

ACP-EU COTONOU AGREEMENT

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

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 October 2016

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ACP-UE 2117/16

SUMMARY RECORD

from: 73rd meeting of the ACP-EU Subcommittee on Trade Cooperation
on: 23 February 2016
at: ACP House, 451 Avenue Georges Henri, 1200 Brussels
Subject: Summary record of the 73rd meeting of the ACP-EU Subcommittee on Trade Cooperation

The ACP-EU Subcommittee on Trade Cooperation held its 73rd meeting at the ACP House on 23 February 2016.

The meeting was co-chaired by H.E. Ambassador Ousmane MATAR BREME from the Republic of Chad, for the ACP side, and Ms Sandra GALLINA, Director for Sustainable Development; Economic Partnership Agreements - African, Caribbean and Pacific; Agri-food and Fisheries at DG Trade (European Commission), for the EU side.

1. Adoption of the agenda

The agenda, as set out in [ACP/61/010/16 - ACP-UE 2106/16], was adopted.

2. Approval of the summary record of the 72nd Meeting of the ACP-EU Subcommittee on Trade Cooperation

The summary record of the previous meeting [ACP/61/001/16 - ACP-UE 2101/16] was approved.

3. ACP-EU Economic Partnership Agreements (EPAs): state of play and how to ensure EPAs yield benefits

The EU Co-chair described recent developments with regard to the implementation of the existing EPAs. She stressed that good progress had been recorded in the EPAs, with most of the regions having completed the negotiations and a number of signatures to be completed in the next months. For ECOWAS, the signatures had been completed on the EU side and only three states were missing on the African side. Regarding SADC and EAC, the EU had opted for a fast track for internal procedures in order to allow for the finalisation and signature of these agreements in the first half of this year.

Regarding the approaching lapse of the deadline on 1 October 2016, the EU side expressed confidence that the remaining signatures of the EPAs could be concluded swiftly.

On EPA implementation, the EU side expressed appreciation for the work of the Joint Institutions.

The described process should be the basis for future endeavours. Once the EPAs were ratified, there was still work to be done on both sides. Each EPA had a trade and development part, which would require partners to be involved in the implementation process. The Caribbean EPA was an example of an agreement yielding positive results, creating an enabling environment for business and developing the competitiveness and capacity of the private sector to engage in trade.

The EU side further underlined that there is so far no evidence that any of the EPAs in application would have resulted in appreciable fiscal revenue losses for the ACP States or in European products flooding the ACP markets.

Finally, the EU underlined the positive effects of the Aid-for-Trade programme, which amounted to 22.5 billion euro from 2005 to 2013. The Co-chair emphasised the importance of clearly establishing the priorities in the projects submitted under the 11th EDF regional envelopes.

The ACP Co-chair welcomed the progress achieved in the EPA processes in West Africa, the East African Community (EAC) and the Southern African Development Community (SADC), as well as in interim EPA signatory states in Eastern and Southern Africa (ESA). However, with the majority of ACP States outside the EPA framework in Central Africa and the Pacific, there was need for flexibility and to speed-up the negotiations with these regions. The ACP side expressed concerns about the EU undertaking trade agreements with other partners who export in competition with the ACP products, and thereby eroding EPA benefits.

In this respect the ACP reaffirmed the need for additional financial resources and technical assistance to address supply side constraints, build productive capacities and improve competitiveness. This would be in line with the "capacity to implement" principle embedded in the WTO Trade Facilitation Agreement, to support the implementation of EPAs. The EPAs should take into account the regional integration processes in Africa, such as the tripartite (Common Market for Eastern and Southern Africa (COMESA), EAC and SADC) FTA and the Continental Africa Free Trade Area processes. At the same time the ACP side called on the EU to ensure that the SDGs are addressed in the EU-ACP trade relations.

The representative of Zimbabwe, while fully supporting the objective of negotiating comprehensive EPAs, expressed concerns that the interim EPAs seem to be mutating into permanent arrangements. He called on the EU side to show more flexibility to conclude comprehensive EPAs, especially to those states which have shown a timely commitment to signing interim EPAs early. The representative requested that at future meetings, the report on EPAs cover the following three elements: signature and ratification, outstanding negotiations, and implementation.

The representative of Jamaica underlined the importance of efficient implementation of the EPAs and outlined the steps which the Caribbean region is taking to implement the comprehensive EPA. The representative pointed to the challenges stemming from the EPAs and to the opportunities which are offered by them, in the spirit of partnership.

The representative of Samoa recalled that the Pacific region has not concluded a comprehensive EPA with the EU. He indicated that, for that region, the interim EPA provided potential to build on in the future. He expressed the expectation that the negotiations will continue, while the main focus of the Commission is on implementation.

The representative of COMESA, while pointing out that four countries in the ESA were the first to sign an interim EPA in Africa, explained that significant progress had been made in the negotiations towards a comprehensive EPA and that a full EPA covering all the countries in the region would further reinforce the regional cooperation.

The EU side responded by underlining that the EU thinking had also changed over the time, in the period since the first interim EPAs had been signed. The new trade agreements would now need to have a much more pertinent sustainable development perspective. The EU side also pointed to the fact that all EPAs had accession provisions and thus it remained for a state to choose if it wished to sign up to a given agreement.

The EU noted that the Market Access Regulation was a temporary solution until the EPAs were signed and ratified. The situation needed to be brought into line with the WTO rules and to be fair for countries which concluded EPAs. The deadline for ceasing of preferential market access had already been postponed on a number of occasions. The EU stressed its conviction that those countries which needed EPAs to have good market access, had EPAs in place. The EU underlined that LDCs are offered duty-free, quota-free access, but other countries which needed such market access were offered that through EPAs. In this context the Commission stressed the importance of efficient implementation of the EPAs and reiterated it was fully committed to the implementation of the EPAs so as to make best use of them and make the most out of the sustainable development principles.

4. ACP-EU trade regime, including market access and commodity related issues

(a) Trade for All – EU trade and investment strategy

The EU introduced the topic by referring to the trade and investment policy contained in the Commission Communication "Trade for ALL" issued in October 2015. The policy has three key messages: trade policy needs to be more effective in delivering growth, more transparent as well as based on European and universal values. The proposed approach means that trade and investment policy needs to address current issues and provide means for SMEs, consumers and workers to take full advantage of open markets. It will also mean improving implementation and enforcement of EU trade rights. Moreover, the Commission stressed that the trade agreements and preference programmes should be used as levers to promote European values with the inclusion of civil society and other stakeholders. Finally, enhanced transparency would mean more public scrutiny, as has been the case during the TTIP negotiations. As far as the ACP Group is concerned, the Commission stressed again the emphasis placed on the implementation of the EPAs. Finally, the Commission underlined that it would continue supporting regional integration, including via the "Aid for Trade" programme.

The ACP side welcomed the adoption of the EU Strategy and requested further clarifications on the following issues: 1. In what way does the strategy promote European values and why is reference made only to European and not to international values? 2. What is the state of play and the expected impact of the FTA negotiations with Asian countries on Pacific ACP countries? 3. On bilateral investment agreements, why the new strategy makes reference to Africa and not to the ACP as a group? 4. With respect to LDCs, in what way could it be ensured that these countries make best use of the GSP scheme?

The Commission responded that the statistical data could be misleading and that many LDCs have chosen to use the Market Access Regulation/EPA regime for their exports to the EU, which explains the low rate of using the Everything But Arms (EBA) scheme in their case. As for FTA negotiations, the Commission pointed to the impact studies which will be made during these negotiations. Regarding the question on the promotion of values, the Commission underlined that it means universal values, as listed in the Cotonou Agreement and recognised by the ACP. The Commission concluded by expressing its belief that efficient implementation of the EPAs will be a full part of the new Trade and Investment Strategy.

(b) EU's negotiations with third countries

The EU Co-chair gave an overview of the state of play in the EU FTA negotiations. The Commission stressed that no other agreement grants duty-free, quota-free access for all trade in goods from day one. Concerning the TTIP, the Co-chair recalled that the 12th round of negotiations has just started and stated that 2016 would be a challenging year, with the objective being to get as close to the conclusion of the main part of the agreement as possible. The Commission considered this scenario possible under two conditions: firstly to maintain a balance and ambitious TTIP for Europe and, secondly the endurance of the US administration and the outlook for ratification of the TPP agreement. The Commission reiterated that according to its' impact assessment study the TTIP should not have negative effect on the low income countries.

Regarding CETA, the EU Co-chair stated that the agreement is currently under legal review and that it is expected to be presented to the Council and open for signature in summer this year.

Turning to the plurilateral negotiations on the Trade in Services Agreement (TiSA), the Co-chair stated that the negotiations today encompass 23 WTO members. TiSA could be transformed into a multilateral agreement on services incorporated into the WTO. The accession of Mauritius could possibly trigger the reflection of other ACP members to join these negotiations.

The Commission updated the Committee on FTA negotiations concerning Latin America, where negotiations were on-going with Mercosur (exchange of market offers expected in 2016) and an FTA was in place with Colombia and Peru, with Ecuador joining the agreement by the end of 2016. The implementation of the Association Agreement, including a trade pillar, with Central America (Honduras, Nicaragua, Panama, El Salvador, Costa Rica and Guatemala) was ongoing.

Regarding the ASEAN, two FTAs had been concluded (with Singapore and Vietnam) but were not yet in force. Further negotiations are ongoing with Malaysia, Thailand and India. The EU was also having talks with Indonesia on the possibility to launch FTA negotiations.

The ACP Co-chair reiterated ACP concerns on impact of preference erosion, where EU FTAs reduce or eliminate tariffs on products competing with ACP exports. Fears were conveyed since the granting of more favourable access to established suppliers could neutralise some of the perceived benefits of the EPAs for ACP suppliers of these products. The ACP Co-chair further stressed the ACP request to receive updated information on negotiations such as the TTIP and the TiSA in line with Article 12 of the Cotonou Agreement.

The EU Co-chair signalled the availability of the Commission to provide information in accordance with the consultation obligation of Article 12. Regarding the preference erosion, the Commission reassured the ACP side that the EU understood its sensitivities, which were, in fact, similar to those of the EU. However, the EU would not block the on-going negotiations and the best results should rather be obtained from them. The EU undertook to continue to keep the ACP side informed of the state of play of its negotiations pursuant to Article 12.

(c) Fisheries

The ACP side raised two concerns under this point of the agenda. Firstly, it expressed its preoccupation related to the implementation of the EU regulation on Illegal Unregulated and Unreported (IUU) fishing. While the ACP Group agreed that IUU resulted in depletion of fish stocks, undermined food security and threatened the livelihoods of coastal communities, it noted that the implementation of the regulation had affected twelve ACP Member States directly by being pre-identified as a non-cooperating country. The ACP side further raised concerns with respect to the Council Regulation for Autonomous Tariff Quotas (ATQ), in particular for tuna loins, hake and shrimp *Penaeus vannamei*. The ACP Group provided specific recommendations that could remedy the situation, which were not considered favourably by the EU side. The ACP side reiterated its concerns that the adopted regulation eroded preferences extended to the ACP States and adversely affected those of them which relied heavily on fisheries, with a negative impact on jobs and economic development.

The representative of Jamaica, speaking on behalf of the Caribbean, while thanking the Commission for the opportunity to discuss the IUU fishing in the region, expressed concerns about whether these discussions would take full account of the specificity of these countries. She also requested that this question be examined in the context of EPA discussions.

The representative of Vanuatu expressed concern about being listed under the IUU regulation and pointed out the particular burden it put on the state. He further pointed out that an agreement with the U.S. was to expire on 1 January 2017, which would put small island developing states under additional pressure. He stressed the need for support to be given to the small island developing states.

The Commission responded by recalling that a number of countries were already delisted under the IUU regulation. The procedure for delisting was based on dialogue, and this was still ongoing with 8 countries currently listed. The Commission noted that despite being listed, these countries could still export fish into the EU. Concerning ATQs, the Commission noted that this issue had been previously discussed with the ACP when the Commission proposal was issued – however EU Member States had the last word as the ATQ was based on a Council Regulation.

The ACP side concluded with a request for assistance from the EU side to enhance the exporting capacities of the ACP countries in respect of the products covered by the IUU Regulation.

(d) Sugar, bananas, kava and tobacco

The ACP side expressed concerns about the rules on market access for sugar, bananas, kava and tobacco. While recognising that the rules currently applicable needed to stay in place, the ACP side noted specific problems faced by the exporters of the above products to the EU. The ACP side deplored the reality in which competitors of the ACP countries received preferential conditions. The ACP requested assurances from the Commission regarding the rules in force.

Concerning tobacco, the ACP worries related to the EU Tobacco Products Directive, which requires EU Member States to put in place specific rules on packaging. The EU market being one of the main export destinations, these rules are considered to represent a heavy and disproportionate burden on the ACP States.

The representative of Cameroon took the floor on the banana-related issues, reiterating the concerns of the banana producers regarding the price of this product. The ACP expressed concerns about preference erosion, requesting a firm commitment from the EU that it will not agree tariffs below EUR 75/tonne in FTAs with third countries.

The representative of Fiji took the floor on the sugar-related issues and reported on the main results of the meeting between the Commission and ACP countries, which had taken place in February 2016. The ACP group expressed its appreciation to the EU for successful completion of the research on competitiveness in the sugar sector. The abolition of EU sugar quotas in September 2017 and the increase in competition it would bring to the ACP producers, was noted with the greatest concern.

The representative of Vanuatu took the floor on the kava-related issues. He reported on the challenges to Pacific kava-producing states as a result of a ban on kava imports by some EU Member States. He announced that there would be a study on quality control and product standards to improve the exportability of the product.

The representative of Zimbabwe expressed concerns that the EU Tobacco Regulation would have a negative impact on the production of tobacco and people's livelihoods. While agreeing with the health concerns, he expressed the commitment of Zimbabwe to play a part in the regulation of the tobacco market. In this context he requested financial support from the EU which was necessary to counter-balance the disadvantages to market access resulting from the regulation.

The EU Co-chair reiterated the importance that the EU was attaching to the ACP-EU partnership on agricultural commodities. The Commission noted with interest the initiative launched by the ACP side on the New ACP Approach on Commodities. While noting that the market was a moving target, the Commission recognised that development aid was also evolving and that it was highly unlikely that products like banana and sugar would be covered by new accompanying measures. Regarding tobacco, the Commission noted that the new EU Tobacco Products Directive was the most ambitious set of tobacco control measures to be introduced in the EU. It noted that while the directive did not foresee compulsory plain packaging, a number of Member States had opted for this solution. The Commission did not see a contradiction between this approach and other international commitments.

On bananas, the Commission highlighted the very good market performance since the EU preferences started to erode in 2010. The Commission underlined however, that the ACP States still enjoy very substantial preferences and privileged treatment compared with other EU partners.

Turning to sugar, the EU Co-chair noted that it is a very complex market which is under study. The Commission noted that the joint market study should produce results in May 2016.

On the issue of kava, the Commission recalled that, in fact, there was no single market for this product, thus the competence regarding the qualification of the product remains with the Member States. There would be a study on how to improve the quality of the product. The Commission encouraged the ACP States to engage in dialogue directly with the Member States concerned.

5. WTO issues – outcome of WTO MC 10 and way forward

The ACP Co-chair noted the positive outcomes of the WTO MC 10. In particular, the ACP side welcomed the reaffirmation that the work would advance on the remaining DDA issues, including agriculture, NAMA, services, development, TRIPS and rules. However, the ACP noted with disappointment that no decision could be taken on developmental and food security aspects of fisheries subsidies.

The representative of Benin took the floor to reiterate the results of the WTO MC 10 for the LDCs. In his opinion the agreement on cotton had been a true success for the LDCs in the sense it stipulated preferential market access rules to be granted by the developed countries. The representative requested information on EU initiatives in this respect.

The representative of Vanuatu questioned the EU position on DDA issues resulting from WTO MC 10.

The representative of Jamaica praised the efficient cooperation between the EU and the ACP and flagged two outcomes of the declaration which required further reflection: 1. the issue of small and vulnerable economies (SVEs), and 2. the issue of net food importing developing countries. She stated the importance of the efficient implementation of the Nairobi Declaration.

The EU Co-chair shared the ACP assessment of the successful outcomes of the WTO MC 10. The EU Co-chair noted that the EU was already implementing the MC 10 declaration, including on cotton, for which duty-free, quota-free access was granted to LDCs. Regarding future discussions, the EU welcomed ACP participation in reflection on the remaining issues. The discussions on new issues should not be blocked, despite the fact that some states might be impeding them for tactical reasons. The EU Co-chair reiterated that the EU was committed to fostering discussion on outstanding DDA issues. Expressing trust that the ACP would play a constructive role in that debate, the Commission also invited the ACP side for a debate on the joint work within the WTO.

6. Trade-related capacity building programmes

The representative of the Commission outlined the state of play of the implementation of the trade-related capacity building programmes under the 10th and 11th EDF. The Commission noted that overall, the programmes financed under the 10th EDF contributed to supporting the ACP countries and regions in strengthening the capacity to trade and in terms of poverty eradication.

The Commission noted that private sector participation could be further enhanced. Longer term sustainability was also being considered and would be enhanced in future projects. Main recommendations for the future were to reach out to less experienced candidates, to benefit from networking possibilities and to disseminate the lessons learned.

The Commission also encouraged the ACP States to seek financial support under the trade facilitation programme available under the WTO umbrella, in addition to the financial assistance available for the ACP under the Regional Indicative Programmes (RIPs).

The ACP Co-chair welcomed the information provided by the EU side and invited ACP States to make the best use of the financial assistance available to them under the trade facilitation schemes.

7. Preparations for the Joint Ministerial Trade Committee meeting (JMTC)

The date of the next Joint Ministerial Trade Committee (JMTC) meeting was yet to be confirmed. The agenda of that meeting would be worked out through consultations between the Commission and the ACP Secretariat.

8. Any other business

Nothing was raised under this item.
