

Briefing Note:

Economic Partnership Agreements: is the EU rushing towards disaster on 31 December? And how will we sort out the mess afterwards?

SUMMARY

What is happening on 31 December?

The EU wants African, Caribbean and Pacific (ACP) countries to sign free trade deals known as “Economic Partnership Agreements” (EPAs), and has threatened to sharply raise tariffs against these countries on 1 January 2008 unless they sign up by then. EPAs will require these developing countries to eliminate around 80% of their tariffs on imports from the EU.

Some countries still face higher tariffs

The majority of the ACP countries have refused to sign, and some may still face tariff rises on 1 January. As of 20 December, only 35 ACP countries from a total of 77 have signed EPAs.¹ Some of the countries which have not signed are on the UN list of Least Developed Countries, and will not face higher tariffs. However, larger developing countries are not on this list and unless the Commission changes its mind, 10 countries will face tariff rises on 1 January.

UK officials have briefed that this should not happen. A UK official was quoted by the Financial Times on 10 December saying that “No country should be worse off by January 1” - but it is unclear whether the Commission agrees with the UK position, or whether the UK will insist.

A tangle of incompatible agreements

Equally seriously, in the scramble to get some kind of agreements in place before the end of the year, the EU is abandoning the original stated goal of EPAs: to promote trade among developing countries. Instead, the series of rushed individual deals the EU is now cutting with some ACP countries is creating a tangled mess of agreements which will be an obstacle to trade between developing countries.

Originally the EU began by negotiating with regional groupings of ACP countries. The rationale behind this was that it would assist regional economic integration because all the participants of a regional EPA would be obliged to remove tariff barriers with each other, thereby encouraging intra-African and intra-ACP trade. Most ACP countries have refused to sign the kind of deals the EU had hoped for, so it has started cutting deals directly with individual countries.

The Commission had hoped to put all ACP countries into one of six economic partnership agreements. At time of writing there appear to be nine separate EPAs, and 42 out of 77 ACP countries have chosen not to sign up.

The Commission has suggested that it will try and sort out the mess in the medium term, but it is not clear how this is possible – e.g. if two African countries share a customs union and one has entered into an agreement to cut its tariffs on EU imports then the other must follow suit - or abandon their customs union.

¹ http://trade.ec.europa.eu/doclib/docs/2007/december/tradoc_137365.pdf

The EPA deals that have been agreed are mainly interim agreements – apart from the agreement with the Caribbean countries. The majority are just outlines of deals - designed to be signed before 31 December to save face - which leave many of the details to be agreed next year.

One of the many issues which will have to be resolved during 2008 is the question of “rules of origin” – the important “small print” of trade deals. Rules of origin determine the extent to which a country can use imported parts, materials or ingredients in its exports without facing higher tariffs. If this issue is not resolved somehow, incompatible rules of origin will become a major barrier to trade between ACP countries.

Failure to address the real needs of ACP countries

The way that EPAs have been negotiated has left a bad taste in the mouth of a lot of ACP countries. It certainly has not encouraged them to see free trade as a good thing, or to think in a less defensive way about trade.

Instead of encouraging balanced trade opening and trade creation, EPAs are likely to simply divert trade to the EU away from its industrial competitors.

Perhaps the most significant problem with EPAs is that they do not address the real problems developing countries face in joining the global economy. The replacement of the EU's previous trade preferences with EPAs should have been an opportunity to rationally re-think the EU's approach and look at how to use the success of some developing countries like China to drive the development of other low income countries – for example by reforming the EU's rules of origin to allow low income countries to use inputs from China and India.

Open Europe Director Neil O'Brien said:

“The UK Government must insist now that no developing country will be hit with higher tariffs on the first of January.”

“The European Commission has inappropriately tried to shoehorn ACP countries into a model based on the EU, regardless of the situation on the ground. The breakdown of the negotiations shows that this was a huge mistake.”

“In 2008 the EU needs to change course and focus on trying to sort out the fragmented mess it has created - by adopting liberal rules of origin and helping ACP countries to work together and join the world economy.”

1) For more details see below or contact Neil O'Brien on 07973 142775

2) For more background see our earlier briefing note at:

<http://www.openeurope.org.uk/research/epas.pdf>

WHAT PEOPLE ARE SAYING ABOUT ECONOMIC PARTNERSHIP AGREEMENTS

"[EPAs are a] huge market grab. The EPAs would result in massive trade diversion in favor of the EU."

- Susan Sechler, Senior Fellow at the German Marshall Fund²

"All along, the EU has been claiming that EPAs have to encourage regional integration but in the last two weeks it has been pulling apart, dividing regions. It is regional disintegration."

- Unnamed African Ambassador to the EU, quoted in FT, 12 December 2007

"It is clear that Africa rejects EPAs"

- President of Senegal, Abdoulaye Wade³

"If all of Africa has rejected EPAs, why are we getting people signing? It's because in some cases they feel reluctantly that they don't have any alternative and don't want their trade disrupted".

- Peter Mandelson

"Calling the EPAs instruments of economic development is simply telling a lie. In Kenya alone, the EPAs will bring about the loss of some 625,000 jobs in the milk industry as a result of cheap imports from Europe."

- Dieter Simon, German Coordination Center for Southern Africa⁴

² <http://www.ipsnews.net/news.asp?idnews=40552>

³ <http://www.guardian.co.uk/eu/story/0,,2224904,00.html>

⁴ <http://www.ipsnews.net/news.asp?idnews=40552>

(1) What are EPAs and what is going to happen on 1 January?

EPAs will mean that for the first time developing African, Caribbean and Pacific (ACP) countries will be given a fixed timetable to drop their barriers to imports from the EU.

ACP countries are being asked to eliminate roughly 80% of their trade barriers against the EU over the next decade.

If ACP countries do not sign up by 31 December the EU has said that it will take away their preferential access to EU markets and raise tariffs against imports from these countries.

EPAs are being introduced to replace the existing WTO waiver that gives ACP countries preferential access to EU markets. The waiver expires at the end of 2007.

The Commission argues that this means higher tariffs would need to be imposed under WTO law. However, the waiver previously lapsed for two years without any legal challenge, other schemes like the US' Caribbean Basin Initiative have seen their waiver expire without challenge, and even if the EU were taken to the WTO court it could be years before it had to take action. So there is no real case for higher tariffs to be imposed on 1 January.

However, as EU trade spokesman Peter Power has made clear, "If they [EPAs] are not signed by the end of the year, we will no longer be able to offer our current preferential access, and will have to move to an alternative, which will give less market access in Europe for many ACP countries."

(2) Why are developing countries concerned by EPAs?

While reducing barriers to trade is broadly beneficial, asking developing economies to open up rapidly, and according to an externally imposed timetable, has the potential to create some serious problems as people in previously protected sectors have to find new jobs. The specific design of the proposed EPAs also raises several issues, for example:

The six regional trade groups which ACP countries were asked to form often cut across existing attempts at regional integration. Certain countries like the Democratic Republic of Congo and Tanzania faced difficult choices about which group to be in. Now that the majority of the Least Developed Countries have opted not to take part, the geography of the proposed EPAs makes even less sense.⁵

Opening up to products from the EU could also lead to pressure for greater barriers between ACP countries and undermine existing trade agreements – as countries attempt to avoid transhipped imports from the EU entering their markets via another country with which they have a trade agreement.

There are 30 countries which rely on tariffs for more than a quarter of their total government revenue, and creating new tax systems to fill the gap will not be simple.

⁵ For example, even if Nigeria could be persuaded to join a rump West African EPA group with Cote d'Ivoire and Ghana, land trade between the two would have to at least cross two other countries.

(3) What is the current state of play as the 31 December deadline approaches?

The majority of ACP countries have not signed EPAs

As of 20 December, only 35 ACP countries from a total of 77 have signed EPAs.⁶ It is an indictment of the EU's policy in Africa that 42 ACP countries have chosen not to participate. 10 countries including Gabon, the Republic of Congo and the key state of Nigeria have decided that EPAs are so unattractive that they would rather trade with the EU on the same basis as countries like Brazil and Argentina whose exports to the EU face higher tariffs.

Instead of regional integration, EPAs threaten to create fragmentation...

Instead of the six originally planned EPAs, there are now several EPAs with individual countries, and the majority of countries are not in any EPA.

Countries which are on the UN list of Least Developed Countries can maintain their current market access with the EU even if they do not sign EPAs. Countries which are not classed as LDCs are threatened with higher tariffs on 1 Jan (shown in bold below). 10 Countries have decided not to sign EPAs even though they face higher tariffs as a result.

Original planned EPA group	EPA (9 LDCs, 26 non-LDCs)	EBA (32 LDCs)	GSP (10 non-LDCs) These are the countries facing higher tariffs on 1 January
Caribbean	Antigua & Barb, Bahamas, Barbados, Belize, Dominica, Dom. Republic, Grenada, Guyana, Haiti, Jamaica, St Kitts & Nevis, St Lucia, St Vinc & Gren, Surinam, Trinidad & Tobago		
Central Africa	Cameroon	Central African Rep., DR Congo, Chad, Equatorial Guinea, São Tome	Gabon, Rep. Congo
Eastern / Southern Africa	EAC: Burundi, Kenya, Rwanda, Tanzania, Uganda ESA: Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe	Djibouti, Eritrea, Ethiopia, Malawi, Somalia, Sudan, Zambia	
Pacific	Papua New Guinea, Fiji	East Timor, Kiribati, Samoa, Solomon Islands, Tuvalu, Vanuatu	Cook Isls, Tonga, Marsh. Isls, Niue, Micronesia, Palau, Nauru
West Africa	Côte d'Ivoire, Ghana	Benin, Burkina Faso, Cape Verde, Gambia, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, Togo	Nigeria
SADC	Botswana, Lesotho, Namibia, Mozambique, Swaziland	Angola	

Source: European Commission, 20 December

⁶ http://trade.ec.europa.eu/doclib/docs/2007/december/tradoc_137365.pdf

Those African countries which have signed feel that they have been bullied into it by the EU

A fear of the EU hitting their exports with new tariffs after 31 December has led many ACP countries to sign EPAs over the last month. As Trade Commissioner Peter Mandelson noted in a moment of candour: "If all of Africa has rejected EPAs, why are we getting people signing? It's because in some cases they feel reluctantly that they don't have any alternative and don't want their trade disrupted..."⁷ – i.e. even the Commission admits that it has bullied ACP countries into signing by threatening to withdraw their preferential access to EU markets.

To get these deals the EU has abandoned its regional strategy in Africa and is picking off ACP countries one by one

Originally the EU began by negotiating with regional groupings of ACP countries. The rationale behind this was that it would assist regional economic integration because all the participants of a regional EPA would be obliged to remove tariff barriers with each other, thereby encouraging intra-African trade. This approach has not realised the deals the EU had hoped for so it has started dealing directly with individual countries.

This has been heavily criticised for undermining regional integration. Tetteh Hormeku, a leading lawyer at advocacy group Third World Network Africa has attacked the EU's current strategy of trying to pick off individual African states with separate EPA negotiations: "The EU delegation shouldn't have come here to Ghana. ECOWAS (the Economic Community of West African States) had set up a negotiating team. The EU knows that and yet it comes to Ghana and goes to the head of state. This would be like bypassing Peter Mandelson [EU Trade Commissioner] by going to Gordon Brown. It would be like saying to Brown, 'we have a problem with Peter Mandelson, you have to intervene'. He argues that this exposes the cynicism of the EU. First, they are saying an EPA is for promoting regional integration. But when they are not getting their way, they behave in a way that undermines our own regional integration."⁸

Moreover, the countries that are likely to split off and sign EPAs are the relatively more advanced countries which are not eligible for LDC status. This threatens to drive a wedge between the poorer smaller states and the larger ACP countries which should act as motor for the development of surrounding countries.

The EU will be pushing for full EPAs in 2008 – we could see a re-run of the same arguments

Having avoided the embarrassment of raising tariffs on ACP goods in most cases on 31 December, the Commission will be looking immediately to convert the current sketchy EPAs into full EPAs during 2008.

It will do so knowing that the many current EPAs are interim only and that the same threat of preferential access being removed can be used to get full EPAs later in the year. As the Commission noted on 20 December, "In 2008 the Commission intends to focus on building up existing and emerging regional agreements to form full EPAs with the greatest possible coverage on issues like services and investment rules."⁹

⁷ <http://www.ft.com/cms/s/0/361451e6-785e-11dc-8e4c-0000779fd2ac.html>

⁸ <http://www.ipsnews.net/news.asp?idnews=40552>

⁹ http://trade.ec.europa.eu/doclib/docs/2007/december/tradoc_137365.pdf

This suggests very strongly that the EU will again try to bully ACP countries into signing up to accepting agreement on these so-called 'Singapore issues'. Rules on services and investment are highly controversial and their dropping from many EPA negotiations in the run up to Christmas was crucial in realising the interim deals that have been signed.

The contentious nature of investment policy, competition policy and government procurement rules relates to the fact they are vital policy tools for developing countries. Any attempt by the EU to incorporate agreements on these issues into EPAs has the potential to limit severely the freedom of ACP countries to develop rules and policies that suit their development needs. Consequently, many ACP countries have resisted their inclusion in the EPA negotiations so far. In 2008 they will come under renewed pressure from the EU to give way in this area as the Commission tries to convert interim EPAs into full agreements.

Instead of pushing the Singapore issues once again the Commission and the EU should instead focus on making sure that whatever agreements are reached make it possible for ACP countries to trade with one another and to benefit from the rise of other large developing countries.