TRADE REGIMES APPLICABLE TO DEVELOPING COUNTRIES

The EU’s trade, growth and development policy places trade at the centre of development and focuses on the developing countries most in need, as does the Generalised Scheme of Preferences. Economic Partnership Agreements (EPAs) ensure preferential treatment for ACP countries while the Everything But Arms scheme still applies to Least Developed Countries (LDCs). A new EU Aid for Trade strategy, issued in November 2017, is under discussion. The EU continues to support a WTO system that promotes development.

LEGAL BASIS

The 2012 communication on ‘Trade, growth and development: Tailoring trade and investment policy for those countries most in need’[1] reflects a change in the EU’s ‘trade and development’ paradigm.

While still placing trade at the centre of development strategies, the 2012 communication stressed the need to increasingly differentiate between developing countries in order to focus on those most in need. It also aimed at enhancing synergies between trade and development policies, such as the EU principle of Policy Coherence for Development and the 2011 Agenda for Change communication[2], as well as restating the importance of respecting EU core values such as human rights.

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 speech that all negotiating mandates would be declassified.

OBJECTIVES OF EU PREFERENTIAL MARKET ACCESS SCHEMES

The Generalised Scheme of Preferences (GSP), first introduced in 1971, has three principal elements. One is the standard Generalised Scheme of Preferences (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 49 LDCs.

The purpose of the GSP scheme 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 that they could reinvest in their own sustainable development. Under the 2012[3] reform, the GSP scheme was targeted more towards those countries that are most in need — the LDCs — while retaining the scheme’s three components.

The conditions of eligibility 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[4] period, while countries classified by the World Bank as high-income or upper-middle-income countries were progressively taken out of the scheme. The newly introduced ‘graduation’ mechanism has also altered the point at which tariff preferences no longer apply to a specific country.

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 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 has been extended to more countries. These two GSP schemes will be valid for 10 years[5].

The EBA initiative[6] still grants duty-free and quota-free access for an unlimited period for all products, except arms and ammunition, imported from 49 LDCs. Of these, 33 are African countries, 10 are Asian countries, five are Pacific countries and one is in the Caribbean (Haiti). All the countries that have signed and ratified a Free Trade Agreement (FTA) with the EU will automatically cease to enjoy preferential treatment, no matter what their level of development.

At multilateral level, the EU supports the WTO Development Agenda launched in Doha in 2001. In October 2015, it ratified the Trade Facilitation Agreement concluded at the 9th WTO Ministerial Conference in Bali (2013), which is particularly important for developing and landlocked countries. At the 10th WTO Ministerial Conference, held for the first time in an African country (Kenya), 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 in December 2017 prevented further outcomes for developing countries.

The Aid for Trade initiative[7], launched at the December 2005 WTO Ministerial Conference in Hong Kong, is a complement to the Doha Development Agenda and provides assistance to

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build trade capacities in order to create growth and fight poverty. The EU adopted a strategy in 2007[8] which has been updated to comply with the UN Agenda 2030[9], the EU Consensus on Development[10] and the Global Strategy[11]. In July 2017, the Commission issued a report[12], which was followed by a new communication[13] in November 2017. The Council adopted conclusions on it on 11 December 2017, and Parliament is awaiting the Commission’s annual report before adopting a position.

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 World Trade Organisation-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, 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

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 met most recently in November 2017.

West Africa: the negotiations on a regional EPA between the EU and 16 West African countries were closed in February 2014 and the text was initialled on 30 June the same year. It was then endorsed by the heads of state of the Economic Community of West African States (ECOWAS) on 10 July 2014. All EU Member States and 13 West African countries, except for Nigeria, Mauritania and The Gambia, signed the EPA in December 2014. Mauritania and ECOWAS signed an Association Agreement on 9 August 2017 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. The European Parliament gave its consent on 1 December 2016 and both interim agreements are being provisionally applied.

Central Africa: Cameroon was the only country in Central Africa to sign the EPA with the EU and did so on 15 January 2009. The European 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 third meeting of the EPA Committee took place in Brussels.

on 7 and 8 December 2017. The fourth meeting is scheduled for December 2018. 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. The European 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 six meetings of the EPA Committee since October 2012 in Brussels, the most recent taking place in October 2017 in Madagascar, as well as meetings of the Customs Cooperation and the Joint Development Committees.

East African Community (EAC): the negotiations for the regional EPA were successfully concluded on 16 October 2014. 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. On 11 November 2016, Tanzanian members of parliament unfortunately voted against ratification of the EPA.

Southern African Development Community (SADC): after 10 years of negotiations, the EPA negotiations were successfully concluded on 15 July 2014. The agreement was signed on 10 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 on 10 October 2016 after the European Parliament had given its consent on 14 September 2016. Mozambique ratified the agreement on 28 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 on 16-17 February 2017, followed by a second meeting on 21 October 2017. The third was held on 22-23 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 is tentatively scheduled for February 2019 and should put in place the institutional and dispute settlement framework.

Pacific: the EPA was signed by the EU and Papua New Guinea (PNG) on 30 July 2009 and by Fiji on 11 December 2009. The European Parliament gave its consent on 19 January 2011. The Parliament of PNG ratified the EPA on 25 May 2011 and Fiji decided on 17 July 2014 to start provisionally applying the EPA. Five meetings of the 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. Samoa expressed its intention of acceding to the Interim EPA on 5 February 2018, and the Solomon Islands have also stated their intention to do so. The next Trade Committee meeting will be held before the end of 2018.

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