

ACP-EC COTONOU AGREEMENT

**AFRICAN, CARIBBEAN AND
PACIFIC GROUP OF STATES**

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 21 May 2007

ACP/61/033/07

ACP-CE 2108/07

SUMMARY RECORD

of : 64th meeting of the ACP-EC Sub-committee on Trade Cooperation
on : 17 April 2007
at : ACP House, 451 Avenue Georges Henri, 1200 Brussels

Subject : Summary record of the 64th meeting of the ACP-EC Sub-committee on Trade Cooperation

The ACP-EC Sub-committee on Trade Cooperation held its 64th meeting at the ACP House on 17 April 2007.

The meeting was chaired by Mr Peter THOMPSON, Director in the Directorate-General for Trade of the European Commission. It was co-chaired by H. E. Mr Sutiawan GUNESSEE, Ambassador of Mauritius and Vice Chairman of the ACP Sub-committee on Trade and Commodity Protocols.

It was agreed that the EU side would present an oral report on the meeting to the ACP-EC Committee of Ambassadors on 27 April 2007.

1. Adoption of the agenda

The agenda as set out in [ACP-CE 2107/07 - ACP/61/020/07] was adopted.

2. Approval of the summary record of the previous meeting

The summary record of the previous meeting [ACP-CE 2104/06 – ACP/61/031/06] was approved.

3. EPA negotiations

With regards to the review of EPA negotiations (Article 37.4 Cotonou Agreement), the ACP side pointed to difficulties of finalising the review on an all-ACP level for endorsement by the ACP-EC Joint Council of Ministers scheduled for 25 May 2007 given that two regional reports were not yet available. The EC side suggested that preparatory work should proceed nevertheless, drawing on the available regional reports and the steering of the recent regional Ministerial meetings. A decision on the way forward was reverted to the ACP-EC Joint Committee of Ambassadors scheduled for 27 April 2007.

Concerning Rules of Origin, Dispute Settlement, Non Execution clause and Trade related issues (excluding Singapore issues), the ACP side indicated its desire to further discuss these topics at the all-ACP level. The EC side took note and indicated that it would revert back to the ACP.

The EU side summarised the EC market access offer in goods to ACP countries in the context of EPAs as endorsed by the Commission on 4 April 2007. The EC also explained the process and procedures underpinning its offer and recalled that the final Agreements will obviously have to be ratified by the Council of the EU. The ACP side recalled that the Joint Trade Sub-committee did not have the mandate to engage in negotiations on this matter and noted that ACP countries would study the offer in the respective regional EPA configurations as well as in the formation of the commodity protocols and on an all-ACP level.

The ACP also sought clarifications from the EU on a number of areas:

- whether the offer complies with the provisions of Article 36(4) for a joint review of the commodity protocols and the safeguarding of benefits;
- what would happen in case a region does not complete the negotiation come 1 January 2008, in particular regarding the probability of a disruption in trade; and
- whether the offer was immune to a WTO challenge as was the case with the bananas and the challenge by India of the EU-Turkey Customs Agreement on textiles/clothing and
- the possibility that some countries might invoke Article 28 of GATT to claim compensation when the EPAs are submitted to the WTO.

The EU side indicated that it seeks at all times to ensure coherence with its commitments under the Cotonou Agreement, in a manner consistent with WTO obligations, and that EPA negotiations are led on this basis; it further recalled the collective commitment of the ACP and the EU to conclude EPA negotiations in time and noted that further details of the EC offer would be explored in the regional market access negotiations.

On market access in services, the EU side explained that a far-reaching offer had been made to CARIFORUM.

With regards to rules of origin, the EU side explained that the impact assessment studies emanating from the Commission Communication on the review of preferential rules of origin of 2005 have not yet been totally completed. For EPA negotiations, the EC informed the Sub-committee that a non paper on the issue was prepared by the Commission and sent to the negotiating regions for consultations. It was stated that the document which is not yet a formal proposal but an approach was guided by the principle of making rules of origin simpler development friendly and predictable. The EC also indicated that the criterion utilised in the document for conferring origin status is the value-added one. The ACP side noted that adapting the current rules of origin was necessary as technological progress and globalisation had altered circumstances since they were developed in the 1970s. It further stated that the rules of origin to be applied in EPAs should build on the acquis of Cotonou, ensuring that ACP countries were not worse off due to rules of origin, and asked for the possibility of an all-ACP discussion of this matter. The ACP indicated that its preferred method for conferring origin is the utilisation of changing of tariff heading (CTH) together with value-added and the maintenance of the same administrative customs procedures. The ACP also proposed to the EU side to accept the principle of asymmetry. This is necessary due to the huge difference in the level of development of the EU and ACP. The EU side replied that an all-ACP presentation of the value-added approach could be possible for information purposes, but that negotiations were taking place regionally and that the EU remained open to alternative proposals in these negotiations.

In response to a question from the ACP on how the automatic derogation on tuna products would be treated in the context of EPAs, the EC indicated that the need for derogation would depend on the new rules of origin for fishery products.

The EU would also inform the ACP on the mid-term review of the GSP.

4. WTO issues

The EU side recalled the need to conclude the Round this year, expressed cautious optimism on the chances to reach a deal by the end of the year and pointed to a window of opportunity for achieving a breakthrough among all Members.

The EU side referred to positive signals as the Ministers of the G4 agreed to step up their efforts and intensify their engagement in view of concluding the Round by the end of 2007. Negotiators agreed to hold a series of Senior Officials and Ministerial meetings in the weeks ahead.

The EU side informed that the G4 re-stated its commitment for the Round to make a significant contribution to economic growth, greater prosperity, and the alleviation of poverty. The goal is to deliver on the membership's expectation that the G4 provides a basis for a collective multilateral process before an agreement in the next few months. The G4 can facilitate consensus among the wider WTO membership and seems prepared to contribute to the Geneva process quickly and effectively.

The ACP side stated it was reassured that the ACP would not be excluded from the process. The ACP side further pointed to the link between tropical and sensitive products, stated the risk of preference erosion in general and with regards to tuna in particular, affirmed that the discussions on RTA rules and dispute settlement should aim at making these rules more development friendly and stated that progress in negotiations on cotton was not satisfactory. The EU side replied it would ensure an inclusive negotiation process, stated readiness to explore how to deal with preference erosion, pointing to Aid for Trade and selective trade measures in this regard, and re-assured that the EC would continue to be forthcoming on the issue of cotton.

5. Trade related developments in the European Union

The EU side presented the rationale for the EU's "Global Europe" strategy stemming from the need to address the challenges of the changing global economy. The EU side re-affirmed its commitment to the multilateral WTO process and explained its intention to build on the WTO platform to generate new opportunities in major economies with an important potential for Europe. In this context the EU side mentioned a series of initiatives: a comprehensive strategy towards China; efforts to enforce intellectual property rights; adjustment of the EU market access strategy and trade defence instruments; new FTAs with selected countries. The EU is currently moving forward in all these areas. Mandates for FTAs with ASEAN countries, South Korea, India, Central America and Andean countries are currently being examined.

In response to the ACP side's concerns that the new FTAs would lead to preference erosion, the EU side stated it would take into account such potential impact of the FTAs on developing countries, for example through Sustainability Impact Assessments. In line with the position in the WTO, the EU will encourage FTA partners to open their markets to least-developed countries. Although the "Global Europe" strategy focuses on the external aspects of competitiveness, the EU trade policy remains focused on economic growth and poverty reduction. In this respect, the ACP requested for consultation between both parties as stipulated in Article 12 of Cotonou Agreement. This was agreeable by the EU. The EU side concluded that Trade and Development would continue to feature high on the agenda during and after the DDA, and be focussed on Aid for Trade and EPAs.

The EU side presented the proposal to reform the fruit and vegetable sector currently examined by Council and European Parliament and informed that the legislative process was expected to be completed in the course of 2007 for entry into force in 2008. The proposal foresees reforming a sector which so far had been left untouched by the big CAP reform thus bringing it into line with the 2003 objectives. It is aimed at increasing the competitiveness of the sector by putting greater emphasis on market orientation. No negative implications should be expected for the ACP. The ACP side expressed interest on the issue and announced that the group would address a written submission.

The ACP side also requested support in developing strategies to use new market opportunities following the enlargement of the EU. In this respect, the ACP would propose a project under the 10th EDF Intra-ACP which would allow ACP to develop their market strategy with the newly acceded EU Member States. The EU side pointed to EPA related funding that could address such support.

6. Aid for Trade

The EU side presented the Communication on Aid for Trade adopted by the Commission on 4 April 2007, noting the importance of the wider Aid for Trade strategy and stressing that ACP countries now had to work on defining their needs.

The ACP side noted that, market access trade and development were inter-linked and equally important. In this respect, the coverage of Aid for Trade should not involve only trade policy and regulation and trade development, but also building productive capacities, trade related infrastructure, trade-related adjustment. The ACP needs are both on the demand and the supply side, as well as addressing the erosion of preferences. The ACP stressed that EPAs should be developmental tools for the ACP to adjust to trade liberalisation and to integrate the global economy. The ACP needed the resources to prepare for this liberalisation and the existing regional mechanisms were the preferred modes of delivery for this support. The ACP side called on EU Member States to respect their commitments and work together with the Commission, particularly by agreeing on a joint Aid for Trade strategy.

7. Any Other Business

The ACP side proposed that the ACP-EC Sub-committee on Trade Cooperation be designated preparatory body for the ACP-EC Joint Ministerial Trade Committee. The ACP further proposed that in light of the increased number of issues that need to be addressed by the Sub-committee, the frequency of meetings should be increased to at least two per year and as often as necessary. The EU side took note of the requests and indicated they would respond in due course.