

ACP-EU COTONOU AGREEMENT

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

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 March 2014

ACP/61/005/14

ACP-UE 2107/14

DRAFT MINUTES

Of: 12th meeting of the Joint ACP-EU Ministerial Trade Committee
On: 11 October 2013
at: Charlemagne Building, Rue de la Loi 170, 1040 Brussels
Subject: Draft Minutes of the 12th meeting of the Joint ACP-EU Ministerial Trade
Committee

The Joint ACP-EU Ministerial Trade Committee held its 12th meeting in Brussels on 11 October 2013 under the chairmanship of H.E. Mr Alva BAPTISTE, Minister for Foreign Affairs, International Trade and Civil Aviation of Saint Lucia.

The meeting was co-chaired for the European Union by Mr Karel DE GUCHT, Commissioner for Trade.

1. Adoption of the provisional agenda

[ACP/61/034/13 - ACP-UE 2122/13]

The provisional agenda was adopted as set out in document ACP/61/034/13 - ACP-UE 2122/13.

2. Approval of the minutes of the JMTC meeting held on 26 October 2012

[ACP/61/016/13 - ACP-UE 2107/13]

The Committee approved the minutes of the 11th meeting of the Joint ACP-EU Ministerial Trade Committee.

3. WTO issues: agenda for the WTO MC 9

Minister Baptiste introduced the item, underlining the importance of securing a meaningful outcome from the ninth Ministerial Conference (MC9) of the WTO. He declared that in the opinion of the ACP Group, special and differential treatment was a cornerstone for the effective participation of developing countries and LDCs in the multilateral trading system. He stressed the need for a commitment at the MC9 regarding the establishment of capacity building programmes to enable effective implementation of trade facilitation provisions. Assistance should be provided on a long-term and sustainable basis and should not come from resources diverted from existing bilateral assistance.

Commissioner De Gucht expressed the opinion that an agreement on the MC9 package was within reach and that each element of the potential agreement would provide benefits for developing countries. In this context, he stressed the importance of reaching an agreement on trade facilitation which would have a very significant and long-term positive effect on the economies of the parties to such an agreement. He called on all parties to step up their efforts to advance negotiations with a view to making the MC9 a success and moving closer to the conclusion of the Doha Development Agenda.

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

Commissioner De Gucht opened the discussion by recalling that the implementation of the EPAs with CARIFORUM, the Eastern and Southern Africa (ESA) region and Papua New Guinea was well advanced.

The Commissioner also outlined the progress in EPA negotiations in various regions. He reported that in the SADC region, good progress had been made, but more work was required to agree on agricultural market access. The EU and the Eastern African Community (EAC) negotiators had made significant progress and had closed the chapter on development cooperation. In West Africa, not many issues remained unresolved, but their resolution required political leadership. In the Pacific region, negotiations had been advancing at a steady pace, with a clear commitment on both sides to conclude an agreement. Addressing negotiations with Central Africa and the broader Eastern and Southern Africa EPA group, he noted that no negotiation meetings had taken place during 2013.

Concluding his intervention, Commissioner De Gucht recalled that in May 2013, the European Union had amended Council Regulation No 1528/2007¹ (known as the Market Access Regulation) so that duty-free, quota-free access to the EU market would be reserved to those EPA countries that had taken the necessary steps towards ratification of their agreement. He further clarified the options available to the ACP countries for their trade relations with the EU. He stressed that the EPAs were the most generous trade partnerships that the EU had ever offered to any of its partners and that their conclusion was a priority for the EU.

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.

Minister Baptiste declared that EPAs were intended to promote development, assist in building ACP competitiveness and foster regional integration, as well as address supply-side and trade-related infrastructure constraints. He stressed that the outstanding EPA negotiations should be based on principles that included variable geometry, a focus on the development dimension, special and differential treatment and recognising the unique challenges facing the ACP countries.

He called on the Commission to demonstrate greater flexibility on the outstanding issues, particularly those linked to market access and development. Regarding export taxes, he declared that most of the ACP regions considered these to be non-negotiable due to a possible contribution of these taxes to industrialisation and enhanced revenue collection. He called on the EU to postpone the implementation of the amendment to Regulation No 1528/2007, arguing that the amendment was to lead to ratification of interim agreements initialled in 2007 while regional negotiations for full EPAs were underway. He added that cumulation in rules of origin remained a sticking point in the negotiations and called on the EU to relax these conditions. He also stressed the need for accompanying measures which would allow for the implementation of EPA commitments.

Addressing the issue of implementing the EPAs, the Minister suggested that the CARIFORUM EPA included errors in the liberalisation schedules which should be corrected.

Concluding his intervention, Minister Baptiste reiterated the ACP proposal to organise a meeting at the highest political level in order to resolve the outstanding issues in the EPA negotiations.

The representative of Botswana considered that the amendment to Regulation No 1528/2007 was counterproductive and was hindering current negotiations. She also stressed the importance of cumulation for the industrialisation of ACP countries and suggested that the EU stance on export taxes limited the policy space of ACP governments.

The representative of Senegal noted the importance of the EPA negotiations for West Africa and the region's commitment to conclude negotiations. In his view, market access provisions and the EU assistance to be delivered in the framework of the PAPED programme were key for the successful conclusion of the EPA negotiations.

The representatives of Tonga and Vanuatu stressed the importance of fisheries for the Pacific ACP countries and stated that their governments looked forward to successfully concluding EPA negotiations with the EU. The representative of Vanuatu emphasised that EPAs should be based on variable geometry and special and differential treatment. Furthermore, they should support regional integration and have a strong development focus. He also reiterated ACP concern regarding the de facto ban on kava introduced by certain EU Member States.

The representative of Mauritius indicated that cumulation provisions and customs cooperation agreements were key to the success of EPAs.

Commissioner De Gucht took note of the ACP concerns. Addressing the issue of cumulation, he stressed that the EPAs included very generous cumulation provisions, and that administrative cooperation agreements were needed to put these provisions into practice. As regards the amendment to Regulation No 1528/2007 (Market Access Regulation), he insisted that this Regulation had always been intended as just a temporary solution. Addressing the concerns raised by the representative of Senegal, he stressed that the EU had committed to providing EUR 6.5 billion to the PAPED programme and had shown flexibility with regard to market access in its negotiations with West Africa. Regarding the issue of kava, raised by the representative of Vanuatu, the Commissioner 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 could be placed on the EU market without a marketing authorisation. However, the classification of a product as a medicine or as food fell within the competence of EU Member States.

5. ACP-EU trade regime issues:

(i) 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: Latin America, India, South-East Asia, the United States, Canada and Japan.

With regard to Mercosur, he reported that the negotiations to date had focused on the normative parts of the agreement and that market access offers were to be exchanged by the end of 2013, so it was too early to assess the potential impact on ACP countries. He clarified that some erosion of ACP preferences would be unavoidable, but the EU would strive to minimise the impact of the agreement on the ACP countries. As regards the implementation of free trade agreements (FTAs) in Latin America, the Commissioner informed the Committee that the FTA with Colombia and Peru had been applied as of 1 March 2013 with Peru and as of 1 August 2013 with Colombia. Furthermore, the EU-Central America Association Agreement, which had been signed in June 2012, had already been applied provisionally with Nicaragua, Honduras, Panama, Costa Rica and El Salvador, while Guatemala was expected to join in the following months.

Addressing negotiations with India, the Commissioner noted that intensive negotiations were taking place while some difficult issues still remained to be resolved, 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 had been completed, negotiations with Malaysia were delayed. He reassured the Committee that the EU-Singapore FTA would have hardly any impact on ACP economies, given that Singapore's exports to the EU were mainly high value-added industrial products. As regards the FTA with Malaysia, there would be only a limited impact on the ACP preferences, due to the liberalisation of palm oil, for which the ACP preference margin was already very low. He also informed the Committee that FTA negotiations with Thailand had been launched in March, while scoping exercises were underway with Indonesia and the Philippines.

Addressing the issue of the EU-US Transatlantic Trade and Investment Partnership, the Commissioner recalled that the first round of negotiations had taken place in July. He declared that both sides were committed to a high level of ambition. He estimated that the agreement would not only bring significant economic gains to both parties, but it would also have a positive impact on worldwide trade and income.

Regarding the FTA with Canada, the Commissioner reported that negotiations were underway and a few difficult issues remained unresolved, notably in agriculture. In addition, negotiations with Japan were underway and the parties had already exchanged text proposals for almost all chapters of the future agreement.

Reacting to the EU presentation, Minister Baptiste reiterated the call of the ACP side for regular consultations, in accordance with Article 12 of the Cotonou Agreement, and informed the Committee that the ACP Group agreed to assess the impact on ACP-EU trade relations, in particular on the preference erosion, of agreements reached. He declared that the ACP Group would share the results of these studies with the Commission.

The representative of Mauritius warned that liberalisation of the EU market had a considerable impact on the economies of ACP countries, notably through preference erosion. Furthermore, he called for EU support for restructuring ACP economies so that they could face the new challenges brought about by EU FTAs.

Addressing the concerns raised by ACP representatives, Commissioner De Gucht assured the Committee that the EU was very cautious when negotiating on products the liberalisation of which would have an impact on ACP economies.

5. ACP-EU trade regime issues:

(ii) Non-Tariff Measures including SPS issues

Minister Baptiste 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 stated that the ACP countries whose exports were to be affected by new EU regulations would seek adequate financial and technical assistance from the EU in accordance with WTO rules on SPS measures.

Concerning the maximum levels of cadmium in manufactured cocoa products, he called for an appropriate transition period and assistance for the producers of cocoa beans to allow them to take the adjustment measures necessary to comply with the new regulations. With regard to the tobacco directive, Minister Baptiste declared that it should take into account the situation of small and vulnerable economies and developing countries that rely on tobacco exports. He expressed concern over the delay in the implementation of accompanying measures which were to support diversification efforts of the ACP tobacco-producing countries.

The representative of Ghana insisted that when the EU introduced new SPS measures, it should take into account the socio-economic impact of such measures and give sufficient time to ACP exporters to adjust to the changes.

Commissioner De Gucht stressed that the EU was committed to protecting consumers from high levels of contaminants in food. As regards cocoa, he informed the Committee that the proposed measure was based on a scientific opinion from the European Food Safety Authority and sought to reduce exposure to cadmium among the most vulnerable consumers, especially children. He declared that the EU would establish maximum levels for cadmium in manufactured cocoa products as sold to the final consumer, but not in cocoa beans. Consultations with third-party stakeholders had been held and, as a result, the legislative act had been adjusted. The Commissioner stated that a transitional period had been foreseen in respect of when these maximum levels would come into force.

Addressing the question of the Directive on Tobacco Products, the Commissioner thanked the government of Malawi for the written comments submitted in the context of the notification to the WTO TBT Committee. He clarified that the ban on tobacco products with characterising flavours was considered necessary, as scientific studies had demonstrated that flavours influenced and enhanced the initiation of smoking.

5. ACP-EU trade regime issues:

(iii) Commodities

Minister Baptiste launched the discussion, voicing concern on the ACP side about the consequences of the implementation of the 2009 Geneva agreement and emphasising the need to fast-track the disbursement of financial resources under the banana accompanying measures.

The Minister called on the European Union to adopt a more ambitious approach to cotton by applying 100 % decoupling of support for European cotton producers. He suggested that in the run-up to the WTO MC9, such a measure would send a strong positive signal to all WTO Members.

He reiterated the concern of the ACP Group regarding the abolition of sugar quotas and requested accompanying measures to be put in place to enable the concerned ACP sugar-producing and exporting states to cope with the adverse effects of the removal of quotas.

With regard to fisheries, Minister Baptiste expressed concern about the EU fisheries strategy in the Pacific region that had been adopted by the European Parliament in October 2013. He recalled that the Pacific region had not been consulted on this issue and that the strategy had been developed based on inaccurate information. Addressing the issue of tuna, he requested an increase in the derogation quota on rules of origin for tuna loins and canned tuna with a view to enabling ACP tuna exporters to be competitive and to mitigate the negative impact of the EU autonomous Tariff Reduction Quota (TRQ) for tuna loins given to Asian suppliers.

With regard to kava, the Minister drew the attention of the EU to the importance of implementing the guidelines established by the International Conference on Kava in March 2012, as well as the resolution adopted by the ACP Council of Ministers in Vanuatu in June 2012. He also called on the EU to find a definitive solution to the problems surrounding kava given its importance for the economies of the Pacific region.

Following this intervention, the representatives of Jamaica and Mauritius expressed concern with regard to the abolition of EU sugar quotas and called on the EU to provide ACP sugar producers with the necessary support to allow them to cope with the new market conditions.

The representative of Vanuatu reiterated ACP concern regarding the ban on kava introduced by certain EU Member States and the fact that the EU refused to deal with this issue in the context of EPA negotiations. He announced that the authorities of Vanuatu intended to raise this issue at the WTO MC9.

In response, Commissioner De Gucht took note of the concerns of the ACP Group. Addressing the question of cotton, he recalled that EU production amounted to merely 1-2 % of global cotton production and, as such, had hardly any impact on global prices. Turning to fisheries, he clarified that the fisheries strategy in the Pacific was not an initiative of the whole EU, but rather only of the European Parliament. He also insisted that given the growing demand of the European industry, the TRQ for tuna loins would not have negative consequences for ACP producers. Addressing the issue of sugar production quotas, he outlined the reasoning behind the abolition of the quota system. He admitted that the abolition of sugar quotas would change the parameters of the EU sugar market and, while the resulting EU market conditions were expected to be less advantageous for ACP and LDC exporters than those prevailing before 2017, the EU market could remain an important outlet for ACP and LDC sugar exports. EPA signatories and LDCs would continue to benefit from duty-free and quota-free access to the European markets. In addition, the EU had a large refining capacity, and its refineries would continue to rely on raw sugar imports to operate. Addressing the issue of the banana accompanying measures, he highlighted that by the end of 2013, the BAM envelope of EUR 190 million would be fully committed. Financing agreements worth EUR 166.6 million had already been signed in the first semester of 2013 by the partner countries, and the contracting-out of their implementation was underway.

6. EU initiative on responsible sourcing of minerals originating from conflict-affected and high risk areas

Commissioner De Gucht outlined the upcoming new EU initiative regarding responsible sourcing of minerals, which, in terms of product and global geographical coverage, would build upon the OECD Due Diligence Guidance. He declared that the Commission intended to address the issue of the financing of conflicts through minerals trade, while ensuring that responsible mineral sourcing practices would be workable for the business community. He added that the EU would aim to improve the conditions of responsible sourcing of minerals for all stakeholders involved.

Minister Baptiste took note of the presentation given by the EU.

7. Trade-related capacity building

Deputy Director-General Rudischhauser informed the Committee that following the mid-term review of the 10th EDF intra-ACP strategy, an additional amount of EUR 50 million had been allocated to trade-related assistance. The ACP Multilateral Trading System (MTS) Programme supporting ACP countries in the negotiation and implementation of WTO Agreements had been topped up with an additional amount of EUR 3.2 million to provide for continued support to ACP countries in the run-up to the WTO MC 9. The Technical Barriers to Trade programme, with a budget of EUR 15 million, had been launched in March 2013 with the aim of strengthening the capacity of ACP countries and regions to tackle technical barriers to trade on external markets. In addition, the programme would help ACP countries define and enforce legitimate and adequately harmonised technical regulations on internal markets. The “Hub & Spokes II” programme, with a budget of EUR 12 million, was also underway. In addition, the “Trade.Com II” programme, with a budget of EUR 39.8 million, had been approved in September 2013 and could potentially be launched in late 2014. Similar to “Trade.Com I”, the new programme would continue to strengthen the capacity of ACP countries and regions to formulate suitable trade policies as well as to negotiate and implement bilateral and regional trade agreements to their benefit.

Minister Baptiste thanked the EU for the assistance provided in the area of trade capacity building and welcomed the information given by the Commission. He also highlighted the need to widely circulate information in the ACP countries on the trade-related capacity building programmes as well as to make use, in so far as possible, of consultants who were ACP nationals for the implementation of these programmes.

Concluding his intervention, the Minister called on the EU to allocate additional resources to the “Hub and Spokes II” programme.

8. Any other business

No issues were raised under this point.