



EUROPEAN PARLIAMENT

2009 - 2014

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*Plenary sitting*

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**A7-0431/2012**

19.12.2012

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## **RECOMMENDATION**

on the proposal for a Council decision on the conclusion of the Interim Agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part (11699/2012 – C7-0193/2012 – 2008/0251(NLE))

Committee on International Trade

Rapporteur: Daniel Caspary

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision on the conclusion of the Interim Agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part  
(11699/2012 – C7-0193/2012 – 2008/0251(NLE))**

### **(Consent)**

*The European Parliament,*

- having regard to the proposal for a Council decision (11699/2012),
  - having regard to the Interim Agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part<sup>1</sup>,
  - having regard to the request for consent submitted by the Council in accordance with Article 207(4), Article 209(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0193/2012),
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on International Trade and the opinion of the Committee on Development (A7-0431/2012),
1. Consents to conclusion of the Agreement;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Madagascar, Mauritius, the Seychelles and Zimbabwe.

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<sup>1</sup> OJ L 111, 24.4.2012, p. 3.

## EXPLANATORY STATEMENT

In 2000 the ACP and EU agreed to conclude new trading arrangements compatible with the World Trade Organisation (WTO) rules to replace the unilateral regime of trade preferences granted by the EU to imports from the ACP that prevailed at the time.

Under the Cotonou Agreement, integrating ACP States into the world economy, promoting their sustainable development and creating more efficient regional markets with predictable and stable rules are cornerstones of this approach. These new agreements would be underpinned by EU development co-operation to reinforce ACP institutional and productive capacities and support necessary adjustment processes.

Negotiation of the new Economic Partnership Agreements (EPAs) was initiated in 2002 with the aim of being concluded by 31 December 2007, knowing that, on the 1st January 2008, the Cotonou system of trade preferences and the WTO waiver covering the existing trade arrangements between the ACP and the EU would expire. Since EPAs aim at building on and strengthening the regional integration processes in the ACP, negotiations have been conducted at the regional level with 6 self-declared EPA regional groupings. In August 2007 a seventh negotiating group was formed by the East African Community.

CARIFORUM has since been the only regional grouping to sign a comprehensive EPA.

As it became clear in the course of 2007 that comprehensive EPAs were unlikely to be concluded with all regions, a series of Interim Agreements (IEPAs) were concluded to minimise any possible trade disruption for ACP partners arising from the expiry of the Cotonou trade regime while maintaining progress towards comprehensive regional EPAs. While the interim Agreement went through the domestic approval process, the countries obtained duty and quota free access in trade in goods to the EU through the Market Access Regulation (Council Regulation 1528/2007) from 1 January 2008.

Until 14 May 2012, the Caribbean EPA and the Interim EPA with Papua New Guinea were provisionally applied. On 14 May Madagascar, Mauritius, Seychelles and Zimbabwe followed.

### **Eastern and Southern Africa (ESA)**

ESA is a diverse EPA group including Indian Ocean islands (Comoros, Madagascar, Mauritius and Seychelles), countries from the Horn of Africa (Djibouti, Ethiopia, Eritrea and Sudan) and some countries of Southern Africa (Malawi, Zambia and Zimbabwe). The original ESA group at the start of the EPA negotiating process also included the Eastern African Community (EAC) states of Burundi, Kenya, Rwanda, Tanzania and Uganda. However, in 2007 they agreed a separate interim EPA based around the newly formed EAC customs union.

Of the ESA EPA group eight of the eleven states are Least-Developed countries. In 2010 total EU imports from the whole ESA group reached around €2.88bn, or 0.2 % of all EU imports, including mainly processed tuna, coffee, cane sugar, textiles, tobacco, cut flowers and ferro-alloys. The imports from ESA countries that initialled the interim EPA represented around 70 % of the EU imports from the ESA region. EU exports to ESA, comprised mainly of machinery, vehicles, pharmaceutical products and chemicals and they reached about €3.99bn

the same year. In terms of trade there is limited competition between EU and ACP countries.

### **IEPA between the EU and the ESA EPA Group**

At the end of 2007, six States in the ESA region (Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe) concluded an interim agreement establishing a framework for an Economic Partnership Agreement with the EU. This deal is a stepping stone towards a full EPA and remains open to other countries willing to join at a later stage. The Interim EPA was signed by four countries (Madagascar, Mauritius, Seychelles and Zimbabwe) in August 2009 and is provisionally applied since 14 May 2012

Article 62.5 of the Interim Agreement establishes that this Agreement shall be applied provisionally 10 days after the last receipt of notification of provisional application from the EC or of ratification or provisional application from all Signatory ESA States. Provisional application allows for the application of the agreement prior to the ratification of all the parties involved. Considering this is a mixed agreement involving also all EU member states, some valuable time is gained. Moreover provisional application does not undermine the competences of the Parliament. The Parliament is also duly and timely informed on the provisional application in line with the inter-institutional agreements reached since the Lisbon Treaty entered into force. The agreement was already concluded in 2008, when the Lisbon Treaty did not apply.

### **Content of the IEPA**

The IEPA provides duty and quota free access to the EU market for exports from Mauritius, Madagascar, Seychelles and Zimbabwe. These countries will gradually open their markets to European exports over the course of 15 years, with exceptions (maximum 20% of imports from the EU) for certain products the countries consider sensitive. These excluded products vary per country, but mainly include agricultural products. Furthermore, the Agreement covers provisions on rules of origin, development cooperation, fisheries, trade defence instruments and dispute settlement.

### **Appreciation**

Already on 25 March 2009 the European Parliament adopted a resolution on the ESA IEPA (P6\_TA(2009)0180) in which it '*... recognises the benefits that the signing of the IEPAs between the Union and the relevant countries has had for exporters by maintaining the status quo for exports to the European Union after the expiry of the preferential tariff treatment provided for under the Cotonou Agreement on 31 December 2007, and therefore preserving and substantially expanding the opportunities for the ESA countries to export to the EU, through both full market rules and improved rules of origin*'. The rapporteur shares this view and proposes the Parliament to give its consent to this agreement. A few issues deserve to be highlighted.

#### *Partnership*

The agreement strengthens the partnership between the partner countries and the EU. It establishes new structures for dialogue between the parties (such as the EPA Committee), which will allow for productive cooperation and effective discussion.

#### *Improved trade and investment climate*

The Union's previous trade relationship with the ACP countries until 31 December 2007 – which gave the latter preferential access to EU markets on a non-reciprocal basis – did not comply with the rules of the WTO, was unilateral and temporary. The IEPAs on the other hand is a contractual relationship and contains a WTO compatible treaty based commitment to duty free quotas free access for ESA goods.

Your rapporteur welcomes the contribution this increased legal certainty will make to the improvement of the trade and investment climate in the ESA states involved. On 14 May parties started to implement the tariff schedules to which they have committed themselves in the Interim Agreement. Unfortunately, attempts to reach a common tariff schedule amongst the 4 ESA states involved failed and so the tariffs will differ amongst the countries.

The provisional application of the IEPA makes the inclusion in Annex 1 of the Council Regulation 1528/2007 (Market Access Regulation adopted by Council on 20 December 2007) permanent for the four ESA states involved. In the absence of this provisional application, the countries would almost all have fallen back to GSP levels of preferential access after the entry into force of the amendment to the Market Access Regulation. This would have seriously undermined their competitiveness in certain sectors on the global market.

### *Regional integration*

The IEPA is a further step in a process towards regional integration. The EU can not force regional integration and so far only four out of 11 ESA states have decided to join. However the EU contributes to regional integration through measures such as excluding ACP trade from the Most Favoured Nation clause and through allowing ESA states to maintain regional preferences.

### *Improved rules of origin*

Upon request of the ACP countries that generally perceived Cotonou Rules of Origin as too stringent, the EU made an offer to countries signing and applying the IEPA or EPA to simplify or relax the EPA Rules of Origin. The EPA Rules of Origin are not completely new, they are improved Cotonou Rules of Origin ("Cotonou+"). The major EPA improvements are particular in the domains of textiles, agriculture and fish.

### *Safeguards and protection of infant industries*

The Interim Agreement establishes sufficient protection for infant industry in order to allow the partner countries to develop harmoniously. The tariff reductions provide for a transition period of 15 years. The partner countries are allowed to exclude maximum of 20% from this liberalisation. Safeguards can protect against sudden increases of import. Consultations are part of the procedures for application of these trade defence instruments. Development cooperation will also be geared to prepare business for international competition and help the exporters in meeting EU import standards.



### *Development cooperation*

Your rapporteur welcomes that an important section of the development oriented IEPA deals with the assistance, which the partner countries should get in order to achieve structural adjustment of their economies, diversification and value addition.

The concrete objectives of the assistance should be clearly defined. The IEPA structures have an important task of making a coherent list of priorities out of Article 36-54 of the IEPA and the development matrix in Annex IV of the IEPA.

ESA partner countries should contribute to this reform process through review of their trade and economic policies aiming at a better trade and investment climate. Your rapporteur also welcomes the intention to look for cooperation and synergy with member states and other international donors.

### *Non-execution clause*

Your rapporteur wants to underline the importance of the linkage of the IEPA with the Cotonou Agreement with respect to good governance, democracy and human rights. This non-execution clause could be used to take measures to deal with situations such as the ones experienced with Zimbabwe and Madagascar in the past. The measures that were taken against Zimbabwe in 2002 have mid 2012 been lifted and now only some targeted measures against some individuals and entities and an arms embargo is left.

Official development aid to Madagascar was suspended by almost all donors in 2009 as a result of the unconstitutional change of power. As Madagascar gradually emerges from three years of political unrest, European development aid programmes are starting up again.

Your rapporteur is of the opinion that the present situation in both countries should not hinder the consent to this trade agreement. The EU should of course continue monitoring situation in all countries involved.

### *Rendez-vous clause towards a full EPA*

The IEPA contains a rendez-vous clause providing for continued negotiations on trade in services, investment, agriculture, rules of origin, Sanitary and Phytosanitary (SPS) provisions and Technical Barriers to Trade (TBT), customs and trade facilitation and trade-related rules. These issues are currently under discussion in the full EPA negotiations.

The last round of negotiations towards the full EPA took place in November 2011. The provisional application of the IEPA has led partner countries and the European Commission to focus on the implementation of the agreement.

Your rapporteur believes that good implementation will positively impact on the negotiations for a full EPA and therefore supports the present shift in focus. Your rapporteur underlines the importance of including chapters on issues such as trade in services and investment, since these will be the real drivers for sustainable growth and poverty eradication in the partner countries.

### **Conclusion:**

Your rapporteur concludes that the signing of the IEPA is a necessary step towards sustainable growth in the region and underlines the importance of the continued negotiations with a view to a full agreement for encouraging increased trade, investment and regional integration in the region.

6.12.2012

## **OPINION OF THE COMMITTEE ON DEVELOPMENT**

for the Committee on International Trade

on the draft Council decision on the conclusion of the Interim Agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States, on the one part and the European Community and its Member States, on the other part (11699/2012 – C7-0193/2012 – 2008/0251(NLE))

Rapporteur: Judith Sargentini

### **SHORT JUSTIFICATION**

On 7 February 2004, the original Eastern and South Africa (ESA) group that launched negotiations on the EPAs with the EU comprised 16 countries, including Indian Ocean islands (Comoros, Madagascar, Mauritius and Seychelles), countries from the Horn of Africa (Djibouti, Ethiopia, Eritrea and Sudan), the East African Community (EAC) members (Burundi, Kenya, Rwanda, Tanzania and Uganda) and some countries of Southern Africa (Malawi, Zambia and Zimbabwe).

However, at the end agreements were concluded by six and finally signed by only four countries (Madagascar, Mauritius, Seychelles and Zimbabwe), of which two small island states and two countries under sanctions. Had the iEPAs been driven by a true development agenda, more of the ESA countries would have concluded and signed the iEPAs.

While the text of the iEPAs is the same for these four countries, the tariff elimination process differs. The Seychelles and Mauritius are expected to liberalise over 95% and Zimbabwe 79,9% . Madagascar is supposed to liberalise 37% in the first tranche, by 1 January 2013, representing 42% fiscal revenue loss. However, the government of Madagascar is not prepared for this and has already called for a 5-year moratorium before implementing the agreement. It is questionable why Madagascar, the only LDC of the four (and the first LDC to implement an iEPA) should be forced to sign an iEPA while currently benefiting from an EBA [Everything But Arms], which is more favourable.

The high number of countries dropping out of the negotiations indicates the lack of a development agenda within the Interim iEPAs. Some of the countries dropping out believe that the iEPAs would lead them towards a less favourable situation than the trade provisions of the Cotonou Agreement.

The agreements contain neither a sustainable development chapter nor a human rights clause, even more important now since two of the four signing ESA countries have been under sanctions until recently and are just on the roadmap to ending the crisis (Madagascar), or are just on the verge of having sanctions lifted, provided that the democratic reforms continue to progress (Zimbabwe).

Ratification of the interim iEPAs will further marginalise regional integration, which is exacerbated by differences in the tariff liberalization schemes as well as by the rules of origin related problems. Furthermore, no preparations seem to have been made to deal with fiscal revenue losses. The agreements do not provide differential treatment between LDCs and non LDCs in line with their development level. It is important to respect the ownership principles and allow these countries to set tariff levels in line with their industrial development agenda.

The European Parliament, in its resolution of 5 February 2009 on development impact of Economic Partnership Instruments (EPAs)<sup>1</sup>, explicitly warned against the risk of undermining regional integration when concluding EPAs with individual ACP countries or with a group of countries within one region, and called upon the Commission to recalibrate its approach, taking into account this risk and ensuring that the conclusion of EPAs does not endanger regional integration.

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The Committee on Development calls on the Committee on International Trade, as the committee responsible, to propose that Parliament decline to give its consent.

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<sup>1</sup> P6\_TA(2009)0051, European Parliament resolution of 5 February 2009 on the development impact of Economic Partnership Agreements (EPAs) (2008/2170(INI)), OJ C 67 E , 18.3.2010, p. 124.

## RESULT OF FINAL VOTE IN COMMITTEE

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|---|--|
| <b>Date adopted</b>   | 6.12.2012  |
| <b>Result of final vote</b>                                       | +: 12<br>-: 10<br>0: 2   |
| <b>Members present for the final vote</b>                         | Thijs Berman, Michael Cashman, Nirj Deva, Leonidas Donskis, Charles Goerens, Catherine Grèze, Eva Joly, Filip Kaczmarek, Miguel Angel Martínez Martínez, Gay Mitchell, Norbert Neuser, Bill Newton Dunn, Birgit Schnieber-Jastram, Michèle Striffler, Alf Svensson, Patrice Tirolien, Ivo Vajgl, Daniël van der Stoep, Anna Záborská, Iva Zanicchi |
| <b>Substitute(s) present for the final vote</b>                   | Enrique Guerrero Salom, Cristian Dan Preda, Judith Sargentini  |
| <b>Substitute(s) under Rule 187(2) present for the final vote</b> | Helmut Scholz  |

## RESULT OF FINAL VOTE IN COMMITTEE

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|---|---|
| <b>Date adopted</b>   | 18.12.2012  |
| <b>Result of final vote</b>                                       | +: 20<br>-: 5<br>0: 1   |
| <b>Members present for the final vote</b>                         | William (The Earl of) Dartmouth, Maria Badia i Cutchet, Nora Berra, Daniel Caspary, María Auxiliadora Correa Zamora, George Sabin Cutaş, Christofer Fjellner, Yannick Jadot, Franziska Keller, Vital Moreira, Paul Murphy, Cristiana Muscardini, Niccolò Rinaldi, Helmut Scholz, Peter Šťastný, Robert Sturdy, Gianluca Susta, Henri Weber, Iuliu Winkler, Paweł Zalewski |
| <b>Substitute(s) present for the final vote</b>                   | Salvatore Iacolino, Silvana Koch-Mehrin, Maria Eleni Koppa, Katarína Neveďalová, Marietje Schaake   |
| <b>Substitute(s) under Rule 187(2) present for the final vote</b> | Norbert Neuser, Birgit Schnieber-Jastram  |