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).

EU TRADE AND DEVELOPMENT

The 2012 Commission communication entitled ‘Trade, growth and development: Tailoring trade and investment policy for those countries most in need’[^1] 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[^2], 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 Organization (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 in Nairobi, the EU – together with a few other WTO

members – was active in promoting other issues of interest for developing countries. However, the results from the 11th WTO Ministerial Conference in Buenos Aires (2017) and the 12th WTO Ministerial Conference in Geneva (2022) did not strengthen existing special and differential treatment provisions by making them more precise, effective or operational or by creating a more balanced rules-based system.

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 dedicated strategy on aid for trade, which has been updated to comply with the UN’s 2030 Agenda for Sustainable Development, the European Consensus on Development and the EU 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 the communication, and Parliament organised a hearing in August 2017. The 2022 EU Aid for Trade progress report confirms the EU and its Member States as the world’s leading Aid for Trade providers, having contributed EUR 23 billion in 2020, a growing figure compared to EUR 17.9 billion in 2019, benefiting about 140 countries and territories eligible for official development assistance. This represents about 38% of the global Aid for Trade funds and a 44% increase compared to 2018.

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 reform[3], 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 only 15 in 2020, 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 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 were originally set to expire in December 2023, but have been extended until December 2027, as a new GSP regulation is currently under discussion between Parliament and the Council. The new regulation should continue to pursue the same policy of fostering the sustainable economic, social and environmental development of beneficiary countries, including respect for good governance and human rights, with the primary goal of eradicating poverty.

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, 8 are Asian countries, 5 are Pacific countries and 1 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 Cotonou 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 – neither of which have yet been ratified – and only one regional EPA was in force). As of 28 July 2016, the market access regulation was repealed and replaced by Regulation (EU) 2016/1076 of the European Parliament and of the Council of 8 June 2016[4]. EPAs are likely to remain even though the Cotonou Agreement expired in December 2020, and will continue to play a central role in the post-Cotonou partnership, especially since a draft agreement was approved by the Council on 20 July 2023 and is currently being reviewed by the European Parliament.

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STATE OF PLAY

The first regional EPA was the Caribbean Forum (Cariforum) EPA, signed in October 2008, and approved by Parliament on 25 March 2009. It is currently in force provisionally, with the EPA joint institutions meeting regularly since 2010, and was first reviewed in 2015. Both sides are setting up a joint monitoring system to measure the implementation and impact of the EPA. Negotiations on the agreement to protect particular geographical indications are ongoing, as is an ex post evaluation study concerning the first 10 years of implementation.

West Africa: the negotiations on a regional EPA between the EU and 16 West African countries were concluded in February 2014. All EU Member States and 15 West African countries, except for Nigeria, have signed the EPA. On 9 August 2017, Mauritania and the Economic Community of West African States (ECOWAS) signed an Association Agreement to define the country's participation in ECOWAS's 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 have since been provisionally applied. Ghana and the EU endorsed the full market access offer and schedule proposed by Ghana. Ghana started to liberalise its market for EU products in 2020, a process due to be concluded by 2029. The parties also agreed on the final version of the Protocol on Rules of Origin.

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. 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: 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 the Comoros signed it in July 2017. Its provisional application started on 7 February 2019. Negotiations to extend the scope of the EPA, including all trade-related issues, such as the link between trade and sustainable development, and to establish consultative bodies for civil society and parliaments are ongoing, with the latest negotiation round taking place in July 2023.

East African Community: on 16 October 2014, the negotiations for the regional EPA were successfully concluded. On 1 September 2016, Kenya and Rwanda signed the EPA along with the EU Member States and the EU. Kenya has ratified the agreement, and in September 2023 the Commission submitted an interim EPA for the Council’s approval. Uganda and Burundi are actively considering signing the EPA. Unfortunately, on 11 November 2016, Tanzanian members of parliament voted against ratification of the EPA.

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 6 of the 15 members of the SADC (Botswana, Lesotho, Mozambique, Namibia, Eswatini and South Africa), and entered into force provisionally in October 2016 after Parliament gave its consent in September 2016. Mozambique ratified the agreement in April 2017, and it has now been provisionally applied since 4 February 2018. South Africa officially withdrew from the SADC Protocol in 2019. Angola has observer status and started negotiations on a sustainable investment facilitation agreement in 2021, and the Commission sent its proposals to the Council in June 2023.

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. More recently, Samoa completed the process of accession to the EPA in December 2018, as did the Solomon Islands in May 2020.

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