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Research Report

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SWP Comments, No. 3/2011

Provided in Cooperation with:

Stiftung Wissenschaft und Politik (SWP), German Institute for International and Security Affairs, Berlin

Suggested Citation: Rudloff, Bettina; Weinhardt, Clara (2011) : Economic Partnership Agreements between the EU and the African, Caribbean and Pacific group of states: Status of negotiations, conflicts, resolutions, SWP Comments, No. 3/2011, Stiftung Wissenschaft und Politik (SWP), Berlin

This Version is available at:

<https://hdl.handle.net/10419/256141>

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Economic Partnership Agreements between the EU and the African, Caribbean and Pacific Group of States

Status of Negotiations, Conflicts, Resolutions

Bettina Rudloff / Clara Weinhardt

It appears that the EU's negotiations over Economic Partnership Agreements between the EU and seven regional groups, which together comprise 79 African, Caribbean and Pacific states (the so-called ACP states), have arrived at a stalemate. Thus far it has only been possible to conclude an agreement with one group, including all its members. Negotiations with other groups have only resulted in transitional agreements with individual states or sub-groups of states. The EU deplores the negative attitude among its negotiating partners and defends the agreements as instruments of economic development. But do these agreements present the ACP side with sufficient advantages so that it will engage in reaching a conclusion? Can tailor-made agreements be arranged so that the various interest groups are better taken into account?

From an economic standpoint, the EU and the group of African, Caribbean and Pacific (ACP) states are two very unequal negotiating partners. The EU accounts for a fifth of world trade. Whereas nearly half of the ACP group of states consists of economically particularly weak countries, the Least Developed Countries (LDCs). This is compounded by an asymmetric dependency between the negotiating parties. While the ACP states conclude around 30 percent of their trade with the EU, they only account for around 3 percent of the European trade volume. The EU emphasises the development policy objectives of the negotiated

Economic Partnership Agreements (EPAs). The ACP side also sees disadvantages.

The decisive impetus driving the initiation of new negotiations over trade agreements came from the WTO. In late 2007, an exception approved by all the WTO members on trade in goods between the EU and the ACP states expired. This exception had been part of the 2000 Cotonou Agreement and the four Lomé Conventions that preceded it. In accordance with this exception, the ACP states had been allowed to export to the EU since 1975 at unilaterally reduced tariffs (preferences). One of the fundamental principles of the WTO, however, is equal treatment for all members. The

WTO permits exceptions for specific groups of states, but only in the case of customs unions. It also grants exceptions for free trade areas such as those now to be established by EPAs between the EU and the ACP states. While other elements of the Cotonou Agreement dealing with issues beyond market access – such as financial cooperation – are only valid until 2020, the EPAs would be permanent.

Trade Policy Context

The WTO regime sets maximum tariff levels between all WTO member states. The reduced tariffs allowed by the EU to the ACP states lead to relative trade advantages for the ACP states since the EU's other trade partners have to comply with the WTO tariffs. Since the EU continues to impose very high tariff rates on individual agricultural products such as sugar or vegetables, there is a very considerable advantage gained from the duty-free status created by the EPAs.

In accordance with the EU's *Generalized System of Preferences*, since 1971 all developing countries, and therefore all ACP states, have been granted the right to export agricultural products to the EU at reduced tariff rates of 1 to 10 percent. This tariff regime conforms with the WTO since it falls within the scope of the enabling clause. This clause allows for preferences depending on the development level of the exporting country. If no new EPA is concluded, the EU would apply these tariffs to half of the ACP states.

The other half of the ACP states would even without a new EPA be classified within the EU's most advantageous tariff regime, namely *Everything but Arms (EBA)*. Since 2001, this regime has offered the LDCs complete duty-free market access to the EU for all goods except weapons.

As a consequence, the ACP states are faced with greater changes than the EU. For the first time, they have to reduce their own import tariffs on goods from the EU, which continue to be around 12 percent on

average in accordance with the Cotonou regime. For its part, the EU simply has to expand its already established market opening to include a number of agricultural goods, which had previously been excluded. In addition to this WTO obligation in terms of goods, the EU also aims at so-called comprehensive agreements to establish open market access for services and investment, too. Thus far, primarily less comprehensive interim agreements have been concluded. These agreements have dealt solely with trade in goods, but are supposed to be expanded. Regional integration on the side of the ACP states should also be promoted by negotiating EPAs with seven regional sub-groups.

Critical Negotiation Points

The following points have proven particularly challenging in the negotiations:

1. *Tariff Reductions*. The extent of market opening is contested. West Africa, for example, insists that it wants to liberalise 69 percent of its trade, while the EU demands 80 percent. The primary argument from the ACP's side is that complete liberalisation of trade can also come with disadvantages. It is particularly within the agricultural sector, which is of high relevance to many ACP states, that there exists a special risk to the states' economies, as they must compete against EU products that continue to be highly subsidised. In addition, tariff revenues often make up a large portion of the state income in these countries and would dissipate if these tariffs were reduced.

2. *Most-Favoured Nation Clause*. If the EU or the ACP side guarantee better conditions to other states than in the EPAs, these conditions should be transmitted to the EPA signatory states as well. This could be detrimental for the ACP states since they also negotiate agreements with other trade partners in which there may be guarantees of more advantageous market access than afforded to the EU in the EPAs. Since the EU already offers full market access to the

ACP side, it is impossible to create better conditions in other agreements. The EU recommends that the most-favoured nation clause only apply to states that represent at least 1 percent of global exports. The ACP side demands that developing countries be excluded from this EU proposal.

3. *Configuration of the Groups.* The tariff reduction does not affect all the negotiating parties equally since the LDCs have varying levels of representation in these groups and this in turn impacts the readiness to conclude an EPA in the first place. After all, these countries do not profit from straightforward tariff reductions as they already fall within the EBA regime. These states would primarily benefit from an easing of non-tariff measures such as rules of origin or product standards. In addition, consensus building processes within a negotiating group become more complicated since in many cases the represented states are not all members to the same customs unions or free trade zones.

4. *Additional disputed points of the negotiations* include the concrete arrangement of non-tariff measures and the admissibility of export tariffs.

Status of Negotiations

The EU has thus far only succeeded in concluding new agreements with 31 of the 78 ACP states participating in the negotiations (Cuba is not participating). With the exception of the Caribbean region, only goods-related interim agreements have been agreed upon and are, for the most part, with individual states.

Only the *Caribbean region* has successfully agreed with the EU on a comprehensive EPA across all sectors for all 15 states; the region perceived economic advantages in the agreement. There is only one LDC (Haiti) in this group, which means that the losses brought on by a cessation of past preferences would have been high for the majority of the states. At the same time, the volume of imports from the EU and the tariffs collected are rather low in the case

of the Caribbean states, which means that there would have been limited consequences in the form of losses associated with eliminated tariffs or the displacement of domestic production due to an opening of their own markets. The shared market and customs union of the Caribbean community also made the negotiations easier since the Caribbean states act as a relatively coherent group.

Within the context of negotiations with the *Southern Africa* group, the EU concluded an interim agreement with five of the seven states. The high level of importance that EU exports have for these states increased their readiness to enter into agreements. At the same time, their tariffs vis-à-vis the EU are very low, which means a reduction in tariff levels would expose the states to little loss. South Africa, which had already signed an independent free-trade agreement with the EU prior to the EPA negotiations, did not join in the interim agreement. In contrast to the EPAs, the free-trade agreement did not include a most-favoured nation clause, which was viewed as an advantage by South Africa. Namibia refused to sign the interim agreement.

In the *Central Africa* group, an interim agreement was only concluded with Cameroon, although the 8 states in the group collectively have relatively high exports of over 30% to the EU. The limited interest in an EPA, however, can be explained by the fact that all but two of the group members are LDCs. At the same time, the groups' import volumes from the EU and their own tariffs are the highest of any group, which means that the Central African states would have to face sizable losses in the event of opening their own markets.

In the negotiations with *West Africa*, it has so far only been possible to agree on an interim agreement with Ghana and the Ivory Coast. Ghana, however, has since refused to sign the agreement. Compared with other regions, the West African group has the highest number of LDCs, 12 of its 16 members. These countries can only expect

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ISSN 1861-1761

Translation by Robert Blasiak

(English version of
SWP-Aktuell 85/2010)

limited benefits from the EPAs. Currently, only the 8 French-speaking states are integrated within a customs union, which complicates the definition and representation of a joint position.

Negotiations with the *East Africa* group resulted in the EU forming an interim agreement with six of the twelve states. While the EU is an important market for this group, taking in 30 percent of exports, the majority of the states in East Africa benefit from EBA preferences. While the two LDCs, the Comoros and Zambia, initialled an interim agreement, they are currently refusing to add their signatures. Economic integration within this group is only weakly institutionalised, which could be a reason that only individual agreements were formed.

The *East African Community* – a subgroup of East Africa containing five states linked to one another through economic integration – negotiated a joint interim agreement for the group. The initiative for the agreement came primarily from Kenya, the only non-LDC member in the group. The four LDCs, however, have since refused to sign the agreement.

The negotiations with the 15 members of the *Pacific region* have culminated for the time being in two interim agreements with Fiji and Papua New Guinea. There are hardly any states within this group that benefit from EBA preferences, which actually should have increased their readiness to form an agreement. For both exports and imports, however, the EU is the most irrelevant trade partner among all the negotiating parties. The ongoing negotiations with the region's trading partners Australia and New Zealand are much more important for the Pacific states.

What Can the EU Do?

The problems with the negotiations up to now can be primarily explained by the ACP side's fear that there will be direct trade-related disadvantages from the EPAs and its questioning of the EU's proclaimed use

of trade to provide a basic development boost. The ACP states can furthermore only achieve a sustained increase in development from trade if they actively incorporate the EPAs into their national development strategies. Only then can they achieve competitiveness in their own domestic production while at the same time reducing tariffs. The short-term disadvantages, in particular, have led the ACP states to see insufficient incentives to concluding EPAs with the EU.

Flexible solutions, however, could offset these short-term disadvantages. If the main ground for refusal is the high number of LDCs, then an improvement in non-tariff measures – for example, an easing of rules of origin – could contribute to create advantages over EBA preferences. Independent of the LDCs, a major problem for most of the negotiating groups is the most-favoured nation clause. Abandoning this clause or establishing more stringent limitations could bring the ACP states closer to concluding an agreement. The EU could also offer to provide technical assistance to support adjustments that the ACP states feel they would be forced to make. In this way, for example, short-term losses brought on by reduced tariff revenues could be compensated for with reforms to national taxation systems. The EU could assist here to build up capacity.

As long as concluding comprehensive agreements beyond trade in goods continues to be the objective, the opening up of other sectors could certainly represent an incentive to ACP states. Greater emphasis should therefore be placed on the attempt to convince states that already have strong service profiles of these advantages. At the same time, protective clauses should be offered to this sector.

Utilising this flexible approach, the EU can succeed in guiding the dialogue back onto constructive tracks. In 2020 the Cotonou Agreement will expire and efforts should be made not to spoil the positive atmosphere for successive agreements already now.