

Economic Partnership Agreements

What
MEPs need
to know

Economic Partnership Agreements (EPAs) are free trade deals being negotiated between the European Union (EU) and 76 developing countries – mostly former colonies in Africa, the Caribbean and the Pacific (the ACP). The agreements set the rules of trade between Europe and these countries for decades to come, affecting the lives of millions of people. Ostensibly intended to be 'development agreements' that would promote regional integration, there is huge controversy about whether EPAs will deliver or undermine these objectives.

The European Parliament's role

In addition to leading to far-reaching economic liberalisation, EPAs will also create new institutions – the main being joint EU-ACP Ministerial Councils with important competences regarding the implementation of each agreement. Therefore, the European Parliament will be called upon to give assent to the various EPAs (under EC Article 300) once both parties have signed the agreements. This process began in March 2009, with the European Parliament voting for the 'interim EPA' with Côte d'Ivoire and the 'full EPA' with the Caribbean region.

- The Parliament is likely to be called upon to give its assent to further EPAs during the latter half of 2009 and 2010.
- Prior to voting on EPAs, the Parliament has a critical role to play in ensuring that the Commission is not exerting pressure upon ACP countries to sign up to deals that fall short of their stated development objectives.

What are EPAs and why are they being negotiated?

For several decades ACP countries have had preferential access into the EU market, but this arrangement required periodical authorisation (a 'waiver') from the WTO membership, as ACP preferences were found to discriminate against other developing countries. EPAs were proposed by the European Commission as a way out of this problem – and it was agreed in 2000, under the 'Cotonou Agreement', that these deals would be negotiated and concluded by the end of 2007. As a type of Free Trade Agreement, the EPAs were designed to preserve ACP preferences – but required these countries to open their markets to European goods in return.

The ACP countries understood that EPAs would come with a strong development package attached, to build the competitiveness of their industries and diversify their economies. The European Union, however, asserts that the development dimension of the EPAs lies in the far-reaching economic and trade liberalisation that they should bring.

Furthermore, the EU insists that the opening up of ACP markets should not be confined to trade in goods only – which would suffice to satisfy WTO requirements – but that 'full' EPAs should also include the liberalisation of services, investment and government procurement, the introduction of competition rules and the reinforcement of intellectual property rights protection.

Why the concern about EPAs?

Loss of manufacturing and jobs Because the EU has demanded that EPAs involve the elimination of tariffs on at least 80% of trade, ACP countries have very little scope to support existing or future manufacturing industries. Through seeking to defend their agriculture from subsidised imports, countries are left with almost no flexibility to support the value-addition that is such an essential part of moving up the development ladder.

'EPA does not give sufficient opportunities for businesses in LDCs to develop to levels where they can compete favourably with their counterparts in the EU and that is critical to the development of a country like Ghana.'

Nobel Prize winner, economist Joseph Stiglitz, Accra, 8 July 2008

Agriculture and food security under threat While most ACP countries have excluded many agricultural products from liberalisation, the devil is in the detail. 'Standstill' clauses (that freeze tariffs at current levels) and inadequate 'safeguards' could still make it difficult for ACP countries to defend their agricultural sectors from subsidised EU imports, which could in turn undermine food security and livelihoods. As highlighted by the UN Special Rapporteur on the Right to Food, this is particularly worrying given that the EU recently re-introduced export subsidies in agriculture.

'The Special Rapporteur ... would like to draw the urgent attention of all States ... to the implications [EPAs] may have on the right to food of poor farmers in the developing world. He is particularly concerned about the potential negative impact of greater trade liberalization on peasant farmers in the ACP countries, especially given unfair competition with highly subsidized EU production.'

UN report *Right to Food*, 22 August 2007

Fiscal revenue loss Far-reaching elimination of tariffs will place a serious hole in ACP countries' budgets, as many ACP states rely upon trade taxes for up to 40% of their government revenue. For example, by 2012 Côte d'Ivoire is likely to lose an estimated \$83 million, equivalent to its current health spending for half a million people, as a result of liberalising tariffs under EPAs. This is in a context where the economic downturn is already placing great strain on government budgets.

Undermining regional integration EPAs were intended to be regional agreements, which would support the integration of small and fragmented ACP markets into stronger regional economies. Yet studies predict that granting free market access for the EU would undermine the scope for the ACP to first build up their own regional production chains. Furthermore, in the rush to conclude agreements at the end of 2007, a number of countries were forced to sign individual agreements – creating different trade regimes with the EU to those of their neighbours and setting back regional integration.

'We join the call for the nullification of the interim EPAs and for appropriate time to be given for negotiating new trade relations between Africa and Europe that take account of Africa's genuine needs for development and regional integration.'

International Trade Union Confederation – Africa (ITUC-Africa)
secretary general Kwasi Adu-Amankwah, 1 May 2008

Inadequate aid The ACP have always stressed that they will need significant additional resources to cover the immediate adjustment costs from EPAs, such as declining revenues and job losses, and to build their production systems and competitiveness in order to benefit from access to EU markets. In fact, the EC's

2009 monitoring report demonstrates that EU commitments for Aid for Trade for Africa – and for the ACP – have been falling since 2005.¹

Services, Intellectual Property Rights (IPR) and so-called 'Singapore Issues' (investment, government procurement, competition policy and trade facilitation) In addition to far-reaching liberalisation of trade in goods, the EU wants ACP countries to make a series of commitments enabling European investors to operate more easily in their markets. However, rules on intellectual property could undermine access to medicines and technology in these countries. In addition, services liberalisation and inclusion of Singapore Issues could restrict the governments' scope to regulate investors in the public interest or to give domestic small and medium enterprises a boost – just as European governments are supporting their SMEs in times of global economic downturn.

Negotiation process There has been much concern expressed about the actual process of the negotiation of these agreements. ACP leaders and negotiators have indicated that at various stages they have felt under severe pressure to sign up to agreements that did not reflect their concerns. Moreover, the negotiating process has not taken account of asymmetries of negotiating capacity, and studies show that different ACP countries received deals that reflect their negotiating capacity, rather than taking account of their level of development.

'If these countries (in Europe) can't handle open trade and they have a social safety net for their people and a large per capita GDP, what will reciprocity in the EPA do to us?'

Guyanese President Bharrat Jagdeo, 25 February 2009

State of play – agreements initialled and signed (August 2009)

- **A full EPA** between the EU and the 15 Caribbean countries, signed² by both parties and approved by the European Parliament.
- **Interim EPAs signed** with Côte d'Ivoire (individual I-EPA without regional partners); Cameroon (individual I-EPA without regional partners); Botswana, Lesotho, Swaziland and Mozambique (four out of seven of the Southern African SADC region's EPA countries); and Papua New Guinea (individual I-EPA without other Pacific regional partners). The Côte d'Ivoire I-EPA has also been approved by the European Parliament.
- **Interim EPAs initialled, but not yet signed or ratified** with Ghana (individual I-EPA without regional partners); the five East African Community countries – Kenya, Tanzania, Uganda, Rwanda, Burundi (a regional agreement); Fiji

(individual I-EPA without other Pacific regional partners); Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe (common I-EPA agreement, but individual market access schedules without regional partners from the East and Southern African region); and Namibia (part of the Southern African SADC region).

- **No EPA: 40 countries** – most of the 76 ACP states involved in the negotiations have not initialled any form of EPA.

DEFINITIONS: **Interim EPAs** are mostly confined to trade in goods – which is all that is necessary for WTO compatibility (in WTO terms these I-EPAs are already 'full'). So-called **full EPAs** (as defined by the EC) would tie the parties into further commitments on services and Singapore Issues, as well as the enforcement of intellectual property rights.

What happened as the 2007 deadline approached?

As the end-2007 deadline for concluding the deals drew near, agreements were far from concluded – and many countries called for more time. However, the EC was unwilling to grant this request. Instead they suggested that countries not able or willing to conclude ‘full EPAs’ could enter into ‘interim’ agreements (I-EPAs), mostly confined to trade in goods, in order to preserve their access to the EU market – while they continued to negotiate towards more comprehensive agreements. ACP developing countries unwilling to enter into I-EPAs by the deadline were told by the EC that they would be faced with punitive tariffs on their exports into the EU.

‘We feel that it is deeply unjust for the EU to oblige the world’s poorest countries to choose between liberalising their domestic markets under pressure – with the risks that this may entail to national and regional economies – or risking livelihoods in export sectors as tariffs are raised on exports to the EU.’

Pierre Magne, President, African Industrial Association,
17 October 2007

In this context, during the last weeks of 2007 many countries quickly initialled the texts that were placed before them. This flurry of initiallings was very soon followed by a strong statement from ACP Ministers ‘*observ[ing] that European Union’s mercantilist interests have taken precedence over the ACP’s developmental and regional integration interests’ and calling for ‘the contentious clauses therein’ to be ‘opened up for re-negotiation.’* (Brussels 13 Dec 2007 ACP/25/013/07) In 2009, ACP countries are still calling for these contentious issues to be re-negotiated – and many do not want to proceed to ‘full EPAs’.

In May 2008, the European Union’s General Affairs and External Relations Council reflected these concerns in their EPA conclusions: ‘*acknowledging concerns expressed by ACP partners and the existence of, in some cases, problematic issues still outstanding in the negotiation, the Council underlines the need for a flexible approach while ensuring adequate progress, and calls on the Commission to use all WTO-compatible flexibility and asymmetry, in order to take account of different needs and levels of development of the ACP countries and regions.*’ In eight European Parliament Resolutions adopted in March 2009, MEPs also called for the Commission to show greater flexibility (see box).

How flexible is the Commission?

During the course of negotiations, the European Commission’s DG Trade earned a reputation for strong-arm negotiating tactics and a dismissive approach to ACP proposals – a record that has been well documented.¹⁰ However, Trade Commissioner Ashton promised a change of approach. Since

European Parliament resolutions

On 25 March 2009, the previous Parliament adopted eight Resolutions concerning the full Caribbean EPA and the seven different interim EPAs. These Resolutions contained important demands upon the Commission, the fulfilment of which the new Parliament could scrutinise.

The Resolutions called for:

- **the Commission to adopt a flexible approach and to respond favourably to ACP requests for re-negotiation** The European Parliament recognised that ‘*these agreements include a number of contentious provisions*’,³ calls on ‘*the Commission to offer maximum flexibility in the continued negotiations, as referred to in the conclusions on this issue by the GAERC of May 2008 and November 2008*’,⁴ ‘*the Commission to respond unconditionally and in a flexible way to demands by ACP countries to review contentious issues in the IEPAs*’,⁵ and for there to be provision for ‘*countries to renegotiate any provisions on contentious issues that they wish to amend or have withdrawn*.’⁶
- **there to be no pressure on ACP countries to take on further commitments in full EPAs** The Parliament recognised that ‘*WTO rules do not require EPA countries to undertake liberalisation in the areas of services, investment, government procurement, intellectual property rights, competition [...]* Negotiations on these issues should take place only when both parties are willing to do so’,⁷ and therefore ‘*urges the Commission not to put undue pressure on the SADC countries to accept liberalisation commitments and regulatory obligations regarding services and the so-called “Singapore issues”*.’⁸
- **alternatives to be provided for countries not in a position to enter into an EPA** The Parliament called on the Commission ‘*to provide alternatives that guarantee market access for those countries not wishing to commit to the full EPA*’,⁹ in line with the requirements of the Cotonou Agreement.

her appointment in October 2008, Commissioner Ashton has consistently reassured the ACP, the European Parliament and other stakeholders that she is adopting a flexible approach. To the European Parliament in Strasburg on 24 March 2009 she for instance stressed that ‘*each EPA must be flexible in content and pace*’ and that ‘*Singapore Issues are only negotiated if wanted and welcomed*.’

Yet the realities of the negotiations do not bear this out. The Commission:

- continues to insist on a tariff elimination of 80% in fifteen years – even if no WTO rule requires this – consistently rejecting less far-reaching offers from West and Central Africa

- refuses to revise any I-EPA, and instead pressurises countries to sign even when they maintain reservations about the provisions that these agreements contain
- considers the entering into 'full EPAs' – not required for WTO compatibility – to be the only context in which they will 'consider' revising a limited number of contentious issues that they expect the ACP to have already signed up to in the I-EPAs
- continues to put pressure on ACP countries to include further commitments within the EPAs that are not required by the WTO, nor by the Cotonou Agreement.

Indeed, as was pointed out by DG Trade Director Peter Thompson on 30 June 2009, '[Catherine Ashton] has the same mandate, but a different tone and pair of ears. She has changed the atmosphere; but there is no change in substance; we are still working on the same rules and guidelines.'

Request to MEPs

We urge you to:

- support the demands opposite
- actively monitor developments in the ongoing EPA negotiations to ensure that the Commission is living up to its promise of flexibility
- organise hearings in the European Parliament, inviting contributions from ACP government representatives, civil society and parliamentarians
- travel to ACP countries and speak with parliamentarians and civil society in these countries
- withhold assent for (interim) EPAs until ACP reservations and concerns are adequately addressed and there is clarity about the final outcome of negotiations.

Our demands

The organisations represented in this briefing are calling upon the European Commission and the EU member state governments to:

- demonstrate full flexibility and support ACP requests for renegotiation of contentious issues in I-EPAs – revisions of I-EPAs should not be conditional upon the agreement of so-called 'full' EPAs
- fully respect ACP positions on services, intellectual property and Singapore Issues – and refrain from pressuring countries into agreement in these areas, either explicitly or through demanding them as a quid pro quo for the revision of contentious issues
- fully support any requests from ACP countries for alternative solutions – as mandated in the Cotonou Agreement (Article 37.6) – in cases where they judge that the Commission's terms for EPAs are not facilitative of their development.

- 1 According to the European Commission's Aid for Trade monitoring report 2009 (COM 2009/160 final, p30), EU Aft commitments to the ACP have fallen from 2,975 million euros in 2005 to 2,097 million euros in 2007. The share of Aft for the ACP in the overall EU Aft has fallen from 50% to 36% over the same period.
- 2 Haiti – the only Least Developed Country in the region – has initialled but not signed the full EPA.
- 3 See for example: SADC report, Recital E; EAC report, Recital J.
- 4 See for example: Pacific report, Article 24.
- 5 Cameroon report, Article 36.
- 6 SADC report, Article 20; ESA report, Article 8; Côte d'Ivoire report, Article 5; Pacific report, Article 25; EAC, Article 36.
- 7 Ghana report, Recital C, with similar clauses in EAC report, Recital B and Article 9.
- 8 SADC report, Article 24 – with equivalent clauses in other reports, eg Ghana report, Article 9; Pacific report, Article 10.
- 9 Côte d'Ivoire report, Article 27 and similar clause in Cameroon report, Article 37 and Ghana report, Recital H.
- 10 See for example: *Partnership Under Pressure: an Assessment of the EC's conduct in the EPA negotiations* (2007), ActionAid, Cafod, Christian Aid, Tearfund and Traidcraft.

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