TRADE REGIMES APPLICABLE TO DEVELOPING COUNTRIES

The EU’s development policy stresses the importance of trade and focuses on the countries most in need. The Generalised Scheme of Preferences gives some goods from developing countries preferential access to the EU market. Economic Partnership Agreements ensure preferential commercial treatment for African, Caribbean and Pacific countries, while the Everything But Arms scheme applies to Least Developed Countries. These schemes are in line with World Trade Organization rules.

LEGAL BASIS

The legal basis for the common commercial policy (CCP) is Article 207 of the Treaty on the Functioning of the European Union (TFEU). Article 188(2) of the TFEU stipulates that the ordinary legislative procedure, requiring Parliament’s approval, applies to the implementation of the CCP.

Under Article 218 of the TFEU, Parliament’s consent is required for the conclusion of international trade agreements such as Economic Partnership Agreements (EPAs). Parliament’s power has increased not only under the Lisbon Treaty, which extends the scope of the ordinary legislative procedure, but also through practice during the current parliamentary term. Its ongoing commitment to greater transparency in trade negotiations led to the announcement by Commission President Juncker in his September 2017 State of the Union address that all negotiating mandates would be declassified.

EU TRADE AND DEVELOPMENT

The 2012 EU communication on ‘Trade, growth and development: Tailoring trade and investment policy for those countries most in need’ marked a significant change in the EU’s ‘trade and development’ paradigm. Although it still put trade at the centre of development strategies, it stressed the growing need to differentiate between developing countries in order to focus on those most in need. It set out to enhance synergies between trade and development policies, such as the EU principle of Policy Coherence for Development and the 2011 Agenda for Change communication[1], in addition to restating the importance of respecting EU core values such as human rights.

At the multilateral level, the EU supports the World Trade Organisation (WTO) Development Agenda launched in Doha in 2001. In October 2015, it ratified the Trade Facilitation Agreement concluded at the ninth WTO Ministerial Conference in Bali, which is particularly important for developing and landlocked countries. At the 10th WTO Ministerial Conference, the EU – together with a few other WTO members – was active in promoting other issues of interest for developing countries. However, the lack of results from the 11th WTO Ministerial Conference in Buenos Aires, held in December 2017, hindered further outcomes for developing countries.

The Aid for Trade initiative, launched at the December 2005 WTO Ministerial Conference, acts as a complement to the Doha Development Agenda and provides assistance for the building of trade capacities in order to create growth and fight poverty. In 2007, the EU adopted a strategy, which has been updated to comply with the UN Agenda 2030, the EU Consensus on Development and the Global Strategy. In July 2017, the Commission issued a report, which was followed by a new communication in November 2017. On 11 December 2017, the Council adopted conclusions on it, and Parliament organised a hearing in August 2017.

THE GENERALISED SCHEME OF PREFERENCES

The purpose of the Generalised Scheme of Preferences (GSP) is to facilitate access for developing countries and territories to the EU market by reducing tariffs on their goods. Originally, the EU granted unilateral tariff preferences to generate additional export revenue for developing countries so it could be reinvested in their own sustainable development. Under the 2012[2] reform, the GSP scheme was more targeted towards those countries that are most in need – the Least Developed Countries (LDCs) – while retaining the scheme’s three components. The first of them is the standard GSP: an autonomous trade arrangement whereby the EU offers certain foreign goods non-reciprocal preferential access to the EU market in the form of reduced or zero tariffs. The second element, GSP+, is a specific incentive arrangement offering tariff reductions to vulnerable countries that have ratified and implemented international conventions relating to human and labour rights, the environment and good governance. The third component is the Everything But Arms (EBA) initiative, which guarantees duty-free and quota-free access to the EU for all products except arms and ammunition for 48 LDCs.

The eligibility criteria for the standard GSP – which offers a reduction in duties for approximately 66% of all tariff lines – were tightened to include only the most vulnerable countries with low and lower-middle incomes. As a result, the group of beneficiaries was substantially reduced from 176 to 23 during the 2016-2017 period and comprised 16 in 2019, while countries classified by the World Bank as high-income or upper-middle-income countries were progressively taken out of the scheme.

GSP+, the special arrangement for sustainable development and good governance, still provides for zero duties on approximately 66% of all tariff lines designated under the standard GSP for developing countries considered to be vulnerable. However, it

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has been made conditional on the ratification and implementation of 27 international conventions relevant to sustainable development, including basic human rights conventions, labour rights conventions, certain conventions relating to environmental protection and conventions relating to the fight against illegal drug production and trafficking. Failure to comply with these requirements results in suspension of the tariff concession. The list of beneficiaries covers eight countries. These two GSP schemes will be valid until December 2023.

The EBA initiative grants duty-free and quota-free access for an unlimited period for all products, except arms and ammunition, imported from 48 LDCs. Of these, 34 are African countries, eight are Asian countries, five are Pacific countries and one is in the Caribbean (Haiti). All the countries that have signed and ratified free trade agreements (FTAs) with the EU will automatically cease to enjoy preferential treatment, irrespective of their level of development.

ECONOMIC PARTNERSHIP AGREEMENTS

EPAs became the principal instruments for promoting trade between the EU and the African, Caribbean and Pacific (ACP) regions under the Cotonou Agreement of 2000. They are the building blocks of EU-ACP trade relations, one of the three pillars of the agreement, and are designed to be WTO-compatible. They are progressively replacing the EU’s unilateral preferential trade regime.

Starting in 2002, negotiations on EPAs were expected to be concluded by 2008. As the negotiation process took much longer than anticipated, the EU adopted a market access regulation to ensure temporary market access arrangements until 2014, which was subsequently extended for two more years – pending the conclusion, signing and ratification of EPAs. The process has not delivered the intended regional dimension as, on the expiry date of the Market Access Regulation (1 October 2016), only two full regions had signed an EPA – which is not yet ratified – and only one regional EPA was in force. EPAs should remain even if the Cotonou Agreement does expire in February 2020 and will continue to play a central role in the post-Cotonou partnership.

STATE OF PLAY[3]

The Caribbean Forum (Cariforum) EPA was the first regional agreement to be signed, in October 2008, and it was approved by Parliament on 25 March 2009. It is currently in force provisionally, with the EPA joint institutions meeting regularly since 2010. It was first reviewed in 2015 and the joint institutions’ latest meeting took place in December 2018 in Castries, Saint Lucia, and the Joint Council of Ministers will meet in late 2019 or early 2020.

West Africa: the negotiations on a regional EPA between the EU and 16 West African countries were concluded in February 2014 and the text was initialled on 30 June 2014. On 10 July 2014, it was then endorsed by the heads of state of the Economic Community of West African States (ECOWAS). All EU Member States and 15 West African countries, except for Nigeria, have signed the EPA. On 9 August 2017, Mauritania and ECOWAS signed an Association Agreement to define the country’s participation in ECOWAS’ trade policy, including the EPA. Meanwhile, Côte d’Ivoire
and Ghana signed bilateral ‘interim’ EPAs on 26 November 2008 and 28 July 2016 respectively. On 1 December 2016, Parliament gave its consent and both interim agreements are being provisionally applied. The most recent meetings of the interim EPA Joint Committee with Côte d’Ivoire and Ghana took place in March 2018 in Abidjan and in January 2018 in Accra, respectively. The next meetings will take place during the first half of 2019.

Central Africa: Cameroon was the only country in Central Africa to sign the EPA with the EU and did so on 15 January 2009. Parliament gave its consent in June 2013. In July 2014, the Parliament of Cameroon ratified the agreement, which entered into provisional application on 4 August 2014. The fourth meeting of the EPA Committee took place in February 2019 in Yaoundé, Cameroon, and the next one is scheduled for December 2019 in Brussels. In the meantime, contacts are ongoing between the region and the EU on the accession of other Central African countries, but no regional EPA has yet been signed.

Eastern and southern Africa (ESA): in 2009, four countries in the region (Mauritius, Seychelles, Zimbabwe and Madagascar) signed an EPA which has been provisionally applied since 14 May 2012. Parliament gave its consent on 17 January 2013. The Agreement is open to other countries and Comoros signed it in July 2017. There have been seven meetings of the ESA-EU Interim EPA Committee, the most recent taking place in January 2019 in Brussels, and the next one is scheduled for the Seychelles in late 2019.

East African Community (EAC): on 16 October 2014, the negotiations for the regional EPA were successfully concluded. On 1 September 2016, Kenya and Rwanda signed the EPA as did the EU Member States and the EU. The ratification process is under way with Kenya and Rwanda. Uganda and Burundi are actively considering signing the EPA. On 11 November 2016, Tanzanian members of parliament unfortunately voted against ratification of the EPA. In February 2019, the EAC agreed to hold further discussions with the EU on issues of concern for some EAC Member States.

Southern African Development Community (SADC): after 10 years of negotiations, the EPA negotiations were successfully concluded in July 2014. The agreement was signed in June 2016 by the EU and the SADC EPA group, which consists of six of the 15 members of the SADC (Botswana, Lesotho, Mozambique, Namibia, Swaziland and South Africa), and entered into force provisionally in October 2016 after Parliament had given its consent in September 2016. Mozambique ratified the agreement in April 2017. Angola has observer status and may join the agreement in the future. The first meeting of the joint Trade and Development Committee (TDC) took place in February 2017, followed by a second meeting in October 2017. The third was held in February 2018. Following the provisional entry into force of the Agreement, the parties addressed implementation issues, including monitoring and civil society involvement and the institutional framework for the Agreement. A first Joint Council meeting was held in February 2019, in Cape Town, South Africa, and adopted the institutional framework of the EPA.

Pacific: the EPA was signed by the EU and Papua New Guinea (PNG) in July 2009 and by Fiji in December 2009. Parliament gave its consent in January 2011. The
Parliament of PNG ratified the EPA in May 2011, and in July 2014, Fiji decided to start provisionally applying the EPA. In July 2018, Tonga expressed its intention of acceding to the EPA. The negotiations are ongoing with Solomon Islands, and Samoa has recently completed its process of accession to the EPA – which has been in force on a provisional basis since December 2018. Six meetings of the EU-Pacific States interim EPA Trade Committee have taken place: in April 2011 and February 2012 in Port Moresby and in July 2013, June 2015 and October 2017 in Brussels. The most recent Trade Committee meeting was held in October 2018 in Brussels and the next is scheduled for mid-2019.

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