

Economic Partnership Agreement with the East African Community

OVERVIEW

The current partnership between sub-Saharan African, Caribbean and Pacific states (ACP) and the EU (the Cotonou Partnership Agreement) has a provision making it possible for the EU to negotiate different economic partnership agreements (EPAs) with regional ACP sub-groups. This provision was needed for the partnership to be aligned with the World Trade Organization's rules. Negotiations for an EPA with the partner states of the East African Community (EAC) – at the time: Burundi, Kenya, Rwanda, Tanzania, and Uganda – were finalised in October 2014. South Sudan and the Democratic Republic of the Congo, which joined the EAC in 2016 and 2022 respectively, did not take part in the negotiations, but can join the agreement once it enters into force. As soon as this happens, the EU-EAC EPA will immediately provide duty-free, quota-free access to the EU market to all EAC exports, combined with partial and gradual opening of the EAC market to imports from the EU. The EPA contains detailed provisions on sustainable agriculture and fisheries, rules of origin, and sanitary and phytosanitary measures. The parties are committed to concluding additional negotiations within five years of the entry into force of the agreement. The signing of the EPA has been stalled because of discussions within the EAC. Except for Kenya, all EAC partner states are least developed countries, and still enjoy duty-free and quota-free access to the EU market. Some of them have pushed for further clarifications on the consequences of the EPA for their economies before the EAC endorses the agreement. Kenya is the only EAC country to have ratified the agreement, in order not to lose free access to the EU market. It has now entered negotiations to implement a bilateral interim EPA with the EU.



Economic Partnership Agreement between the East African Community Partner States, of the one part, and the European Union and its Member States, of the other part

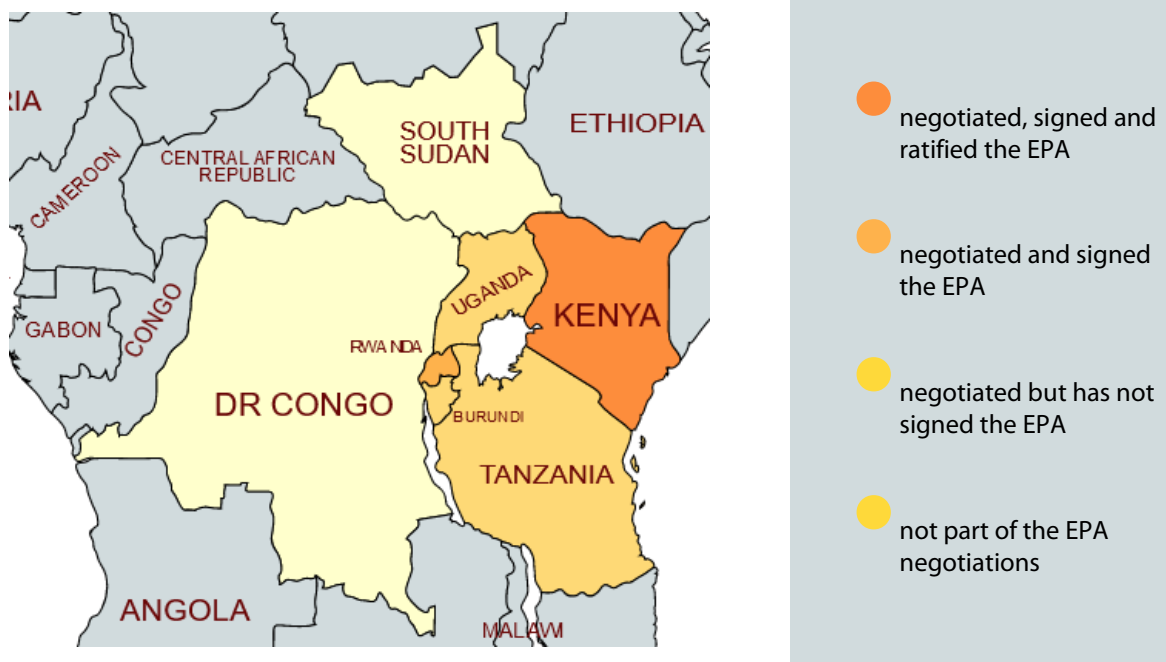
Committee responsible: International Trade (INTA)
Rapporteur: Massimiliano Salini (EPP, Italy)
2016/0038(NLE)

Introduction

According to the [Lomé IV Convention](#) (1990-2000), sub-Saharan African, Caribbean and Pacific (ACP) countries benefitted from a [preferential tariff system](#) for their trade with the Member States of the European Communities and later the European Union. However, this system was in breach of the '[most-favoured-nation](#)' principle under the General Agreement on Tariffs and Trade (GATT), according to which preferential treatment granted to ACP countries should also be granted to other countries with a similar level of development. This is the reason why the [Cotonou Agreement](#), signed in 2000, now included a provision allowing the EU to negotiate different economic partnership agreements (EPAs) with ACP sub-groups (Chapter 2, Part 3, Title II). This provision says that the aim of EPAs is to liberalise most trade in goods and services – with the exception of sensitive sectors and products – in conformity with World Trade Organization (WTO) rules ([Article XXIV, GATT](#)). This means that partner countries have to open their markets to EU products. However, this reciprocity is accompanied by asymmetry: while EPAs require the EU to immediately open its markets for most products, they provide for a gradual opening of ACP markets.

The East African Community (EAC) is one of the groupings having negotiated an [EPA with the EU](#).¹ All EAC member states at the time – Burundi, Kenya, Rwanda, Tanzania, and Uganda – were part of the negotiations, which concluded in October 2014. South Sudan and the Democratic Republic of the Congo (DRC), which are EAC member states since 2016 and 2022, respectively, were not involved in the negotiations but can join the EPA once it enters into force.² EAC members have long failed to adopt a common position on the EPA, thereby delaying plans for signing and ratifying it, and therefore it is yet to enter into force.

Figure 1 – East African Community partner states



Data source: [European Commission, DG Trade](#), and [EAC](#) websites accessed in April 2022.

Existing situation

The East African Community

The EAC is one of the most integrated regional economic communities of the African Union. Most goods and services are traded duty-free between its partner states and with a common external tariff with third countries ([customs union](#)); persons, goods, services and capital can circulate freely ([common market](#)). The EAC plans to establish a [monetary union](#) in 2023, and has the ambition to ultimately become a [political federation](#).

DRC accession to the EAC

The Democratic Republic of the Congo [acceded](#) to the EAC on 29 March 2022. It still needs to adapt its legislation to fully integrate with the EAC's customs union and common market. The DRC will add US\$50 billion to the EAC's US\$220 billion [GDP](#) and a 90 million [population](#) to the EAC's 195 million inhabitants. Furthermore, the EAC will nearly double its [surface area](#), after the DRC adds its 2.34 million km² to the community's 2.46 million km². The DRC already enjoys preferential trade access to the markets of some EAC countries, as it is also [a member](#) of the Southern African Development Community ([SADC](#)), like Tanzania, and the Economic Community of Central African States ([ECCAS](#)), like Rwanda and Burundi. Therefore the most significant changes for the DRC in terms of its EAC partnership will be with Kenya, Uganda and South Sudan.

In addition to benefiting in terms of GDP, people and area, the EAC will gain access to the Atlantic through the DRC's [Port of Banana](#), expected to be [completed in 2025](#) (however getting across the DRC remains challenging due to the lack of infrastructure). The DRC will also bring the bloc [new assets](#) such as [cobalt](#), coltan (which provides tantalum), gold, tin ore, tungsten and diamonds. At the same time, the exploitation of these minerals leads to severe labour and human rights abuses and security issues, in which the EAC risks getting [embroiled further](#) after the DRC's accession. Since 2021, EU Member States have been responsible for ensuring that EU companies document the [responsible sourcing](#) of their tantalum, tin, tungsten and gold imports.

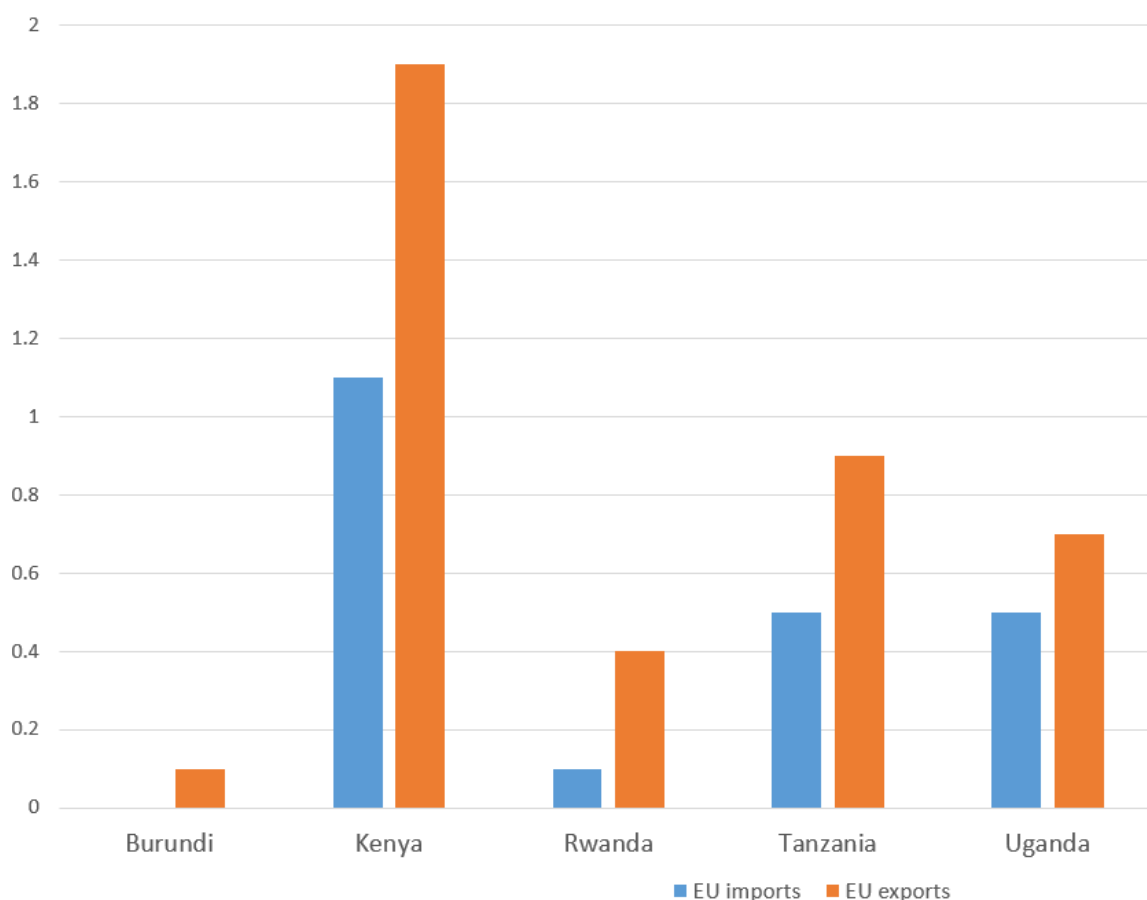
Current trade schemes

In 2001, the WTO granted a temporary derogation ([waiver](#)) to the EU and the ACP countries to give them time to negotiate EPAs before the preferential EU-ACP regime was discontinued. This waiver expired in December 2007; since then, countries that have not yet ratified an EPA remain in one of the EU's [WTO-compatible](#) trade arrangements. All EAC partners except Kenya have the status of least developed countries ([LDCs](#)) and are therefore entitled, under a special arrangement under the [EU General Scheme of Preferences](#), to export 'everything but arms' ([EBA](#)) to the EU market without facing duties or limitations to the amount (the principle of 'duty-free, quota-free'). Kenya, not being an LDC country, does not have EBA status. However, as Kenya has taken steps to apply the EU-EAC EPA (see '[Signature and ratification process](#)' below), the EU has [decided](#) to keep on granting this country [duty-free quota-free access to the EU market](#). Contrary to the EPA conditions, which are negotiated between the parties, this trade scheme is subject to unilateral [changes by the EU](#).

Main trade data

In 2021, [EAC countries](#) accounted for [0.1 % of EU imports and 0.2 % of its exports](#), whilst the EU represented an important share of EAC trade: 13.7 % (€1.8 billion) of the EAC's exports to the rest of the world and 11.4 % (€4.0 billion) of its imports. This share was much more sizeable before the United Kingdom left the EU, as the UK accounts for 3.7 % of EAC exports to the world. The EAC's main imports from the EU are vehicles, mechanical appliances and pharmaceutical products. The EAC's main exports to the EU are agricultural and horticultural products (coffee, cut flowers, tea, tobacco and vegetables) and fish. EAC-[manufactured products](#) (cement, textiles, steel and plastic products) are mainly exported within Africa, mostly within the EAC itself (60 %).

Figure 2 – EU trade in goods with the East African Community (2021, € billion)



Data source: European Commission, [Trade statistics](#) accessed 7 April 2022 (South Sudan and DR Congo did not take part in the EPA negotiations).

EU negotiation objectives

The overall aim of the EPAs is 'to foster smooth and gradual integration of the ACP states into the world economy', as set out in Article 36 of the [Cotonou Agreement](#). As EPAs are negotiated with regional blocs rather than individual countries, they are meant to foster [regional integration](#), which is considered necessary to better tackle development issues. Conversely, as the EAC is already the [most integrated](#) African regional economic community, disagreements among the EAC partners regarding the EU-EAC EPA have resulted in a deadlock. The EAC already has a common external tariff (CET) that risks being disrupted if not all EAC partners are part of the same EPA – the EU considers the proposed EPA tariffs to be [in line with the EAC CET](#), but has failed to convince all partners.

The European Commission's [impact assessment](#) of the EU-EAC EPA found that the agreement would increase EAC GDP 'on average by 0.3 %' and would 'slightly reduce the poverty headcount in EAC countries'. On average, EAC exports to the world would increase by 1.1 % and imports by 0.9 %. The EU share in total EAC imports would grow from 10.6 % to 12.6 %.

In its June 2002 recommendation giving the Commission a [mandate to negotiate](#) EPAs, the EU Council highlighted that the agreements should take into consideration ACP states' 'political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication'. EPAs have therefore to be coherent with EU development

policy: hence, the EU-EAC EPA has to protect some sectors, such as 'infant industry', from competition, to avoid undermining the [EAC's industrialisation strategy](#).

At the same time, the EU has its own trade objectives. For example, as [access to raw materials](#) at a reasonable cost is crucial for the EU, it is therefore wary of export taxes on such materials. The draft EPA prohibits new export duties and taxes, while allowing existing ones.³ EU Member States also want to stay competitive with regard to other developed economies; for this reason, EU negotiators have insisted that a 'most-favoured-nation' clause be inserted in the EPA, so that no other developed economies could be granted more favourable access to the EAC market (see 'The changes the agreement would bring' below).

Counterparts' positions

Although having reached an agreement on the EPA text, EAC countries have [different opinions](#) about it. As a result, Rwanda and Kenya signed the EPA in September 2016, but only Kenya has ratified it (see '[Signature and ratification process](#)' below).

Kenya, the only lower-middle-income country in the region, would be the most [strongly affected](#) if the EPA did not enter in force, as it would face export duties estimated at [US\\$100 million a year](#). In 2015, the UK accounted for more than a quarter (28 %) of EU-28 imports from Kenya. This prompted Kenya to quickly strike an [EPA with the UK](#) after the latter left the EU.

Tanzania is the main opponent of the EPA, which its government fears would hinder the country's industrial development, as the [ban on new export duties](#) on raw materials and the phasing out of import tariffs over a period of only 25 years would make it difficult for the country to develop a competitive processing industry. In July 2016, the government announced it would not sign the EPA before a further assessment of the deal, taking into account the consequences of the UK leaving the EU, is conducted. In February 2022, the government still declared it 'will engage the EU in [technical discussions](#)' on outstanding issues – such discussions had already taken place in 2017.

For **Rwanda**, which [signed the EPA](#) along with Kenya, the agreement will encourage foreign direct investment thanks to its transparent legal basis for trade, and its simplified rules of origin will ease EU access to Rwandan products (see 'The changes the agreement would bring' below).

Uganda is rather [favourable](#) to the agreement but is waiting for all EAC countries to sign it, in order to avoid disrupting the EAC's status quo.

Burundi might be [keener to sign](#) the EPA after the [EU lifted the 'sanctions'](#) (restrictions under the Cotonou Agreement) against the country.

European Parliament's position

EPAs being international trade agreements, the European Parliament's [consent](#) is required before the Council can adopt the EU-EAC EPA. The Committee for International Trade (INTA) is responsible for the dossier (procedure file [2016/0038\(NLE\)](#)), and the Committee for Development (DEVE) has to produce an opinion. The Parliament is preparing its position: so far, DEVE has [drafted an opinion](#) calling on INTA to recommend that Parliament give its consent to the conclusion of the EU-EAC EPA, despite reservations 'as regards parliamentary involvement in the monitoring process'. INTA has not yet issued its recommendation (see '[Signature and ratification process](#)' below).

In its [resolutions](#) on economic partnership agreements, Parliament has always insisted that they be primarily aimed at sustainable development, poverty reduction and regional integration. Parliament has also demanded that [ACP national parliaments](#) be involved in the preparation of EPAs. Yet again, it has called on the Commission and partner countries to include [development benchmarks](#) and [safeguard mechanisms](#) to monitor and counterbalance the opening of ACP markets to EU products.

In a [resolution of 25 March 2009](#) on the EU-EAC EPA, Parliament pointed out that the EPA's liberalisation schedules 'need to be assessed regularly and revised if they prove too burdensome to

implement', and reminded that 'trade commitments must be accompanied by an increase in support for trade-related assistance', calling for the EAC partner states to be allocated an 'appropriate and equitable share' of the EU aid for trade. Parliament has also advocated reinforced ownership of the EPA's monitoring and management by ACP states.

Preparation of the agreement

To prepare the negotiations, the European Commission's Directorate-General for Trade commissioned 'sustainable impact assessments' (SIAs) of the EPAs on key ACP economic sectors.⁴ One SIA report concerns more specifically the EAC: for the [horticulture](#) sector in southern and eastern Africa, it finds that the absence of an EPA will not affect LDC countries which will retain duty-free, quota-free access to the EU market. On the contrary, Kenya (the only EAC non-LDC country) would experience several negative outcomes in the absence of the EPA: removal of preferential market access would decrease its competitiveness on the cut flowers market, where its [competitors](#) still benefit from a duty-free regime, either because they are part of a free-trade agreement with the EU (Colombia and Ecuador), or because they are LDCs (Ethiopia). This in turn would result in a decrease in production and loss of employment.

According to the study, the EU-EAC EPA would have positive impacts for both LDC countries and Kenya, except that the effects on the environment would be uncertain: the expected increase in production would put pressure on the environment, unless codes of conduct are implemented and respected. Even though the Commission has taken most of the SIAs recommendations [on board](#), the Parliament considers their impact on negotiations to have been low, in particular because of the difficulty in collecting meaningful data on ACP countries' trade.

Negotiation process and outcome

The WTO waiver (see 'Existing situation' above) expired on 31 December 2007; the same year, a framework EPA was concluded. However, it did not address many of the outstanding issues and took nine years to finalise.

As is the case with [other EPAs](#), a fault line appeared between non-LDCs and LDCs; EPA negotiations had to find compromises not only between the EU and the partner blocs, but also between non-LDC and LDC members of each bloc. In the case of the EU-EAC EPA, this divide is between Kenya and the rest of the EAC countries. EAC LDCs did not have an immediate incentive to conclude the EPA, since even without the preferential ACP-EU trade regime, they could still enjoy WTO-compliant duty-free, quota-free access to the EU market for their exports while applying taxes to imported products. On the other hand, Kenya risked losing its preferential market access if an agreement were not reached before 1 October 2014 (see 'Preparation of the agreement' above).

The EAC partner states [agreed](#) on the draft EU-EAC EPA at a ministerial meeting in Arusha (Kenya) on 25 September 2014, and [negotiations were finalised](#) in October 2014. The [consolidated draft agreement](#) was published in October 2015, opening the way for the signature and ratification process (see '[Signature and ratification process](#)' below).

The draft agreement contains a rendez-vous clause, i.e. a commitment to conclude negotiations on trade in services, trade and sustainable development and other chapters within five years of the entry into force of the agreement. The additional chapters to be negotiated include: investment, competition, public procurement and intellectual property policies. Reaching an agreement on these outstanding issues might also prove difficult, as African partners claim that restrictive rules on these issues would take away the flexibility needed for the above-mentioned policies, which governments often use as pillars for developing their national industries.

The changes the agreement would bring

The [consolidated text of the agreement](#) provides for trade in goods facilitation, customs, sanitary and phytosanitary measures, and sustainable development of agriculture and fisheries. On top of its 147 articles, the document features more than 500 pages of annexes, which makes its content difficult for non-specialists to grasp. Some issues had been awaiting resolution for years before the draft agreement was finally reached.

Elimination of most import and export tariffs

Duty-free, quota-free access to the EU market for all EAC products

Duty-free, quota-free (DFQF) access will be immediately applicable after ratification. This is mainly of interest to Kenya. Other EAC countries, being LDCs, have DFQF access for 'everything but arms' ([EBA](#)) anyway, without having to provide free access to EU products in return. According to UNCTAD, no LDC country in the EAC is expected to shift away from this status until at least 2024;⁵ however, should a LDC do so and therefore lose access to the 'everything but arms' preferential trade scheme, it could join the economic partnership agreement at any time to retain DFQF access. The Commission nevertheless holds the opinion that EPAs are [favourable for LDCs too](#), as they define more flexible rules of origin and provide for support towards improving infrastructure, standards and market monitoring.

Asymmetric opening of EAC markets to EU products and services

The signatories of the EPA will have to lower or lift taxes on EU imports. This will be done progressively, to give EAC countries the time to adapt to EU competition. The EAC has [committed](#) to ensuring that 82.6 % (by value) of goods coming from the EU will be imported duty-free; this liberalisation will be carried out over a period of 25 years after the entry into force of the agreement. Goods of economic importance to the EAC ('various agricultural products, wines and spirits, chemicals, plastics, wood-based paper, textiles and clothing, footwear, ceramic products, glassware, articles of base metal and vehicles'⁶) will continue being taxed, in order to protect them from competition.

Imposing export taxes made difficult

In some cases, export taxes on raw materials or non-processed foods encourage the development of a domestic industry (since it becomes less advantageous to sell unprocessed products abroad). There are already quite a few export taxes in the EAC countries, but EAC negotiators would have liked the possibility to create new ones not to be blocked. The EU, on the contrary, [is strongly against](#) export taxes – although they are [not forbidden by the WTO](#) – since they increase the prices of raw commodities needed by the EU market. As a result, export taxes will not be eliminated by the EPA, but the introduction of new ones will be subject to certain limitations. Accordingly, EAC partners will be able to impose new export taxes on two conditions: only after notifying the EU, and for a limited period of time. After 48 months, these taxes will be subject to a review by the joint EPA Council. Loss of revenue resulting from the elimination or reduction of tariffs should be covered 'transitionally' by the EU (Article 100- 1(c), EPA). EU support will be financed by existing instruments, mainly under the [Aid for trade strategy](#). EAC countries will have to create a dedicated fund to which they will channel resources for the implementation of the EPA. Revenue loss is expected to be 'modest';⁷ however, the data that would allow making a clear assessment of what amount of compensation would be needed and for how long, are often lacking.

Placing limits on non-tariff barriers

Non-tariff barriers, such as country-specific standards, rules of origin, and sanitary and phytosanitary conditions, are seen as restricting the free exchange of goods and services. The EPA provides for placing limits on these barriers, while reinforcing the [measures](#) that already exist for intra-EAC trade.

Technical barriers to trade (TBT)

In compliance with [WTO rules on technical barriers to trade](#), the EU and the EAC commit to harmonising their technical standards as much as possible, and to mutually recognising those that are not common.

Rules of origin

As duty-free, quota-free conditions would immediately apply to EAC products imported into the EU, it is important to determine whether a product is considered as originating from the EAC or not. In the case of products processed with materials from third countries, rules of origin generally require a sufficient level of processing in the exporting country. In order to favour industrial development in EAC countries, it has been decided that the rules of origin would be less strict (i.e. allowing a possibly bigger proportion of foreign materials in the processed products) for EAC producers than for EU producers. A protocol to the agreement details what level of processing is sufficient for a product to be considered as originating from the EAC. Rules of cumulation define criteria for determining the origin of products that are assembled from materials originating from various countries: in the EPA, these rules (Protocol 1, EPA) allow more exceptions as regards insufficient processing than do the rules in the GSP, GSP+ and EBA trade schemes. In short, the EPA would make it easier to label a product as 'made in' an EAC country, even if some of its parts originated from other countries – provided the latter benefit from a GSP scheme or a free-trade agreement with the EU. Such products would therefore have preferential market access to the EU. The EPA also simplifies the procedure for obtaining proof of origin. [EPA rules](#) of origin for fresh fish and processed fish are also considered more favourable than those applicable [under GSP](#) schemes.

Sanitary and phytosanitary measures

Sanitary and phytosanitary (SPS) measures are primarily aimed at protecting consumers by guaranteeing the safety of food, animal or plant products. However, they have to be proportionate to the risks, and should not be used as a means to restrict imports in favour of domestic products. While sanitary and phytosanitary measures are framed by a [WTO agreement](#), the latter allows countries to set their own standards, be they higher or lower than international ones. The SPS measures built into the EPA are actually a trade-off between market openness and health protection. In the past, EU SPS measures [restricted the import](#) of a number of EAC plant, fish and meat products. The EPA mainly provides for a rapprochement of SPS measures, supported by capacity-building actions and funding from the EU. Also, new SPS measures should not be [imposed](#) without consulting the other party.

Enhanced development cooperation in agriculture and fisheries

Two specific parts of the EPA are dedicated to fisheries and agriculture (Parts III and IV). Beyond purely trade-oriented provisions, such as the rules of origin, these parts address capacity-building in the management of resources in detail, and define objectives for supporting infrastructure and trade reforms as a way to promote sustainability and food security. The agreement further mentions that the partners are committed to enhancing the fisheries and agriculture sectors' compliance with international standards. A monitoring system is planned to be put in place, to help manage natural resources and prevent or counteract unfair practices, including illegal, unreported and unregulated fishing (IUU).

Development cooperation in other sectors, such as energy, transport and ICT, is also described in the EPA, but in much less detail.

Follow up and monitoring

The EPA contains a number of mechanisms to monitor its evolution and adapt it to a changing environment.

EPA institutions

An EPA Council, composed of EAC and EU ministers, and a Committee of senior officials are handed the responsibility to decide on a number of issues, such as the application of duties, taxes and safeguard measures, and dispute settlement. The Committee of senior officials is also entrusted with monitoring the impact of the EPA on the countries' economic welfare, and on sustainable development. A consultative committee will represent civil society and the private sector.

Trade defence

The EPA provides for a trade defence mechanism: if imports increase too much and risk disturbing the economy of a country, it is possible to reintroduce duties on the product concerned. However, this could be done only for a limited period of time, not exceeding two years, and is to be monitored by the Committee of senior officials.

Non-execution clause

Article 136 of the EPA provides that 'nothing in this agreement shall be construed so as to prevent ... measures ... pursuant to the Cotonou agreement'. Such a clause is generally [interpreted](#) as entailing suspension of the EPA trade preference for a country placed in sanctions under the [Cotonou provisions](#) for breaching human rights, democratic principles, or the rule of law. Under such sanctions, Burundi, for example, had no incentive to sign an agreement from which it risked being immediately suspended. The negotiated agreement ([not yet in force](#)) for the future partnership between the EU and the ACP countries acknowledges that clauses in the EPAs relating to Cotonou Agreement provisions remain valid for the corresponding provisions of the new agreement.

Completion and revision of the agreement

Rendez-vous clause

Most of the EPA text concerns trade in goods. Some important issues, such as trade in services, investment, trade and sustainable development, intellectual property rights, competition and transparency in public procurement, are still outstanding and are expected to be addressed within five years after the agreement enters into force.

Most-favoured-nation clause

The most-favoured-nation clause stipulates that if the EU or the EAC enters into a trade agreement granting more favourable treatment to third countries, the same treatment becomes applicable to trade between the EAC and the EU. This clause is asymmetric: it concerns any trade agreement the EU concludes; for EAC countries it is limited to trade agreements with 'major trading economies':⁸ accordingly, the EAC can agree more favourable terms with other ACP countries. However, according to experts, the inclusion of this clause – an obligation under [WTO rules](#) – might prevent EAC countries from agreeing more favourable terms in trade agreements with the [United Kingdom](#) or countries from the [Global South](#), such as China or Brazil (both major trading economies), as similar terms should also be granted to the EU.

Stakeholder views⁹

East African civil society organisations (CSOs) have been critical of the EU-EAC EPA since the beginning of the negotiations – just like [most African CSOs](#) as concerns the whole set of EPAs. After the draft agreement was published, a network of East African CSOs [called for EAC countries](#) not to ratify the EPA. In February 2022, East African CSOs again [spoke out against the EPA](#), contending that the agreement would be detrimental to the industrial development of EAC countries. They furthermore bring up a number of arguments in support of their stance, for instance, that because protectionist policies based on tariffs, subsidies and trade quotas have been used by Western countries to develop their own industries in the past, they should not therefore be refused to

developing countries. Another such argument is that a constrained, even if progressive, removal of tariffs would make it impossible for EAC countries to produce competitive manufactured goods. Tariff removal and EU subsidies would make EU manufactured and agricultural products cheaper than domestic ones, thus increasing EAC imports from the EU; that said, CSOs acknowledge that the EPA provisions bar the EU from granting export subsidies. CSOs also believe that the EPA also risks undermining EAC trade with African regions or southern partners, as it obliges 'the EAC to extend to the EU any more favourable treatment resulting from a preferential trade agreement with a major trading economy/country'. Finally, CSOs also consider that including clauses on intellectual property in the future (see 'Rendez-vous clause' above) could harm EAC countries – and goes beyond what is required by the WTO for LDCs.

CSOs base their criticism on an [assessment](#) of the impact of the EPAs published in 2005 by the United Nations' Economic Commission for Africa (UNECA), but not officially endorsed by it. The study found that the EPAs would result in a trade expansion that would favour the EU rather than the regional partners, and in loss of revenue for all countries studied. However, this study also noted that the expected decline in prices would be beneficial to consumers.¹⁰

In a [joint statement](#) of October 2018, the international Trade Union Confederation (ITUC), ITUC-Africa and the European Trade Union Confederation (ETUC) on EPAs with African regions consider that EPAs fall short on a number of expected commitments. Trade unions regret that EPAs do not include references to labour rights, and that their impact on women workers has not been assessed. They point out that the safeguard mechanisms against import surges due to tariff removal or decrease are difficult to trigger. As a result, EPAs risk putting a strain on African agri-food and industrial production. Furthermore, they voice concern that the rendez-vous clause on investment and services risks exposing African states' public services to privatisation. Trade unions also criticise the EU for threatening Kenya with a loss of its preferential market access unless it signs and ratifies the EPA.

EAC private-sector representatives are in general favourable to the EPA, though there are nuances across sectors. As concerns agriculture, small-scale farmers are the most worried about competition from the EU: the EU has consented not to [subsidise](#) agricultural products exported to the EAC, but this does not apply to the EU market, where subsidised EU products would compete with imports from the EAC.

The private sector insisted on being more strongly involved in the negotiations. A [2010 seminar](#) showed that, as a rule, [EAC private sector representatives](#) did not seem well informed on the EPA's content and practical consequences. Kenyan private sector organisations – especially the [Kenya Flower Council](#) – were the most concerned by the EU-EAC EPA, apparently because of the prospect of losing DFQF access to the EU market. Consulted in 2012 on [the private sector views](#) on the negotiations, the East African Business Council advocated more flexibility on tariffs and taxes, which it considered a development tool. It was also against the most-favoured-nation clause and called for better coordination between the various African EPA configurations.

Signature and ratification process – interim EPA

In June 2016, following the submission of the [Commission proposal](#), the [Council of the EU authorised the signing](#) and provisional application as concerns the exclusive competences of the EU (as opposed to individual Member States'; for instance, issues such as agricultural subsidies cannot be modified without the Member States' consent).

To fully enter into force, the EPA has to be ratified by each party, namely the EU, the EAC, and their respective members according to their national ratification procedures. The European Parliament's consent is pending the official referral of the agreement by the Council.¹¹

On the EAC side, only [Kenya and Rwanda](#) have signed the EPA. Kenya is [the only country](#) to have ratified it, in September 2016. According to initial EAC rules, the EPA could only enter into force after

it had been ratified by all EAC partners, as the implementation of the agreement by only some of them would put the EAC customs union at risk. Other EAC partners' reluctance to ratify the EPA has led to protracted discussions and stalled the signing process (see 'Counterparts' positions' above). EAC heads of state decided [in September 2016](#) to postpone the endorsement of the agreement by the EAC until January 2017, to allow EAC countries to assess its impacts on the basis of statistical data. However, this deadline was missed, since Burundi, Uganda and Tanzania failed to provide a consistent dataset. At their [May 2017 summit](#), the heads of state acknowledged the stalemate in the signing of the agreement and agreed that Kenya might be allowed to pursue the implementation of the trade deal as from November 2017 if a compromise was not found with the EU at the EAC level.

Following [discussions on EAC concerns](#) between the then European Commission President, Jean Claude Juncker, and the then EAC Chair and Ugandan President, Yoweri Museveni, in September 2017, the EAC was expected to make a decision. However, the [February 2018 EAC heads of state summit](#) postponed the decision again until 'satisfactory clarification of concerns of some partner states on the EPAs', which might entail a renegotiation of the agreement with the EU. At their [21st ordinary summit in February 2021](#), EAC heads of state authorised 'EAC states who wish to do so to commence engagements with the EU' without needing approval from all other EAC partners ('principle of variable geometry'). This constitutes [a breach](#) in its willingness to implement it as a bloc and practically means that Kenya, which expressed the wish to individually access the EPA, is authorised to move forward with its implementation.

Kenya and the EU agreed on 17 February 2022¹² to advance negotiations on an [interim EPA](#) (iEPA), According to the European Commission, 'the EU and Kenya agreed to negotiate binding provisions on [trade and sustainable development](#) in their iEPA, which will be subject to an appropriate dispute settlement mechanism'. The iEPA should be open for other EAC partner states to join, however the Tanzanian Minister for Trade has [denied allegations](#) that his country was keen to sign an economic agreement with the EU.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

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[Economic partnership agreement between the East African Community partner states, of the one part, and the European Union and its Member States of the other part](#), consolidated text.

European Commission, [Trade Policy: East African Community \(EAC\)](#), accessed 2.5.2022.

European Commission, [Overview of Economic Partnership Agreements](#), accessed 2.5.2022.

ENDNOTES

- ¹ Negotiations with the EAC as a bloc began only in 2007; prior to this date Tanzania was involved in the SADC EPA negotiations, and Kenya in the eastern and southern Africa EPA ones.
- ² Article 144 of the [agreement](#) stipulates that 'Any new Partner State of the EAC shall accede to this Agreement from the date of its accession to the EAC by means of a clause to that effect in the act of accession [...OR...] by depositing an act of accession [...]'.
- ³ For a detailed insight on export taxes, see: M. Mendez Parra et al., [Export Taxes and Other Restrictions on Raw Materials and their Limitation through Free Trade Agreements: Impact on Developing Countries](#), Policy Department for External Relations, European Parliament, April 2016.
- ⁴ A more detailed description of the SIAs is given in: I. Zamfir, [Economic Partnership Agreement with the Southern African Development Community \(SADC\)](#); EPRS, European Parliament, September 2017.
- ⁵ Although Rwanda has a [different view](#) and expects to graduate from this status before 2024.
- ⁶ As [regrouped](#) by the European Commission's DG Trade.
- ⁷ This aspect is discussed in detail in I. Massa and C. Stevens, [Addressing Developing Countries' Challenges in Free Trade Implementation](#), Policy Department for External Relations, European Parliament, February 2017.
- ⁸ 'major trading economy' means any developed country, or any country accounting for a share of world merchandise exports above 1 percent [...], or any group of countries [...] accounting collectively for a share of world merchandise exports above 1.5 percent [...]' (Article 14 (5) of the [EU EAC EPA](#), October 2015).
- ⁹ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all of the different views on the agreement. Additional information can be found in related publications listed under 'EP supporting analysis' and 'other sources'. See in particular A. Kwa et al., [African, Caribbean and Pacific \(ACP\) Countries' Position on Economic Partnership Agreements \(EPAS\)](#), Policy Department for External Relations, European Parliament, April 2014.
- ¹⁰ In the case of EAC countries (in US\$ million): net trade diversion for Burundi: -1.5; Kenya: -60.4; Rwanda: -3.0; Tanzania -25.0; Uganda: -9.0; revenue shortfall for Burundi: -7.6; Kenya: -107.2; Rwanda: -5.6; Tanzania -32.4; Uganda: -9.4; consumer surplus: for Burundi: +1.8; Kenya: +30.6; Rwanda: +0.8; Tanzania +8.1; Uganda: -9.4. South Sudan and DR Congo are not included in the study.
- ¹¹ A common practice is that the referral of the agreement to Parliament by the Council takes place after the signing of the EPA by partner countries, as this indicates their will to proceed with the ratification process.
- ¹² In the meantime, Kenya signed a [bilateral post-Brexit trade deal](#) with the UK, reproducing sections of the EAC-EU EPA.

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Second edition. The 'International Agreements in Progress' briefings are updated at key stages throughout the process, from initial discussions through to ratification.

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