

ACP-EU COTONOU AGREEMENT

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

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 12 April 2013

ACP/61/016/13

ACP-UE 2107/13

DRAFT MINUTES

Of: 11th meeting of the Joint ACP-EU Ministerial Trade Committee
On: 26 October 2012
at: Centre de Conférence Albert BORSCHETTE, Rue Froissart 36, 1040 Brussels
Subject: Draft Minutes of the 11th meeting of the Joint ACP-EU Ministerial Trade
Committee

The Joint ACP-EU Ministerial Trade Committee held its eleventh meeting in Brussels on 26 October 2012 under the chairmanship of Mr Karel DE GUCHT, Commissioner for Trade.

The meeting was co-chaired for the ACP Group by H.E. Mr Aiyaz SAYED-KHAIYUM, Attorney-General and Minister for Industry and Trade of Fiji.

1. Adoption of the provisional agenda

[ACP/61/031/12- ACP-UE 2121/12]

The provisional agenda was adopted as set out in document ACP/61/031/12- ACP-UE 2121/12.

2. Approval of the minutes of the JMTC meeting held on 12 December 2011

[ACP/61/036/12 - ACP-UE 2108/12]

The Committee approved the minutes of the 10th meeting of the Joint ACP-EU Ministerial Trade Committee.

3. ACP-EU Economic Partnership Agreements: status and future perspectives

Commissioner De Gucht opened the discussion by recalling that the first Economic Partnership Agreement (EPA) in Africa had started to be provisionally applied between the EU and four countries of the Eastern and Southern Africa (ESA) region in 2012 and that a first meeting of the EPA Committee charged with monitoring the implementation of this Agreement had already taken place. Furthermore, he recalled that the implementation of the EPAs with CARIFORUM and with Papua New Guinea was well advanced.

The Commissioner also outlined the progress in EPA negotiations in various regions. EU and the Eastern African Community (EAC) negotiators had made significant progress and secured agreement on the development cooperation chapter. The Commissioner reported that in the SADC region good progress had been made, but more work was required to agree on market access. In West Africa not many issues remained unresolved; nevertheless not much progress had been made in 2012. In the Pacific region all countries of the region had submitted market access offers and technical negotiations had been re-launched. Addressing negotiations with Central Africa, he noted that no negotiation meetings had taken place during 2012 and much work remained to be done before concluding negotiations.

Concluding his intervention, Commissioner De Gucht outlined the state of play of deliberations on the Commission's proposal to amend Council Regulation 1528/2007¹ (known as the Market Access Regulation). He explained that while the European Parliament proposed postponing entry into force of the amendment until 2016, the Council of the European Union fully endorsed the Commission proposal, including the date of entry into force as proposed by the Commission. However, both institutions agreed that EU preferences would need to be based on ratified agreements as of a certain date. The Commissioner underlined that for this reason negotiations need to be urgently concluded, which requires political commitment and flexibility on both sides.

Minister Sayed-Khaiyum noted the differences in the state of play of negotiations and implementation of EPAs among ACP regions. He recalled that in many regions the same issues remained contentious and for this reason he proposed that the ACP and the EU set up working groups at technical and political level to address these unresolved questions. He suggested that for the Least Developed Countries (LDCs) which enjoy the "Everything but Arms" market access, the possibility of concluding EPAs without subscribing to the trade chapter should be examined. Furthermore, in order to facilitate cumulation, he proposed concluding a Customs Administration Cooperation Agreement at the ACP level.

With regard to the Commission proposal to amend the Market Access Regulation, the ACP side took note of the position of the European Parliament, which was of the opinion that the amendment should enter into force only as of 1 January 2016.

¹ Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements.

The representative of Samoa outlined the state of play of negotiations in the region as well as the specific challenges the Pacific region was facing. He recalled that all Pacific countries had submitted market access offers, which showed that the countries of the region remained committed to concluding an EPA. He hoped that similar a commitment existed also on the EU side.

The representative of Jamaica considered that access to the European market for Caribbean countries remained limited as a result of sanitary and phytosanitary measures and that EU migration legislation was an important obstacle to the provision of services.

The representatives of Zambia and Kenya noted that EPA negotiations should under no circumstances undermine regional integration. The representative of ECOWAS echoed these comments. Addressing the question of the amendment to the Market Access Regulation, he considered that more time was needed to conclude EPA negotiations so the proposed date of entry into force of the amendment should be postponed as proposed by the European Parliament.

The representatives of Botswana emphasised that EPA negotiations have a major impact on the whole SADC group and stressed the importance of preserving the development focus of EPAs.

Commissioner De Gucht took note of the ACP concerns. Addressing the issue of the Market Access Regulation, he argued that continued application of the Regulation would be unfair towards ACP countries that had signed and ratified EPAs. He insisted that whatever the date of the entry into force of the amended Regulation may be, outstanding issues in the EPA negotiations must be urgently resolved.

4. ACP-EU Trade regime issues:

(a) EC Communication on Trade, Growth and Development

Commissioner De Gucht outlined the content of the Commission Communication on Trade and Investment for Development adopted by the Commission in January 2012. He explained that the aim of the communication was to adapt the EU's trade and development policy to changes in the global economy since 2002 and that the communication confirmed and complemented the EU's key principles of trade and development.

He recalled that the EU had modified and improved its instruments designed to assist development through trade, notably its GSP and GSP+ schemes. In parallel, the EU and its Member States remained the leading provider of Aid for Trade with EUR 10.7 billion in 2010. He also encouraged ACP governments to consider how to promote trade within the priority sectors in the programming of EU aid in the period 2014-2020.

He declared that the EU would continue its efforts to intensify its trade relations with developing countries through Economic Partnership Agreements and Free Trade Agreements, while at multilateral level the EU remains committed to the Doha Development Agenda and concluding a Trade Facilitation Agreement. Commissioner De Gucht concluded his statement by declaring that, as regards LDCs, the EU would follow a flexible and pragmatic approach through such instruments as the new GSP, trade agreements and Aid for Trade. At the same time the EU would encourage emerging economies to assume a greater role in supporting poorer countries, in line with their growing weight in the global economy.

Minister Sayed-Khaiyum thanked Commissioner De Gucht for outlining the content of the Commission Communication. He suggested that the EU should lay more emphasis on building trade capacities in ACP countries. While agreeing on the need to provide additional support to the countries with the greatest needs, he rejected the notion of differentiation among members of the ACP Group, except where this had been discussed and agreed upon in the context of the Cotonou Agreement or adopted in the past.

He regretted that the Communication addressed neither the unique situation of small island developing states (SIDS), nor the specific situation of conflict and post-conflict and landlocked ACP States. He noted that with tariffs at a historically low level, behind-the-border issues are gaining importance and should be properly addressed.

On aid for trade, he declared that there should be a move beyond simple capacity building and technical assistance to additional support that would help to consolidate production and lower production costs within regions as well as promoting regional trade in general.

He noted that the Communication called for more commitment to refrain both from protectionism and from the use of export taxes and export restrictions on food, raw materials and natural resources.

4. ACP-EU Trade Regime issues

(b) EU negotiations with third parties

Commissioner De Gucht described the ongoing EU negotiations with third countries, focusing on those that were most likely to have an impact on the ACP: Central America, Colombia, Peru, Mercosur, India and Malaysia.

He reported that the Association Agreement signed on 29 June 2012 between the EU and Central America was subject to ratification by both sides and the trade component of the Agreement was expected to enter into force by mid-2013. The signature of the Agreement with Colombia and Peru took place on 26 June 2012 and the Agreement was expected to enter into force by the beginning of 2013. Regarding specific trade openings for products of major interest to ACP countries (bananas, rice and rum), the Agreement provided for only partial liberalisation of these products. With regard to Mercosur, the negotiations up to date had focused on the normative parts of the Agreement and no date had been agreed for the exchange of market access offers, so it was too early to assess potential impact on ACP countries.

Addressing negotiations with India, the Commissioner noted that intensive negotiations were taking place while some difficult issues still remained to be solved, notably cars, wines/spirits, the overall services package and procurement.

The Commissioner noted that in South-East Asia bilateral negotiations with Singapore and Malaysia had been launched in 2010. While negotiations with Singapore were in the final phase, negotiations with Malaysia were to some extent delayed due to the upcoming elections in Malaysia. He also informed the Committee that Free Trade Agreement (FTA) negotiations with Vietnam had been launched on 26 June, while scoping exercises were underway with Thailand and the Philippines.

Reacting to the EU presentation, Minister Sayed-Khaiyum reiterated the ACP position that the EU's conclusion of FTAs with third countries led to erosion of preferential market access for ACP States and affected their competitive position in the European Market as well as their development efforts. In this context, the ACP side reiterated its call for regular consultations in accordance with Article 12 of the Cotonou Agreement and for joint studies to assess the impact on ACP-EU trade relations of agreements reached and in particular the preference erosion.

The Minister also expressed concern over the Commission's intention to allow an autonomous tariff rate quota of 30,000 tonnes for tuna loins, if these were to be sourced outside the ACP.

He outlined the impact that the ACP States considered the FTA between the EU and Colombia and Peru, as well as the association agreement signed with Central American countries, would have on ACP exports. In the light of these circumstances, he appealed to the EU to apply the provisions of Article 37a of the Cotonou Agreement and, spread out over the longest period possible, the implementation of measures that the European Union must take and which have an adverse effect on trade with ACP States. Furthermore, Minister Sayed-Khaiyum called on the EU to put in place accompanying measures for the sectors affected.

The representatives of Jamaica and Kenya warned that liberalisation of the EU market had a considerable impact on the economies of ACP countries.

Addressing the concerns raised by ACP representatives, Commissioner De Gucht assured the Committee that the FTAs to be concluded would have a limited impact on ACP economies.

4. ACP-EU Trade Regime issues

(c) Commodity-related issues

Minister Sayed-Khaiyum launched the discussion, addressing the implementation of the accompanying measures for the former members of the sugar protocol and for ACP banana producers. He called on the EU to provide all the resources envisaged for assisting the countries in question and to ensure flexibility in the implementation of the measures so as to guarantee full disbursement of the resources allocated. He called on the EU to prolong support for the ACP sugar sector beyond the end of the current ACP Sugar and Innovation Programme.

The Minister called on the European Union to seize the opportunity of the Common Agricultural Policy (CAP) reform to adopt a more ambitious approach to cotton by applying 100 % decoupling of support for European cotton producers, taking into account the fact that the average decoupling rate in EU agriculture was set at 90 %. He called on the EU to maintain the current market instruments that enable ACP suppliers to obtain a sufficiently remunerative price for their sugar exports and maintain sugar quotas at least until 2020.

Turning to the issue of Sanitary and Phytosanitary Measures (SPS), the Minister recognised the right of every country to take the necessary steps to ensure food safety, the protection of animal health and the preservation of animal health and the environment. He underscored however that any regulations concerning food safety and health must be based on scientific evidence. He stressed that whenever the EU is obliged to take such measures, steps must be taken to reduce their adverse impact, particularly by including a sufficiently long moratorium to enable the necessary adjustment by the affected ACP countries, and by setting up appropriate accompanying measures.

He voiced the concern of the ACP Group that, while steps were being taken to restrict tobacco production in the context of the WHO Framework Convention on Tobacco Control (WHO FCTC), no initiative was being taken to find viable alternatives for tobacco producers and tobacco-producing countries.

With regard to kava, the Minister called on the EU to ensure that ACP kava producers are granted the opportunity to engage in an appropriate exchange of views with the authorities of the countries that have banned the import of kava and kava products on their territories.

Concluding his statement, Minister Sayed-Khaiyum invited the European Commission to consider setting up a support programme to assist with the formulation and implementation of an economically sustainable strategy for the ACP commodity sectors affected by the various TBT and SPS measures.

Following this intervention, the representative of Samoa reiterated ACP concern regarding the ban on kava introduced by certain EU Member States. He considered that the issue should be addressed at EU rather than national level, and called on the Commission to facilitate dialogue with EU Member States that have introduced import bans.

The representative of Jamaica questioned the proposed EU regulations regarding maximum cadmium levels in cocoa products, arguing that other products such as cereals, vegetables and grains also contain cadmium. She emphasised that if such measures were adopted, technical assistance would need to be provided to ACP cocoa producers.

The representative of Zimbabwe called on the EU to establish measures to support research and development in the sphere of tobacco cultivation, which would help the ACP tobacco industry to comply with new regulations in the tobacco sector.

In response, Commissioner De Gucht took good note of the concerns of the ACP side. He assured the ACP representatives that the EU scientific agencies were reviewing the situation and offered to facilitate discussions with DG SANCO of the European Commission. He confirmed that consultations with ACP States would continue on these matters.

Mr Klaus Rudischhauser, Deputy Director-General at the European Commission's Development and Cooperation Directorate-General, outlined the state of play of implementation of the banana accompanying measures (BAM), emphasising that the preparatory phase had been concluded and that the actual implementation of the measures was about to be launched and would continue throughout 2013.

5. WTO issues

- **Doha Round: Securing the centrality of development in the negotiations**
- **Emerging Issues in the Multilateral Trading System (MTS)**
- **Plurilateral Agreements**

Minister Sayed-Khaiyum outlined the state of play of the Doha Development Agenda (DDA) negotiations and expressed disappointment at the deadlock reached in the process. In his opinion, future negotiations should seek to create a balance within and between issues and recognise different levels of development of developing countries.

Addressing the issue of trade facilitation, he declared that the ACP Group was seeking a fair and balanced Trade Facilitation Agreement in the WTO. Nevertheless, given the disparities between developed and developing countries in the existing customs infrastructure, such an agreement would have to be accompanied by the provision of additional capacity to help developing countries to implement the agreement. Furthermore, in order to ensure a fair and balanced outcome for any short-term deliverables in the Doha round, other priority issues of importance to developing countries must be part of this outcome.

The Minister supported LDC accession to the WTO, emphasising however that the LDCs should be accorded the policy space required to build their infant industries and advance their economic development.

Commissioner De Gucht declared that the EU still attached great importance to concluding the DDA. He considered that agreement in certain areas such as Trade Facilitation and Differential Treatment could be reached in the following months, and this could constitute a step towards the conclusion of the entire DDA. He stressed that an early agreement on Trade Facilitation would have a very significant and long-term positive effect on the economies of the parties to such an agreement. In addition it would rebuild the trust in the Multilateral Trading System and inject dynamism into other areas of negotiation under the DDA. The Commissioner declared that the EU would contribute to the technical assistance and support required for ACP countries to implement such an agreement. He called on all parties to step up their efforts to advance the negotiations on key issues such as Special and Differential Treatment and Trade Facilitation.

6. Trade capacity building

Deputy Director-General Rudischhauser informed the Committee that, following the ACP request to set up a Trade Capacity Building Facility, the Commission had been working with the ACP Secretariat to put in place such a facility. This project would use EUR 38 million available after the conclusion of the mid-term review of the 10th EDF intra-ACP strategy. In addition, EUR 12 million would be used for the continuation of the Hub and Spokes Programme.

He considered that regional EPA-related programmes under the 10th EDF had not proved very successful. On the other hand, as regards national indicative programmes, only a few ACP countries indicated that trade capacity building was a priority for EU support. Therefore, if progress were to be made, ACP countries should identify trade capacity building as a priority area in the process for programming EU aid for the period 2014-2020.

Minister Sayed-Khaiyum thanked the EU for the assistance provided in the area of trade capacity building and welcomed the information about the proposed successor Trade Capacity Building Facility and the continuation of the Hub and Spokes Programme.

He also indicated that in the ACP view any successor programme would need not only to enhance the previous trade-related capacity building programme but also to strengthen the capacity of the private sector to develop products, facilitate technology adaptation, and build up the competitiveness of ACP industries. In this regard, he requested that the EU increase its financial allocation for aid for trade in order to facilitate the attainment of these objectives.

Concluding, Minister Sayed-Khaiyum expressed concern with regard to the freezing of activities of the Centre for the Development of Enterprise (CDE) which, in his view, was an important institution in the area of private sector development.

7. Any Other Business

No issues were raised under this point.
