

ACP-EU COTONOU AGREEMENT

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

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 10 April 2017

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ACP-UE 2108/17

DRAFT MINUTES

of: 14th meeting of the Joint ACP-EU Ministerial Trade Committee
on: 9 December 2016
in: European Commission, Charlemagne Building, Alcide de Gasperi Room,
Rue de la Loi 170, 1040 Brussels

Subject: Draft Minutes of the 14th meeting of the Joint ACP-EU Ministerial Trade
Committee

The Joint ACP-EU Ministerial Trade Committee held its 14th meeting in Brussels on 9 December 2016 under the chairmanship of H.E. Mr Euloge Landry Kolelas, External Trade Minister of the Republic of the Congo.

The meeting was co-chaired for the European Union by Ms Cecilia Malmström, Commissioner for Trade.

1. Adoption of the agenda

The provisional agenda was adopted as set out in document [ACP/61/051/16 Rev.1 - ACP-UE 2121/1/16 REV 1].

2. Approval of the minutes of the Joint Ministerial Trade Committee held on 26 June 2015

The Committee approved the minutes of the 13th meeting of the Joint ACP-EU Ministerial Trade Committee as set out in document [ACP/61/076/15 Rev.1 - ACP-UE 2120/1/15 REV 1].

3. Economic Partnership Agreements - state of play and next steps

- (i) Signature and ratification**
- (ii) Outstanding negotiations**
- (iii) Implementation including requisite support**

Commissioner Malmström opened the discussion stating that the focus of the EPA process had shifted firmly from negotiation to implementation. She said that EPAs in all the three ACP regions are being implemented and that these EPAs cover 28 ACP states. Another 21 ACP states have concluded negotiations and a number of other states have expressed their interest in joining existing Agreements. EPAs will therefore be the platform for trade relations with the majority of ACP states.

The Commissioner recalled that the EU is already preparing for EPA implementation in all regions, and that this comprises National EPA Implementation Plans. These plans aim to identify and address key constraints to economic growth and private sector development. They also target support possibilities for the reforms that are needed for the smooth implementation of the agreements.

Negotiations were concluded with West Africa (ECOWAS), the Southern African Development Community (SADC EPA Group) and the East African Community (EAC). EPA signatures are ongoing in West and East Africa. The Commissioner said she was confident that the process would be concluded swiftly. As regards the outstanding negotiations, the EU representatives stated that none were currently open. However, work is being carried out to update the rules of origin of some existing EPAs, or negotiate those rules in cases where this had not already been done.

Commission Malmström stated that the so-called "full EPA" negotiations were either concluded in 2014 or have been at a stalemate for several years and referred to the Pacific region, regarding which both sides have conceded that negotiations had been suspended. This means that the focus of effort in that region should be on the implementation of the existing EPA.

With regard to the implementation of EPAs, the Commissioner said there had been good progress as regards the Caribbean, the Pacific, the Eastern and Southern African (ESA) sub-region, Cameroon and Central Africa. She also said that the EPA with the SADC EPA Group entered the implementation phase in October 2016 and that all parties were working hard to address the urgent issues, with Mozambique soon able to start implementation, too.

Monitoring EPA implementation is crucial in order to assure that EPAs play a critical role as a platform for trade relations and cooperation between the EU and its ACP partners.

The representative of the Commission (DEVCO) gave a brief summary on the EU's support for EPAs in the context of development cooperation. EPAs include a chapter on economic and development cooperation allowing for assistance to the ACP partners on EPA implementation, notably on the adjustment of customs tariffs, SMEs and private sector development. EPAs can help create a positive economic environment in the wider context of national implementation programmes. Currently, the EU is converting National Indicative Programmes (NIPs) and Regional Indicative Programmes (RIPs) into specific projects and EU delegations have been asked to ensure that implementation is coordinated with the national authorities. The new External Investment Plan, which was launched recently, is currently under discussion within the Council and the European Parliament. It provides a basis on which to increase investment by means of the innovative financial guarantee fund.

Minister Kolelas stated that the true impact of EPAs still needs to be assessed. He expressed regret about the lack of progress in some regions, and said that the ACP attributed this to a lack of flexibility from the EU. He expressed the view that the current situation may force the ACP states to accept the conditions set out in the agreements they had not agreed to. However, he added that the experience of the Cariforum EPA provided food for thought for the other ACP countries and that the five year review of this EPA demonstrated that the expected benefits had not fully materialised. He reiterated the point that EPAs are supposed to be agreements that go beyond trade relations: they should be designed to promote the development of regional supply chains, strengthen regional integration and build export capacity. He said that the ACP had serious concerns about the EU's unilateral approach in the negotiation and implementation of EPAs. The same went for the 1 October 2016 as the final date for the ratification of EPAs. He also pointed out that there was an urgent need to set up a joint mechanism to monitor the implementation of EPAs. Finally, he stated that the ACP had called upon the EU to recognise the ongoing negotiations to set up a Pan-African Free Trade Area, and urged the Commission to show flexibility in the negotiations and take account of the specific needs of the partner countries.

The representative of Fiji took the floor on behalf of the Pacific region, and stated that the Pacific regional EPA should have been designed to be more than a trade agreement. The representative pointed out that the EU was unwilling to continue discussions on a comprehensive EPA as the EU had stipulated that the Pacific region should first accept EU conditions on Pacific conservation and management measures of fish stocks. He expressed the view that such an approach was contrary to the principle of honest cooperation. The EU proposal submitted last year to postpone negotiations while retaining the existing arrangement was however accepted by the Pacific states. Focus has shifted to implementation of the current EPA and interested Pacific EPA States could in the short to medium term consider acceding to the existing EPA.

The representative of the Economic Community of Central African States (CEMAC)

Commission took the floor to ask for further clarification on the EU's unilateral decision to end the negotiations with Central Africa in October 2016. He said that the EU decision was unexpected as the Central African delegation had been making extensive preparations for the negotiations.

The representative of Jamaica took the floor and expressed concern about the implementation of the Cariforum EPA. She said that the agreement was only provisional for the moment since not all EU Member States had ratified it. The five year review of EPA implementation was also linked to insufficient institutional capacity. She added that certain issues went beyond the remit of Cariforum, i.e. questions linked to the trade policy of the French outermost regions (ORs). These ORs benefited from EU aid, but could apply different trade rules. In her opinion, this was detrimental to the trade of the neighbouring East Caribbean states. She also expressed regret that progress in the implementation of mutual recognition regimes had been harmful to trade in services and prevented the mobility for professionals. Finally, she called for a review on the future of economic relations, particularly on account of the reduction of the market size due to Brexit.

The representative of Botswana took the floor to update ministers on the state of play of implementation of the SADC EPA. The ratification of Mozambique is still pending. The application of the agreement is provisional and its implementation is ongoing.

The representative of South Africa complemented the contribution made by the Botswana representative by expressing regret at the unilateral move by the EU to limit its market access for agricultural exports. That decision now causes a serious burden for farmers and has had impact on the jobs. She expressed further concern about the lack of clarity on the implementation of the EPA by the EU and called on the EU to implement its obligations swiftly.

The representative of Madagascar stated that ESA countries were committed to continuing negotiations to achieve an agreement which would improve the competitiveness for its member states. He called on the EU to show flexibility and to come back to the negotiating table.

The representative of ECOWAS outlined the state of play of the ECOWAS EPA implementation. He stated that all of the institutional structures of the ECOWAS were involved in the negotiations. Three countries have not yet signed and the 1 October 2016 deadline forced two of the ECOWAS member states to sign and implement interim EPAs. The ECOWAS representative stated that this approach may be prejudicial to regional integration. The region is holding meetings to assess this situation.

The representative of Gabon's intervention concurred with that made by the CEMAC representative. While one member state of the region has already signed an EPA, others are not ready to commit to this process. He deplored the EU's unilateral decision to break off the negotiations and called on it to come back to the negotiating table.

In her response, Commissioner Malmström referred to the need to keep the EPA process ongoing wherever possible. In cases where the negotiations were protracted - those with CEMAC lasted more than 13 years - there is a need for a new way forward. She stated that the EU was inviting the region to join the Cameroon EPA. As regards the Cariforum EPA, the EU agreed there were weaknesses in its implementation. Some of these were due to the economic crisis, others to the fact that the framework was not yet in place. As regards the French outermost regions (ORs), she said that the EU did not consider dock dues to be discriminatory, as they apply to all products. She added that the review was ongoing and that the ACP were invited to provide further information. In respect of the visa regime, she explained that the EU is currently revising its visa code, which could allow for more efficient and clear conditions with a specific list of exemptions. The EU is also looking at ways to facilitate trade in services. On South Africa, the Commissioner admitted that there have indeed been problems with the implementation. These should be solved within days and all undue tariffs will be reimbursed. However, the EU is also concerned with South Africa's lack of implementation of the EPA. In response to the intervention made by Madagascar, the Commissioner invited the parties to further clarify their positions at the next EPA Committee meeting. As regards the general concerns expressed by the ACP side, on the 1 October 2016 deadline, the Commissioner stressed that that date had been set years ago in order to assure compliance with the WTO rules.

The Co-chair Mr Kolelas said that he hoped that the ongoing discussions would allow for the best implementation of the EPAs, as well as for the setting up of trade regimes that were of mutual benefit.

4. ACP-EU trade regime issues:

(i) Non-tariff measures

Co-chair Minister Kolelas introduced the topic by acknowledging that while every country has the right to set its phytosanitary rules, this has to be made on the basis of existing international obligations. He said that the ACP had concerns as regards the EU REACH regulation as it imposes exorbitant registration costs, particularly for small operators in the ESA EPA region. He added that the ACP also had concerns as regards dock dues on export to the French outermost regions (ORs): interceptions of goods, specifically of melon seeds, dried meat, palm oil from Nigeria, import suspension measures for beans from Nigeria, treatment of the Citrus Black Spot SPS (South Africa), false codling moth issue with South Africa and co-mingling of sugar.

The representative of South Africa raised the issue of SPS measures with respect to Citrus Black Spot (CBS) as an example of a non-tariff measure having a negative impact on exports to the EU. The false codling moth issue was also referred to by this representative.

The representative of Malawi raised the issue of co-mingling of sugar and said that this would be important to many sugar-exporting ACP countries.

In response, the EU said that the objective of the EPA is to ensure high standards in the food imports into Europe, and that the set conditions needed to be complied with. As regards the CBS issue, the EU pointed out that it is the only market which is black spot free. Import quotas have been increased further under the SADC EPA, but the EU remains vigilant about product quality.

The response was completed by the representative of the European Commission. As regards the state of play on banana accompanying measures, the representative said that discussions have been completed with 33% of funds successfully used. As regards sugar, 97% of the funds for the accompanying measures and technical assistance have been contracted. On cotton, he referred to the specific programme available under the Intra-ACP and said that this was being implemented.

The Co-chair Mr Kolelas concluded by saying that the Committee had noted the comments made by both sides and said that the matters would be discussed further with a view to mitigating the consequences of the phytosanitary measures.

(ii) Commodities

Minister Kolelas opened the discussion and referred to the new approach to commodities undertaken by the ACP with a view to promoting agricultural value added chains. Significant progress was made on this front, and the EU will be invited as from 2017 to join the consultations with the main stakeholders. The Co-chair emphasised that the new approach should allow the ACP to take into account the specific characteristics of the regions in order to move from being exporters of raw materials to exporters of value-added products. However, the ACP continues to be concerned about EU market access conditions for their products and the unpredictability of EU rules. Further discussions on specific products should take place within the respective Commodity Committees.

The representative of Fiji took the floor on behalf of the sugar producers. He said that the UK decision to exit the EU may have a significant impact on sugar production and thus the ACP sugar industry. He also expressed concerns about the erosion of preferences, and the fact that the EU sugar prices were becoming more aligned with the world market price. He called on the EU to mitigate the impact on the ACP sugar supply through a revision of EU market access rules.

The representative of Cameroon spoke on behalf of the Working Group on bananas. The first stage of the Group's work will be concluded shortly. He reiterated concerns about the negative effects on ACP banana producers, should the EU introduce import duties below the 75 euro tariff for other partners.

The representative of Ghana requested EU support for the production of cashew nuts, as this would enhance the employment opportunities and the emancipation of women in cashew-exporting countries.

The representative of Vanuatu stressed the importance of the decision of the German court on the illegality of restrictions imposed by the EU Member States on kava and invited the EU to work with Vanuatu and kava producers in the Pacific to offset these restrictions.

In response to the statements made by the ACP, Commissioner Malmström said that agricultural commodities continue to be a major source of jobs and income for millions of ACP farmers, who need to be able to respond to markets in times of change, and to improve market orientation and competitiveness. She welcomed the Resolution of the 104th ACP Council of Ministers on ACP agricultural commodity trade and sector development.

In addition, Commissioner Malmström explained that the EU sugar reform will be completed in less than a year from now, when the EU sugar beet production quotas will end. Both EU and ACP sugar producers have already responded by aligning their production to market demands, according to a market impact study, jointly managed by the EU and the ACP. Its recommendations were useful and gave some indication on how ACP suppliers can approach the new market-driven trading environment, notably with diversification in respect of other markets. In the future, the Joint ACP-EU Sugar Technical Committee will continue with its constructive approach on market and trade monitoring.

As regards bananas, Commissioner Malmström said that ACP countries still enjoy very substantial preferences and privileged treatment in that they are the only suppliers to have duty-free and quota-free access. She stated she was aware of the sensitivity of the issue and that she welcomed the setting up of the informal ACP-EU Banana Working Group to discuss an evaluation on the impact of the Banana Accompanying Measures. The joint work undertaken by the Working Group will ensure that the ACP countries in question will have a clear and comprehensive understanding of the challenges involved as well as the market outlook for bananas. In this sense, the ACP states will be in a better position to adjust their own strategies, where appropriate.

On cotton, Commissioner Malmström said that cotton producers would welcome the fact that cotton will be addressed in the post-Nairobi work programme at the WTO. She stated that the EU had been active in those discussions and had always expressed readiness to engage constructively with other WTO members. The EU gives full duty-free market access to all ACP cotton imports, grants no export subsidies and has minimised coupled aid for the sector. On this basis the EU is ready to support a multilateral result which would cover these areas. However, in order to secure an agreement on cotton in the WTO, some other cotton-producing and -exporting countries, developed and developing alike, need to match the EU's efforts and, accordingly, reform their cotton sectors.

As regards cashew nuts, there could be further discussion as regards the implementation of an interim EPA. On kava, the EU does not have restrictions in place for the import of medical products. However, the certification process has to be completed. The decision on whether this specific product is a medical product or a food product remains within the competence of the EU Member States.

Minister Kolelas concluded the discussion by referring to the positions expressed by all parties. He invited the parties to examine the proposals and results set out in the recent market study. He also invited them to examine possible options regarding the mobilisation of the resources needed to support the implementation of the proposed measures.

(iii) Fisheries

Minister Kolelas opened the discussion by outlining three points of concern to its members: 1) sanitary and phytosanitary issues, 2) the implementation of the EU Regulation EC/1005/2008 on Fighting Illegal, Unreported and Unregulated Fishing (IUU), 3) EU trade and fisheries policy.

Minister Kolelas said that the EU is the largest market for ACP fish and fisheries products. However, he said that duty-free quota-free access is restricted by the sanitary and phytosanitary conditions set out by the EU. These conditions impose significant financial burden and regulatory uncertainty on ACP producers and significantly hinder their exports. The ACP delegation asked whether the EU could fall into line with the international standards.

On the second point, the ACP acknowledges the EU role in fighting illegal, unreported and unregulated fishing, but it remains concerned about the way in which the EU implements the IUU Regulation. The ACP considers that the EU uses market access mechanisms against the partner countries. The ACP expressed concern that as many as 50 of its members had been affected by the implementation of the IUU Regulation.

The representative of Papua New Guinea took the floor to express agreement with the general views expressed on the fisheries topic by the Co-Chair. He said that Papua New Guinea had decided to join the like-minded group at the WTO so as to examine the issue of fisheries in preparation for the WTO Ministerial Conference (MC11).

Commissioner Malmström acknowledged the importance of the fisheries sector for the ACP countries. She agreed that there was a need to recognise this. At the same time, she stressed that fighting illegal, unreported and unregulated fishing was a political priority for the EU and a question upon which the long-term survival of the planet depended. In this respect, the European Commission entered into a dialogue with a number of ACP states with a view to finding mutually acceptable solutions.

On this basis, several countries in West Africa have worked on an informal and formal basis with the EU to implement structural changes in the fisheries sector. They are now fighting illegal fishing in their waters in an effective way and reaping the full benefits of their valuable natural resources.

In the Caribbean region, the Commission is primarily concerned about countries operating vessels under flags of convenience. The number of transshipment hubs is also an issue. The cooperation with the authorities of St. Kitts and Nevis has brought solutions.

In the Pacific, the main challenges are the lack of control that countries have on their fishing vessels and on the fishing vessels operated by third countries. This is relevant in the context of the Vessel Day Scheme - a system that sets overall fishing limits.

(iv) Negotiations with third parties – Bilaterals, EU idea on a future Multilateral Investment Court, Trade in Services Agreement (TiSA) and Environmental Goods Agreement (EGA)

Commissioner Malmström presented an overview of TTIP, CETA and TiSA.

With regard to TTIP, the Commissioner referred to the recent US presidential elections and stated that the first half of 2017 will be a period in which both sides could consider options and priorities. The EU will use the time wisely to ensure that we have a strong and unified position in support of an open and inclusive trade regime that leaves no one behind. In the more immediate term, the EU's objective is to work with the US towards a common written understanding of where the negotiations had reached in each chapter.

On CETA, the Commissioner outlined the main procedural steps undertaken by the EU. This had resulted in the EU-Canada Summit on 30 October 2016, at which CETA and the Strategic Partnership Agreement (SPA) were signed. The EU and Canada also adopted the Joint Interpretative Instrument (JII). Subject to the consent of the European Parliament, the agreement could be ratified by all parties.

As regards the Latin America, the Commissioner referred to earlier meetings and outlined the elements in the negotiations with those partner countries. Proposals on Mercosur market access were exchanged in May 2015. A round of negotiations took place in Brussels in October 2016 to be followed by another round in March 2017. A free trade agreement (FTA) is in place for Colombia and Peru. Ecuador will accede to this agreement in January 2017, following the signature of the Protocol of Accession and the consent of the European Parliament. The Association Agreement with Central America (Honduras, Nicaragua, Panama, El Salvador, Costa Rica, Guatemala) is in place as well and comprises a trade pillar. Finally, negotiations have started with Mexico to update the existing FTA. A similar process will be launched with Chile in 2017.

As regards ASEAN countries, two FTAs have been concluded with Singapore and Vietnam but have not yet entered into force. The EU hopes to conclude the process and allow for provisional entry into force in early 2018.

Negotiations have started with Philippines (first round in May 2016) and with Indonesia (first round in September 2016). Negotiations with India, Malaysia and Thailand are currently on hold.

As regards the possible impact on ACP countries, some preference erosion may occur. Since negotiations are still ongoing or have in some cases barely started, the final outcome cannot yet be determined. The EU will, however, take account of ACP interests as regards sensitive products by opening its markets only partially or gradually.

As regards TiSA, the Commissioner said that plurilateral agreement could be beneficial for all parties and that this now includes 23 WTO members. She welcomed the sound progress made in the negotiations under the EU chairmanship in the November 2016 round. In October 2016, the EU delivered a second revised offer. This comes close to its best FTA - CETA offer except in a few sectors or subsectors which are particularly sensitive in a plurilateral or possibly a multilateral context in the future. As a rule, the EU welcomes the ambition of most other revised offers. Ambitious market access offers are a crucial pillar of TiSA. However, the Commissioner expressed regret about the uncertainties that recent political developments across the Atlantic had created. These, together with the number of open issues that are still outstanding, have led the EU to believe that concluding TiSA by the end of this year, is no longer feasible. However, the EU is confident that further progress is possible in the near future.

Finally, the Commissioner also addressed the issue of the Environmental Goods Agreement (EGA). She informed the Committee about the meetings which had taken place in December 2016 in Geneva. These had not delivered positive results. The EU's view is that there is a very broad consensus to finalise an agreement on the basis of a compromise proposal presented by the chairman at the talks. However, not all participants demonstrated the necessary flexibility. China, in particular, added unexpected elements to the discussions and had done so very late in the process. This made it more difficult to find a common ground. The Commissioner assured the Committee that the EU remained committed to reaching a high standard trade deal on environmental goods that would enhance global access to clean technologies and promote environmental protection.

Minister Kolelas outlined three anticipated effects of the TTIP agreement: trade diversion resulting from the removal of trade barriers among the Parties at the expense of previous suppliers from third countries, challenges in complying with the higher standards set between the EU and the US leading to the erosion of flexibilities available to the ACP, and the likelihood of undermining the multilateral process within the WTO. On TiSA, the ACP expressed concerns about the impact this could have on the parallel GATS negotiations. The ACP explained that it may face difficulty in participating in these negotiations given their extensive scope.

The Co-chair concluded by saying that the Committee had noted the information provided by the EU and called for a continued dialogue on the subject.

5. Trade related capacity building

The representative of the European Commission provided the Committee with the latest information regarding the EU's Aid-for-Trade Programmes relating to the ACP.

On behalf of the ACP countries, Minister Kolelas expressed gratitude for the EU assistance on trade development programmes. He said that the results clearly enabled effective ACP participation in trade negotiations. Minister Kolelas also said that the changing trade landscape will require further assistance for the ACP states so that they could face the new challenges. The ACP urged the EU to step up its support and to enhance cooperation with UNCTAD.

The representative of Zimbabwe stressed the importance of the EU's assistance in respect of diversification of tobacco use such in production of insulin and enhancing its trade capacity.

The representative of Jamaica raised the issue of the EU trade-related capacity building programmes in respect of expanding domestic production. The representative expressed concern about the difficulties ACP nationals face when applying as experts in development projects.

The representative of Malawi supported Zimbabwe's call for a study into alternative tobacco uses.

The ACP Co-chair took note of the statements made on both sides.

6. Digital economy

Minister Kolelas introduced the topic by stating that the ACP states recognise the need to take advantage of the rapidly growing opportunities of the e-commerce. If they fail to do so, they risk falling further behind. The challenges include poor infrastructure, inadequate transport and logistics, poor information and communications technology, outdated legal and regulatory frameworks, lack of adequate payment systems and financing, as well as lack of relevant digital skills and awareness.

In response to the dramatic developments in this area, the ACP group proposes, amongst other things, to:

- a. create a platform for knowledge dissemination, the exchange of views and sharing of experience on how to exploit opportunities and address the numerous challenges associated with the digital economy;
- b. participate in the 'UNCTAD e-trade for all' initiative, including in its launch in April 2017 and follow-up thereafter;

- c. enhance understanding of the development aspects of the digital economy, with a view to developing positions to facilitate involvement in forums where digital economy issues are addressed. Such forums include the UN and its agencies, the WTO and engagement with third parties.

The ACP Group invited the European Union to partner ACP states in the development of their digital economies, as foreseen in Article 43 of the Cotonou Partnership Agreement.

Commissioner Malmström said the digital revolution was sweeping aside barriers of geography and distance, changing trade patterns and bringing new opportunities, including for SMEs and consumers. She emphasised that e-commerce is important not only for developed countries and offered very significant development potential for ACP countries where it can create new business opportunities. She pointed out that it enables enterprises to access remote markets and that it has a significant impact on SMEs in that it helps these, for instance, to make use of so-called global value chains.

The EU regretted that although the issue was widely discussed within the WTO, little progress has been made so far. It appears that despite the potential benefits of e-commerce, some developing countries have been opposing to efforts made by the WTO to develop regulatory frameworks adapted to the new challenges posed by e-commerce.

The Commissioner said that a recurring concern is the impact of e-commerce on developing countries and the digital gap, i.e. the risk that e-commerce would further increase the digital gap as developing countries lack essential elements (infrastructure, connectivity, skills, regulatory framework) to have access to e-commerce. The Commissioner called on the ACP countries to focus on on this topic in the WTO and work towards achieving a successful outcome at the next years' Ministerial Conference.

There were no interventions from ACP states.

Minister Kolelas stated that integration into the world trade system remained a major challenge for the ACP states and argued strongly in favour of EU policy coherence and improvement of the Aid-for-Trade. He concluded the point by stating that further discussions need to be undertaken by both sides with a view to seizing the opportunities offered by the digital economy.

7. WTO issues - Post-Nairobi process and state of preparations for the WTO Ministerial Conference 11

Minister Kolelas introduced the point by reiterating the ACP's commitment to a fair multilateral trade system. He emphasised the need to deliver the outcome of the Doha round. The ACP welcomed Argentina's decision to hold the MC11 meeting in Buenos Aires, at which the ACP group will participate actively on the remaining Doha round issues. In this context, the ACP group called for incremental measures to be adopted in order to eliminate all trade distorting domestic trade subsidies. It also called for reflection on the need to set up an effective easy-to-use special safeguard mechanism which could serve as a trade safety mechanism. The ACP group hopes that the discussions can continue in line with the Nairobi mandate. The ACP group called for the elimination of fisheries subsidies and for action to be taken against IUU. On services, the ACP insisted that the necessary flexibility be demonstrated in the negotiations of articles 90 and 4 of the GATTs, in order to allow these countries to make fewer commitments in line with their development needs. On the e-commerce chapter, senior ACP officials confirmed the need to work on the results of the Nairobi conference. The ACP therefore stresses the need to focus discussions on the development potential offered by e-commerce and digital services, so that the ACP can have its fair share of the benefits of this commerce.

The representative of Kenya thanked the EU for its support during the MC10. Kenya believed there was a need for negotiations to take the development aspect into account and called on the EU to assist the ACPs in these discussions.

The representative of Rwanda stated that the ACP group in Geneva will build on the Bali and Nairobi outcomes in order to achieve the best implementation of the Doha round. Rwanda would focus on the elimination of all trade subsidies, public stockholding programmes and measures to enhance elimination of subsidies contributing to IUU fishing.

On behalf of the Pacific states, the representative of Fiji stressed the importance of the work carried out on the MC11. However, he expressed concern about the lack of progress on the implementation of the MC10 outcomes. Fiji took a leading role as regards the abolition of fishing subsidies and was interested in a conclusion to the discussions on MC11, in particular as regards the abolition of all subsidies for IUU fishing. The representative also referred to the support of the Pacific as regards e-commerce.

The representative of South Africa called upon all WTO members, including the EU, to ensure that the negotiations deliver on all the outstanding issues and that development is at the heart of discussions. As regards digital economy, he noted the advantages of this approach, however warned about the potential risks of digital divide or exclusion from digital e-market platforms. The trade impact in this regard will also need to be examined.

The representative of Jamaica underlined the need to complete the work on the Doha round before new items are added to the WTO Action Plan. She spoke about the importance of the digital economy for growth and for young people, SMEs and women's economic opportunities.

Commissioner Malmström welcomed the involvement of the ACP countries in the post Nairobi process. She expressed appreciation of the fact that this set out proposals on fisheries subsidies and domestic support.

On fisheries subsidies, the EU shares the concerns of the ACP and is also of the view that an appropriate solution can only be achieved at a multilateral level. The EU had also submitted a text proposal, in line with UN Sustainable Development Goal 14, target number 6, to eliminate certain fisheries subsidies. These proposals are being discussed within the WTO, with the aim of developing a common solution that would build on the corresponding elements of our respective proposals.

Similarly, on domestic support in agriculture, the EU welcomes the proposal submitted by the ACP countries. The Commissioner pointed out that this would help establish a credible proposal on agriculture in the overall post-Nairobi process. The Commissioner expressed concerns with issues stemming from the Nairobi process. In particular, she questioned the position adopted by some ACP countries on e-commerce. The Commissioner regretted that the discussions could not start after the summer in the WTO owing to a disagreement by the African Group. She stressed the commitment by the Parties to look at e-commerce issues with an open mind and urged the ACP countries to engage in a constructive discussion and to consider all issues on their own merits, including those that may be of concern to developing countries.

The Commissioner concluded by stating there was a need to obtain results in MC11 on trade issues that matter to all stakeholders and that can lead to growth and opportunities, in particular for developing countries and SMEs. She said that a year before MC11 more work needed to be done on a range of issues of interest to the parties involved. In that regard, the EU has initiated some discussions on non-tariff barriers, so as to improve transparency and good regulatory practice.

Co-chair Minister Kolelas concluded by saying that the Committee had taken note of the comments and that the ACP ministers had taken a decision to have a meeting specifically devoted to the preparation of the MC11.

8. EU list of non-cooperative jurisdictions for tax purposes

The EU introduced the item noting that further to the discussions which had taken place at the previous meeting of the Committee, it could now provide the ACP with additional information on the ongoing process. The EU action is a follow-up to the Council Conclusions of 25 May 2016 on an External Strategy for Effective Taxation. Last year, the Commission proposed to set up an *EU list of non-cooperative jurisdictions*, the objective being to move from an unclear patchwork of national systems towards a clear, single EU list. The process is structured in three steps: pre-assessment with the preparation of the scoreboard by the European Commission, the screening exercise and eventually the listing phase under the responsibility of the Member States. Member States called for the EU list to be ready by the end of 2017. At the November meeting of the EU finance ministers, the Member States agreed on the criteria and the process leading to the establishment of this list. The following criteria are to be applied: 1- tax transparency, 2- fair taxation, and 3- implementation of anti-BEPS measures. The transparency criteria are very closely linked to the OECD work on that issue. Further detailed discussions are ongoing within the Council and each of the jurisdictions will be informed by the end of January as to the next steps. The final listing will be established in the process of a dialogue between the Member States, the Commission and the ACP partners. The Commission concluded that this is a process of a dialogue, the end result of which is not the list but the joint capacity to assure overall tax good governance.

The ACP Co-chair said that at the last meeting of the JMT Committee, the ACP had expressed its concerns regarding the EU measures. The minister pointed out that a number of ACP states have been listed by the EU Member States that have very little, if no relationship with the ACP states. The ACP is concerned that the European Commission has developed a scoreboard to set the list. They note that some of the countries listed comply with the OECD standards, and some of them are placed higher on that list than some of the EU Member States. The ACP is deeply concerned at the EU's unilateral action and wishes to point out that the ACP agreement provides for political dialogue under which such consultations could have been held.

The representative of Botswana shared his concerns about the EU black listing which they strongly contest in view of their cooperation with the global forum of the information exchange, and revision of internal legislation.

The representative of Fiji reiterated the concerns raised by the representative of Botswana, but welcomed the statement by the Commission on the dialogue.

The representative of the Republic of Mauritius also expressed concerns about the unilateral way in which the EU has blacklisted some of the ACP countries and urged the EU to align with the OECD standards.

The representative of South Africa raised their concerns about the EU approach and welcomed the announcement regarding the Article 12 process.

In response to the comments made by the ACP states, the Commission explained that at this stage, there was no EU list. The dialogue process is ongoing and is based on the dialogue between the EU Member States and the ACP. This process will continue through 2017. On the proposed criteria, the Commission stated that it is generally accepted that the Global Forum on Tax Transparency is considered to be an authority on setting up the criteria. However, the EU has also included other criteria, such as the putting in place of damaging tax mechanisms.

The Commission intervention was completed by the Slovak Presidency representative, who informed the delegates about the process taking place in the Council. Letters will be sent to the jurisdictions selected for screening by the end of January 2017, inviting them to engage in the process. On this basis, the EU's Code of Conduct Group will put together, by the end of February 2017, teams of national experts to work together with the Commission services on the screening of relevant jurisdictions. Written contacts and, where necessary, bilateral discussions with the jurisdictions concerned, will take place before the summer 2017, in order to further engage in the dialogue, explore solutions to concerns with their tax systems, and obtain the necessary commitments. By September 2017 the outcome of these bilateral discussions and state of play will be presented to the Code of Conduct Group, and by the end of 2017, the Council will endorse the EU list of non-cooperative jurisdictions.

Co-chair Minister Kolelas concluded by saying that the parties had taken note of their respective positions.

9. Any other business

No issues were raised under this item.
