

CIVIL SOCIETY DIALOGUE

MEETING ON

SUSTAINABILITY IMPACT ASSESSMENT IN SUPPORT OF THE NEGOTIATIONS TO DEEPEN THE EU- EASTERN AND SOUTHERN AFRICA (ESA)
ECONOMIC PARTNERSHIP AGREEMENT

Date: 23/03/2021

Time: 11:00 -13:00

Location: WebEx

Lead speakers

- Ewa Synowiec, Director, Directorate-General for Trade (DG Trade), Chief Negotiator for the negotiations to deepen the EU-ESA EPA
- Andreas Freytag, Study Coordinator/Team Leader of the consortium led by LSE Consulting

Moderator

Deputy Head of Unit, Transparency, Civil Society and Communication Unit, DG Trade, European Commission

Agenda

1. Presentation of the state of play of the negotiations;
2. Presentation of the draft thematic reports of the Sustainability Impact Assessment on (1) trade in goods, (2) trade in services and investment and (3) trade and sustainable development; and draft ex-post evaluation of the existing interim EPA.
3. Open discussion with stakeholders.

1. Presentation by DG TRADE on the state of play of negotiations with ESA Countries

Ewa Synowiec, Director of Directorate TRADE C and Chief Negotiator for the deepening of the EU-ESA EPA, presented the state of play of the negotiations with the five ESA Countries (ESA5) implementing the EPA. Ms. Synowiec started by noting that the SIA aims at feeding into the negotiations between the EU and the ESA5. The SIA provides a deep evaluation of the potential economic, social, human rights and environmental effects of the anticipated new and comprehensive EPA, which will be the result of the deepening in terms of substance of the current EPA. The SIA will be based on broad consultations of stakeholders and include recommendations to assist the negotiation process. The EU commissioned an independent contractor (LSE Consulting) to undertake the study. The Contractor will present the first results of the research including the Ex-Post Evaluation of the current EU-ESA5 EPA. Ms. Synowiec highlighted that the first Civil Society Dialogue with regard to this SIA was held on 11 September where the state of play of negotiations was presented and the Contractor presented the Draft Inception Report of the Study.

Concerning the state of play of the negotiations, three rounds were held since their launch in October 2019. Ms Synowiec noted this endeavour had started earlier at the request of the ESA partners to deepen the existing agreement by expanding its scope towards a modern comprehensive agreement,

which the EU welcome, engaged in the process and agreed on a joint scoping paper before the formal negotiation process. Negotiations will cover all trade-related issues including trade and sustainable development, institutional provisions for civil society and parliament.

The negotiation rounds resulted in substantial progress on five issues on Trade Barriers to Trade (TBT), customs and trade facilitation, Sanitary and Phytosanitary (SPS) , Rules of Origin (RoO), agriculture in terms of cooperation and not in terms of market access. The last round permitted negotiators to have the first discussions on trade and sustainable development (which is new) and it will be included in the EPA. There is one in CARIFORUM but no such chapter in the EPA agreements with African countries. The DG noted that the parties further discussed for the first time principles of the EU approach on trade in services, investment liberalisation and digital trade. The discussion laid the foundation for the next round to discuss Trade and Sustainable Development (TSD) based on a joint working document and start substantial discussions on negotiating texts for Trade in Services, Investment and Digital Trade; for the latter, the EU submitted to the ESA side its proposal, which is also published online. In the framework of the transparency policy, the EU publishes all initial negotiating proposal texts, which stakeholders can access.

Ms. Synowiec underlined that the ESA partners have been well prepared and well-coordinated despite institutional capacity challenges – particularly for the least developed countries in the group. The willingness and commitment to move forward with the negotiations is encouraging and supports reasonable optimism that it will continue. Relating to the latest results in the negotiations:

- Very good progress on customs and trade facilitation as well on SPS, with few outstanding issues including those related to institutional provisions and capacity building which will need to be discussed in due course.
- On TBT, agreed on most of the text of the chapter but few remaining articles mainly on technical regulations, transparency in marking and labelling. Cooperation and technical assistance remain outstanding.
- On SPS, substantial progress had been made on most articles including regionalisation, technical consultations, animal welfare and emergency measures. Outstanding issues include cooperation and technical assistance. Support to capacity building including technical and financial assistance will be a cross-cutting issue in this process and the ESA side seems to be focused on this support in view of the implementation of the commitments to be included in the deepened EPA. This support will come from DG INTPA (International Partnership Agreements).
- On Agriculture - mostly relates to a good cooperation. On the basis of a joint working document some articles were agreed and others are under discussion.
- On RoO, a joint working document can be already considered a good achievement as it is one of the most difficult issues in this negotiation process, given the sensitivity of the issues by both parties and several EU red lines based onr ESA5 claims.
- On Trade and sustainable development, first exchange of views on the mutual text proposals in the last round was constructive with a lot of convergence in many areas including gender. The EU proposal is however ambitious and the differences in particular to the effective implementation of international conventions and strong commitments that the EU advocates

for in this chapter will need to be tackled. Ms. Synowiec highlighted ESA side aims at linking the implementation of such commitments with the EU support which will be discussed in the framework of the economic development chapter.

- Concerning services, Investment liberalisation and digital trade – productive initial exchange without text based on the EU's presentation of their approach, key features and objectives. Both sides agreed on the importance of the issue and reiterated their commitment to an ambitious outcome while taking into account the different levels of development among the partners with Mauritius and Seychelles which are very interested in services chapters while the other three partners are less developed and for them, it's quite a challenge. Ms. Synowiec noted that they are aiming at starting a text-based discussion during the next round.

The next negotiation round will take place on 13-16 April. It will discuss 6 issues including SPS, customs and trade facilitation, RoO, TSD, services, investment and digital trade and (to be discussed for the first time) economic development cooperation. The EU aims to resolve all remaining issues in SPS and customs and trade facilitation but the elements relating to cooperation provisions. For the others, the EU hopes to make further progress. As for the EDC chapter, the expectations of the ESA side are high. Relating to the link between the negotiation and the SIA, Ms. Synowiec noted they have scheduled a sequencing of the reports to be delivered by the contractors and the agenda of the negotiations. Particularly the thematic reports to be presented in today's sessions (on trade in goods, services and investment and trade and sustainable development) means the issues that are already under discussion with the ESA partners while the other three thematic reports to be delivered later on, namely on public procurement, IPR, and competition with the related development economic cooperation plus on dispute settlement, institutional and general provisions will be discussed at later rounds. Ms. Synowiec noted they will take into account the recommendations of the SIA which is the essence and objective of the SIA exercise.

2. Presentation by Andreas Freytag

Mr. Andreas Freytag for LSE Consulting gave a summary of the six studies published: Ex-Post Evaluation, SIA of Trade in Goods provisions, SIA of Trade in Services and Investment provisions, and SIA of TSD provisions. LSE Consulting summarised the findings of the Ex-Post Evaluation including implementation, rules of origin, trade flows, economic impacts, the TSD chapter, development cooperation and government and business. The LSE noted that participants may send questions later to the contractor. The contact details are listed at the end of the presentation. All relevant texts can be found here: <https://ec.europa.eu/trade/policy/policy-making/analysis/policy-evaluation/sustainability-impact-assessments/>. The presentation can be found here: <https://trade.ec.europa.eu/civilsoc/meetdetails.cfm?meet=11586>.

3. Questions and Answers

Ms. Synowiec noted that the duty free and quota free access to the EU market is already a fact, and that market access liberalisation is not subject of discussion in this negotiation process. Further, she asked: What does the LSE Consulting advise to better diversify and increase ESA exports into the EU?

Questions from civil society followed.

Both ENDS noted that Ms. Synowiec referred to several texts which were the basis of discussion in the negotiations and the participant wanted to know where they could access those texts. Both ENDS also enquired on the sectors where the exports of the EU were growing because this will be most likely the areas where effects of the interim EPAs. Relating to Zimbabwe and Madagascar, Both ENDS noted that

the presentation referred to only 96 % will be quota-free, they enquired on the other percentages and requested further elaboration.

The European Community Shipowners Association (ECSA) noted that they had provided some input to the survey last year about maritime services transport being included in the future agreement but noted in the presentation that there was no mention of maritime transport in the services chapter. Could the LSE Consulting comment or elaborate further?

In response, the LSE noted that they will consider the question and pass it on to the expert and the issue of maritime transport services will be considered.

Relating to the sectors, since the growth of the exports of the EU is very limited, the reports do not preview substantial impacts. In the Annex of Trade and Goods, there is a lot of data and would think it's the usual suspects being exported being chemistry, machinery and gas as the main exports. LSE Consulting would investigate it. Concerning preferences depends on whether the rules of origin allow for this. That could be the main reason that Zimbabwe and Madagascar did not fully utilise this and couldn't export all the goods free of customs and duties.

Concerning diversification, LSE Consulting noted it is probably better if it were the countries themselves as the main actors who are responsible for diversification. If the EU retains open markets without tariff escalation this will be beneficial for ESA5 since this has been a huge challenge for developing countries over the years. Tariff escalation meaning that tariffs are increasing when products are moving downstream. Hence if the commodities are duty-free and then the processed goods are facing duties, if this is maintained and at the same time capacity building is improving and then diversification will be a natural result. What is good for diversification is that services are liberalised in the ESA countries, investment is encouraged, and the capacity of businesses and administration are increased. This ensures that the EU has a chance to support the ESA countries. Thus, it is the task of the governments themselves in the ESA regions to improve and maintain a high quality of governance. In addition, with more foreign direct investment, the position of the business in global value chain also improves.

In response, Ms. Synowiec affirmed that the creation of opportunities via reduction of customs duties and other measures on the border as one thing but not that it was also a policy issue in the countries concerned which will contribute to the diversification. Services linked to trade would be helpful, but this needs great effort and good policymaking in the countries concerned. Relating to the texts, Ms. Synowiec noted that a link has been shared to the Commission website with the reports and initial texts on agriculture, customs and trade facilitation, investment liberalisation, trade in services and digital trade, RoO, TBT, SPS and trade and sustainable development. More texts will be added along the way and participants are welcome to visit the EU website.

CPME enquired on the impact of taxation on the negotiations and whether the future Carbon Border Adjustment Mechanism (CBAM) taxation will apply to ESA countries under EPA?

In response, Ms. Synowiec noted that CBAM was one of the unilateral measures related to the European Green Deal. There are other measures in the pipeline on CBAM but do not know the form the measure will take as discussions are ongoing as the impact assessment is being prepared. The countries concerned will be informed in advance on what the measures are. They will have to continue sending goods that respond to the EU technical safety requirements, which will stay in place to protect the EU consumers.

Syndicat du Sucre de la Réunion enquired on the figures regarding the impact on the sugar sector.

LSE Consulting responded that the sugar regime is very complex and the team is still tackling the question.

Both ENDS asked how far the team has planned to look into preference erosion due to other negotiations (such as the EU-Mercosur agreement). They also enquired how far ESA5 have changed their trade patterns with other African states and to what extent does the team tackle the African Continental Free Trade Agreement.

In response, LSE Consulting noted that the two questions were complex and could not be addressed properly in the meeting. However, they noted that what has changed due to other FTAs and preferential agreements have been taken into consideration. Also, the LSE noted that it could not measure the effects by looking into other trade agreements that the EU has been conducting and the same applies to the African Continental Free Trade Area (AfCFTA) which only started trading officially this year. They noted that there is a section of regional integration in Africa in the Inception Report which discussed relevant channels.

LSE Consulting pointed out that the situation in Africa was complex with many regional economic communities with overlapping rules of origin and rules in general. As a result, it will depend on the rules of origin under AfCFTA if they will affect the trade of the ESA countries with the EU. If there are low value-added shares in the RoO, they encourage intra-regional trade which also benefits the EU.

In response, Ms. Synowiec affirmed the support for regional integration in Africa and noted the convergence created between the two projects – EPAs and AfCFTA. The EU would like an increase in intra-African trade as the level of trade is quite low- 17%. Ms. Synowiec stated that the EU was aiming for RoO in the negotiations that contribute to regional and continental integration. In this respect, she noted that the rules applied in the AfCFTA are in many respects similar with those of the EU as they follow the EU model. Regarding impact, not all partners are trading in AfCFTA as they are still negotiating other issues and the African Union have not started phase II and phase III of the negotiations. EU will support politically, technically and financially to assist in the negotiation and implementation.

Conseil Économique Social et Environnemental of the Reunion enquired whether there are any figures on the rise in living standards in these countries. In addition, the participant also enquired whether the exploitation of immigrant workers is taken into account and what consideration in the macroeconomic study of the impact of trade agreements with China and India in these countries (Mauritius, Madagascar).

Concerning the data, the LSE noted that it had figures, including several indicators related to the living standards which was not restricted to the GDP. LSE Consulting highlighted that they were institutional and living standards indicators in the Inception Report.

LSE Consulting added that the report did not consider other regional integration areas except for Africa. But it can be taken into consideration as an idea but it is not the focus of the study. The LSE elaborated on the social human impact and indicated that in the Ex-Post Evaluation there is an Annex with a description of the evolution of the living standards – GDP, average wages, access to food, electricity among others. Overall the standards have improved – not at the same pace in all the ESA countries. The study also found instances of exploitation in some economic sectors in some countries. This is highlighted in the analysis included in the Annex in the Ex-Post Evaluation. However, the study did not find a specific link between the agreement per se and those phenomena as there are more linked to the dynamics of the sectors.

Conseil Économique Social et Environnemental of the Reunion enquired on whether the studies looked at the impact of the EPA on the Reunion Islands market and what were some of the issues surrounding workers from India and China.

In the response, LSE Consulting noted the study looked into the outermost regions which is included in the Annex of the Ex-Post Evaluation.

Syndicat du Sucre de la Réunion noted that the European Parliament is planning to amend the CMO regulation by adding an amendment to article 182. This amendment provides that the European Commission could apply additional duties when “the volume of imports in a given year at preferential rates agreed upon between the Union and third countries in the scope of free-trade agreements exceeds a certain level (‘market exposure volume’)” and also in case of “non-compliance with Union standards in terms of plant protection and animal welfare by third countries”. Does this position impact the negotiations of the European Commission with the ESA countries?

In response, Ms. Synowiec noted the complexity of the question and asked that experts look at it but it will be taken under consideration.

The moderator thanked everyone for the participation.