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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

Economic Partnership Agreements

1. INTRODUCTION

1.1. Negotiating Objectives

The objectives of Economic Partnership Agreements (EPAs) are to establish new WTO-compatible trade arrangements before the current trade arrangements expire on 31 December 2007 and to support ACP regional integration and foster the smooth and gradual integration of the ACP states into the world economy, particularly by helping create larger ACP regional markets, thereby contributing to sustainable development and poverty reduction.

This is reflected in the negotiating directives adopted by the Council when authorising the Commission to open negotiations, which foresee the Commission negotiating full EPAs with ACP regions. These EPAs will contain provisions in trade-related areas, trade-related rules and trade in services and include appropriate links to development co-operation.

The Commission believes that such full agreements are essential to meet the ultimate objective of ACP-EU economic and trade cooperation which, as expressed in Article 34(2) of the Cotonou Agreement, is to enable the ACP States to play a full part in international trade. The primary objective of the Commission is, therefore, to secure full regional EPAs within the deadline set by the expiry of the current trade arrangements. This is achievable in some regions. For the other regions, this Communication sets out the approach to ensuring progress to full regional EPAs is maintained while avoiding, in so far as possible, any interruption to the trade regime for goods originating in the ACP countries.

1.2. Negotiating Deadline

Article 37(1) of the Cotonou Agreement stipulates that new ACP-EU trading arrangements set out in EPAs shall enter into force by 1 January 2008. After this date both the trade preferences set out in Annex V of the Cotonou Agreement and the

waiver granted in 2001 by the WTO¹ will no longer be in force. This expiry of current market access arrangements therefore places a firm deadline of end 2007 to negotiate the goods market access aspect of EPAs.

2. SECURING FULL ECONOMIC PARTNERSHIP AGREEMENTS

2.1. Securing Full EPA Content

At the May 2007 ACP-EU Joint Council of Ministers, all ACP regions and the EU reaffirmed their intention to conclude full EPAs (as defined in Section 1.1) by the end 2007 deadline. In some regions this is achievable. In others it will take longer to reach agreement on full EPAs. In such cases, the Commission will seek, to conclude agreements that include WTO-compatible goods market access arrangements as an important step towards a full EPA. Any such agreement needs to be concluded in time to establish new trading arrangements and will include all other aspects of EPAs where negotiations are already concluded. Negotiations will then continue on any outstanding aspects required to conclude full EPAs.

This approach is based on the need to have a WTO-compatible goods market access arrangement in an international agreement in order to establish a new trade regime from 1st January 2008. The issues and conditions affecting that market access regime for goods which the Commission proposes that the Community offer to the ACP in 2008 are set out in Section 3.

Any agreement will be a stepping stone to a full regional EPA and not an end point to negotiations. These agreements should contain rendezvous clauses and binding commitments to continue negotiations in outstanding areas. This would then set the stage to conclude negotiations on full regional EPAs.

2.2. Securing Full EPA Regional Coverage

The degree of regional integration varies within the six ACP regions. In some regions, established Regional Economic Communities form specific sub-regions with higher levels of economic integration and ambition than their regional neighbours. The trade interests and concerns within the regions also vary between Least Developed and other developing countries or reflect the specific needs of particular States.

The Commission recognises this diversity, and that some countries may not join a regional agreement at the outset. Where a grouping of countries within a region wishes to proceed with negotiations, the Commission will be willing to reach agreements with sub-regions, including agreements on market access as a step towards full EPAs. To maintain the momentum of ongoing regional integration plans, any such agreement will be a stepping stone to a full EPA open to all countries of the region in question.

¹ This waiver permits a derogation from the Most Favoured Nation (MFN) clause of the General Agreement on Tariffs and Trade (GATT).

3. MARKET ACCESS

3.1. Legal Certainty

The objective of market access negotiations is to ensure that goods originating in the ACP benefit from legally secure and improved access to EU markets on 1 January 2008. The only way to ensure legal certainty for any goods market access arrangement between the Community and an EPA region is for it to be compatible with WTO rules covering Free Trade Areas². The Commission notes that this requires an agreement leading to the formation of a Free Trade Area³.

3.2. Market Access Offer for Goods

The Community made a market access offer for goods in the context of EPA negotiations of duty-free quota-free access (with transition periods for sugar and rice). This offer was welcomed by Council⁴ and is intended to apply to goods originating in those countries that conclude negotiations on an international agreement with the Community that includes new trade arrangements compatible with WTO rules as described in Section 3.1. In addition, it will allow asymmetry between ACP and EU market access commitments and suitable transition times for ACP liberalisation.

3.3. Implementation of EPA Market Access Offer

The Commission will propose a Regulation based on Article 133 of the EC Treaty establishing a market access regime for goods from 1 January 2008 applicable to a list of regions and countries that have concluded negotiations for an agreement as described in Section 3.2⁵. In order to inform EU Customs Authorities and economic operators in due time and, if required, allow the Commission to adopt any implementing regulations for the transitional arrangements for sugar and rice, the Commission intends to submit a proposal for a Regulation as soon as possible.

The Commission will submit full texts of all agreements to the Council as soon as possible for a Decision authorising signature and provisional application.

The Commission will include measures in the proposed Regulation to repeal or amend as necessary from 1st January 2008 all remaining regulatory provision that either refers to or provides for the management and implementation of the trade provisions in Annex V of the Cotonou Agreement.

The Commission will include measures in the proposed Regulation to enable the temporary withdrawal of market access for certain products in cases of fraud or non-compliance with the Rules of Origin.

² Article XXIV of the General Agreement on Tariffs and Trade

³ For the purposes of Article XXIV of GATT this is defined as an interim agreement that "shall include a plan and schedule for the formation of a Free Trade Area". The Free Trade Area is understood to exist when duties and other restrictive regulations of commerce are eliminated on substantially all the trade between parties.

⁴ 15th May 2007 Council Conclusions on EPA, Council reference 9560/07

⁵ In accordance with the provisions of the EU EPA market access offer and the Council Decision to associate South Africa to the EPA negotiations, the Regulation will make appropriate provision for a differentiated goods trade regime for South Africa.

3.4. Market Access under the Generalised System of Preferences

Some ACP countries may not be able to conclude negotiations for an agreement in time to be included on the list of countries to which the new goods market access regime established by the Regulation described in Section 3.3 applies. In such cases, the Community has no option available but to apply the goods trade regime set out in the Generalised System of Preferences (GSP) Regulation. This will also be the case where countries choose not to sign such an agreement or a full EPA.

This does not require any specific decision by the Community as all ACP countries continue to benefit from market access under the GSP after the Cotonou preferences expire. The only exception is South Africa that continues to benefit from the provisions of the Trade and Development Cooperation Agreement (TDCA) in the absence of any new trade regime.

EU market access for the poorest ACP countries is protected as, under the GSP Regulation, the 42 ACP Least Developed Countries⁶ (LDCs) can continue to benefit from duty and quota free access to EU markets through the "Everything but Arms" arrangement. The remaining 36 non-LDC countries would be offered the standard GSP market access arrangement if they do not conclude an agreement.

The Commission recognises that some ACP countries may choose to see market access under the GSP as an alternative to an EPA. Nevertheless, the Commission is convinced of the important development benefits of a regional EPA and that no ACP country should lose the opportunity to accede to a regional EPA in the future. The situation where an ACP country or region only benefits from the GSP will be considered by the Commission as temporary in nature. Regional EPAs should remain open to any ACP country in that region that initially chooses not to be party to the relevant agreement.

At such time as any ACP region or country concludes negotiations with the Community on either a full EPA or an agreement fulfilling the conditions described in Section 3.2, the Commission will propose to Council that they are added to the list of countries that benefit from goods market access regime established by the Regulation described in Section 3.3.

3.5. Rules of Origin

The Commission sees new EPA Rules of Origin as an integral part of the EPA goods market access arrangements. The Commission recalls the offer to relax and simplify the current Cotonou rules of origin within an EPA⁷. The Commission intends that new EPA Rules of Origin should apply to trade covered by the EPA goods market access Regulation. The Commission recognizes that the EPA Rules of Origin being negotiated with each EPA region will contain some regionally specific elements but they will mainly be based on common rules and be identical for most products in order to facilitate trade between the different ACP regions. The Commission recalls that, based on a revision clause to be included in agreements, the new EPA Rules of Origin should be reviewed after a period of time to be agreed on in a manner that takes account of the development needs of the ACP region concerned but with a

⁶ Cape Verde is included in this figure but is scheduled to lose its Least Developed Country status.

⁷ The offer includes a targeted relaxation of Rules of Origin for agricultural products, and important relaxation for textiles and fisheries. This offer has been welcomed by the ACP regions. Negotiations on rules of origin are ongoing.

view to a move to Rules of Origin consistent with the general reform of the EU preferential Rules Origin.

New EPA Rules of Origin would apply once the agreement that includes them is signed based on a decision obtained from Council to authorise signature and provisional application. However this is unlikely to occur until after the entry into force of the proposed EPA goods market access Regulation. The Commission is of the view that in such cases the substance of the Cotonou Rules of Origin with certain unilateral improvements in the specific rules covering fisheries, textiles and potentially agriculture should apply in the meantime⁸. As these improvements will then be carried forward into the new EPA Rules of Origin, economic operators can be assured of consistent treatment in these areas.

4. DOHA DEVELOPMENT AGENDA

Many ACP states are concerned about the potential for preference erosion and adjustment needs for developing countries linked to progress on the Doha Development Agenda (DDA). The Commission believes that agreement on a WTO-compatible market access arrangement in a full EPA as described in Section 1.2 would not only help address these concerns but by fully respecting WTO rules would demonstrate support for the multilateral trading system and facilitate full ACP participation at the WTO. The influence of the EPA negotiations on the DDA negotiating process becomes even stronger given the objective to finalise a deal on modalities in the DDA before the end of the year.

5. DEVELOPMENT CO-OPERATION

EPAs are key tools in EU development and trade policy that will use trade to help ACP countries and regions build stronger economies that can contribute to poverty reduction. The Commission, as well as EU Member States, are committed to assist the ACP with the creation of regional markets and to support accompanying measures to the adjustments these entail. The Commission remains engaged in helping our partners to prepare new structural reforms and trade policies, adjust to the changes they bring and enhance regional integration to seize the new trade opportunities brought by the EPAs. The Commission is therefore determined to ensure optimal interaction between EPAs and development cooperation.

First, it has been agreed with all regions that development cooperation provisions should be included in the EPAs. This remains the objective, in order to establish an appropriate link with the Cotonou rules and procedures, and to identify more precisely potential areas of cooperation.

Second, the programming of the 10th European Development Fund (EDF) offers a unique opportunity to synchronise trade policy decisions taken in the EPAs and programming of EDF resources. The Commission is satisfied that a substantial number of country strategy papers will include trade related assistance, infrastructure and regional integration linked to EPAs as areas for cooperation. It is determined to now finalise the regional indicative programmes and confirms its objective that the available funds will be aimed primarily at supporting EPA-related needs. In this

⁸ The only exception would be in the case of South Africa, where the TDCA Protocol would continue to apply until a relevant regional EPA Rules of Origin Protocol were agreed.

respect, priority will be given to finalise the identification of key accompanying measures and programmes, using, to the maximum extent possible, the outcome of the work of the Regional Preparatory Task Forces. Of particular significance will be the establishment, where the ACP have so decided, of regionally owned financial mechanisms to which Community funding – as well as Member States and other donors – would contribute, with a view to enhancing ownership, effectiveness and coordination.

Third, the EU as a whole is engaged in increasing and making more effective its Aid for Trade. The recently adopted EU Aid for Trade strategy is a milestone in setting out key objectives and principles for the delivery of EU Aid for Trade, and gives specific attention to ACP. It notably seeks to increase support to the wider Aid for Trade agenda in a manner which is proportionate to overall increases in Official Development Assistance. The Commission will continue to work intensively with Member States to ensure that a range of 50% of the increase in EU trade-related assistance will be allocated to ACP countries when the target of €2 billion per year (€1 billion from the Community, €1 billion from Member States) is reached by 2010. Of particular concern will be that each ACP region receives a fair share, based on needs prioritised by the region, of this overall amount.

Full EPAs will allow EDF funding to be directed towards the range of adjustment needs arising from commitments taken by ACP countries and will help establish priorities for additional funding from Member States. For those regions agreeing WTO-compatible market access agreements as a step towards full EPAs, the Commission recognises that development finance will also be needed at this stage to help the ACP regions undertake adjustments linked to the liberalisation they have committed to. This could include measures such as the upgrade of productive capacities and the business environment and contributing to absorb the net fiscal impact resulting from tariff liberalisation in full complementarity with fiscal reforms. The Commission therefore believes that reassurance regarding development support can be provided, both via the Cotonou instruments and through contributions of the Member States.