

## ACP-EU COTONOU AGREEMENT

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

**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 December 2019  
(OR. en)**

**ACP/61/050/19**

**ACP-UE 2115/19**

### **SUMMARY RECORD**

Subject:	Summary record of the 76th meeting of the ACP-EU Subcommittee on Trade Cooperation
Date:	14 March 2019
Venue:	ACP House, Avenue George Henri 451, 1200 Brussels

The ACP-EU Subcommittee on Trade Cooperation held its 76th meeting at ACP House on 14 March 2019.

The meeting was co-chaired by Ms Ewa SYNOWIEC, Director, DG Trade, European Commission, representing the EU side and H.E. Mr David HALES, Ambassador of Guyana, Chair of the ACP Subcommittee on Trade and Commodities, for the ACP side.

#### **1. Adoption of the agenda**

The agenda, as set out in [ACP/61/011/19 REV 1 - ACP-UE 2105/19], was adopted. The EU side asked that point 7 be taken as the first substantive item of the meeting, just after the approval of the minutes of the 75th meeting of the Sub-committee. The ACP side agreed to adopt the amended agenda and requested that the date of the next JMTC be discussed under Any Other Business.

## **2. Approval of the summary record of the 75th Meeting of the ACP-EU Subcommittee on Trade Cooperation held on 21 March 2018**

The summary record of the previous meeting [ACP/61/059/18 - ACP-UE 2115/18] was approved.

## **3. EU list of non-cooperative jurisdictions for tax purposes**

The representative of the European Commission / DG TAXUD, Deputy Head of Unit Emer TRAYNOR, provided an update on the state of play and the next steps. She welcomed the efforts being made by the vast majority of the jurisdictions to engage with the EU listing process and stated that the EU was encouraged by the positive and constructive reactions it had received from most of its international partners. In her view, the listing process had been a constructive exercise characterised by open and frank discussions with international partners on tax good governance issues. She welcomed the reforms that so many jurisdictions had made to their tax systems to address the deficiencies identified through that process and stressed that all of those changes would vastly improve the level of tax good governance globally.

The EU representative reaffirmed that the EU would continue to monitor the implementation of the new 2019 commitments accepted from certain jurisdictions and that, as always, it was ready to advise and support jurisdictions in delivering on them, where needed. In addition, the EU would continue to monitor developments in all relevant jurisdictions in order to ensure that the international standards for tax good governance continue to be respected globally.

She also informed the meeting that the EU list itself was an option of last resort and only jurisdictions that had resolutely refused to cooperate with the EU on tax good governance matters or that had failed to deliver on their commitments ended up on the list. It was made clear that the list was the end product of a very robust screening process, based on clear and internationally recognised criteria (tax transparency, fair taxation, commitment to the base erosion and profit shifting (BEPS) project) and run by the EU Member States. The countries concerned were formally informed of each new stage in the listing process, and were encouraged to engage with the EU contact points as much as possible.

The EU representative stated that the jurisdictions on the EU list should not be surprised to find themselves there as they were given every chance to engage and address the EU's concerns. She indicated that, in the coming days, they would receive directly via the Council Secretariat a letter setting out very clearly why they had been listed and how they could be de-listed. Equally, jurisdictions in Annex II would in due course be informed by letter of the results of the Economic and Financial Affairs Council (ECOFIN) and would be asked to provide information to the Code of Conduct Group (COCG) for Business Taxation. She added that Delegations would receive a copy of the letter(s) addressed to the jurisdictions under their responsibility, but those letters would be for information only and Delegations would not be requested to transmit them officially to the national authorities via *note verbale*.

Finally, she encouraged all listed jurisdictions to keep open the channels of communication with the EU and to work towards the positive resolution of the EU's concerns in order to be delisted.

The ACP Co-Chair thanked the representative of DG TAXUD for her presentation and stated that the ACP side had taken note of the letter from Romania, as Presidency of the Council of the European Union, informing the ACP Secretary General that the EU's list of non-cooperative jurisdiction includes states that are part of the ACP Group. He added that while the ACP States continued to regret such a decision, they observed the readiness of the EU to work together in order to find a tangible solution.

The ACP Co-Chair stressed that as a Group, the ACP was committed to the application of global standards and best practices to their domestic tax regimes. As a result of this process, they also see the need for the ACP to be involved in the standard-setting process on corporate tax matters as the ACP States should not be the target of an aggressive campaign against their economies. He expressed the ACP States' readiness to continue to do so on the basis of an effective dialogue, as already provided for under the relationship established in the Cotonou Partnership Agreement.

The ACP Co-Chair reaffirmed their commitment to internationally accepted tax principles, but stressed that if the EU was attempting to be another body setting those principles, the process must be fair, transparent and inclusive. Therefore, on behalf of the ACP States, he called on the EU to engage in full and free dialogue within a process that is fair, transparent and inclusive both in its form of dialogue and in its setting of all standards and review criteria. He pointed out that EU Member States must understand that the public sanctioning of ACP States by placing them on a ‘non-cooperative list’ had in the past caused irreparable and irreversible harm to the reputation of the countries and economies concerned. He therefore urged that serious consideration be given to the impact which public listing could have on the reputation of ACP countries with long-lasting and multi-sectorial economic repercussions – running contrary to the aims of the Sustainable Development Goals (SDGs) and the Addis Ababa Action Agenda (AAAA).

He added that the ACP States had legitimate expectations of:

- a) the ACP and EU working together within the framework of the Cotonou Partnership Agreement, and of the successor Agreement being negotiated on the development of mutually agreed standards which would be undertaken through an inclusive process;
- b) the changes to international standards that would be made or adopted by one international body recognised as the relevant international body for addressing tax matters.

He called for a halt to the practice of blacklisting at this juncture, and further requested that the European Union engage the ACP Contact Group in a full and free dialogue on the way forward, so as to arrive at a mutually acceptable understanding.

The ACP Co-Chair invited the representatives of the ACP States to share their views on some of the issues raised.

The representative of Barbados reminded the meeting that the ACP Council in Togo had taken the decision to set up a Contact Group on tax matters in order to engage with the EU. The representative also referred to the ACP's dissatisfaction with the process, which was widely seen as a naming and shaming exercise implying that several ACP countries were tax havens. In the ACP's view, on the contrary, tax havens operate in secrecy and this is certainly not true of most ACP States. The delegate stated that, in addition to the reputational damage, the EU had also categorised eight ACP countries as non-cooperative - something which, given the quantity of correspondence and the number of meetings, visits and engagements in international fora, was unacceptable and unfair. The representative added that, in many cases, the reforms requested by the EU had been undertaken or carried out but not recognised. For instance, Dominica had asked about joining an OECD Convention, but the OECD had not replied, and therefore the country was included in the list.

The EU representative explained that tax governance issues had been a huge political priority within the EU in recent years, and combating tax avoidance had been placed at the forefront of internal policies in order to ensure that EU Member States comply with the requirements. This had included the adoption of around seven legislative packages and of a 2016 Commission strategy aimed at promoting international tax governance. She stressed that external risks had been assessed only after this internal exercise, also because of complaints by third countries regarding diverse national lists, and that the criteria and procedures used by the EU had been in line with internationally recognised criteria and procedures. She said that regional technical seminars had taken place in Trinidad and Tobago and in Fiji, and that one was also to be organised in Africa. She reiterated the Commission's readiness to provide technical assistance and stressed that it had never been the EU's goal to have a long list, the intention being to promote positive changes. The list is dynamic; therefore, once a commitment is made or complied with, it can be amended.

The representative of Barbados added that the efforts being made within the EU could be instructive and useful for further EU-ACP engagement. Since the same jurisdictions are taking advantage with regard to both the EU and the ACP, the challenge is common to both sides.

The EU representative confirmed that cooperation and engagement were essential and that the Commission was interested in working with the ACP side on the negative spill-over effects and to combat aggressive tax policies. She reassured the meeting that the aim was to get the ACP countries off the list.

#### **4. ACP-EU Economic Partnership Agreements: state of play**

The EU Co-Chair gave an overview of the situation regarding the signature and ratification of and accessions to the Economic Partnership Agreements (EPAs). In **Eastern and Southern Africa (ESA)**, **Comoros** had ratified the EPA in February 2019 and had joined **Mauritius**, **Madagascar**, **Seychelles** and **Zimbabwe**, which had already been implementing this Agreement since 2012. In **West Africa**, with the signature of **The Gambia** in August and **Mauritania** in September 2018, 15 out of 16 West African EPA countries had signalled their wish to enter the ratification and implementation stage. The Agreements remain open to countries that want to join.

The EU Co-Chair also informed the meeting that the accession process had accelerated over the past year in the **Pacific** region. At the end of 2018, **Samoa** had completed its accession to the EU-Pacific EPA, which had previously been implemented by Papua New Guinea and Fiji. Other Pacific States were following Samoa's example: **Solomon Islands** and **Tonga** are the next states in line and are expected to finalise their accessions by the end of the year.

As far as the state of play of implementation of the existing EPAs is concerned, the EU Co-Chair mentioned that EPAs were now firmly focused on implementation, with 31 countries applying the Agreements, and steady progress had been recorded in each of the three ACP regions. In **Africa**, 14 countries were currently implementing EPAs, notably the SADC EPA group; the Eastern and Southern African (ESA) sub-region consisting of five states; Cameroon in Central Africa; and Côte d'Ivoire and Ghana in West Africa. She also drew participants' attention to the fact that other countries in Africa had signed EPAs (15 in West Africa and two in the East African Community), but those agreements cannot enter into force before the remaining countries in those regions sign and ratify them.

The **SADC EPA** was the first regional EPA in Africa to be fully operational and had been applied for two years. Both the Trade and Development Committee at senior official level and the 1st Joint Council meeting at ministerial level had taken place in February 2019 in Cape Town, where the necessary steps had been taken to make the institutional set-up functional. With **Cameroon**, the fourth meeting of the EPA Committee had taken place in Yaoundé in February 2019 and the country was also working on an updated liberalisation timetable and a *National EPA Implementation Plan* mobilising development funds for this purpose. Progress was also gradually being made with **Ghana** and **Côte d'Ivoire** in **West Africa**, with both countries working on EPA support strategies and raising awareness amongst local producers and other stakeholders. EPA committee meetings with these two countries were tentatively scheduled for the second quarter of 2019. With the five Eastern and Southern African (ESA) EPA countries, discussions on the 'deepening' of the scope of the Agreement were ongoing. EPAs include so-called *rendez-vous* clauses, enabling the Agreements to be developed gradually into comprehensive trade agreements in terms of their substantive scope as well. The current discussions could lead to negotiations on adding issues such as trade in services, investment, intellectual property rights and public procurement as well as trade and sustainable development provisions to the existing Agreement.

As regards the **Caribbean**, the EU side reported that the Trade and Development Committee of the **Cariforum-EU EPA** had met in December 2018 in Saint-Lucia to review implementation and that the meeting of the Consultative Committee involving civil society had also taken place there, and had reported its conclusions at the meeting of the Trade and Development Committee. In 2019, several developments would take place to monitor the implementation and impact of the EPA: the second five-year review of the CARIFORUM Agreement would be launched; the Joint Council should meet by the end of 2019; and there would be follow-up at technical level on the establishment of the Services Committee and the implementation of the Protocol on Cultural Cooperation.

In the **Pacific**, the sixth Trade Committee took place at the end of October 2018 and the Pacific EPA countries reaffirmed their commitment to using the Agreement as a framework for enhancing their trade relations with the EU. The monitoring of the impact and implementation of the EPA and the involvement of civil society in that process were also discussed, and the EU would continue to engage in this respect in the next Committee scheduled to take place in Fiji in July.

Regarding the monitoring of the implementation of EPAs, the EU Co-Chair pointed out that monitoring was often a legal requirement in the EPA provisions and would be conducted regularly within the framework of each individual EPA, with full transparency being ensured. Monitoring the operation and the outcomes of each EPA was also crucial in terms of ensuring that the EPAs contribute to sustainable development, and the Co-Chair informed the meeting that the Commission was discussing joint monitoring systems with all EPA partners. Monitoring needs to be specific for each EPA and, in order to be credible, it needs to be carried out jointly by both parties to the Agreement.

Finally, the EU Co-Chair referred to the African Continental Free Trade Area (AfCFTA) under construction, and reaffirmed that the European Union was supporting that continental project politically and financially and that it was a central plank of the Africa-Europe Alliance for Sustainable Investment and Jobs. She expressed the view that the Economic Partnership Agreements and the EU's Free Trade Agreements in Northern Africa contributed to the African Continental Free Trade Area and to the long-term vision of a continent-to-continent free trade agreement (when Africa is ready for such an agreement).

The ACP Co-Chair thanked the EU side for its comprehensive intervention on the EPAs and stated that, in the context of shaping the ACP-EU Partnership for the next 20 years, it was time to take stock of the EPA process launched more than 11 years ago.



First of all, he made it clear that most ACP States were committed to the EPAs. While acknowledging that some progress was being made in a number of regions to own the EPA process, the ACP side expressed concern about the outstanding technical and legal issues arising from both the implementation of EPAs and the EPA framework itself that may negatively affect regional integration not only within the ACP regional groupings, but also with regard to the economies of some ACP States. Those concerns had already been shared with the EU side in previous meetings, as reflected in the minutes of the last Subcommittee meeting. In addition, the concerns in question were the subject of a recent ACP ministerial resolution that the ACP group had conveyed to the EU in December 2018.

The ACP Co-Chair stressed that the heterogeneity of situations in the ACP States and regions engaged at various stages of the EPA process required adjustments to the EPA framework in the light of experience, making it more inclusive and flexible. As longstanding partners, the EU and the ACP side now needed to consider how they could effectively turn EPAs into development-friendly instruments that make a genuine contribution to the development of ACP countries pursuant to the objective of Article 36.2 of the Cotonou Partnership Agreement.

He further stressed that this was all the more important in the light of the forthcoming withdrawal of the UK, a main trading partner for many ACP countries, from the EU; this raised a number of practical and legal issues about the overall EPA process that deserve special attention.

As a first step in this wide-ranging reflection on the EPA process, the ACP Group wanted to reiterate its proposal to operationalise the monitoring and evaluation mechanism for all ACP-EU EPAs in order to monitor implementation of EPAs and assess the impact of EPA implementation on the development of ACP economies across ACP regions.

The ACP Co-Chair highlighted the importance of seizing the opportunity provided by the negotiations on the new ACP-EU partnership to seek a meaningful way to improve EPAs and turn them into effective development instruments.

In response to the ACP's statement on EPAs, the EU Co-Chair agreed that the EPAs indeed involved a dynamic process and they had been tailored to the ACP partners' specific needs. She reminded the ACP side that the EPA institutions themselves provided a fruitful framework for discussing all relevant issues and challenges in the case of each EPA, and added that since these were not the same for each partner, it made sense to hold specific dialogues within each EPA. She stated that the two sides had held open and frank discussions, and where challenges had arisen, they had addressed them in a good spirit of partnership.

The EU representative further highlighted the fact that, for the same reason, the monitoring and evaluation must be done specifically and jointly for each Agreement, and that the EU had submitted proposals for establishing such joint mechanisms, in cooperation with its EPA partners. Instead of a comprehensive all-ACP stock-taking, the EU and other EPA Parties are committed to monitoring and reviewing each Agreement on a regular basis and will use their resources to meet that commitment rather than supporting a stock-taking at an all-ACP level. She expressed the view that the ACP-EU dialogues allowed the parties to cross-fertilise.

The EU appreciated the ACP's point regarding flexibility and inclusiveness, acknowledging that this was indeed a common objective in the EPA process. EPA parties had adopted a gradual, step-by-step approach in their partnerships, where progress is made gradually based on partner countries' willingness and readiness. That is why the parties had included *rendez-vous* clauses in the EPAs, so that certain issues could be negotiated at a later stage when the parties were ready. This is precisely what is happening now with Eastern and Southern Africa, where the parties are discussing the scope of deepening the EPA.

The EU believed that the accessions to the Pacific EPA and the ESA EPA were also a good example of this openness and flexibility and expressed a hope that more countries would join the existing EPAs in the future. She mentioned that, earlier that week, Angola had expressed an interest, at a Ministerial meeting with the EU, in starting discussions on its accession to the SADC EPA, and assured the meeting that the EU were looking forward to engaging on this further.

The ACP Co-Chair considered that the Subcommittee on Trade Cooperation could be an appropriate forum for monitoring policy coherence and avoiding situations where the EU takes new initiatives and the ACP learns about them too late.

The representative of the Commission (DG DEVCO), Deputy Head of Unit Axel de la Maisonneuve, briefly updated the participants on the EPA support measures and stressed that the EU's development policy was aligned with the challenges of EPA implementation, both at strategic level and at the level of the use of instruments. Several ACP countries had EPA implementation plans in place while others were working on them, and the representative stressed that the implementation plans were also a way to ensure the coherence of EU policy with actions carried out by other donors. On the Jobs and Growth Compacts, the focus was not only on singling out value chains that create the highest number of jobs, but also on identifying gaps and obstacles. Specific instruments and programmes were available to EPA countries in order to take into account the challenges linked to EPA implementation. In addition, the EU contributes to schemes such as the Enhanced Integrated Frameworks in favour of LDCs.

## **5. ACP-EU trade regime issues**

### **(a) Update on the Brexit process**

The EU Co-Chair reminded the meeting that the United Kingdom would become a third country on 30 March 2019, unless the UK requests an extension and the European Council unanimously agrees to it. She said that the Withdrawal Agreement had been agreed between the EU and UK negotiators and that on 25 November 2018, the European Council had endorsed the Withdrawal Agreement and the Political Declaration (PD) setting out the vision for future EU-UK relations.

The EU representative pointed out that the UK House of Commons had rejected the deal in its meaningful vote on 15 January and again on 12 March 2019. She explained that as a further vote was being held on 14 March on requesting a possible extension of the negotiating period, there was a significant degree of uncertainty about when and under what conditions the UK would withdraw from the EU. Consequently, the EU was not in a position at this stage to formally inform its trade partners about the UK's withdrawal; nonetheless, she assured the ACP side that it would do so once appropriate.

The EU was pursuing a deal to ensure an orderly withdrawal of the UK as set out in the Withdrawal Agreement, but at the same time was stressing that due to the importance of the backstop, the Withdrawal Agreement could not be renegotiated. She stated, however, that the EU was ready to rework the nature and the intensity of the future relationship, towards a more integrated model of economic cooperation, if the UK request evolved beyond a simple FTA model.

It was also pointed out that, due to the uncertainty of the UK's position regarding the Withdrawal Agreement, the European Commission was stepping up preparedness for a no-deal scenario and that the Commission's Contingency Action Plan includes a number of legislative proposals accompanied by communications on preparedness and 88 sectoral preparedness notices. These give guidance to stakeholders, including stakeholders in third countries, so that they can prepare for a no-deal scenario.

The EU Co-Chair reassured the ACP side that the EU's trade policy would not change as a result of the UK's withdrawal and that the EU would maintain its GSP (EBA) and honour its international commitments, including the EPAs. As of the withdrawal date, EU trade agreements with third countries would no longer apply to the United Kingdom, with the part referring to the UK simply becoming obsolete.

The ACP Co-Chair thanked the EU for the thorough update and stated that the scenario of a no-deal Brexit was becoming more and more realistic each day as the deadline of 29 March 2019 approached. Therefore, the ACP side expressed serious concerns about the impact of a no-deal scenario on their economies. He pointed out that the UK remained the key trading partner for many ACP countries and that, in that context, some ACP economies had built up their supply chains to serve the UK market, including as an entry point for goods to the markets of other EU Member States.

In that regard, the ACP Co-Chair pointed out that policy initiatives were required to reduce the potential trade-related economic losses of ACP countries and that this should involve a trilateral discussion bringing together the EU, UK and ACP governments.

The main priorities of the ACP side in that context were to i) ensure the continuity of trade flows and the value of trade preferences; ii) ensure the continued triangular supply chains; iii) protect ACP interests on EU27 markets; and iv) revalorise the EPAs.

*1) Ensuring the continuity of trade flows and the value of trade preferences beyond 29 March 2019*

The ACP Co-Chair stressed that the issues of concern to ACP governments and businesses extended far beyond the simple question of rolling over existing tariff preferences for access to the UK market as set out under existing EU trade agreements. Thus, as an urgent priority, the ACP side urged the initiation of trilateral discussions involving the EU, UK and ACP governments on putting in place the necessary regulatory and administrative arrangements to ensure continuity in the use of essential trade documentation with the UK until such time as alternative comprehensive and operationally effective 'UK-only' systems are in place. The ACP Group called on the EU to make an early commitment in this regard, including with regard to the continued use of trade documentation systems over which the EU has proprietary rights and also to supporting the ACP Group in initiating the necessary dialogues with private sector actors who are actually involved in trading (port authorities, shipping agents, ferry companies etc.).

## *2) Ensuring the continued triangular supply chains*

The ACP side explained that the creation of the single EU market and the removal of barriers on internal EU trade had facilitated a move to just-in-time supply chains, which the ACP exporters had been able to exploit by serving EU markets through specialist trading hubs. This had given rise to what can be termed triangular supply chains with the UK, involving a substantial volume of trade into the UK via EU 27 Member States, in not only short shelf-life products but also a range of specialist and value-added products. In this context, the ACP Group called for EU support for the establishment of appropriate administrative cooperation, customs inspection and customs clearance arrangements for ACP exports being forwarded to the UK, where the same tariff treatment and non-tariff treatment should be accorded to ACP exports by both the EU27 and the UK market. The aim of such arrangements should be to facilitate the continued conduct of triangular trade across EU27/UK borders (e.g. between mainland Europe and the UK, on the island of Ireland and between mainland UK and the Republic of Ireland). The ACP Group further called for EU support for processes of dialogue with private sector traders, port authorities and ferry operators so as to ensure that the necessary arrangements are put in place to ensure the continued free flow of ACP exports along triangular supply chains.

## *3) Protecting ACP interests on EU27 markets*

The ACP Co-Chair stressed that the Brexit process would have an impact not only on ACP exports to the UK, but also on ACP exports to the EU27 market. He considered that EU policy action was needed to ensure that EU27 markets where ACP exporters have a major interest are not disrupted by the withdrawal of UK import demand from the market served under bilaterally negotiated EU tariff rate quotas (TRQs) with non-ACP/LDC countries (e.g. for bananas). Specifically, the ACP Group felt that the EU needed to support the apportionment of bilaterally negotiated EU TRQs between the EU27 and UK market, on the basis of historical trade flows over a defined reference period. This would serve to minimise the impact of Brexit on EU27 markets where ACP exporters have substantial interests.

#### *4) Revalorising the EPAs*

The ACP Co-Chair explained that, given their geographical patterns of trade with the EU, for some ACP countries, particularly in the Caribbean, the departure of the UK from the EU seriously reduces the value of the EPA trade preferences with the remaining EU Member States. In the light of the reduced value of the preferential access granted under EPAs arising from the UK's departure from the EU, there was a need to introduce certain changes to revalorise the EPAs, including rules of origin applied to ACP exports to the EU and market repositioning in export sectors, as well as the design and application of SPS control measures. While the specific changes required would vary from region to region, a number of broad areas and some region-specific areas can be identified. In a Caribbean context, this could also include removing levies and other restrictions on exports to neighbouring EU overseas territories as well as improving dialogue with EU Member States' authorities to facilitate access to EU27 markets for ACP service providers. In an African context, it could include providing for full and simple cumulation across the African Continental Free Trade Area.

Finally, the ACP side invited the EU to engage in open dialogue on the post-Brexit impact on ACP-EU trade relations, with a view to preserving current value chains among ACP countries, the EU and the United Kingdom.

The representative of Côte d'Ivoire stressed the importance of the ACP-EU dialogue in order to exchange views on the consequences of Brexit. The representative also noted that the EU's commitment was to open up the market of 28 Member States and, as a consequence, if the UK withdraws from the Union, one can consider that the said commitment is not met.

The representative of Cameroon asked whether the Commission had started to consider the consequences that Brexit will have for the ACP-EU partnership and, like the previous speaker, raised the issue of the commitments under the Cotonou Partnership Agreement.

The EU Co-Chair noted that ACP countries were not the only partners expressing such concerns. She confirmed that, as a consequence of Brexit, the ACP's market access will be limited to the 27 Member States of the EU under the same conditions as at present and pointed out that the EU would become not only a smaller market but also a smaller exporter. This did not, however, imply that the EPAs would need to be reopened. On WTO tariff rate quotas, she stated that the EU and the UK were following a joint approach with the aim of ensuring the continuity of WTO-bound trade quotas, and stressed that any adjustments would be carried out in a way that is fair towards other WTO members.

The ACP Co-Chair pointed out that the UK's withdrawal, whether with or without a deal, would mean a loss of EU market for several ACP countries, the UK currently being their main trading partner. He stressed that ACP countries not present in the EU27 should receive special support in order to increase their presence and, under the ACP-EU partnership, the EU has its share of responsibility in that regard.

#### **(b) Non-Tariff Measures**

As a preliminary remark, the ACP Co-Chair noted with concern that the EU had continued to develop regulations without prior consultation with ACP States as required under Article 12 of the Cotonou Partnership Agreement. He pointed out that those new regulations had even gone beyond the agreed international standards. He believed that although regulating trade was inevitable, the process of developing those regulations should be inclusive and based on scientific evidence. He reported that, as a consequence of those sanitary and technical requirements, ACP exporters were facing onerous 'niche market requirements' as well as voluntary and private standards imposed by private non-governmental organisations, mainly affecting food products. These may be environmentally, socially or food-safety motivated. Some private standards requirements were more stringent than government regulations and had become de facto mandatory and thus a precondition for access to the EU market. He stressed that the costs and delays associated with those private standards were placing a considerable burden on ACP exporters.



While he appreciated the importance of upholding social and environmental standards, he stressed that private or public sustainability standards, such as child labour and sustainable forest management vis-à-vis the commodity sector, should not be utilised as non-tariff barriers. The ACP side expressed its readiness to engage in an open and constructive dialogue with the EU on trade and sustainable development issues and stressed that the ACP and the EU should seize the opportunity of their new partnership to initiate a regular dialogue and closer cooperation on those important issues.

The ACP representative stated that the ACP remained seriously concerned about the implications of the New EU Plant Health Regulation, which would come fully into force on 14 December 2019. At the meeting of the Joint Ministerial Trade Committee in October 2018, the ACP had called on the EU to respond to that new trade barrier by mobilising resources to build capacity in the ACP States to facilitate the access of ACP products to the EU market. Furthermore, in October 2018, following the serious trade disruption and financial loss experienced by many ACP exporters, the ACP also urged the EU to be more transparent about the EU interception system by providing data and relevant information on an ongoing basis on ACP products that had been intercepted. The ACP side called on the EU to provide an update on the implementation of the new EU Plant Health Regulation, and on how the concerns previously expressed had been taken into account. The ACP was following the discussions on the issue of the EU revised Renewable Energy Regulation, specifically on palm oil. Palm oil was an important commodity for some ACP States, hence the need to ensure that the measures adopted would not adversely affect the export interests of ACP suppliers. The ACP Co-Chair pointed out that good initiatives were being put into practice in the ACP regions to promote the sustainable production of palm oil.

The ACP Co-Chair reported that the ACP had recently learnt that the EU, through a delegated act determining the sustainability criteria of biofuels under the new renewable energy directive (RED II), had indicated that palm oil cultivation was causing significant deforestation, and thus biodiesel produced from palm oil could not be counted towards EU green fuel targets. Furthermore, the ACP's understanding was that the EU had introduced an exemption for additional palm oil produced in independent small plantations (less than five hectares) or produced on 'unused' land. The ACP requested an update on this aspect as well.

The ACP side also raised the issue of the EU Regulation on maximum residue levels for cadmium in cocoa as it was aware that discussions were being held in the EU concerning this matter, and asked for an update on where things stood and how ACP States could be helped to mitigate the effects of this Regulation, which would potentially disrupt trade and affect exports of cocoa from ACP States. He emphasised the important role that cocoa played in terms of job and wealth creation for ACP countries.

Finally, the ACP Co-Chair invited the representatives of the ACP States to share their views on some of the issues raised.

The representative of Côte d'Ivoire raised the issue of regulations on child labour and deforestation. The representative considered that while fair trade is increasingly becoming the norm, caution is called for in order to ensure that it is used in the appropriate manner.

In her reaction to the ACP statement on non-tariff measures, the EU Co-Chair reassured the ACP side that the European Commission was committed, in line with Article 12 of the Cotonou Partnership Agreement, to informing the ACP Secretariat of its legislative proposals as soon as possible, i.e. after their adoption by the College of Commissioners and before their adoption by the Council. She clarified that this is done only once the Commission has adopted a proposal that there is a clear intention to adopt a measure. The EU representative also explained that, while the Cotonou Agreement did not stipulate the form of such communication, the European Commission did so through Article 12 letters or within the framework of regular institutional dialogues in which it informed the ACP of any relevant initiatives. The Commission had systematically done this and had held consultations where the ACP had so requested, by adding that sometimes it was better to organise dedicated discussions, especially on technical issues where the relevant experts in the Commission services needed to be mobilised. The EU Co-Chair reassured the ACP side that it could submit a request for information whenever useful, as provided for in Article 12. She reiterated the Commission's willingness to engage in informal discussions and to place any interested ACP States in contact with the relevant interlocutors within the Commission.

The EU Co-Chair reminded the meeting that the new Plant Health Regulation ((EU) 2016/2031) had been adopted by the European Parliament and the Council in October 2016, and would enter into force on 14 December 2019. The aim of the Regulation is to upgrade the level of phytosanitary protection of the EU, thus it introduced new measures for better controlling imports and for better guaranteeing the absence, early detection and eradication of quarantine pests. She added that the implementation phase had already started with a number of implementing acts, and emphasised that, prior to their adoption, drafts would be submitted for international consultation and duly notified to the WTO under the Agreement on Sanitary and Phytosanitary Measures. Moreover, the draft Implementing Regulation listing pests and specific import requirements was under preparation and would be notified to WTO-SPS in 2019. This Implementing Regulation would be based on the lists of pests and requirements contained in Directive 2000/29/EC, which would be revised and updated. Nevertheless, she reassured the meeting that even if the presentation of the import requirements may change, the technical requirements would largely remain the same.

On the issue of palm oil, the EU Co-Chair stated that the EU appreciated the importance of the palm oil sector as a source of growth and employment in producer countries, including for smallholders. For that reason, the EU and producer countries had a common interest in addressing the possible negative environmental and social impacts of the production of palm oil by ensuring that it takes place in a sustainable manner, and the Co-Chair expressed the EU's readiness to work together with producer countries in that regard. She showed an understanding of the ACP's interest in the recast of the Renewable Energy Directive (RED II), which had entered into force on 24 December 2018, including its provisions on the future role on conventional biofuels in promoting the use of renewable energy across all sectors, including the transport sector. The Directive, building on the existing sustainability framework for biofuels (in force since 2009), included new provisions to mitigate the risk of indirect land use change (ILUC) associated with conventional biofuels, and provided for global, objective and non-discriminatory criteria to determine the contribution of conventional biofuels towards the EU renewable energy targets. The Directive does not constitute a ban or an import restriction on palm oil or palm oil-based biofuels or any other crop-based biofuel to the EU market. She also highlighted the fact that EU Member States would continue to be free to import and use biofuels and their feed-stocks in the same way as they did under the current system. As far as the implementation of this approach is concerned, the Commission had on the previous day adopted a Delegated Regulation, which would be submitted to the European Parliament and the Council for further steps of the legislative process.

On the potential upcoming EU sustainable development standards for commodities, the EU Co-Chair confirmed that the EU was an important market for agricultural commodities, such as cocoa, and that increased attention was being paid to risk commodities in the European public debate, which was calling for the EU to ensure that ultimately only sustainably produced agricultural commodities are placed on the EU market. The EU attached particular significance to the sustainable use of natural resources and to the sustainable production of agricultural goods; consequently, the EU was following market developments for commodities – such as cocoa and coffee – where sustainability issues relating to the environment and labour had been reported. In the EU's view, these are primarily the home governments, which are in a prime position to address the sustainability issues.

The representative of Côte d'Ivoire pointed out that in the case of bio-products, for example, there are more and more private standards that are discouraging producers.

### (c) Commodities and fisheries

#### – Commodities

The ACP Co-Chair started by updating the EU side on the significant progress that had been made with regard to the implementation of the New Approach to ACP Group Support for the Development of Agricultural Value Chains (New Approach). The Steering Committee for the Farmers' Organisation for ACP Programme had held its first meeting on 8 March 2019, following the signing of the Financing Agreement on 12 February 2019. On 15 February, in Rome, the ACP and the EU had together launched the Agri-Business Capital (ABC) Fund, which aimed to help rural entrepreneurs and farmer organisations in the agricultural sector to access finance, thereby allowing them to invest, grow and create jobs. He added that the ACP's intention was to reach conclusions, with the EU's support, on the allocation of resources for the other value chain programmes that had been identified under the New Approach Framework Programme. Those value chain support programmes were important in terms of realising the benefits of trade agreements signed, such as the Economic Partnership Agreements, as they enabled countries to trade in value-added and diversified products, thereby addressing the supply side constraints. The ACP therefore urged the EU to work together with them to ensure that market access for the products developed from those value chains is facilitated.

Turning to specific commodities, the ACP Co-Chair raised the following issues:

The ACP had been informed by **banana** producers of the proposal made by the European Commission to lower the maximum residue levels (MRLs) for bananas in respect of the active substance imazalil, that would in practice entail that products treated with that substance would not be allowed to be exported to the European Union. He insisted that the importance of this post-harvest fungicide for the ACP economies and agricultural sector could not be underestimated.

First of all, ACP countries are located across the tropics and subtropics, and this provides for high temperature levels and/or humid conditions favourable to the spreading of fungal diseases post-harvest. He explained that, to that extent, the ACP countries found themselves lacking alternatives as imazalil was the only substance that could be used all year long in combination with other substances as part of a resistance management programme. Secondly, he emphasised that imazalil is also a key tool when it comes to maritime transport as the bananas are prone to experience different diseases caused by fungal pathogens. Finally, he stated that this substance was registered in many countries across the globe with no health issues identified for consumers and had been used safely for many years.

The ACP Co-Chair further noted that recent findings of the international scientific community during the 2018 Joint FAO/WHO Meeting on Pesticides Residues (JMPR) had recommended that the current maximum residue levels for bananas be increased from 2 to 3 mg/kg. The JMPR conclusions had clearly stated that this substance did not pose a risk for human health, and therefore a unilateral reduction of the MRLs by the European Union would not be in accordance with international trade common reasons. The ACP has serious concerns about the implications of this proposal, which has the potential of nullifying any market access that is granted. In that regard, he asked the EU, in accordance with the provisions of Article 12 of the Cotonou Partnership Agreement, to keep ACP countries regularly abreast of any updates, and asked for further details of the proposal by the European Commission to lower the Maximum Residue Levels on bananas.

With regard to **sugar**, the ACP side noted that the ACP still had an outstanding issue concerning voluntary coupled support (VCS) for beet sugar, which, in effect, was a crop-specific subsidy as it sustained production of three to four million tonnes of sugar per year, which would not otherwise be viable. He considered that VCS-subsidised production fundamentally distorted the EU market and deprived ACP sugar producers of expected income. The ACP Co-chair stated that the ACP stood ready to work with the EU in conducting a comprehensive joint assessment or independent assessment of the impact of VCS. He expressed confidence that such an assessment would vindicate the ACP side's position and reiterated the ACP's openness to seeking a solution on this matter together with the EU.

As far as **cotton** is concerned, the ACP States' understanding was that Germany, through the Green Button Project, had decreed that by the end of 2019, all apparel coming into Germany must be made from sustainable cotton and must be fully traceable. The ACP Co-Chair noted that the European Union as a whole may follow this trend and therefore asked the EU side to express its views on this aspect.

As already stated at the last JMTC meeting held on 26 October 2018, the ACP was prepared to share information and lessons learnt with regard to **kava** legislation and looked forward to receiving confirmation from the EU on when this matter could be discussed.

As a number of these issues would require follow-up, and in order to ensure effective input into the next JMTC, the ACP suggested that the parties use the existing structures on sugar, i.e. the Joint ACP-EU Technical Committee and the bilateral platform with DG Agriculture and Rural Development, to address not only sugar-related matters but also any other aspects relating to commodities.

The EU Co-Chair informed the meeting that the EU **sugar** reform had been completed as the EU beet-production quotas had been terminated a year ago, and thus the sugar market in the EU had completed the journey to market orientation, which had caused both EU and ACP sugar producers to respond by aligning their production with market demands. The ACP and the EU had jointly managed a market impact study in 2016, which had produced a welcome report with useful recommendations giving some indications of how ACP suppliers could approach the new market-driven trading environment. She stressed that diversification to other markets was an important conclusion. The EU Co-Chair reassured the meeting that the EU would continue with constructive market and trade monitoring through the Joint ACP-EU Technical Committee on sugar, and explained that substantial progress had already been made in that partnership, resolving technical trade issues and refocusing discussions away from funding towards market strategies.

Turning to **bananas**, the EU side reminded participants that the ACP countries still enjoyed very substantial preferences and privileged treatment, as they were the only suppliers to have duty-free, quota-free access to the EU market. She reiterated that the EU was fully aware of the sensitivity of maintaining preferential access for bananas and thus did not intend to change that. ACP-EU cooperation was turning to strategic planning and partnership, and joint work would ensure that interested ACPs have a precise and comprehensive understanding of the challenges and market outlook for bananas. ACP countries also need to adjust their own strategies, where appropriate.

The EU side showed an understanding of the importance of the active pesticide substance imazalil for the banana-producing sector in some ACP countries, and acknowledged that lower EU maximum residue levels (MRLs) may result in the loss of certain uses of imazalil-containing plant protection products in those countries, where those uses lead to residues higher than the new MRLs. The EU is well aware that this may limit the choice of pest control measures available to farmers producing for export to the EU market. However, the proposed lowering of the MRL for imazalil in bananas was necessary in order to protect European consumers, as an assessment of imazalil by the European Food Safety Authority (EFSA) had identified consumer health concerns with the uses underlying the current EU MRL (exceeding of the acute reference dose at 157%) as well as the Codex MRL (exceeding of the acute reference dose at 184%). The EU Co-Chair invited any interested parties having information that would permit the establishment of safe residue levels to submit an application supported by such information under the relevant legislative frameworks. She insisted, however, that in the light of the concerns raised, such an application would not have a suspensory effect on the ongoing process of lowering MRLs.

On **cotton**, the EU Co-Chair reminded the meeting that the EU was playing an active role in the discussions of the International Cotton Advisory Committee (ICAC), and had always expressed a readiness to engage constructively with all stakeholders involved in that value chain. She added that, in the area of market access, the EU gave full duty-free access to all ACP cotton imports under the EPAs or the Everything But Arms (EBA) arrangement of the Generalised Scheme of Preferences (GSP). She also pointed out that the EU granted no export subsidies and had minimised coupled aid for the sector. The EU stood ready to support a multilateral result which would encompass those elements.



The EU Co-Chair thanked the ACP side for its proposal to share information and lessons learnt with regard to **kava** legislation with experts from Commission departments. She also took note of the ACP's suggestion that use be made of existing platforms to discuss aspects relating to commodities.

The ACP Co-Chair reminded the meeting that the ACP-EU Joint Technical Committee on Sugar was currently meeting once every six months, and if it were to be extended to cover more products, more frequent meetings would need to be held.

#### **– Fisheries**

The ACP Co-chair first raised the issue of the Council Regulation on autonomous Union tariff quotas (ATQ) for certain fishery products for the period 2019-2020, and said that prior to the entry into force of the Regulation, the ACP side had expressed its concerns, in particular regarding the ongoing preferences erosion for two fisheries products, namely frozen tuna loins and frozen hake. ACP States had requested that appropriate sensitivity be accorded to their concerns in any envisaged review of the regulation in order to minimize the negative spill-over effects of the new ATQ regime on the sustainable development of the ACP fisheries sector. In that context, the ACP side asked for an update from the EU on the issue.

The ACP side also raised the issue of the implementation of Regulation (EC) No 1005/2008 on illegal, unreported and unregulated (IUU) fishing by reminding the meeting that two ACP member states had been 'red-carded' - in other words, listed as non-cooperating countries in the fight against IUU fishing, and that, as a consequence, trade-restrictive measures including the prohibition of exports of fisheries products and the prohibition of EU vessels operating in the zones of the affected countries had been imposed.

He added that five other ACP States had been ‘yellow-carded’ and were at a risk of being ‘red-carded’. The ACP side was concerned that, despite the ongoing bilateral dialogue with the affected countries (lasting up to five years in the case of some Member States), the outstanding issues would remain unresolved. He expressed the ACP’s view that the issue was due to capacity limitations on affected countries carrying out the necessary reforms. In that regard, the ACP urged the EU to extend support to the affected countries in order to be able to undertake the outstanding reforms and expeditiously resolve the remaining issues.

The EU Co-Chair reminded the meeting that the current Autonomous Tariff Quotas (ATQs) Regulation would remain in force until December 2020 and that the objective of the ATQs was to guarantee a sufficient competitive supply to the EU processing industry, taking into account the interests of EU fish producers. She nonetheless pointed out that other factors were also taken into consideration, such as trade preferences for third countries (including ACP).

The EU Co-Chair explained that the annual quota for tuna loins had been increased from 25 000 to 30 000 tonnes because it was being used at a rate of 100% and was already exhausted within the first few days of January every year, which demonstrated the market’s need for higher volumes. She stated that quotas for frozen hake had decreased from 15 000 to 12 000 tonnes while quotas for hake fillets had increased from 15 000 to 25 000, reflecting the quota intake in recent years.

On IUU fishing, the EU side explained that the EU continued to work with the ACP countries, mostly on an informal basis, but whenever serious challenges emerged formal dialogues took place. As a result, many countries are currently combating IUU fishing and all of them receive EU support for capacity-building. In the Caribbean, the focus is on countries with important hubs, while in the Pacific the main issue is the lack of control over national fishing vessels. The EU had signed a five-year agreement with several countries on sustainable ocean management.

The ACP Co-chair expressed disappointment with the increase in ATQs for tuna loins and again voiced the ACP's concerns about the continued erosion of their preferences. He stressed that the denial of market opportunities for fisheries was jeopardising any prospects of development in this sector.

The EU Co-Chair took note of the comments by the ACP side.

#### **(d) EU negotiations and implementation of agreements with third parties**

The EU side provided an update on the state of play of the EU FTA negotiations in the different parts of the world, focusing on those that could be of most interest to the ACP side, notably in Latin America and Asia.

#### ***MERCOSUR***

Mercosur is an important partner for the EU, both economically and politically. Negotiations were relaunched in 2016 and steady progress had been made. However, some important issues were still outstanding and work needed to continue. The last round of negotiations had taken place in December 2018 in Montevideo and the next one was being held in Buenos Aires in the same week as the Subcommittee meeting.

#### ***MEXICO***

The EU and Mexico had reached an agreement in principle on updating the trade part of the EU-Mexico Global Agreement in April 2018. It was an ambitious agreement aimed at modernising current relations with this important trading partner. The EU was working together with Mexico on the legal revision in order to finalise the Commission proposals to the Council and the EP for signature and entry into force.

## ***CHILE***

The EU Co-Chair informed the meeting that, since November 2017, the EU had been negotiating a modernisation of the existing agreement with Chile, with the next round taking place in Santiago in the first week of April 2019. Good progress had been made to date, and the aim was to replace the current agreement with an ultra-modern trade agreement, similar to those concluded with Canada, Japan or - more recently - Mexico. She expressed the hope that rapid progress could be made.

## ***INDONESIA***

Steady albeit slow progress had been made in FTA negotiations with Indonesia, and the parties were approaching the seventh round, which was being held in Brussels in the same week as the Subcommittee meeting. Initial offers had been exchanged in terms of goods, services and investments. Presidential elections were due to be held in Indonesia in April 2019, and the current Indonesian administration still aimed at possibly concluding negotiations in 2019. In the EU's view, this was ambitious given the amount of work ahead.

## ***CHINA***

The EU Co-Chair then turned to the EU's most challenging trade partner, China, by stating that the Comprehensive Investment Agreement (CAI) under negotiation with China was the EU's main tool for placing its investors on an equal footing with domestic operators in terms of accessing and operating in the Chinese market. Those negotiations complemented other efforts being made on related topics, such as forced technology transfers or industrial subsidies, in the WTO modernisation process, including in the context of trilateral cooperation with the United States and Japan.

## ***AUSTRALIA***

The EU Co-Chair informed the meeting that FTA negotiations with Australia had started well, and the parties were preparing for the third round at the end of March 2019 in Canberra.

## ***NEW ZEALAND***

Negotiations with New Zealand had started in 2018 and were moving ahead more quickly, with the third negotiating round taking place in Brussels in the same week as the Subcommittee meeting.

## ***TUNISIA***

Finally, regarding the ongoing trade talks with Tunisia, the EU side stressed that despite the difficult political context in the country, the negotiations remained extremely important for the EU, with the aim of keeping Tunisia's economy firmly anchored to the EU. She expressed the hope that a fourth round of negotiations would take place in April 2019, and that it would be possible to make progress on many chapters.

The EU Co-Chair then gave the floor to the ACP side for its response.

The ACP Co-Chair thanked the EU Co-Chair for her comprehensive update and stated that the ACP side had duly noted the information provided. The ACP acknowledged the importance of preferential arrangements in trade relations in order to achieve greater trade opportunities. However, he added that, within the specific framework of EU-ACP trade relations, the agreements that the EU concludes with third countries may lead to the erosion of the preferences granted to the ACP States and affect their competitive position in the EU market, as clearly stated in Article 37A of the Cotonou Partnership Agreement relating to 'Other trading arrangements'.

The ACP side stressed that its concern here was about the offers and concessions accorded to the ACP's major competitors, and especially to other developing countries, in the EU market. He expressed the view that this placed the ACP suppliers in an uncompetitive situation and nullified some of the perceived benefits of the EPAs for ACP suppliers.

The ACP Co-Chair urged the EU to effectively implement the provisions of Article 37A of the Cotonou Partnership Agreements when concluding free trade agreements, which required taking appropriate measures in particular to overcome possible negative impacts with a view to maintaining significant preferential access. With that in mind, he reiterated the ACP's call for specific studies on the impact of those agreements on the ACP's trade with the EU. He reiterated the need for information-sharing on a regular basis, and not necessarily on the occasion of the joint meetings.

The EU Co-Chair expressed the view that the EU was transparent in its communications towards the ACP side, although it remained open to the ACP's ideas concerning further exchanges. She reminded the meeting that FTA implementation reports are produced on an annual basis, and those reports give an overall picture about how the EU puts those agreements into practice.

As far as preference erosion is concerned, the EU Co-Chair stressed that the ACP's interests are consistently taken into account, especially in the case of highly sensitive products like bananas and sugar. In that regard, she said that while Latin American countries have only partial liberalisation for their banana exports, the ACP countries benefit from unlimited access to the EU market.

The ACP Co-Chair explained that the ACP side would prefer impact assessments instead of annual reports, as the latter were unsuited to addressing the concerns, their main purpose being to provide information. He stated that new tools would be needed to follow up on the implementation of FTAs and to evaluate their impact.

## ***COMMISSION PROPOSAL ON A MULTILATERAL INVESTMENT COURT***

The EU Co-Chair updated the ACP side on the initiative for a multilateral court dealing with the resolution of investment disputes - a court that would be open to all interested countries and operate based on the principles of permanency, independence, accountability and efficiency, which underpin other respected international courts and tribunals. She stressed that such a multilateral system would also be more efficient than the coexistence of multiple bilateral investment dispute resolution mechanisms, and that this initiative would be open to all interested countries.

The EU side informed the meeting that Working Group III of UNCITRAL (United Nations Commission on International Trade Law) had already met three times to discuss a multilateral reform of ISDS (investor-state dispute settlement) and would proceed to discuss the organisation of its future work on how to design possible reform solutions as of its next meeting (1-5 April 2019, New York). The EU Co-Chair also reported that, in January 2019, the European Union had submitted two papers to UNCITRAL, i.e. an outline of the EU's ideas on what form the institutional reform of ISDS should take and a possible work plan addressing procedural issues. An intersessional meeting to raise awareness and share experiences from the Caribbean and Latin American region had also taken place in the Dominican Republic in February 2019.

The EU Co-Chair stressed that the African continent was a key region where an inter-sessional meeting should be organised in the short to mid-term. Any queries to this effect should be addressed to the UNCITRAL Secretariat directly. She added that the EU and other donors were contributing to the travel fund maintained by UNCITRAL for the purposes of granting assistance for developing countries to travel to Working Group III sessions. Governments wishing to request such support should address their request to the UNCITRAL Secretariat directly. Finally, on behalf of the EU, she encouraged the ACP countries to become involved in this initiative.

The ACP Co-Chair pointed out that the ACP countries continued to be concerned about the potential implications of the setting up of such a court.

## 6. WTO issues including WTO reform

The EU Co-Chair reminded the meeting that the EU and the ACP Group had a long tradition of working together in the WTO, which showcased the shared deep attachment of both to the values and importance of the multilateral trading system. She pointed out that this system, which had formed the basis for economic growth around the world and had acted as a guarantor of stability in trade relations, was facing its deepest crisis since its inception and was now seriously under threat. She expressed the belief that there was thus a need - now more than ever - for the EU and ACP to work together to safeguard the WTO, as allowing the system to founder would be painful for everyone, but particularly for those who were already the most vulnerable.

The EU Co-Chair explained that the EU side had outlined a comprehensive approach towards reforming the WTO and making it fit to address the challenges of the 21st century. The EU had submitted the first specific proposals to preserve the dispute settlement mechanism and to improve the functioning of the Organisation. She reassured participants that the EU was ready to engage with the ACP on all WTO issues, including the outstanding Doha issues.

The EU Co-Chair stressed that one issue that was actively being pursued in Geneva was fisheries subsidies, where an agreement needs to be reached by 2020. The EU would welcome further commitments from the ACP Group and its Members to finding solutions on such issues as prohibiting subsidies to Illegal, Unreported and Unregulated (IUU) fishing or subsidies negatively affecting overfished stocks. Similarly, including references to sustainable management policies could prove a useful tool in terms of providing access to flexibilities. She reassured the meeting that the EU remained open and ready to work with the ACP to move those negotiations forward.

The EU Co-Chair clarified that the EU also believed in the importance of advancing the development debate so that the WTO contributes to the achievement of the development objectives of developing countries and Least Developed Countries. She said that the EU had already tabled a constructive proposal for a new approach to flexibilities in its concept note on WTO reform, and explained that this approach focused on looking forward and on ensuring that actual development needs are properly addressed.



The EU Co-Chair reassured the meeting that the EU would continue to contribute to the debate on this basis and encouraged the ACP side to support those discussions. The EU took note of the positions expressed at the last General Council on this issue and believed that it was important to continue this conversation and find a solution that could be supported by all WTO Members.

On e-commerce, specifically, she mentioned that 76 WTO Members had held their first meeting on 6 March 2019 to kick off the negotiations. An invitation to that meeting had been extended to all WTO Members, and the EU was pleased that a number of ACP Members had attended. She made it clear that, from an EU perspective, those negotiations had important systemic implications, as they would demonstrate that it was possible to work and make progress differently in the WTO. She explained that while the negotiations would take place among a growing group of interested Members, they were geared towards a WTO outcome, with a process that would remain open and transparent.

The EU Co-Chair expressed the EU's full commitment to that process and stated that it looked forward to working with all interested Members to deliver on the double objective: first, to negotiate a comprehensive and ambitious WTO framework for e-commerce; and second, to attract as many Members as possible, for which a pragmatic and flexible negotiating framework would be necessary. She called on all ACP members to join in the negotiations, which promise to be broad and comprehensive in scope and would therefore contain something of interest for all WTO members. At the same time, she stressed that with such a broad scope, it was clear that a 'one-size fits-all' approach would not work; therefore, the EU side expressed its belief that Members would need to have an opportunity to differentiate in terms of the level of commitments that they would be ready to make.

The ACP Co-Chair made it clear that the ACP was fully aware that the WTO was at a turning point in its history since its creation in 1995 and, in that context, reiterated the ACP Group of States' continued commitment to the multilateral trade system embodied by the World Trade Organisation. He stated, however, that the political and institutional obstacles within the WTO, which created the risk of calling into question the existence of an inclusive multilateralism that was favourable to development, were a serious cause for concern.

The ACP Co-Chair acknowledged the urgent need to safeguard a multilateral trade system based on open, fair, transparent and inclusive rules; nevertheless, he insisted that the WTO reforms had to be implemented without compromising the development goals of the Doha Development Agenda.

The ACP Co-Chair took note of the EU's WTO reform proposal as well as other proposals tabled by other WTO members. He informed the meeting that the ACP was currently reviewing all those proposals for reforming the WTO, bearing in mind that the ACP's key reform priorities continued to be related to establishing a more equitable rules-based multilateral trading system and improving the WTO by addressing implementation-related issues through the effective provision of special and differential treatment. He stated that, in the light of the above considerations, the ACP Group would come up with an ACP position on the WTO reform in the coming weeks.

To conclude on this matter, the ACP side invited the EU side to support the ACP Group's efforts, so that the proposed reform could preserve the integrity of the WTO's functions, which include taking into account the specific interests of developing countries and least developed countries which are members of the WTO.

On the fisheries subsidies, the ACP Co-Chair stressed that the ACP's position in those negotiations was well known, and reassured the meeting that the ACP remained fully committed to concluding the negotiations by the deadline of 2019 in order to enable the WTO to also meet the Sustainable Development Goal 14.6 (prohibition of certain forms of fisheries subsidies) deadline of 2020.

Finally, the ACP Co-Chair thanked the EU Co-Chair for her comprehensive update on e-commerce and reassured the EU side that the ACP had duly noted the information provided regarding the current WTO negotiations on e-commerce.

## 7. Trade-related capacity-building

The representative of the Commission (DG DEVCO), Deputy Head of Unit Axel de la Maisonneuve, gave an update under this agenda item. He referred to the EU Aid for Trade Progress Report published in December 2018, which contained both quantitative and qualitative information. On volumes and quantities, he stressed that EU Aid for Trade (AfT) had continued to intensify in 2018 and the ACP's share was 40%, which represented an increase of 17% compared to 2017. The Least Developed Countries' share was 22%, representing a 27% increase compared to the previous year. He reminded the meeting of the EU's commitment to mobilising at least EUR 400 million in support of the WTO Trade Facilitation Agreement (TFA), and reported that progress was being made in that regard. In addition, it was mentioned that European Investment Bank (EIB) aid to ACPs had reached an all-time high (EUR 1.57 billion) in 2018.

With regard to the qualitative analysis, the EU representative pointed out that the EU's intention was to better align aid with trade opportunities and challenges, including EPA-related needs, and to better gear it towards sustainability priorities. He also referred to the numerous projects that were about to start in the fields of climate change and women's economic empowerment. On investment, he pointed out that the first pillar of the EU External Investment Plan was about financial inclusion and access to finance, and that the Commission and the Netherlands' Entrepreneurial Development Bank (FMO) had signed the first guarantee instrument in December 2018. The Commission representative announced that in 2019 a further 25 guarantee instruments would be signed and made available to SMEs. EU technical assistance to the ACP and EU investment climate support (EUR 718 million in 2018) were also mentioned. The representative of DG DEVCO stressed that public/private processes and structures needed to be improved. Finally, the EU Co-Chair reiterated the EU's support for the AfCFTA with a dedicated envelope.

The ACP Co-chair thanked the representative of the Commission for the detailed and comprehensive presentation. He pointed out that, as the two sides were currently redefining a new framework for their trade cooperation in the next EU-ACP partnership, the trade-related capacity-building of ACP States remained important in order to make that partnership work effectively and successfully for both parties.

On behalf of the ACP Group, the ACP Co-Chair welcomed and expressed his gratitude to the EU for all the trade-related assistance that ACP States and regions had continued to receive under the various trade-related capacity-building programmes. He informed the meeting that, over the years, this support had built up substantive capacity for ACP States to develop policies and tackle trade challenges, as demonstrated by the effective participation of ACP States in various regional trade negotiations, the EPAs, and at the WTO, thanks notably to the support provided by the Hubs and Spokes posted in ACP countries and regions.

The ACP Co-Chair stressed that the ACP was satisfied that funding activities under the TradeCom programme estimates and the grant component continued to proceed smoothly, and welcomed the next implementation phase of the grant component. Regarding the Rapid Response Facility, the ACP side expected it to fully achieve its objectives of a more flexible, demand-driven mechanism capable of mobilising specialised trade-related technical assistance to swiftly meet the needs of ACP beneficiaries.

The ACP Co-Chair stressed that the global trade landscape, including the emergence of global value chains and the growing importance of Non-Tariff Measures (NTMs), as well as the growing share of the digital economy in international trade, required the development of technical assistance programmes more in line with those new topics of interest to the ACP States. In addition, having taken note of the termination of the innovative Aid for Trade initiative - Hubs and Spokes programme, the ACP side believed that new technical assistance programmes should be built on its key achievements to further strengthen ownership and sustainability by the ACP beneficiaries.

The ACP also called on the EU to develop instruments and programmes more in line with the needs of ACP States and LDCs in a post-conflict situation, and to facilitate access to the investment facilitation mechanism in order to finance ACP private sector projects.

On Aid-for-trade (Global Review of Aid for Trade, 3-5 July 2019 at the WTO), the ACP Co-chair said that this year's theme would focus on 'Supporting economic diversification and empowerment for inclusive, sustainable development through Aid for Trade'. He welcomed the ACP's joint participation with the EC in this event to present certain key success stories of EU trade-related assistance in the ACP States and regions.

Finally, the ACP Co-Chair gave the floor to the representatives of the ACP side to elaborate on some of the issues raised.

The representative of Barbados inquired whether the SWITCH Africa Green project or a similar initiative would be extended to other partners, as it could be useful in terms of the implementation of SDG 12 (Ensure sustainable consumption and production patterns).

The EU took note and indicated that it would look into the possibilities.

## **8. Any other business**

Under this item, the ACP side proposed to discuss the date of the next Joint ACP-EU Ministerial Trade Committee (JMTC).

The ACP Co-Chair stated that 2019 was going to be a crucial year for both the ACP and the EU States in many ways. In view of the European elections in May and their implications for the internal organisation of the Commission, he suggested the week of 30 September 2019 for the organisation of the next JMTC.

The ACP Co-Chair informed the meeting that, as was customary, on the ACP side, the JMTC would be preceded by a meeting of Senior Officials and the Technical Follow-up on EPA negotiation and implementation, as well as the ACP Ministerial Trade Conference (MTC) from 30 September to 3 October 2019. As a result, the JMTC could be held on 4 October 2019 in Brussels.

Regarding the scheduling of the next JMTC, the EU Co-Chair referred to the changes that would take place at the end of the year in the European Commission. Therefore, the EU side expressed its preference to discuss the date of the JMTC later in the year and to keep in touch in order to confirm the date and work on the agenda.

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