



TRADE REGIMES APPLICABLE TO DEVELOPING COUNTRIES

The EU's trade and development policy is outlined in the January 2012 Communication on 'Trade, growth and development'. It focuses on countries most in need. The Generalised Scheme of Preferences has been maintained for LDCs, as has the Everything But Arms regime, while preferential treatment for non-LDC ACP countries has been replaced by Economic Partnership Agreements (EPA) including a development component. A new EU Aid for Trade strategy, which aims to help developing countries build trade capacities, is being prepared and will be based on a new communication from the Commission. The EU supports the WTO Development Round and ratified the trade facilitation agreement in October 2015.

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 trade policy in general is Article 207 of the Treaty on the Functioning of the European Union (TFEU), which defines the EU institutions' competences in the field of the Common Commercial Policy (CCP). Article 188(2) TFEU stipulates that the ordinary legislative procedure, requiring Parliament's approval, applies to the implementation of the CCP. Under Article 218 TFEU, Parliament's consent is required for the conclusion of international trade agreements such as 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 State of the Union speech that all negotiating mandates will be declassified.

OBJECTIVES OF EU PREFERENTIAL MARKET ACCESS SCHEMES

The GSP scheme, first introduced in 1971, has three principal elements. One is the standard Generalised System of Preferences (GSP), an autonomous trade arrangement through which the EU offers certain foreign goods non-reciprocal preferential access to the EU market

[1] [COM\(2012\) 0022](#).

[2] 'Increasing the impact of EU Development Policy: an Agenda for Change' ([COM\(2011\) 0637](#)).

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 least-developed countries (LDCs).

The objective of the GSP scheme is to facilitate access for developing countries and territories to the EU market by reducing tariffs on their goods. Originally, unilateral tariff preferences granted by the EU market were intended to generate additional export revenue for developing countries which they could use to implement their own sustainable development and poverty reduction policies, and to diversify their economies. The GSP scheme was reformed in 2012^[3]. While keeping the three components, the scheme became more focussed on countries that are most in need.

A narrowed income conditionality has been added to the ‘standard’ GSP, reducing duties on approximately 66% of all tariff lines, to ensure that vulnerable developing countries with low and lower-middle incomes become the main target group. This means that countries classified by the World Bank as high-income or upper-middle-income countries for the past three years will lose the GSP. As a result, the group of beneficiaries has been substantially reduced from 176 to 27. The newly introduced ‘graduation’ mechanism has also modified 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, but it has been made conditional on their 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 ten years.

The Everything But Arms (EBA) initiative^[4] grants duty-free and quota-free access for all products, except arms and ammunition, from LDCs. With the reform, it became more focused on 49 LDCs that will benefit from the EBA scheme for an unlimited period. Of these, 33 are African countries, 10 are Asian countries, five are Pacific countries and the last is in the Caribbean (Haiti).

All the countries that have signed and ratified an FTA with the EU will automatically cease to enjoy preferential treatment, no matter what their level of development is.

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 WTO Ministerial meeting in Bali (2014), which is particularly important for developing and landlocked countries.

The Aid for Trade Initiative, launched at the December 2005 WTO Ministerial Conference in Hong Kong, is a complement to the Doha Development Agenda and provides assistance to build trade capacities in order to create growth and fight poverty. The EU adopted a strategy in 2007^[5] which is being updated to comply with the UN Agenda 2030^[6], the EU consensus

[3] Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012.

[4] European Commission, Everything But Arms Initiative — Who benefits?

http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150983.pdf

[5] COM(2007) 163 final

for development^[7] and the Global Strategy^[8]. A new communication is expected from the Commission by the end of 2017.

At the last WTO Ministerial Conference, which was held for the first time in an African country (Kenya), the EU – together with a few other WTO members – was very active in promoting other issues of interest for developing countries.

ECONOMIC PARTNERSHIP AGREEMENTS

Economic Partnership Agreements (EPAs) became the principal instruments for promoting trade between the EU and the African, Caribbean and Pacific 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 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 until 2016, until EPAs are concluded, signed and ratified. 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 as the trade pillar 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 was approved by Parliament on 25 March 2009. It is currently in force and was first reviewed in 2015.

West Africa: the negotiations between the EU and 16 West African countries were closed in February 2014. The text was initialled on 30 June 2014 and on 10 July 2014 the heads of state of the Economic Community of West African States (ECOWAS) endorsed the EPA for signing. The signing process is currently in progress. Côte d'Ivoire and Ghana initialled bilateral 'interim' EPAs with the EU at the end of 2007. The EPA with Côte d'Ivoire was signed on 26 November 2008, ratified by the National Assembly on 12 August 2016 and entered into provisional application on 3 September 2016. As regards Ghana, the agreement was signed on 28 July 2016 and was ratified on 3 August 2016 by the Ghanaian Parliament. As the European Parliament approved it on 1 December 2016, it entered into provisional application on 15 December 2016.

Central Africa: Cameroon signed the EPA between the EU and Central Africa on 15 January 2009, the only country in the region to do so. The European Parliament gave its consent in June 2013. In July 2014 the Parliament of Cameroon approved the ratification of the agreement and the agreement entered into provisional application on 4 August 2014. No regional EPA has yet been signed.

[6]<http://www.un.org/sustainabledevelopment/development-agenda/>

[7]https://ec.europa.eu/europeaid/policies/european-development-policy/european-consensus-development_en

[8]<https://europa.eu/globalstrategy/en/global-strategy-foreign-and-security-policy-european-union>

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.

Eastern 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 in the coming months. On 11 November 2016, Tanzanian members of parliament unfortunately voted against ratification of the EPA.

Southern Africa Development Community (SADC): on 15 July 2014 the EPA negotiations were successfully concluded in South Africa. This ended 10 years of negotiations and produced a comprehensive agreement with the whole of the SADC EPA group, including South Africa. The agreement was signed on 10 June 2016 by the EU and the SADC EPA group, which consists of six out of 15 members of the Southern African Development Community (Botswana, Lesotho, Mozambique, Namibia, Swaziland and South Africa), and provisionally entered into force on 10 October 2016 after the European Parliament had given its consent on 14 September 2016. Angola has observer status and may join the agreement in the future.

Pacific: the EPA was signed by the EU and Papua New Guinea (PNG) on 30 July 2009 and by Fiji on 11 December 2009. Parliament gave its consent on 19 January 2011. The Parliament of Papua New Guinea ratified the EPA on 25 May 2011. Fiji decided on 17 July 2014 to start provisionally applying the EPA.

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