

Economic Partnership Agreement with the Southern African Development Community (SADC)

OVERVIEW

In line with the objective of the Cotonou Agreement to establish a World Trade Organization compatible trade regime with ACP countries, in 2002 the EU started negotiations on free trade agreements with different ACP regional configurations. One of these is the SADC EPA Group – of southern African countries, including South Africa. The negotiations were long but the final outcome is a compromise that has been accepted by all parties, with the exception of Angola which did not endorse the Economic Partnership Agreement (EPA), but has an option to join in the future. The Agreement establishes an asymmetric free trade area, taking into account the disparities in the level of development between the EU and its African partners, which can shield sensitive products from EU competition. It emphasises sustainable development as an overarching objective, includes important safeguards in order to protect sensitive sectors from sudden surges in trade, and gives African countries the possibility to preserve their policy space in order to industrialise. The Agreement was signed in June 2016 and has now to be concluded. Parliament is scheduled to decide whether to give its consent to the Council Decision on the conclusion of the EPA, on behalf of the EU, during its September 2016 plenary session.



Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part

Committee responsible:

International Trade (INTA)

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Introduction

The EU has negotiated trade agreements with [different regional configurations](#) of ACP countries: one group in the Caribbean, one in the Pacific, and five in Sub-Saharan Africa. This regional approach was motivated by the need to take account of existing regional trade integration schemes, although in Africa this was complicated by overlapping memberships in different regional free trade areas. Before 2007, EU trade relations with ACP countries were based on the trade chapter of the Cotonou Partnership Agreement (2000). The EPAs have replaced and redefined the trade pillar of the Cotonou Agreement, but the latter [remains](#) the framework agreement for EPAs, which refer to its objectives and essential elements (on human rights, rule of law, and democratic governance).¹

The rules of the World Trade Organization (WTO) allow for non-reciprocal preferential treatment to be granted to developing countries (according to the [WTO's Enabling Clause](#) and other WTO rules) but prohibit discriminatory treatment ([GATT](#) Article XIII), since any unilateral preferences have to be extended to all developing countries with 'similar development, financial and trade needs'² and should thus include in practice also non-ACP countries. The unilateral, duty free, quota free market access provided through the Cotonou agreement had a transitional character and expired in 2007, as it required a [WTO waiver](#), which was granted until that year.³ The 2000 Cotonou Agreement included the commitment to negotiate WTO-compatible agreements. In order to bring its trade relations with ACP countries in line with the WTO rules, while preserving their duty free quota free access to its market, the EU has proposed to the ACP countries regional trade agreements, which are reciprocal in nature, but also asymmetrical, in order to shield sensitive sectors in these countries from EU competition. They aim at liberalising 'substantially all trade' in accordance with WTO rules (Article XXIV GATT), which is often interpreted to mean an average of 90%⁴ of all items traded by the parties – an interpretation also underpinning the EPAs. This allows for asymmetry in the opening of markets between the parties: to make best use of this possibility, the EU can offer 100% free access (which it has done in most cases), while partner countries have to liberalise only around 80% of their incoming trade with the EU. At the same time, liberalisation of market access will occur gradually with different timeframes for different categories of products. In order to avoid disruption of trade and while awaiting entry into force of EPAs, the EU has been providing unilateral trade preferences for the countries that have successfully negotiated EPAs and made progress towards their ratification.

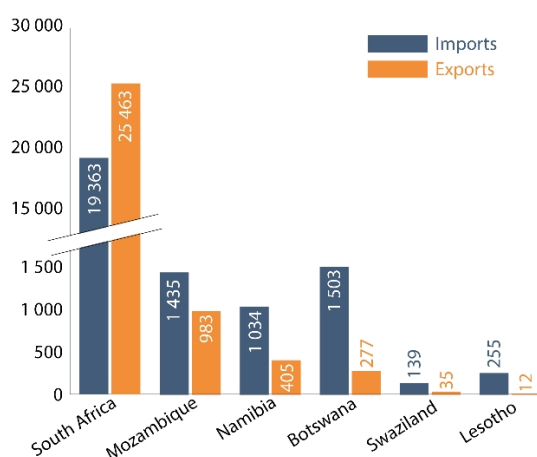
Existing situation

In July 2014, negotiations were concluded on an Economic Partnership Agreement between the EU and six of the 15 members of the Southern African Development Community (SADC). These members are: Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland. Angola initially belonged to the group and took part in the negotiations but withdrew before they were finalised; it has an option to join the agreement in the future.⁵ What keeps the SADC EPA Group together is not only SADC membership (as the name of the EPA would suggest), but primarily SACU membership of five of its six members. The [Southern African Customs Union](#) (SACU) is the oldest customs union in the world still in force (it was established in 1905), consisting of Botswana, Lesotho, Namibia, South Africa and Swaziland. The need to preserve its common external tariff gave an important impetus to the negotiations with the EU. SACU's most important member by far, both in terms of economic weight and intra-SACU trade, is South Africa.

Currently, the six SADC EPA Group countries conduct their trade with the EU under different regimes. South Africa has already concluded its own free trade agreement with the EU and the EPA contains a special protocol (4) that will govern the relations between the two agreements. The [Trade, Development and Co-operation Agreement](#) (TDCA) with South Africa was signed in 1999 and entered fully into force on 1 May 2004; it is a free trade agreement (FTA) which has liberalised around [90%](#) of bilateral EU-South Africa trade, maintaining some restrictions: liberalisation under TDCA is asymmetric, covering [95%](#) of the EU's imports from South Africa and 86% of South Africa's imports from the EU. On the EU side, products excluded or only partially liberalised include mainly agricultural products, while South Africa chose to protect industrial products, in particular certain motor vehicle products, and certain textile and clothing products.

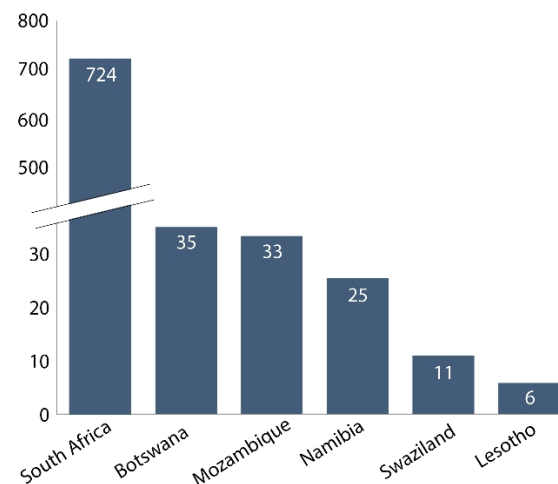
The three middle income economies of the region (according to the [World Bank classification](#)) – Botswana, Namibia and Swaziland – are provided by the EU with free access to its markets under a unilateral temporary regime established through [the Market Access Regulation \(MAR\)](#),⁶ which entered into force on 1 January 2008 (it has been recast as [Regulation \(EU\) 2016/1076](#) of 8 June 2016). This regime can be maintained for these countries only if they take the further necessary steps towards the ratification of the EPA. Without the EPA, these SADC EPA states (which are not 'least developed countries' according to the [UN classification](#)) risk losing their duty free, quota free access, with serious consequences for their exporting industries. Botswana and Namibia have been classified by the World Bank as upper middle income economies for more than three consecutive years. As such, they do not qualify under the EU's GSP system either, according to a [modification](#) of the GSP system enacted on 1 January 2014 and which took effect in January 2016, and would no longer enjoy any preferential treatment. Swaziland is a lower middle income economy and in the absence of EPA would benefit from the GSP ([EU's Generalised System of Preferences](#)) which provides preferential but not duty free, quota free access to EU market. Lesotho and Mozambique are 'least developed countries' (LDCs) and trade with the EU under the [Everything but Arms](#) (EBA) scheme, which provides LDCs with duty free, quota free access to the EU market. The EPA would nevertheless also mean an improvement for them, because its rules of origin are more flexible and facilitate imports into the EU, especially in the case of textile products made with fabric produced in non-EPA countries.

Figure 1 – EU imports and exports from SADC EPA countries, 2015 (€ million)



Date source: [Eurostat, 2016](#).

Figure 2 – SADC Group GDP in purchasing power parity, 2015 (current international dollars, billion)



Data source: [IMF, April 2016](#).

According to the initial schedule, the EPA should have been negotiated by 31 December 2007. Because no final agreement could be reached, Botswana, Lesotho, Swaziland and Mozambique [signed](#) an interim EPA in June 2009. Although Namibia initialled this agreement, it did not sign it. None of these countries ratified it and it was never implemented. The interim EPA contained [commitments](#) to work towards a 'full' EPA, covering services and trade-related aspects such as investment, government procurement and competition.

Comparative elements

The SADC EPA is the first bilateral trade agreement concluded by a group of southern African countries with a major trade partner.

The SACU has a [free trade agreement](#) with the European Free Trade Association (EFTA), which was signed in June 2006 and came into force on 1 May 2008. EFTA states grant the SACU members duty free entry for all non-agricultural goods.

The US trade relation with the SADC countries is in many ways similar to the EU's current regime. The USA provides unilateral trade access to the countries in this group through its AGOA ([Africa Growth and Opportunity Act](#)) programme. Eligibility under the programme depends on progress towards market economy, democratisation and respect for human and labour rights. All the countries in the SADC EPA Group are [eligible](#) for AGOA, with the exception of [Swaziland](#) which lost its AGOA access in 2014 because of lack of progress on internationally recognised workers' rights. AGOA provides preferential access to the US market without reciprocal preferential US access to the beneficiary countries. In November 2015, the WTO [granted](#) a new waiver for AGOA, which had just been extended by US legislators. This waiver will be valid until 2025 when the programme expires. Some countries in the SADC group have benefited significantly from AGOA, especially South Africa and Lesotho. South Africa is the main exporter to the USA under AGOA (vehicles are the main export), and Lesotho has profited from the tariff benefits for apparel. The USA has its own ambitions on establishing free trade areas with the African countries. The initial AGOA legislation [indicated](#) that trade relations should evolve towards free trade agreements with interested countries. Negotiations in this respect with South Africa and its regional partners in SACU began in 2003, but were unsuccessful and postponed indefinitely in 2006. AGOA is part of the US GSP system, which includes provisions stipulating that a country becomes ineligible if it 'affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce'. US officials have already [expressed fears](#) that American producers could be put at a competitive disadvantage on the African market because of EPAs.

EU negotiation objectives

The Council adopted its [negotiating mandate](#) in June 2002. This provided guidance to the Commission on the negotiations for EPAs with all ACP countries. In its mandate, the Council emphasised that the objectives of EPAs should be the 'smooth and gradual integration of ACP States into the world economy and the eradication of poverty' in accordance with the objectives of the Cotonou Agreement. EPA negotiations had to take into account the different levels of development of the parties as well as the particular economic, social and environmental constraints of the ACP countries. The Joint Ministerial Trade Committee established under Article 38 of the Cotonou Agreement was

tasked with regularly reviewing the negotiation progress. The deadline for completion of negotiations was set at 2007 at the latest.

In 2006 the Commission [proposed](#) to the Council to modify the directives for negotiations with ACP countries in order to formally include South Africa in the negotiating process with the SADC EPA Group. However, its proposal highlighted that, due to South Africa's competitiveness, it was inevitable to maintain a separate trade regime for this country that would be negotiated on the basis of the TDCA provisions.

Parliament's position

The European Parliament (EP) has followed the negotiation process over the years and issued its own set of recommendations in several resolutions. Its [first resolution](#) was adopted in September 2002, shortly before the start of negotiations with ACP countries. This resolution pointed out that trade should be regarded as a means to promote and accelerate the economic, cultural and social development of ACP countries. It emphasised that the priorities of EPA negotiations had to be the sustainable development of ACP countries, the eradication of poverty and enabling these countries to enjoy the benefits of globalisation. It also asked the Commission to take into account 'the development needs of the ACP countries and not to exert undue pressure on the ACP countries to enter into EPA negotiations individually, in regional groupings or at all'.

The EP went on to adopt several other resolutions. According to its [23 May 2007 resolution on EPAs](#), 'these must be designed as instruments for development and they must contribute to increased economic growth, regional integration and the reduction of poverty'. In a subsequent resolution of [12 December 2007](#) Parliament 'reiterates its belief that EPAs must be instruments of development in order to promote sustainable development, regional integration, and a reduction of poverty in the ACP States and to foster the gradual integration of the ACP States into the world economy'. It also considered that the conclusion of a new generation of free trade agreements with other developing countries should not lead to an erosion of the trade preferences that ACP countries currently enjoy.

The EP adopted two other resolutions specifically on the link between EPAs and development. The 23 March 2006 [resolution on the development impact of Economic Partnership Agreements](#) echoes the Commission's stance that development remains the primary objective of any EPA. EPAs should thus be designed around the principles of asymmetry, taking into account the substantially different levels of economic development of the EU and the ACP. The resolution urges the Commission to act with a view to 'poverty eradication and to support the social and economic development'. The EP recognises the significant fiscal implications the EPAs could have through abolishing tariffs for EU imports and supports the introduction of safeguard mechanisms. The EP also supports the provision of aid for trade funds. [In its resolution of 5 February 2009](#), on the development impact of Economic Partnership Agreements (EPAs), it urges the Commission, in partnership with the ACP countries, to include development benchmarks in the EPA and interim EPAs.

In several of its resolutions, the EP has deplored the slow pace of negotiations and the lack of agreement in due time, but at the same time it has stressed the importance of proceeding carefully in order to take into account the concerns of partner countries.

On 25 March 2009, the EP adopted a [resolution on the EC-SADC EPA States' Interim Economic Partnership Agreement](#), in which it recognised the benefits for SADC exporters

of maintaining the status quo and encouraged the negotiating parties to finish the negotiations for a full EPA during 2009. This resolution highlighted the importance of trade defence and bilateral safeguards and called for the Commission to demonstrate flexibility in addressing Angola, Namibia and South Africa's key substantive concerns on the MFN clause, the export taxes and infant industry protection. It called for the Commission 'not to put undue pressure on the SADC countries to accept liberalisation commitments and regulatory obligations' of services and the '[Singapore issues](#)' (investment, competition, procurement, simpler procedures). It also stressed that any full EPA would have to include provisions regarding a commonly accepted definition of good governance, transparency in political offices, and human rights, and provisions for the most vulnerable groups such as local farmers and women. Such issues are not addressed explicitly in the final EPA text, but Article 2 stipulates that the EPA is based on the Essential and Fundamental Elements set out in Article 9 of the Cotonou Agreement committing the parties to respect of human rights, democratisation, rule of law and good governance. On the whole, it can be said that the EP's recommendations have been taken over in the SADC EPA.

Preparation of the agreement

The Commission tasked a private contractor, PriceWaterhouseCoopers Audit France (PwC France), to carry out a sustainability impact assessment (SIA) of the EPAs. The SIA was carried out in four phases over the period from 2003 to 2007 and included case studies in key sectors in each one of the six EPA regional negotiating configurations. It involved an assessment of trade-induced economic, environmental and social changes resulting from the EPAs. The final SIA report lists a series of recommendations to further guide the negotiations including: promoting regional integration, preserving duty free, quota free access for ACP countries, protecting sensitive products in these countries, simplification and relaxation of rules of origin, encouraging trade in services, creating a stable climate for foreign direct investment, addressing obstacles to trade, facilitating trade, fostering development cooperation and establishing a permanent monitoring mechanism from the perspective of economic, environmental and social sustainability. The European Commission [endorsed](#) the SIA overall and took into account its findings, which [fed into](#) the negotiations. The European Parliament, however, in its resolution of [23 May 2007](#), declared that the Sustainable Impact Assessments (SIAs) had failed to have a meaningful impact on negotiations.

One of the reports of the SIA, namely the 2006 report on [SADC: Rules of Origin](#), was specifically concerned with the SADC group. It dealt with the issues of rules of origin in two sectors considered relevant for it: the garment industry in Lesotho and the fisheries sector in Namibia. It recommended that the EPA should adopt more flexible rules of origin in order to increase the exports from these countries and from the SADC group in general, while also acknowledging some potentially negative impact the EPA could have in terms of sustainability, and recommended specific measures to prevent such impact.

In 2007, the Commission published its own [Impact Assessment](#) on the rules of origin for the textiles and clothing sector, in which it drew the conclusion that the EU had not become an important market for ACP clothing exports because it had restrictive rules of origin. A relaxation of these rules was deemed to be likely to lead to increased trade and to significant positive economic and social impacts, including poverty reduction, a conclusion reflected in the final SADC EPA.

Negotiation process and outcome

The negotiations were conducted between the EU, represented by the Commission, and the SADC countries collectively, but with each one of them maintaining national competence for the negotiations and playing a coordination role for specific policy areas. The SACU members did not delegate negotiating authority to SACU. At the beginning of the negotiations in July 2004, South Africa participated as an observer, only becoming a full negotiating party in [2007](#). Because no firm agreement had emerged by the original deadline of 2007, the Commission negotiated an interim EPA (IEPA) with the countries from the region, the purpose of which was to provide a bridge for extending trade preferences granted by the EU in line with WTO rules, but also to define the general framework for the final EPA. Such an IEPA with SADC was concluded, but never ratified. South Africa and Namibia refused to sign the IEPA, mainly because it envisaged liberalisation of services in the final EPA.

The final outcome of the EPA negotiation process reflects significant concessions from the EU side, which took into consideration most concerns expressed by its partners; the final EPA agreement is limited to trade in goods, while the initial EU agenda also envisaged trade in services and regulatory harmonisation, reflecting South Africa's position, which, as the dominant regional power, was able to rally the region behind it, including by invoking the perspective of a break-up of SACU in case a common FTA with the EU could not be concluded. SACU is a vital source of government revenues for its other members (through the customs duties collected by South Africa on behalf of all states). South Africa was supported by Namibia and Angola, which were also interested in pursuing policies of development through industrialisation (especially value addition on commodities) which they perceived to be threatened through the EPA. [Namibia's reluctance](#) was all the more remarkable because the country was also the most vulnerable to losing EU trade preferences. On the other hand, Botswana, Lesotho, Mozambique and Swaziland were [supportive](#) of a more comprehensive EPA because they considered that complete liberalisation, including services and investments, would boost development, and possibly also lessen their dependency on South Africa in these areas. These countries signed the interim EPA in 2009. Botswana, Lesotho and Swaziland were said to favour a binding agreement on services and investment.

The negotiations were completed at the level of the chief negotiators on 15 July 2014 in Pretoria and the agreement was initialled the same day. At the end of the process, the general mood seemed to be one of satisfaction among African partners. South Africa's Minister for Trade and Industry [declared](#) that he was satisfied with the outcome of the negotiations. The EPA preserves the functioning of SACU and provides South Africa with improved access to EU markets for several agricultural products. Botswana's Ministry for Trade and Industry also [expressed](#) its satisfaction with the result of the negotiations emphasising flexible rules of origin, flexible terms for export taxes, the safety net for sensitive products, and sufficient policy space for instituting agricultural safeguards. Namibia's then Minister for Trade and Industry, Calle Schlettwein, made [similar declarations](#). According to him, Namibia's main concerns had been addressed.

The changes the agreement would bring

The first chapter is dedicated to **sustainable development**. Development cooperation is recognised as a crucial element of the partnership. The objectives of the agreement are, inter alia, to contribute to the reduction of poverty, promote regional integration, economic cooperation, good governance and the gradual integration of the SADC EPA

States into the world economy. Article 8 expresses the commitment of the parties to comply with their obligations under the Multilateral Environmental Agreements and the International Labour Organization (ILO) Conventions, while Article 9 recognises that it is inappropriate to encourage trade or investment by weakening or reducing domestic levels of labour and environmental protection.

Asymmetric liberalisation of trade in goods: On the African side, the SACU countries, on the one hand, and Mozambique, on the other, have different schedules of commitments for the liberalisation of their markets. The EPA achieves full harmonisation with SACU's import trade regime: SACU presents a single external schedule of tariffs applied to imports from the EU. The EU will benefit from increased access to the SACU market (in particular for wheat, barley, cheese, meat products and butter), but its partners will maintain restrictions on a series of sensitive products. SACU opening to the EU amounts to 86.2% of imports (customs duties are fully removed for 74.1%, and partially for 12.1%). SACU will open its market over an eight-year period, while for Mozambique the transitional period will last 10 years. This is much shorter than for other EPAs, where third countries have up to 20-25 years to implement tariff-liberalisation schedules. The liberalisation offered by Mozambique amounts to 74% of trade. **The EU** opens its market up completely for Botswana, Lesotho, Mozambique, Namibia and Swaziland ('BLMNS' countries) (with the exception of arms), while South Africa will benefit from enhanced access compared to the existing situation (better trading terms for wine, sugar, fisheries products, flowers and canned fruits). As a result, liberalisation will cover [98.7%](#) (96.2% full liberalisation and 2.5% partial) of tariff lines for South African exports to the EU with the opening of the EU market to occur over a period of 10 years.

One of the main concerns relating to EPA negotiations in general has focused on the **fiscal impact of trade liberalisation**. For many sub-Saharan African countries, customs duties are a significant source of budgetary revenue. While in the case of other EPAs such concerns may be justified, the impact is less significant for EPA SADC countries. [A 2012 study](#)⁷ estimated tariff-revenue losses because of EPA to be low (highest in the case of Mozambique at US\$15.4 million per year) and in any case lower than the potential benefits. The EPA agreement recognises that tariff reductions will have a fiscal impact on the SADC countries, and will particularly affect Lesotho's fiscal revenues (Article 14). It pledges support for fiscal reforms to mitigate this impact.

The EPA contains a bilateral protocol between the EU and South Africa on trade in wines and spirits and on the protection of geographical indications.

The agreement contains a rendezvous clause for trade in services and investment (Chapter IX), competition policy, intellectual property rights, and public procurement (Article 16-18). The parties 'may consider entering into negotiations' on these issues, but the EPA does not establish any obligation to negotiate an agreement. The EPA merely acknowledges that Botswana, Lesotho, Mozambique and Swaziland have started and will continue to negotiate trade in services with the EU and establishes the principles for negotiations regarding the liberalisation of services. As far as the areas of competition policy, intellectual property rights and public procurement are concerned, the agreement highlights the importance of cooperation between the parties and points to the possibility of concluding future agreements.

This was the most controversial point of the negotiations (see 'negotiation process and outcome' section above) and the outcome reflects the reluctance of African countries to move towards a comprehensive agreement as desired by the EU. The language used in the final text is non-committal, unlike in the West Africa EPA, for example, where the parties 'agree to continue negotiations in order to arrive at a full regional agreement', covering services, intellectual

property, capital movements, investment, competition, procurement etc., and where a timeframe of six months after conclusion of the agreement is established for agreeing on a negotiation roadmap.

A large number of safeguards (some permanent, some temporary) are included in order to prevent potentially harmful effects of trade liberalisation and to protect the policy space of African countries. Such safeguard measures can be taken to protect domestic industries or to avoid disturbances to a sector or to a market of agricultural products in case of significant surge in imports (Article 34). **Agricultural safeguards** (Article 35) can be imposed by BLMNS through temporary import duties for agricultural products for six months. Article 36 aims to ensure food security. A special clause for infant industry protection (Article 38(1)) provides that BLMNS can use a safeguard if EU imports threaten an infant industry.

Export taxes: existing ones are allowed, but new taxes are prohibited, with some important exceptions. Article 26 authorises BLMNS, after consultation with the EU, to introduce temporary export duties in exceptional circumstances for revenue needs, for the protection of infant industries or the environment, or to ensure food security. Such export duties can be introduced on a very limited number of products.

This was [another particularly controversial](#) point during negotiations (see section above). The outcome reflects the desire of African partners to be able to impose export taxes in order to spur value added and local industrialisation.

The Most Favoured Nation (MFN) clause (Article 28) provides, with respect to customs duties (including export duties), that the EU has to extend any more favourable treatment granted to a third party through a future preferential trade agreement. However, such a concession does not extend to South Africa: if the EU grants more favourable treatment to third parties, it will only have an obligation to consult with South Africa. Moreover, where the SADC EPA states enter into a preferential agreement and receive substantially more favourable treatment from another major trading economy than that offered by the EU in its EPA agreement, the parties shall consult and jointly decide. On the other hand, if SADC and SACU countries grant more favourable treatment to third countries, they have to extend it upon request by the EU; the latter obligation does not cover FTAs with ACP and other African countries and regions, however, and it only applies with respect to FTAs with a 'major trading power', defined as representing more than 1.5% of global trade. Moreover, any extension of SADC preferential treatment from that FTA to the EU requires consultations and a joint decision with the EU. The MFN clause does not apply retrospectively.

This was also a very contentious issue during the negotiations. The African partners, especially South Africa, wanted to have the clause removed (the initial EU proposal was stronger), but it was kept in the final text, albeit with important limitations. One of the arguments for keeping it is that as sensitive products in the EU EPA were shielded by SADC countries because they wanted to protect their local production, it would be consistent to protect them in any future free trade agreement they may conclude. Also, [some](#) commentators have claimed that the EPA establishes a 'happy' precedent for the SADC EPA countries, which thus have a strong argument at hand when negotiating future agreements to justify not making concessions on their sensitive tariff lines.

Export subsidies on agricultural products in trade between parties will be eliminated (Article 68).

Other provisions refer to the elimination of other barriers to trade, to sanitary and phytosanitary measures, and to dispute settlement.

The creation of **some special bodies** is envisaged: a Joint Council at ministerial level to be responsible for the operation and implementation of the Agreement, a Trade and Development Committee, and a Special Committee on Customs and Trade Facilitation, which will also monitor the protocol on rules of origin.

Article 110 refers to the 'essential elements' clause of the Cotonou Agreement, which provides that trade arrangements can be suspended in cases of serious breaches of obligations on human rights, democratic principles and the rule of law.

Stakeholders' views

This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the agreement. Additional information can be found in related publications listed under 'EP supporting analysis' and 'other sources'.

Stakeholder reactions have been varied and the EPAs in general have been the subject of intense public debate. During the negotiations there was significant criticism from some parts of civil society, which believed that the EPAs promoted a neoliberal agenda harming development prospects. Thus, in 2004, African and European NGOs launched a campaign, entitled 'STOP EPA', to raise public awareness of EPAs and what they perceived to be their problematic character. They considered that EPAs would promote the interest of European business and of the economic elites in ACP countries, harming ACP producers. The 2013 declaration entitled 'Enough is Enough! Time to Abandon the EPA Charade!!' asked for EPA negotiation and ratification to be suppressed. Several NGOs from Botswana and South Africa [subscribed](#) to this declaration. [French humanitarian NGOs](#) have also criticised the EPAs and asked for them to be abandoned; instead the EU should continue providing preferential access to the ACP countries. In fact, some of this criticism may have helped the SADC countries to strengthen their negotiating positions and extract concessions from the EU, but may have become irrelevant in the light of the final text.

In the African countries party to the SADC EPA, the reactions of various economic sectors depended on how they perceived their interests to be promoted by the EPA. Industries that export to the EU have supported the EPA, because it preserves their access to the EU market. Namibia's fishing industry [declared](#) that it was absolutely vital for an agreement to be reached on the EPA. A similar stance was adopted by Botswana's beef industry.⁸ A senior official from Botswana has [highlighted](#) the potential benefits of the EPA for the manufacturing industry, including through the rules of origin which allow for cumulation with other countries from the region. In South Africa, on the other hand, the EPA was met with some resistance by [public opinion](#) and by professional organisations. In 2009, the Congress of South African Trade Unions (COSATU) – [the biggest](#) of the country's three main trade union federations – asked for the IEPA not to be signed and opposed trade liberalisation with the EU, but it did not renew its opposition when it came to the final agreement. The Agricultural Business Chamber [AGBIZ](#) – an association of agribusinesses operating in South and southern Africa – while not rejecting the EPA, considered that major policy changes would be needed in southern Africa to stimulate competitive production for export since opportunities for export now only exist in niche and counter-seasonal products. In Swaziland, there are hopes that the new rules of origin under the EPA could foster the development of the textile sector.

Signature and ratification process

On 10 June 2016, the [European Union](#) and the six SADC countries [signed](#) the EPA, in Kasane, Botswana. Angola has observer status and may join in the future. The Council Decision on the signature provided that the agreement be applied on a provisional basis

as regards those elements which are of Union competence. Provisional application requires the agreement of the parties, expressed through the corresponding notification. Because it is a mixed agreement, the EU, as opposed to its Member States, can decide on provisional application only with regard to those elements that are in its exclusive competence. Agricultural markets are excluded from provisional application.

In order to fully enter into force, the agreement has to be ratified by all the parties, SADC countries, as well as the EU (the Council decides and Parliament gives its consent to conclusion of the agreement) and each of its Member States following their domestic ratification procedures. Botswana, Namibia and Swaziland have already ratified the agreement. In the EP, on 14 July 2016, the International Trade (INTA) Committee adopted a recommendation that Parliament give its consent to the EPA's conclusion, with 22 votes in favour, 10 against and 1 abstention (rapporteur: Alexander Graf Lambsdorff, ALDE, Germany). On 12 July, the Development (DEVE) Committee had adopted its [opinion](#) supporting such a recommendation; it also highlighted the importance of effective monitoring and of civil society involvement in the implementation stage. Parliament is due to vote on the recommendation at its September 2016 part-session.

Some national parliaments in the EU have already started examining the SADC EPA, e.g. the United Kingdom. In Germany an attempt by the Greens to stop the process [failed](#) and in April 2016, the German Federal Cabinet [approved](#) the signing of the SADC EPA.

EP supporting analysis

- Directorate-General for External Policies of the Union, Directorate B, Policy Department Study on [African, Caribbean and Pacific \(ACP\) Countries' Position on Economic Partnership Agreements \(EPAS\)](#), April 2014.
- Directorate-General for External Policies of the Union, Directorate B, Policy Department Study on [Export Taxes and Other Restrictions on Raw Materials and their Limitation through Free Trade Agreements: Impact on Developing Countries](#), April 2016.

Other sources

[Proposal for a Council Decision on the conclusion of the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part](#), European Parliament, Legislative Observatory (OEIL).

[Cost benefit analysis of socioeconomic implications of a possible signature or non-signature of an Economic Partnership Agreement for Namibia and some repercussions for member states of the Southern African Customs Union](#), Hoffmann, J., Tralac, June 2014.

[Economic-Partnership-Agreements-in-Africa](#), South Centre, January 2012.

[Evaluation of Preferential Agricultural Trade Regimes, in particular the Economic Partnership Agreements \(EPAs\)](#), Kantor Management Consultants S.A., November 2014.

[Regionalism and African agency: negotiating an Economic Partnership Agreement between the European Union and SADC-Minus](#), Murray-Evans, Peg, In: Third World Quarterly, August 2015.

[Should South Africa Join the SADC EPA? An Analysis of the Costs and Benefits](#), Pant, M., International Centre for Trade and Sustainable Development, May 2010.

[The EC-SADC EPA: The Moment of Truth for Regional Integration](#), Walker, A., ICTDS, 5 August 2009.

The EU-SADC Economic Partnership Agreement: A Regional Perspective, Karingi, S., Oulmane, N., Sadni-Jallab, M., Lang, R., Pérez R. et Quadreggio, I., UNECA, 2005.

Endnotes

- ¹ What happens to these references to Cotonou in the EPAs if the ACP Partnership is not renewed after 2020 when Cotonou expires remains an open question. Most likely, the essential elements would stand even under such a scenario as they constitute the basis of the agreements (according to an [explanation](#) given by a legal expert, L. Bartels, in INTA).
- ² The non-discriminatory character of the GSP systems was reaffirmed e.g. in a 2004 WTO ruling regarding the application of this system by the EU. The ruling found out that 'in granting differential tariff treatment, preference-granting countries are required, by virtue of the term "non-discriminatory", to ensure that identical treatment is available to all similarly-situated GSP beneficiaries, that is, to all GSP beneficiaries that have the same "development, financial and trade needs" to which the treatment in question is intended to respond'. See WTO Dispute Settlement: [European Communities Conditions for the Granting of Tariff Preferences to Developing Countries](#).
- ³ It has been the subject of an intense debate whether the EU could have asked for an extension of its unilateral trade regime with the ACP and for how long. In fact, the USA has recently obtained a WTO waiver for its unilateral preferential trade regime with Sub-Saharan African countries. While possible in practice, such an approach has the disadvantage of creating a high degree of uncertainty with regard to the future of trade relations.
- ⁴ There is no agreed consensus on what the WTO obligation to liberalise 'substantially all trade' between the parties entails, but generally it is interpreted to mean 90% of all trade. Since the EU opens fully its market, its partners have to open 80% of their markets to EU imports. There are also [voices](#) which criticise this interpretation of WTO rules, contending that ACP countries could have been allowed to protect their markets more extensively.
- ⁵ Other countries belonging to SADC have concluded or are conducting negotiations as part of other EPA configurations: the EAC (East African Community) Group, and the ESA (Eastern and Southern Africa) Group and the Central African Group respectively.
- ⁶ The MAR regulation was modified in 2011 so that countries that had not taken sufficient steps towards ratification and implementation of EPAs would be taken off the list of beneficiary countries. [Regulation \(EU\) No 527/2013](#) amending Council Regulation (EC) No 1528/2007 provided, starting on 1 October 2014, for the exclusion, from MAR benefits of those countries that had not taken the necessary steps towards ratification of Economic Partnership Agreements with the EU (technically such countries were no longer included in its annex as of 2014). Botswana, Namibia and Swaziland were among the countries risking losing their preferential access to the EU market. But the 2013 regulation also authorised the Commission to reinstate under the MAR regime, by means of a delegated act, those countries that would take the necessary steps towards EPA ratification. The initialling of the EPA SADC was considered sufficient for preserving the MAR regime for the countries concerned, namely Botswana, Namibia and Swaziland ([Commission Delegated Regulation \(EU\) No 1025/2014](#)).
- ⁷ The study was carried out in 2012 when the final outcome of the negotiations was not known.
- ⁸ Peg Murray-Evans (2015) Regionalism and African agency: negotiating an Economic Partnership Agreement between the European Union and SADC-Minus, Third World Quarterly, 36:10, 1845-1865: 'Trade and Industry Minister Daniel Neo Moroka explained the decision to sign the EPA by suggesting that a loss of preferential market access for beef would have had an adverse social impact on around 600 000 people in Botswana'. According to [commentators](#), representatives of the beef industry played an important lobbying role in the lead-up to the conclusion of the interim EPA.

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