

## ACP-EU COTONOU AGREEMENT

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

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**COUNCIL OF  
THE EUROPEAN UNION**

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**Brussels, 13 January 2016**

**ACP/61/001/16**

**ACP-UE 2101/16**

### **SUMMARY RECORD**

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from: 72nd meeting of the ACP-EU Subcommittee on Trade Cooperation  
on: 27 March 2015  
at: ACP House, 451 Avenue Georges Henri, 1200 Brussels  
Subject: Summary record of the 72nd meeting of the ACP-EU Subcommittee on Trade  
Cooperation

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The ACP-EU Subcommittee on Trade Cooperation held its 72nd meeting at ACP House on 27 March 2015.

The meeting was co-chaired by H.E. Mr Kokou Nayo M'Béou, Ambassador of Togo, for the ACP side, and Mr Marc Vanheukelen, 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/61/006/15 - ACP-UE 2106/15], was adopted.

## **2. Approval of the summary record of the 71st Meeting of the ACP-EU Subcommittee on Trade Cooperation**

The summary record of the previous meeting [ACP/61/005/15 - ACP-UE 2105/15] was approved.

## **3. Negotiations and implementation of the Economic Partnership Agreements (EPAs): update on the situation and future prospects**

The EU co-chair described recent developments with regard to the implementation of the existing EPAs. He stressed that good progress had been recorded in the EPAs of the Caribbean, the Pacific (where Fiji had begun a provisional application), the Eastern and Southern African (ESA) sub-region, and Cameroon. Possible challenges with implementation were regularly addressed by the EPAs' joint institutions.

The co-chair emphasised that the EPAs provided an impetus for economic and fiscal reforms, creating an enabling environment for business and developing the competitiveness and capacity of the private sector to engage in trade. The EPAs provided a framework and clear indications to economic operators. The co-chair underlined that development assistance was being mobilised to support EPA implementation and that the EPA support would be drawn mainly from the 11th EDF regional envelopes.

As regards progress in the EPA negotiation process, the Commission indicated that the negotiations with West Africa, the Southern African Development Community (SADC), and the East African Community (EAC) had been concluded. The Commission representative highlighted the importance of signing, ratifying and applying these agreements by 2016. He added that the EU was committed to negotiate with all ACP parties that were ready and willing to do so and that the existing EPAs were open for accession by other countries in the respective regions.

The ACP co-chair welcomed the progress achieved in the EPA processes in the West Africa, East African Community, Eastern and Southern Africa interim EPA signatory states. However, he recalled the EPA resolution adopted at the 100th session of the ACP Council of Ministers in Brussels in December 2014 which noted that ACP states still faced challenges in the negotiation and implementation of full and interim EPAs; meetings for negotiating comprehensive EPAs had not been convened with Central Africa, Eastern and Southern Africa (ESA) and the Pacific regions for a long time, due to a number of issues. The latter included defining 'substantially all trade' (SAT), time frames for liberalization, rules of origin, the Most Favoured Nation (MFN) clause, export taxes, trade distorting domestic and export subsidies, the binding commitment to provide additional resources, quantitative restrictions, the requirement to establish trade relations with countries that are in a customs union with the European Union (including Turkey, Saint-Martin and Andorra), the development of benchmarks, indicators and targets for monitoring the implementation of the agreements and the non-execution clause. Other negotiations had been concluded under pressure created by the amendment of the Market Access Regulation.

The ACP side emphasised the need for new financial resources and technical assistance, 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 (COMESA, EAC and SADC) FTA and the Continental Africa Free Trade Area processes. In this regard, the ACP reiterated the need for the EU to demonstrate flexibility so that outstanding aspects of the negotiations could be resolved.

The representative of Barbados commented on the five-year review of the CARIFORUM-EU EPA and pointed out the deficiencies in the implementation of the services provisions of the agreement, as well as the Caribbean Investment Facility and in Aid for Trade.

The representative of Botswana welcomed the good progress on the SADC which was now undergoing legal 'scrubbing'.

The representative of Zimbabwe referred to the ESA negotiation meeting in Madagascar and asked for more flexibility from the EU side.

The representative of Mauritius expressed concerns on the Octroi de Mer that France had extended until 2020.

The EU side reiterated that the Market Access Regulation was a temporary solution until the EPAs were signed and ratified. It needed to be brought in line with the WTO rules and to be fair for the countries which concluded EPAs. LDCs still enjoyed duty and quota free access to the EU markets.

The Commission pointed out that the difficulties with implementing the provisions on services were linked to the visa requirements, which did not come under EU competence. With regard to Aid for Trade, the EU was the largest provider in the world; a Global Review on Aid for Trade was to be held in Geneva from 30 June to 2 July 2015.

With regard to the ESA negotiations, the EU reiterated the importance of market access offers being tabled. The countries that were ready could join the interim EPA at any time.

On the Octroi de Mer, the ACP should carry out technical analysis and submit it to the Commission in the context of the upcoming review in 2017.

#### **4. Market Access, commodities and other ACP-EU trade regimes issues**

##### **a. EU's negotiations with third countries**

The EU co-chair gave an overview of the state of play in the EU FTA negotiations. Concerning the TTIP, he stated that the agreement would benefit the EU, the US and their trading partners. Low trade diversion was expected as ACP exporters were not competing against European and American producers in either market. No new barriers would be created as the aim was to promote regulatory compatibility between the US and the EU, so exporters would have to comply with only one set of standards. Lastly, as the ACP was a primary source for EU products, any increase in demand for European products would entail an increased demand for those in the ACP.

Turning to the plurilateral negotiations on the Trade in Services Agreement (TiSA), the co-chair stated that from the EU's perspective, this negotiation was a forerunner to a multilateral agreement on services to be folded into the WTO and was beneficial for all as it entailed a strong "Mode 4" (services) component. Mauritius' interest in joining was welcome and further applications from ACP countries were encouraged.

The Commission updated the Committee on Latin America, where negotiations were on-going with Mercosur (exchange of offers expected in 2015) and an FTA was in place with Colombia and Peru (with negotiations for the accession of Ecuador to this agreement concluded and the start of the implementation expected by 2016). An Association Agreement with a trade pillar was being applied with Central America (Honduras, Nicaragua, Panama, El Salvador, Costa Rica and Guatemala). The Commission reiterated that the impact on the ACP-EU trade relationship was always taken into account during negotiations with Latin American countries.

There were numerous on-going negotiations with Asian countries (those with Singapore had been concluded) in which ACP interests were taken into account through a partial or gradual opening of markets to sensitive products.

With regard to the Southern Mediterranean region, the EU aimed to complete the existing Euro-Mediterranean Association Agreements through negotiations on Deep and Comprehensive Free Trade Areas (DCFTAs). Talks were on-going with Morocco and were likely to be launched with Jordan and Tunisia in the course of 2015. Preparations for DCFTA negotiations with Egypt were put on hold.

The EU co-chair added that negotiations for an FTA with Japan were on-going.

The ACP co-chair reiterated ACP concerns on preference erosion, as the EU was continuing to grant trade concessions to major ACP suppliers' competitors. Fears were conveyed since the granting of more favourable access to established suppliers would make it difficult for ACP producers to progress in the value chain. EU policies should remain coherent so as to increase the effectiveness of development cooperation. Negotiations conducted by the EU with big economies such as Japan and the US raised concerns about the commitment of the EU towards the multilateral system. The ACP co-chair stressed the need to monitor negotiations such as the TTIP and the TiSA in view of their impact on non-participating countries and to prevent the development of a two speed multilateral trading system.

The representative of Mauritius expressed fears concerning preference erosion for the ACP countries and suggested that Article 12 consultations under Cotonou Agreement should be held. With regard to the TTIP, studies differed on the impact for non-participating countries; some important products for the ACPs should be excluded and the ACPs should receive support to adapt to higher standards and improve their competitiveness. South East Asia was seen as a direct competitor to the ACPs.

The Solomon Islands and the Côte d'Ivoire shared concerns about the plurilateral capacity of the TiSA as opposed to the multilateral system.

The EU co-chair signalled the availability of Article 12 consultations. Regarding policy coherence, the EU took very seriously spillover effect on all developing countries and the co-chair reminded that the EPA constituted the most generous agreements with immediate duty free and quota free access. Regarding the TiSA, the long term aim of the EU was to transfer it into a multilateral agreement in the framework of the WTO.

## **b. The EU's reformed GSP scheme**

The EU co-chair presented the reformed Generalised Scheme of Preferences (GSP) which had applied since 1 January 2014. All ACP countries that were not part of an EPA qualified for the GSP as long as they were below the Upper Middle Income category, though an EPA offered a number of advantages that a unilateral scheme could not provide.

The EU co-chair stated that GSP countries had the possibility of asking for GSP + provided that they had ratified and implemented 27 core conventions in the field of human rights, labour rights, the environment and good governance.

The ACP co-chair expressed concerns about the exclusion of some ACP states (Gabon and Palau) from the GSP because of their status as Upper Middle Income Countries, as well as the granting of GSP + to some relatively advanced countries (e.g. Philippines) that were ACP exporters' competitors in the EU market. The extension of the *Octroi de Mer* until 2020 was also raised as a process impeding ACP exports; the ACP felt it had been presented with a *fait accompli* contrary to the spirit of Article 12.

The EU co-chair advocated a rapid signature of EPAs for countries excluded from the GSP.

## **c. Rules of origin**

The ACP co-chair mentioned the new system of self-certification by exporters that would be put in place, replacing the system of certification of origin by public authorities as from 1 January 2017. A registered exporter system (REX) would be introduced for that purpose, providing customers with statements on origin. There would also be a need to establish an electronic record of registered exporters, to be shared with the European Commission. The co-chair requested additional information on this proposal together with the establishment of a support programme under the 11th EDF to assist ACP states with complying with the new requirement.

The EU co-chair explained that the system of self-certification of origin by exporters was part of the Generalised Scheme of Preferences (GSP) and Everything But Arms (EBA). The EPAs concluded to date did not contain it. On 10 March 2015, the EU rules of origin for GSP and EBA were modified to provide a flexible transition period for the system of self-certification of origin by exporters. REX would still be introduced on 1 January 2017 but GSP or EBA countries that were not ready to start with self-certification in 2017 could notify the European Commission that they would postpone the application of the new system to either 1 January 2018 or 1 January 2019. Moreover, the GSP or EBA countries would be allowed to continue applying the current system for a period of 18 months after they started applying the new system. This was a simplification and no support programme was planned as there would be no impact on the EPAs.

With regard to Administrative Cooperation Agreements (ACAs), the introduction of the self-certification of origin by exporters would not end the ultimate responsibility of the competent authorities of the beneficiary countries, so administrative cooperation would remain a necessity.

#### **d. Sugar, bananas, cashew nuts, kava and cotton**

The representative of Barbados took the floor on the sugar-related issues, stating that the implementation of the import regulation should be speeded up and emphasising the need to deliver the Accompanying Measures for the Sugar Protocol.

The representative of Cameroon emphasised the need to execute the Banana Accompanying Measures (BAM) and argued that the EU's signing of free trade agreements with the main competitors of the ACP countries might further weaken the ACP position on the market.

The representative of Côte d'Ivoire recalled that the Geneva agreement had enabled bilateral negotiations but this was no longer the case. The FTAs would lead to preference erosion and there would be additional competitive pressure with the future arrival of Ecuador on the market.



The representative of Benin mentioned the Pan-African Cotton Roadmap and called for the swift implementation of the COS-Coton (EU-Africa Partnership on Cotton).

The representative of Vanuatu commented on kava and the related health standards that were impeding the export of this important product for the Pacific countries' economy to certain EU countries.

The EU co-chair reminded the Committee that the reform of the common organisation of the markets in the sugar sector in 2006 had put an end to production quotas; the arrangements had been extended to 2017 in the last CAP reform, giving ACP countries 10 years for adjustment. During this time the EU had provided substantial financial resources to promote and support restructuring processes in former Sugar Protocol countries. In addition, the EU co-chair stressed that the abolition of the sugar production quotas did not change the existing trade arrangements for sugar. Economic Partnership Agreement (EPA) countries and LDCs would continue to be the only ones benefiting from the more generous preferential access to the EU market, i.e. duty-free and quota-free access. The EU was expected to continue to need imports to meet its demand, bearing in mind its large refining capacity which relied on raw sugar imports for its operations.

Turning to bananas, the EU co-chair said the EU had made considerable efforts to ensure market access and help ACP producers to restructure and diversify. Most ACP countries benefit from free access to the EU market, be it through EPAs, the Market Access Regulation or the EBA; this represents a privileged treatment compared to other FTA partners such as Latin America. The BAM envelope (EUR 190 million) had been fully committed - no additional funds were expected - and the implementation of BAM projects in the field had been progressing since the second semester of 2013. Technical assistance recruitment concluded and the end date for contracting for many countries was early or mid-2016.

On cotton, the EU co-chair recognised the importance of it being addressed in the post-Bali work programme for cotton-producing developing countries. The EU was not responsible for any distortion on the market as its production represented just 1.4% of world production and it provided no export subsidies.

Noting that kava was an important source of revenue for Pacific countries, the EU co-chair proceeded to clarify the relevant EU legislation. As regards the use of kava in medicinal products, EU law does not ban or impose restrictions on imports of such products, however a medicine cannot be placed on the EU market without a marketing authorisation (Directive 2001/83). There was no specific harmonised EU legislation concerning the use of kava in foods, including food supplements. The use of such substances must, however, comply with the general rules and conditions of the General EU Food Law (Regulation EC No 178/2002) which bans the use of unsafe substances in food.

Food business operators were responsible for ensuring food safety, under the control of Member States, which must take the measures needed to enforce the rules. Certain Member States had expressly banned the use of kava in foods owing to concerns about its toxic effect on the liver. The classification of a product as a medicine or as food was not an EU competence.

## **5. WTO issues**

The ACP co-chair reiterated the commitment of the ACP Members of the WTO to implement all aspects of the Bali Package. Following the WTO Director-General's invitation for Members to work towards a "modalities-type" work programme to come up with new approaches to overcome stumbling blocks principally in the three market access pillars of the Doha Development Agenda (DDA) – agriculture, non-agricultural goods market access (NAMA), as well as Services – in order to speed up the conclusion of all other areas in the DDA, the ACP Group had responded to that call and made its submission on 12 March 2015. The ACP co-chair invited the EU to respond constructively to the ACP submission at the next Trade Negotiations Committee (TNC) meeting. The EU was further invited to support the ACP's interest in a multilateral tropical products accord. The ACP co-chair called on the EU to make its notification of preferences (to make them binding and operable under the waiver) by July 2015, in the context of the Bali LDC decisions. The LDC group would be likely to evaluate other elements of the Doha Work Programme on the basis of contributions to the post-Bali work programme and implementation of the Bali LDC decisions.

With a view to the first WTO Ministerial Conference to be held in Africa, the ACP co-chair requested support from the EU and other major players to ensure that ACP officials based in capitals, Geneva and Brussels could attend the meeting, and to provide any other financial and technical support required by Kenya for ensuring a successful Ministerial meeting. The ACP Group had expressed the hope that Nairobi would be the vector for the conclusion of the DDA. So the intensive work underway in Geneva to agree on a modalities-type work programme, with the development component in the DDA at its core, should be fully supported.

The EU co-chair updated the Committee on the progress made with the implementation of the Bali decisions. Concrete progress had been made on the LDC services waiver, trade facilitation and the preparation of the post-Bali DDA work programme. The EU co-chair emphasised the need for the rapid ratification of the Trade Facilitation Agreement (TFA) preferably by the next WTO Ministerial Conference in Nairobi. Mauritius's act of acceptance of the Trade Facilitation Protocol was welcomed. The co-chair reiterated that the TFA would provide significant benefits to economic operators and encouraged ACP developing countries to submit their notifications of category A commitments as soon as possible.

Regarding the DDA, the EU co-chair favoured a pragmatic approach, the objective for 2015 being to prepare a "feasible" work programme that could be discussed and finalised at the 10th Ministerial Conference (MC10). The co-chair added that agriculture would define the level of ambition of the other issues.

## **6. Trade capacity building programmes**

The Commission representative briefed the Subcommittee on the state of play of the various trade-related capacity building programmes. The main ongoing intra-ACP trade-related programmes were Technical Barriers to Trade, Hub and Spokes II, Tradecom II and support to the Enhanced Integrated Framework. These programmes were under evaluation, with a view to bringing forward by September 2015 points on how Aid for Trade could be designed in a more effective way.

Apart from the trade-specific programmes, the ACP Secretariat and the European Commission were implementing an important portfolio (over EUR 200 million) involving programmes with a Trade Link – Agriculture & Fisheries such as the Pesticides Initiative Programme (PIP) Quality and Conformity of Fruit and Vegetables phase 2 (PIP2), the Contribution to the Standard and Trade Development Facility (STDF), the Strengthening Food Safety Systems through SPS measures in ACP countries (EDES Programme), the Intra-ACP Agriculture Policy Programme focusing on the Caribbean and the Pacific, the Consolidation of the Action Framework for the EU-Africa Partnership on Cotton, the Technical Centre for Agricultural and Rural Cooperation (CTA) and a specific programme on commodities for small producers in the ACP.

The programme of the 11th EDF intra-ACP envelope was ongoing with EUR 600 million earmarked for intra-ACP private sector development initiatives. Following a detailed complementarity assessment of interventions funded through national, regional, and intra-ACP EDF envelopes, future trade-related assistance with funding from the 11th EDF was to be provided through regional indicative programmes rather than the intra-ACP programme. Two trade-related technical assistance programmes were now fully operational, the TBT Programme (EUR 15 million) and the Hub & Spokes II Programme (EUR 12 million). TradeCom II (EUR 39.8 million) would be unrolled by November 2015. The Multilateral Trading System (MTS) was being audited and evaluated while the Enhanced Integrated Framework (EIF) was still being implemented.

The ACP co-chair took note of the presentation of the programmes, acknowledged the help provided by the EU and encouraged the Commission to carry on with the implementation of these programmes, including the TradeCom II programme.

## **7. Preparations for the Joint Ministerial Trade Committee meeting**

The EU co-chair said that the next Joint Ministerial Trade Committee (JMTC) meeting would be co-chaired by the EU Trade Commissioner, Cecilia Malmström. The proposed date was 26 June 2015 and the meeting would be hosted by the EU. The agenda should include the regular recurring items (EPAs, WTO issues, EU negotiations with third countries, Market Access and Commodities, and Trade Capacity Building Measures).

The ACP co-chair reiterated the importance the ACPs attached to the meeting, and said the agenda would be worked out through consultations between the Commission and the ACP secretariat.

## **8. Any other business**

Nothing was raised under this item.

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