

Interim Economic Partnership Agreements: Questions and Answers – Brussels, 27 March 2008

Why were Interim Economic Partnership Agreements (EPAs) proposed?

ACP and EU negotiators faced a difficult decision when it became clear that full EPAs would not be agreed in all ACP regions by the end of 2007. In just a few months they had to agree a new, legally secure, trade regime for 36 ACP non-LDCs¹ - countries such as Kenya, Mauritius, Ghana and others - and ensure that relevant legislation was in place by the 1st of January 2008 in 27 EU Member States. To add to the difficulties, the non-LDCs are scattered across six ACP regions each of which has a unique regional integration process with their LDC neighbours.

Without a new trade regime the non-LDCs would have had to pay additional duties under the EU Generalised System of Preferences from 1st January 2008. Some faced trade disruption and job losses in key sectors like horticulture, fruit and fisheries. This is why EU Member States gave their full backing to the Commission to negotiate Interim Agreements based on new terms for goods trade². These Interim Agreements will gradually be replaced by comprehensive regional EPAs as full negotiations with the various ACP regions are concluded. So the Interim Agreements have not replaced the original commitment to regional integration – they are a necessary step on the road to final regional agreements.

What do the interim EPAs contain?

In the Caribbean there was no need for an Interim Agreement as, after 4 years of complex and difficult negotiations, the EC and CARIFORUM States agreed a comprehensive trade and development agreement on the 17th of December. The Head of the Caribbean Regional Negotiating Machinery, Richard Bernal, subsequently described this EPA as "a major gain....the deal is historic in terms of content and precedent".

In the other ACP regions there were too many outstanding issues to negotiate full EPAs within the short time available and negotiators concluded a series of Interim Agreements in late November and early December 2007. These prevented trade disruption by providing a legally secure trade regime to replace the Cotonou arrangements which expired at the end of that year. They also include some clauses where negotiators have previously reached agreement and set out the basis for negotiations to continue in other areas.

In the face of the challenges and timeframe, this was a remarkable achievement, possible only with hard work, compromise and political commitment on all sides. The President of the Namibian Agriculture Union expressed "joy and gratitude" over the decision of his country to join the SADC Agreement and the Kenyan Permanent Secretary for Trade said the EAC Agreement safeguarded investment worth billions of shillings in the horticulture and fisheries sub-sectors.

¹ This does not include South Africa that already has a WTO compatible Free Trade Area agreement with the EU – the Trade and Development Cooperation Agreement or "TDCA"

² Council Conclusions on Economic Partnership Agreements at the 2831st External Relations Council meeting, Brussels, 19-20 November 2007

Why are there differences between the different interim EPAs?

Each Interim EPA is unique because it was negotiated with a specific ACP region with its own unique mix of LDCs and non-LDCs, particular interests and integration plans. The extent of regional coverage also varies. Some LDCs like Mozambique chose to join an agreement while others, like Mali, chose not to. In the Pacific region seven non-LDCs did not seek an Agreement because of their limited goods trade with the EU, while in West Africa Côte d'Ivoire actively sought an agreement to avoid trade disruption.

In terms of content, regions like SADC felt ready for a more comprehensive agreement while in West Africa, Ghana and Côte d'Ivoire preferred more limited agreements so as not to undermine the wider regional integration process and subsequent EPA negotiations. This differentiation also extended to choices by the various regions over including clauses such as agriculture and food security.

What do they have in common?

The thing that all Interim Agreements have in common is that they are full International Agreements with legally secure terms on trade- they meet WTO rules and cannot be challenged by other WTO members. They had to include binding commitments, such as the elimination of restrictions on trade such as export subsidies, if they were to comply with WTO rules.

How do they affect regional integration?

The new trade arrangements ensure that there is now a duty-free trade regime covering the vast majority of ACP countries. Because this removes a situation in which some LDC countries in each region pay no duties on their exports to Europe and some non-LDC countries do pay such duties, this is a step towards regional integration and larger regional markets. Moreover, four SACU³ countries now have a full seat at the table of a wider regional trade agreement rather than having their trade relations with Europe effectively determined by an EU-South Africa agreement to which they are not party.

The Agreements are specifically called "Interim" as they were negotiated with the full intention that they will be replaced by full regional EPAs. Their purpose was to prevent trade disruption although they have also created policy space for the ACP regions who, free of divisive deadlines and the threat of legal challenges to non-LDC market access, can be certain they are approaching EPA negotiations on their own terms.

Should we renegotiate the Interim EPAs?

This is not a good idea and we don't need to do so as the process of replacing them with full regional EPAs has already begun. The ACP and EU promised other WTO members to end negotiations on a new trade regime by 2008. To reopen Interim Agreements would send the clear signal this has not happened and sacrifice the hard-won legal security they offer.

The Interim Agreements and various political declarations that accompany them set out how the different ACP regions wish to negotiate the move to full EPAs. For example, all issues are on the table in the SADC region but parts of the Interim Agreement may stay in place to form a framework for a full EPA while in Central Africa, the Interim Agreement should be entirely replaced.

³ The Southern African Customs Union (Botswana, Lesotho, Namibia, Swaziland and South Africa)

Why do some ACP countries liberalise further than others?

To be WTO-compatible trade agreements have to liberalise a certain minimum of trade between trading partners. The EU believes the benchmark for WTO compatibility in this case should be 100% liberalisation of EU Trade⁴ and at least 80% of ACP trade over 15 years, with the majority of this in 10 years. This represents the most generous interpretation of WTO rules ever applied – a more normal starting point would be 90% or more of trade in 10 years with no differences in the scope of liberalisation between the partners. Nevertheless, the EU believes that EPAs meet WTO rules.

The ACP countries are obviously free to choose to liberalise further or quicker than this - and countries like Mozambique and Mauritius did. They did this as a result of their own policy decision to move to a more open economy, not as a result of EU pressure. Differences also exist where ACP regions, like the East African Community, chose up-front liberalisation of tariff lines that have limited trade or represent much needed imports such as industrial machinery or intermediate goods for local producers.

How are ACP producers protected?

The generous EU market access offer and interpretation of WTO rules used means the ACP can retain tariffs on 20% of EU imports and use phase-in times of 15 years to liberalise the remainder. This easily provides sufficient protection for ACP domestic interests because the EU does not export the kinds of tropical products and basic manufactured goods that directly compete with ACP producers - unlike Asian and Latin American exporters. Despite reports such as those saying that Ghana will be flooded with chicken imports and Mozambique with flour as a result of Interim EPAs, there will in fact be no change in import tariffs in either case.

Can the market access arrangements be changed?

Market access schedules can be negotiated around any new regional configuration chosen by the ACP for a full EPA (and it is the ACP that decides on this configuration not us). This will be the case in West Africa for example. The only constraint is that any new goods trade regime must also be legally and technically feasible and compatible with WTO rules so as to maintain legal security and provide a stable base for ACP investors and traders.

How will new Rules of Origin improve access to EU Markets?

The improvements in Rules of Origin are one of the more important aspects of the EU's EPA market access offer, particularly for LDCs that already have full EBA duty free access. Countries like Tanzania and Lesotho are already praising them for opening new markets in value added production.

Carefully targeted changes go a long way and we now provide Rules of Origin at least as generous as those of any other developed country. There are major Improvements in fisheries for the Pacific and Eastern Africa. Contrary to some Reports new allowances for global sourcing in the textiles and clothing sector means limits called "tolerance rules" no longer apply

The Rules of Origin in the Interim Agreements will replace those in the 2007 EPA market access Regulation once those Agreements are signed. Changes focus on agriculture, textiles and fisheries because this is where researchers, producers and the ACP identified potential gains. Industrial sectors face far lower tariffs and there is little scope for Rules of Origin changes to attract processing in the same way. Some ACP regions also favoured retaining the existing Cotonou system and the final result reflects this policy choice.

⁴ The transition period to 2009 for rice applies only to the Caribbean and gradually improves access to EU markets. The transition period and special safeguards for sugar ensures the stability of EU sugar market reforms which is as essential for ACP exporters as it is for EU producers.

We will be watching this whole area carefully, particularly for any effect on LDC countries using the Rules of Origin imbedded in their Generalised System of Preferences trade terms.

Why do you need detailed safeguards in the interim EPAs?

Put simply, to provide an additional safety net for the ACP compared to the rather vague provisions of the Cotonou Agreement. These vague provisions meant the EU could have applied safeguards essentially on its own judgment and the ACP could never be clear when they could apply a safeguard. As any lawyer will tell you, vague or non-existent criteria leave huge room for legal interpretation and conflict. The ACP now have clear guidelines, the EU can only act in precisely defined circumstances and there is a clear benchmark forcing it to react if the ACP signals problems.

It is important to put the safeguards in context. We have never taken a safeguard measure against the ACP and don't intend to start now. For us to do so would require proof that a surge in ACP exports has been large enough to destabilise a sector in an EU economy. Asian economies might manage this but it is not a likely scenario for the ACP given the relative size of trade flows. It didn't happen when the ACP represented a far greater percentage of EU trade and, to put things in perspective, the EU now trades more with South Korea than the whole of sub-Saharan Africa put together (South Africa excluded).

Are there any alternatives to EPAs?

The EU and ACP have been open to alternatives right from the start of the EPA process. That's why the Cotonou Agreement included a clause allowing any non-LDC to signal that they did not wish an EPA and to request us to consider alternatives. None did so and no one has found a legal alternative that offers the same benefits as EPAs. Obviously, there are always *illegal* alternatives but neither the EU nor ACP could seriously consider openly flaunting international commitments. This is hardly consistent with the rule of law that EPAs need to promote in order to attract investment in the ACP. It would also undermine the very multilateral system the ACP States seek to join and any such trade regime would not be worth the paper it is written on as a guarantee to exporters and traders.

The "GSP+" scheme has been proposed as an alternative. It remains open to any ACP State that wishes to make an application and there is an ongoing process right now that will add new countries from 2009. But there is a transparent and rigorous application and monitoring process to ensure trade benefits go only to those who apply key international conventions linked to worker's rights and the environment. It would be wrong to bend these criteria to allow an ACP State to join – especially on any kind of fast track with no formal application as Nigeria requested. This would just undermine the whole scheme and the position of other developing countries that are just as poor and worked hard to implement the basic standards supported by GSP+.

