union. Pressures by some EU member states (notably France and the UK) on the European Commission, calling for greater flexibility⁸, must also have contributed to a more pragmatic approach.

The level and speed of opening of West African markets to EU products was a key bone of contention. For many West African countries, their market opening is somewhat perceived as the price to pay, in a mercantilist way, to get free access to the EU for their products in an EPA. Given that most countries in the region are LDCs, with their exports already enjoying duty-free and quota-free access to the EU under the Everything-But-Arms (EBA) initiative in the EU General System of Preferences, it is not difficult to understand why West Africa wanted to minimise its commitment to trade openness.

The EU had, since 2007, insisted that any EPA deal should require its partners to reduce trade restrictions for at least 80% of their trade over at least 15 years, according to its own interpretation of the rule at the World Trade Organization. West Africa ultimately agreed to increase its offer to 75%, from 70% (and initially 60%), but refused to go further. The compromise reached was probably the deal maker: West Africa will now open 75% of its market over a 20-year period, the EU opening 100% of its market as of the (provisional) entry into force of the EPA. This is a symbolically remarkable compromise from the European Commission, though one called for by many for a long time.

The technical details of the agreement reached are not all known, and are still subject to formal endorsement by the parties. Agricultural export subsidies are expected to be removed, a long-standing demand from West Africa answered by the European Commission.⁹ The EU views this as a major concession; it has been moving towards limiting the use of exports¹⁰ subsidies as part of its own reform process and has now committed to stop all its exports subsidies to EPA countries. West Africa also had to accept a controversial Most Favoured Nation Treatment clause, although it is not clear what countries it covers exactly. West Africa also had to accept that countries will remain bound by the principles of Article 96 of the Cotonou Agreement, meaning any party could be suspended from the Agreement in case of breaches to human rights, democratic principles and rule of law.

Whether the EPA deal will foster development or not remains an open question. It is clear that the limited scope of the agreement reached suggests that West Africa did not really embrace the development rhetoric of the EU on the positive transformation dynamics that an EPA could bring. While nothing or much is going to happen over the next five years, it is obviously difficult to assess the impact an EPA could have by 2034. Both West Africa and Europe will be quite different by then. But it is worth recalling that empirical estimates¹¹ tend to suggest that an EPA could have a serious fiscal impact on West African countries. And the EU refrained from promising any additional funding for the EPA, limiting its commitment to a conservative €6.5 billion over five years, as pledged already in 2010 (an amount corresponding to the

³ www.ecdpm.org/dp154

⁴ www.ecdpm.org/bn58

⁵ www.ecdpm.org/bn57

⁶ <http://www.ecdpm-talkingpoints.org/carry-on-pushing-forward-with-economic-partnership-agreements-epa-or-stop-them-all/>

⁷ www.ecdpm.org/dp154

⁸ http://www.parlementairemonitor.nl/9353000/1/j4nvgs5kjg27kof_j9vvij5epmj1ey0/vjg0k5ved1vs/f=/blg274173.pdf

⁹ http://ec.europa.eu/agriculture/newsroom/157_en.htm

¹⁰ <http://capreform.eu/the-end-of-export-subsidies/>

¹¹ www.ecdpm.org/dp137

existing EU aid then¹²). The big challenge will obviously be the implementation of the agreement¹³, and the timely adjustment measures and support¹⁴ that it will require.

The way forward for the rest of Africa

What does that mean for the rest of Africa, with the on-going EPA negotiations elsewhere? The ECOWAS-EU EPA shows that it is possible to reach an agreement. When endorsed at the highest political level (due in February 2014), it will send a positive signal to the rest of the continent.

But different African regions have also different concerns, and what is ultimately acceptable to West Africa might not necessarily be so for other countries or regions. Negotiations remained blocked in the other regions. With the 1 October 2014 deadline looming, there might no longer be enough time to put regional EPAs in place to avoid market disruption. Indeed, regional EPA negotiations must be concluded several months before the 1 of October deadline, so as to give time for:

- the “legal scrubbing” and translation of the agreements into all EU official languages,
- executive endorsement and the setting of the official signing ceremony of the EPA by all parties, and
- the start of the ratification process.

Unlike the situation that prevailed with the 31 December 2007 deadline, the EU will no longer unilaterally provide full market access to countries that have simply concluded EPA negotiations.

Should some regions not be able to complete all these steps on time, they will not be able to export to the EU under an EPA. Countries having concluded an interim EPA in 2007 will lose their EPA preferential market access to the EU, unless they take all the steps to implement their interim EPAs.

But this is most unlikely should regional EPA negotiations progress well, or be concluded. In fact, it would not be politically acceptable for any government to sign an old (controversial) interim EPA and send it to its national parliament for ratification while a regional EPA is near completion or already concluded. How to address temporary loss of preferences during this transition period is thus likely to become a hot issue in the coming weeks. This will also call for a political approach towards technical solutions to avoid an absurd temporary loss of preference.

Viewed through a more political lens, remaining stumbling blocks in other EPA negotiations could be dealt with in a more accommodating way by trade diplomats.

The EU should build on the momentum from an agreement with ECOWAS to continue to show determination, and the required flexibility, to conclude agreements with other regions, where possible. The EPA dossier has gained some symbolic importance, as a touchstone to many of the frustrations that some African leaders are experiencing with Europe. In a world that is changing rapidly, not least in Africa, the European attitude is often perceived as somewhat patronising and too directive, preaching a development discourse not necessarily in tune with African new dynamics and priorities, and inadequately hiding European self-interest and Eurocentric approaches. All dimensions arguably underlie the EU approach to the EPA process. The agreement with West Africa can contribute to changing this perception. The EU could capitalise on it by continuing to show goodwill.

By the same token, African leaders should more seriously consider the political implications of a failure to conclude regional EPAs for their regional agenda and for their broader relations with Europe. In doing so, they should not shy away from addressing the diversity of national interests when forging a common regional position on EPAs and towards Europe.

But this is no guarantee for success: differences may narrow (as they already have done over the past months), but remain deep enough to prevent an agreement. Nonetheless, meeting some of the partners' concerns would certainly increase the chances of success and provide a positive political signal of goodwill. Should this prove insufficient, parties should then agree to disagree, and prepare for a ‘smooth landing’. Preserving regional unity would seem a priority. While this is first and foremost an issue for

¹² www.ecdpm.org/dp96

¹³ www.ecdpm.org/dp177

¹⁴ www.ecdpm.org/dp121

African leaders in their respective regions, the EU should not turn a blind eye to the challenge or be perceived to foster division. As a major supporter of regional integration in Africa, for which it has disbursed billions of euros, the EU would have much to lose as well, not least in terms of accountability, coherence and credibility. Many European companies implanted in African countries and exporting to the European market, as well as many European importers, would also be hurt by a loss of EU trade preferences.

Instead, the EU might then engage on constructive talks on how best to address the consequences of the loss of preferences for some countries that would embrace a collective decision by their regional grouping not to conclude any EPA. A similar approach towards constructive engagement should prevail were some African countries ultimately to opt for breaking away from a regional position and proceeding with individual EPAs.

This would be in the spirit of true partners committed to strengthening their relations in spite of their potential disagreements.

While trade negotiations should actively continue in the coming weeks, the 4th Africa-EU Summit in April 2014 in Brussels offers an opportunity to address the broader political and strategic dimensions of the EPAs for the relationship between Africa and the EU. At the 22nd Assembly of the AU at the end of January 2014, the African Heads of States decision "CALLS FOR the inclusion of Economic Partnership Agreements on the Agenda of the Joint Africa-EU Summit in April 2014 to provide for High-Level Dialogue to break the current impasse on EPAs. In addition, DIRECTS the PRC [Permanent Representatives Committee] to meet and discuss EPAs before the EU-Africa Summit and submit the related report to Ministers."¹⁵

The Africa-EU Summit thus offers a further opportunity to engage in a constructive political dialogue on EPAs, which the parties should seize.

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www.europarl.europa.eu/committees/en/inta/events.html#menuzone

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¹⁵ <http://au.int/en/content/addis-ababa-30-31-january-2014-%E2%80%93-assembly-african-union-twenty-second-ordinary-session>