

ACP-EU COTONOU AGREEMENT

**AFRICAN, CARIBBEAN AND
PACIFIC GROUP OF STATES**

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 April 2014

ACP/61/045/13

ACP-UE 2121/13

SUMMARY RECORD

of: 70th meeting of the ACP-EU Subcommittee on Trade Cooperation
on: 23 April 2013
at: ACP House, 451 Avenue Georges Henri, 1200 Brussels
Subject: Summary record of the 70th meeting of the ACP-EU Subcommittee on Trade Cooperation

The ACP-EU Subcommittee on Trade Cooperation held its 70th meeting at ACP House on 23 April 2013.

The meeting was co-chaired by H.E. Mr Samuel CHANDLER, Ambassador of Barbados, for the ACP side and Mr Peter THOMPSON, Director at the European Commission Directorate-General for Trade, for the EU side.

1. Adoption of the agenda

The agenda as set out in [ACP/61/017/13 - ACP-EU 2108/13] was adopted.

2. Approval of the summary record of the previous meeting

The summary record of the previous meeting [ACP/61/048/12 - ACP-EU 2124/12] was approved.

3. Economic Partnership Agreements (EPAs): State of play and perspectives, Market Access Regulation 1528/07, High Level Panel on EPAs

The EU Co-chair described recent developments with regard to the implementation of the existing EPAs. He recalled that three EPAs: one in the Caribbean, one in the Pacific and one in Africa, were being implemented and that good progress in all these regions was evident.

Moving to the process of EPA negotiations, the Commission representative recalled the substantial progress that had been made over the previous year. In several African regions, most technical issues had been settled and only a handful of politically sensitive issues remained open. In the SADC region, revised offers to increase agricultural market access were under discussion. As regards the East African Community (EAC), EU and EAC Senior Officials met in Mombasa in March and managed to close a number of chapters including development cooperation. As regards West Africa, the Commission was waiting for a revised market access offer in order to make progress, but this required a political decision by the region. Negotiations in the ESA region and in Central Africa were less advanced.

With regard to the amendment of Regulation 1528/2007 (Market Access Regulation), the Commission representative explained that it would help put ACP market access to the EU on a sound footing. In practical terms, the amendment of the Regulation meant that ACP countries that initialled an EPA at the end of 2007, but had not signed or ratified this, would no longer benefit from duty-free, quota-free access under that EPA as of 1 October 2014. He also stressed that the vote could be seen both as a window of opportunity for the regional EPA negotiations that were still on-going and as a prospect of closure for the concluded interim EPAs. In this context, the EU Co-chair stressed the Commission's willingness to conclude EPA negotiations as soon as possible and declared that EPAs were still considered as the best vehicle of putting trade at the service of development.

The ACP Co-chair took note of the developments which had taken place in the EPA negotiations and through implementation. He voiced concern over the possible reduction of funds which would be made available under the 11th EDF, as well as over the EU policy on differentiation, particularly in respect of the Caribbean region. With regard to Africa, he recalled the concerns that prevailed over the implications of steep tariff elimination and other constraints. He also stressed that, for the time being, EPAs were seriously undermining regional integration. He stated that the amendment of the Market Access Regulation would exacerbate the situation and that therefore the ACP side was not supporting it. For these reasons, he urged the EU side to engage in a high-level dialogue, in order to ensure political-level discussion on the EPAs. The ACP Co-chair regretted that no such dialogue was foreseen by the EU and appealed to the EU side to convene one in the coming months.

The representative of Samoa outlined the state of play on EPA negotiations in the Pacific, indicating that only one country had ratified an EPA, one country was in the process of doing so and that thirteen countries were still negotiating an EPA. While he emphasised the need to consider trade in services in the EPA negotiations, he expressed concern that the inclusion of this matter in the negotiations could delay the process. He called for political level discussions which, in his view, would enable the resolution of contentious issues.

Addressing the remarks made by the ACP side, the EU Co-chair declared that there was a real commitment from the EU not to abandon cooperation with the CARIFORUM countries in the context of differentiation. With regard to the joint high-level dialogue issue, the Commission representative recalled that a high-level dialogue between the EU and the ACP side was already taking place. He suggested that it would be more efficient to put the emphasis on regional dialogues rather than at ACP level. As regards the intervention from the representative of Samoa, the Commission representative explained that it was the Pacific region that had suggested that services be included in the negotiations. In a concluding remark, the EU Co-chair underlined the need to move quickly towards concluding the negotiations.

4. ACP-EU trade regimes' issues

(i) The EU's new GSP scheme

The ACP Co-chair recalled that given the protracted nature of EPA negotiations, in the near future a number of ACP States will be subject to the Generalised Scheme of Preferences (GSP) trading regime. He called on the EU to include the non-LDC ACP countries on the list of beneficiaries of the GSP+ regime.

The EU Co-chair recalled that the new GSP had been reformed in October 2012 to focus on countries most in need. The corresponding tariff preferences would apply from 1 January 2014. Furthermore, the EU representative outlined the procedure applicable if an ACP country were to request inclusion in the GSP+ beneficiary list.

(ii) EC Communication on Trade, Growth and Development - State of Play

The EU Co-chair informed the Subcommittee on progress in the implementation of the Communication on "Trade, Growth and Development". The new GSP had been adopted and would be applicable from 1 January 2014. The Commission representative pointed out that in any case, for those countries involved in an EPA process, the EPAs remained the best solution as it granted a much more stable, lasting and complete framework for trade relations and economic growth than the GSP.

As regards Aid for Trade, the EU Co-chair stated that the EU and its Member States remained the world's leader in this regard, having provided €9.5 billion in 2011. Africa was still the EU's most important recipient, accounting for nearly 36% of the EU's and Member States' collective Aid for Trade. The Commission representative underlined that Aid for Trade remained a key issue on the EU's agenda, particularly in view of the upcoming 4th Global Aid for Trade Review and, even more significantly, the programming of EU aid for the period 2014-2020. He also stressed the fact that it was essential that sufficient Aid for Trade, notably Trade-Related Assistance, be allocated to help ACP countries take advantage of EPAs as well as of the GSP, GSP+ and EBA.

As regards the supply chain transparency initiative, the Commission representative stated that the Commission had launched public consultation on "conflict minerals" with a view to deepening EU understanding of issues such as the sourcing and security of supply of minerals, supply chain transparency and good governance, especially in developing countries affected by conflict. The results would be used to help the Commission decide whether and how to launch an initiative in this area.

The ACP Co-chair welcomed the Commission's statement and underlined that trade and development were at the heart of the ACP-EU partnership. Referring to the progress made so far on the Commission Communication, he called on the European Commission when implementing this policy to take into account the elements contained in the European Parliament's report adopted on 16 April 2013, such as the need for the EU's trade policy to be geared to producing positive knock-on effects in local, national, and regional economies, to promoting diversification of developing countries' economies and to encouraging steps towards more advanced and income-yielding production. Lastly, the ACP representative advocated the necessity of a continued dialogue on ACP needs in order to ensure that trade promotes development. Therefore, he recommended a better use of the provisions contained in Article 12 of the ACP-EU Partnership Agreement.

(iii) EU's negotiations with third countries

The EU Co-chair provided an overview of the EU's trade negotiations which could have an impact on the ACP Group of countries.

The EU Co-chair informed the Subcommittee that the Agreement with Peru had been provisionally applied since 1 March 2013. However, Colombia still needed to complete its internal ratification procedures although it was expected that it would be able to start applying the Agreement within the next few months.

As regards Central America, the Association Agreement had been signed by both parties in June 2012 and the ratification process was well advanced on both sides. Therefore, the trade component of the Agreement was expected to enter into force by mid-2013. The EU Co-chair stated that special dedicated meetings with the ACP Group were held during the crucial stages of negotiations with Central America.

Free Trade Agreement (FTA) negotiations with Singapore were completed on 16 December 2012. However, negotiations on investment protection, which had started at later date, were still on-going. The Commission representative pointed out that the agreement was to be initialled before the summer break.

As regards Malaysia, the EU Co-chair informed the Subcommittee that negotiations were on hold and no new rounds of negotiations were planned before the elections in Malaysia, scheduled for early May.

On the other hand, negotiations with Vietnam were making progress and these were held in an open and constructive atmosphere. The main elements discussed by negotiating groups concerned Trade in Goods, Customs and Trade Facilitation, TBT and SPS, Services, Investment, Trade-Related rules and Sustainable Development.

The Commission representative informed the Subcommittee that FTA negotiations with Thailand had been formally launched on 6 March 2013. A first round of negotiations was scheduled to take place in May 2013 and two more rounds were foreseen in the second half of the year.

With reference to other FTAs, the EU Co-chair stated that discussions with Indonesia and Philippines were still at an early stage. However, exchanges of proposals for scoping papers had taken place.

As regards negotiations with India, difficult issues still needed to be resolved, in particular in respect of cars, wines/spirits, the overall services package and procurement. However, the Commission representative emphasised that the will to reach agreement was strong on both sides. Consequently, there would shortly be a ministerial meeting to take stock of the situation and assess the feasibility of bringing negotiations to a conclusion in the near future.

Finally, the EU Co-chair presented the commitment by Mercosur Trade Ministers and Commissioner De Gucht, made in January 2013, to exchange market access offers no later than the last quarter of this year, and described this as an encouraging step towards the conclusion of an ambitious agreement.

The ACP Co-chair welcomed the de-briefing and expressed concerns about the possible erosion of the preferences resulting from trade concessions that the EU grants to third countries through new FTAs. He also raised concerns regarding the EU commitment to the multilateral trading system. He suggested that numerous bilateral agreements which the EU was negotiating undermined the multilateral processes.

The representative of Tanzania enquired whether the EU in its FTA negotiations insists on an MFN clause and whether the EU remained committed to the WTO process.

The representative of Mauritius called on the EU to engage fully in a consultation process with the ACP side when negotiating FTAs with third countries.

The representative of Jamaica called on the Commission to safeguard traditional ACP export products, such as sugar, bananas and rum, in FTA negotiations.

The EU Co-chair reassured the ACP side that ACP concerns were being taken into account in the context of EU negotiations with third countries. He declared that the EU was moving forward with bilateral trade negotiations, given that the WTO process was stalled.

5. Market Access and Commodity-related issues

(i) Sanitary and Phytosanitary issues (e.g. cadmium in cocoa)

The ACP Co-chair recognised the right of each country to take SPS measures necessary for the protection of human, animal or plant life and health, but recalled that such measures should not entail arbitrary or unjustifiable discrimination, and could not be applied in a manner which would constitute a disguised restriction on trade.

In addition, he called on the EU to review the way in which standards were drafted and amend the deadlines that had been imposed on ACP countries to conform. In the ACP countries' opinion, such standards were not always based on specific risk analyses, which called their scientific basis into question.

The representative of Jamaica expressed concern about the impact of the proposed EU legislation on cadmium levels in cocoa on the Caribbean cocoa bean exports. While expressing satisfaction that the maximum cadmium levels would apply to finished products and not to cocoa beans she called for an appropriate transition period.

The representative of Mauritius insisted that when the EU introduces new SPS measures, sufficient time should be given to ACP exporters so that they can adjust to the changes.

The representative of Saint Kitts and Nevis underlined the specific conditions of the Caribbean islands' small cocoa producers and suggested that the proposed EU legislation can stop local exporters from moving up the value chain.

The EU Co-chair stressed that the EU was committed to protecting consumers from high levels of contaminants in food and explained that maximum residue limits (MRLs) for pesticides in food and feed set in Regulation (EC) No 396/2005 apply to food products placed on the market in the EU regardless of their origin. When the EU intends to set MRLs that are stricter than the MRLs currently in place, it systematically notifies such proposals to the World Trade Organisation under the provisions of the SPS agreement. The Commission representative indicated that third countries were systematically consulted on proposed modifications to the EU MRLs for pesticides in the framework of the WTO.

As regards cocoa, the EU Co-chair informed the Subcommittee that the Commission's objective was based on an EFSA scientific opinion and sought to reduce exposure to cadmium among the most vulnerable consumers, especially children. The Commission representative declared that the EU would establish maximum levels for cadmium in chocolate and cocoa products as sold to the final consumer, but not for cocoa beans. Consultations with third party stakeholders had been held and as a result, higher maximum levels were proposed for chocolate and cocoa products with higher cocoa content. The EU Co-chair stated that a transitional period had been proposed in respect of when these maximum levels would come into force. This transitional period would start in January 2018 and would reflect the time needed to grow new varieties from seedlings to productive cocoa trees.

(ii) CAP reform / Sugar, bananas, fisheries, kava and tobacco

The ACP Co-chair recalled the ACP position on the need to decouple at 100% support to European cotton producers, which would establish a precedent that the United States would be encouraged to follow.

In respect of the EU sugar policy, the ACP Co-chair expressed disappointment regarding the EU Council's recent proposal to extend the Single Common Market Organisation for sugar by only two years until 2017 instead of until 2020 as proposed by the European Parliament. He argued that the Council's compromise overlooked the impact of its domestic Common Agricultural Policy proposals on the trade and development interests of the EU's partners. Accordingly, he requested an extension of the EU sugar regime until 2020 and urged the Commission and the Member States to support the European Parliament's position, which would mean that the final legislation would take into account the concerns of the ACP/LDC sugar suppliers.

The representative of the Commission explained that the Commission had proposed the abolition of EU sugar production quotas as of October 2015 and that this deadline had already been agreed in the context of the 2006 reform of the Single Common Market Organisation for sugar. He stated that since 2006 ACP countries had had an eight year adjustment period, during which the EU had provided substantial support to the value of EUR 1.25 billion to enable restructuring of the sugar sector in the former sugar protocol countries. He added that even after the abolition of sugar quotas, the EU would not stop importing sugar.

The representative of Guyana stated that the Sugar Accompanying Measures had been delayed, and suggested that producers should therefore be given more time in which to adjust and take advantage of the investment. Furthermore, he expressed concern as regards a possible drop in prices as a result of trade liberalisation and the abolition of production quotas.

In respect of bananas, the representative of Cameroon indicated that since 2009, when the EU reached an agreement with the MFN banana producers, very few things had changed for ACP producers, whereas in Latin America producers already benefited from lower tariffs. Consequently, he requested more flexibility in the implementation of the Banana Accompanying Measures (BAMs).

The representative of the Dominican Republic outlined difficulties encountered in the implementation of BAM resources and stressed the lack of capability of small banana producers, which prevented them from accessing such funding.

The EU Co-chair outlined the current implementation of the BAMs. He reiterated the EU's objective of using these resources to deliver specific improvements for workers and farmers involved in banana value chains.

On fisheries, the ACP Co-chair expressed disappointment in respect of the EU's decision to establish an autonomous tariff quota (ATQ) of 22,000 tonnes of tuna despite concerns expressed by the ACP side during consultations on this issue. As regards Illegal, Unreported and Unregulated (IUU) fishing, and in particular the Commission Decision of 15 November 2012 in respect of "non-cooperating" third countries, the ACP Co-chair declared that while the ACP countries recognised the IUU as a serious threat to a sound and sustainable management of resources, the deadlines fixed by the Commission to comply were difficult to meet and needed to be reviewed.

The EU Co-chair assured the Subcommittee that ACP concerns were taken into account when decisions were taken on the ATQ. However, he stated that the EU canning industry used increasing quantities of tuna loins and that the size of the market was growing significantly enough to accommodate an increase in the ATQ without damaging the commercial position of the ACP suppliers.

As regards kava, the ACP Co-chair expressed concerns about the de facto ban on kava products to the EU market from Pacific ACP states over the past ten years or so. He insisted that this issue be addressed at EU level and not only at national level.

The EU Co-chair recognised that kava production was an important source of revenue for some Pacific countries. He explained that Directive 2001/83 provided that no medicinal product can be placed on the EU market without a marketing authorisation. The Commission representative explained that the classification of a product as a medicine or as food fell within the competence of EU Member States.

In respect of tobacco, the ACP Co-chair expressed concerns regarding the proposed EU Directive on tobacco products and reiterated the request that assistance be provided to the affected countries in order to formulate and implement an economically sustainable diversification strategy as an alternative to tobacco growing. He also requested convening a meeting on this issue.

The representative of Malawi called on the Commission to reconsider its proposals as regards the tobacco Directive. In the event that the proposals were to be adopted, consideration needed to be given to assistance in the diversification of production in the ACP countries.

The representative of Dominican Republic stressed the need for the EU to take into account the impact of its measures on tobacco-producing ACP countries.

6. WTO issues - WTO MC 9

The ACP Co-chair reiterated the ACP's commitment to making the 9th WTO Ministerial Conference in Bali a success.

On the subject of Development/LDC issues, he called for the adoption of the 28 Agreement Specific Proposals, adopted *ad referendum* in 2003 in Cancun. The ACP hoped that WTO Members would respond positively to the six proposals on the SPS, Import Licensing Agreements and the Monitoring Mechanism. As regards agriculture, the ACP representative hoped that a compromise could be found on the G33 proposal relating to agricultural stockpiling. In respect of trade facilitation, he indicated the ACP's willingness to negotiate a Trade Facilitation agreement, provided that funding mechanisms would accompany any commitments made by ACP countries in this context.

The EU Co-chair stated that the EU was ready to work with the ACP countries with a view to finding an appropriate solution to the Monitoring Mechanism and Agreement Specific Proposals adopted in Cancun. On LDC issues, he recognised the progress made to date and called for further discussions. On agriculture, he stated that the EU was prepared to work towards securing an agreement on tariff rate quotas and food security. With regard to trade facilitation, the Commission representative clearly indicated that it was an offensive interest for everyone in the WTO and that gains from such an agreement would be distributed among most countries and regions, with the biggest benefits accrued by developing landlocked countries. He also thanked the ACP side for its efforts with regard to Section II of the Trade Facilitation Agreement and stressed the need to avoid loopholes in the agreement. In conclusion, the EU Co-chair emphasised the urgent necessity to secure an outcome in the WTO MC 9.

7. Preparations for the 12th Meeting of the Joint ACP-EU Ministerial Trade Committee (JMTC)

The EU Co-chair informed the Subcommittee that the 12th meeting of the JMTC would be organised, in accordance with the wishes put forward by the ACP side, on a Friday in October 2013 in Brussels.

8. Trade-related capacity-building programmes

The Commission representative gave an account of the state of implementation of the trade related capacity building programmes. He informed the Subcommittee that three programmes were underway: the ACP Multilateral Trading System Programme, the Technical Barriers to Trade Programme and Hubs and Spokes II. He also informed the Subcommittee that a TradeCom II programme with a budget of EUR 39.8 million was under preparation and would become operational in the second semester of 2014.