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30.11.2023

DRAFT OPINION

of the Committee on Development

for the Committee on International Trade

on the proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Economic Partnership Agreement between the Republic of Kenya, Member of the East African Community of the one part, and the European Union of the other Part
0000/2023 – C9-0000/0000 – 2023/0338(NLE))

Rapporteur for opinion: Tomas Tobé

PA_Leg_Consent

SHORT JUSTIFICATION

On 19 June 2023, Kenya, as the first Member of the East African Community (EAC) concluded negotiations on an economic partnership agreement (EPA) with the EU.

The original purpose was to negotiate and conclude an EPA with the EU that covers all EAC partner countries ('bloc-to-bloc', an EU-EAC EPA): EPAs are generally negotiated with regional blocs rather than individual countries in order to foster regional integration, which would help the development of the countries concerned. However, EAC partner countries have different views regarding the EU-EAC EPA, and this has impeded progress.

In contrast to the other EAC partner states, Kenya is no longer a least developed country and is therefore interested in concluding an agreement in order to keep duty-free and quota-free access to the EU market. Against this background, the other EAC partner states agreed in February 2021 that Kenya negotiates a bilateral EPA with the EU, pending progress on the EAC-wide EPA.

Kenya is the by far most important trading partner of the EU among the EAC partner countries, representing nearly half of EU imports from the EAC and more than half of its exports to the EAC.

The EU-Kenya EPA is to a very large extent based on the draft EU-EAC EPA. It means in practice that the draft EU-EAC EPA is implemented bilaterally between the EU and Kenya.

In terms of content, it is a goods-only agreement but contains a 'rendez-vous clause', obliging the Parties to conclude negotiations on trade in services and other trade-related issues within five years from the entry into force of the EPA. The EPA provides for flexibility through the possibility to introduce temporary export taxes. It allows for asymmetric market access for EAC products. The objectives of the agreement include, inter alia, references to sustainable development, regional integration and good governance.

The EPA's comprehensive development pillar aims at addressing EAC partners' adaptation challenges by foreseeing support in terms of building capacity and fostering structural transformation. It also states that financing relating to development cooperation shall prioritise support to the implementation of this agreement, striving to maximise its expected benefits. The EPA also recognizes the potential fiscal losses of phasing out tariffs, which the EU commits to cover transitionally whilst also engaging in an enhanced dialogue on the issue of fiscal reforms.

It should be noted that the EU-Kenya EPA contains an improvement compared to the underlying draft EU-EAC EPA insofar as it includes an annex with binding provisions on trade and sustainable development (TSD), and a transparent dispute resolution mechanism.

Regrettably, no role for parliaments is foreseen in the monitoring process of the EPA. On the other hand, the EPA provides for a joint consultative committee to promote dialogue and cooperation between representatives of the private sector, organisations of civil society, including the academic community, and social and economic partners. The joint consultative committee can pronounce itself on all matters covered under the EPA.

Any agreement is only as good as its implementation. The rapporteur therefore underlines the importance of an effective monitoring mechanism which can identify and help to address potential implementation hurdles. Equally important is appropriate financial support to partner countries to help them implement trade and sustainable development provisions, including their international obligations, referred to in Annex V of the EPA. Development concerns should remain an essential element of the EPA's implementation and inform all EU's actions, in line with its PCD obligations.

The rapporteur believes that, overall, the EPA has the potential to act as a catalyst for inclusive and sustainable development and growth in Kenya and also in the neighbouring EAC region.

The Committee on Development calls on the Committee on International Trade, as the committee responsible, to recommend approval of the draft Council decision the Proposal for a Council decision on the conclusion, on behalf of the European Union, of the Economic Partnership Agreement between the Republic of Kenya, Member of the East African Community of the one part, and the European Union of the other Part.