

# DECISIONS

## COUNCIL DECISION (EU) 2020/13

of 19 December 2019

**amending the negotiating directives for the negotiation of Economic Partnership Agreements with the African, Caribbean and Pacific countries and regions, to the extent that they fall within the competence of the Union**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 90, Article 100(2), the first subparagraph of Article 207(4) and Article 209, in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) On 17 June 2002, the Council authorised the Commission to negotiate Economic Partnership Agreements (EPAs) with the African, Caribbean and Pacific (ACP) countries and regions and adopted directives for those negotiations.
- (2) Concluded EPAs with the ACP countries and regions include rendez-vous clauses for the future review of those agreements.
- (3) The amendment of the negotiating directives is necessary to frame new negotiations more accurately in light of recent Union policy initiatives and priorities as trade evolves worldwide.
- (4) EPAs form part of the overall relationship between the Union and its Member States, on the one side, and the ACP countries, on the other, as set out in the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part <sup>(1)</sup>, as last amended (Cotonou Partnership Agreement) and, once applicable, its successor agreement. Under Article 34(1) of the Cotonou Partnership Agreement, the economic and trade cooperation between the parties aims at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries. In this context, EPAs can be considered to constitute development instruments as referred to in Article 36(2) of the Cotonou Partnership Agreement. Negotiations should therefore specially take account of the different levels of development of the parties, as well as of the particular economic, social and environmental constraints of the ACP countries and of the capacity of those countries to adapt and to adjust their economies to the liberalisation process,

HAS ADOPTED THIS DECISION:

### *Article 1*

The negotiating directives addressed to the Commission for the negotiation of Economic Partnership Agreements with the African, Caribbean and Pacific countries and regions, to the extent that they fall within the competence of the Union, are amended as set out in the addendum.

### *Article 2*

The negotiations shall be conducted in consultation with the ACP Working Party. The Trade Policy Committee shall be associated on specific trade-related matters.

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<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3.

*Article 3*

This Decision is addressed to the Commission.

Done at Brussels, 19 December 2019.

*For the Council*  
*The President*  
K. MIKKONEN

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## ADDENDUM

**Negotiating directives for the negotiation of Economic Partnership Agreements with the African, Caribbean and Pacific countries and regions****1. Preamble**

Apart from the general reference to the Cotonou Agreement <sup>(1)</sup>, and its successor agreement, once applicable, special reference will be made, inter alia, to the following:

- The commitment of the parties to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace, prosperity, security and sustainable development, as well as to promoting a stable and democratic political environment;
- The commitment of the parties to the respect for human rights, including core labour rights, democratic principles and the rule of law, which constitute the essential elements of the ACP-EU Partnership, to good governance, including anti-corruption, which constitutes a fundamental element of the ACP-EU Partnership;
- The commitment of the parties to a set of internationally agreed principles and rules aimed at fostering a mutually supportive relationship between trade and sustainable development, including supporting the 2030 Agenda for Sustainable Development (2030 Agenda) and its Sustainable Development Goals, international labour agreements and standards, including the promotion of full and productive employment and decent work for all, and international climate agreements, such as the Paris Agreement and the UN Framework Convention on Climate Change;
- The commitment of the parties to centre their partnership on the objective of reducing and eradicating poverty, consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy; to build, therefore, ACP-EU economic and trade co-operation on regional integration initiatives existing within the ACP countries;
- The objective of ACP-EU economic and trade co-operation to foster the smooth and gradual integration of ACP States into the world economy, with due regard for their political choices and development priorities, and in particular their own poverty reduction strategies, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries;
- The commitment of the parties to support the regional integration process within the ACP Group of States and to foster regional integration as a key instrument for the integration of ACP countries into the world economy;
- The commitment of the parties to strengthen economic, trade and investment co-operation and to create a new trading and investment dynamic between them, with a view to facilitating the transition of the ACP countries to a liberalised global economy and to foster the development of the private sector and in particular micro, small and medium-size enterprises (MSMEs);
- The commitment of the parties to take account of the different needs and levels of development of the ACP countries and regions;
- The commitment of the parties to respect their obligations assumed within the framework of the World Trade Organisation (WTO) and to further the objectives of the WTO;
- The joint objective of the parties to enhance co-operation and capacity-building, as appropriate, in all areas relevant to sustainable trade and investment, and to achieve progressive and reciprocal liberalisation of trade in goods and services, in accordance with WTO rules, taking into account the level of development of the ACP countries and the economic, social and environmental constraints they are facing;
- The commitments of the parties to ensure that efforts undertaken in the framework of the Cotonou Agreement and its successor agreement and those undertaken in the framework of Economic Partnership Agreements (EPAs) are mutually reinforcing;

<sup>(1)</sup> The ACP-EU Partnership Agreement was amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 209, 11.8.2005, p. 27) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).

- The right to regulate economic activity in the public interest in accordance with international obligations, to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment, public morals, social or consumer protection, privacy and data protection and the promotion and protection of cultural diversity.

## 2. **Nature and Scope of the EPAs**

The purpose of the negotiations is to conclude EPAs between the European Union and its Member States of the one part, and the countries and regions of Africa, the Caribbean and the Pacific of the other part. EPAs shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.

Pursuant to the provisions of Article 36(1) of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable, negotiations shall aim at establishing and, where applicable, deepening EPAs with ACP sub-groups defined in accordance with the provisions of Article 37(3) of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable, taking into account the regional integration process within the ACP.

EPAs shall be directed at fostering closer economic integration between the parties, by removing progressively barriers to trade between them and enhancing co-operation in all areas relevant to trade, in full conformity with the provisions of the WTO.

EPAs shall be based on the objectives and principles of the Cotonou Agreement, and in particular with its essential and fundamental elements, and the provisions of Part III, Title II thereof, and the relevant provisions of its successor agreement, once applicable. Negotiations of EPAs shall therefore notably take account of the different levels of development of the parties, as well as of the particular economic, social and environmental constraints of the ACP countries and of the capacity to adapt and to adjust their economies to the liberalisation process.

## 3. **Trade in Goods**

### 3.1. *Objective*

EPAs shall be directed at establishing free trade areas between the parties, based on the development objectives of the Cotonou Agreement and its successor agreement, in conformity with the provisions of the WTO. It is understood, therefore, that the following market access conditions would be available only in the context of these EPAs. Any future EPA negotiations on trade in goods shall build on the acquis of already negotiated provisions.

### 3.2. *Import duties*

#### — Imports into the European Union

EPAs shall build upon and further enhance the market access conditions currently provided. The specific arrangements for further tariff dismantling shall be fixed in the course of the negotiations, taking account of the existing and potential export interests of the ACP countries and of the impact of trade liberalisation measures in particular on regional integration within the ACP.

#### — Imports into the ACP countries

With the overriding objective of promoting sustainable development through regional economic integration and adequate policies, negotiations will pursue (1) the elimination of customs duties on imports from the European Union for substantially all trade over the course of a transitional period, (2) the abolishing of all charges having equivalent effect to customs duties upon the application of EPAs and (3) the removal of quantitative restrictions and measures having equivalent effect upon the application of the EPAs.

The timetable for tariff dismantling and the final product coverage of trade liberalisation by the ACP countries will reflect the economic, social and environmental constraints they are facing as well as their capacity to adapt their economies to the liberalisation process. Therefore, a transitional period, compatible with the objectives of the Cotonou Agreement, its successor agreement and WTO rules, will be applied in a flexible way, to take into account specific constraints of the ACP countries concerned. The same flexibility will be applied in relation to product coverage and the calendar/rhythm of liberalisation commitments by the ACP countries.

Notwithstanding the above, ACP countries shall grant to the European Union at any time treatment no less favourable than MFN treatment. This does not apply with respect to concessions made between ACP countries or by ACP countries to other developing countries, which are not major trading economies, in the framework of regional agreements or other trade provisions compatible with WTO requirements.

During the negotiations, and in the light of Article 349 of the Treaty on the Functioning of the European Union and the EPAs reached in the framework of the Cotonou Agreement and its successor agreement, once applicable, account will be taken of the specific interests of the European Union's outermost regions. In this context, EPAs may in particular provide for specific measures in favour of products from these regions, aimed at their integration into intra-regional trade in the short term, in accordance with the provision of the WTO. In the light of the Overseas Association Decision <sup>(2)</sup>, overseas countries' and territories' interests should also be taken into account.

The ACP countries shall undertake, at least, to extend automatically the treatment granted to the European Union to all other parties of the EPA concerned, preferably ahead of trade liberalisation vis-à-vis the European Union.

Where serious difficulties occur as a result of trade liberalisation, the ACP countries may, in consultation with the European Union, temporarily suspend the application of the liberalisation schedule and, where necessary, re-modulate or adjust the rate of progress towards the ultimate establishment of the free trade area, in full conformity with the provisions of the WTO.

The trade liberalisation plans and schedule of the ACP countries shall be part of EPAs. It shall include the appropriate product lists, as well as timetables for tariff dismantling. These lists and timetables will be finalised during the negotiations.

— Basic duties

The basic duties to which the agreed reductions are to be applied shall be the MFN duties effectively applied by the ACP countries on the day of the signature of the EPAs. They shall be defined in a list attached to each EPA.

3.3. *General provisions*

**Export Duties.** Any export duties applied in trade between the parties shall be eliminated on an agreed timetable that will not exceed ten years.

**Quantitative Restrictions** and measures having equivalent effect applied to exports or imports in trade between the parties shall be abolished upon the application of EPAs.

**National Treatment and Fiscal Measures.** A standard national treatment provision, ensuring parties' products receive treatment no less favourable than that accorded to like products of national origin, will be included in the EPAs. Any discriminatory internal fiscal measures or practices already in existence will be eliminated from the application of EPAs.

**Taxation.** EPAs should include provisions on exception regarding taxation based on the relevant articles of WTO agreements.

**Variable Speed.** Where compatible with the integration objectives of the ACP regions concerned, EPAs shall provide for variable speed in trade liberalisation, taking into account the level of development of the ACP countries concerned, as well as of the different intensities of integration that may exist within the region, in line with the region's internal integration process.

**Food Security Clause.** EPAs shall include provisions aimed at fostering food security in accordance with WTO rules.

**Safeguards.** Safeguard provisions shall apply, in accordance with the relevant provisions of the WTO.

**Anti-dumping.** If one of the parties finds that injurious dumping or subsidisation is taking place in trade by the other party within the meaning of the provisions of GATT, it may take appropriate measures against this practice, in accordance with the GATT/WTO rules and practices. In this context, the European Union shall have special regard to the particular economic and social situation of the ACP countries concerned.

<sup>(2)</sup> Decision No 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision'), OJ L 344, 19.12.2013, p. 1.

**Stand-still.** The parties will agree that no new duties will be introduced nor existing duties be increased and that no new quantitative restrictions nor measures having equivalent effect will be introduced by either party after the application of the EPAs between the regional grouping and the European Union. The parties should take into account this principle from the beginning of the negotiations.

**Transparency.** Both sides will be required to communicate to each other their customs tariff schedule and any subsequent amendments made to it.

**Classification of Goods.** The Harmonised System shall be applied to the classification of goods in trade between the parties.

#### 3.4. *Rules of origin, administrative cooperation*

Negotiations on the rules of origin and administrative co-operation shall take into account the latest developments in EU rules of origin, as well as the existing rules of origin under each EPA. In this context the European Union shall assess any specific request for changes to the rules of origin, presented by the ACP State(s), aimed at simplifying existing rules and improving current market access for the ACP, taking into account the country situations and, in particular, the experience and structure of their preferential trade relations.

EPAs will empower the parties to take appropriate measures in the event of lack of administrative co-operation or mismanagement. With respect to the issue of losses of customs duties linked to the mismanagement of preferential imports, appropriate measures could be identified on the basis of a horizontal Council decision.

#### 3.5. *Customs, trade facilitation, anti-fraud measures and financial responsibility*

Negotiations shall aim at simplifying all requirements and procedures related to imports and exports, in particular with regard to customs processes, import licensing, customs valuation, transit rules and pre-shipment inspection, drawing on the highest international standards and in conformity with the provisions of the WTO Trade Facilitation Agreement. EPAs will include a Protocol on mutual administrative assistance in customs matters. They will also include an anti-fraud clause to prevent the abuse of tariff preferences.

### 4. **Trade in Services, Investment and Digital Trade**

#### 4.1. *Scope*

EPAs will provide for a progressive and reciprocal liberalisation of trade in services and investment aiming at assuring a comparable level of market access opportunities, consistent with the relevant WTO rules, in particular Article V of the GATS, taking into account the level of development of the ACP countries concerned. EPAs should cover all modes of supply.

The high quality of the EU's public utilities should be preserved in accordance with the TFEU and in particular Protocol no 26 on Services of General Interest, and taking into account the EU's commitments in this area, including GATS. Services supplied in the exercise of governmental authority as defined by Article I-3 of the GATS shall be excluded from these negotiations. The EPAs reaffirm the parties' right to regulate economic activity in the public interest in accordance with international obligations.

In addition, EPAs should contain regulatory disciplines intended to address behind the border barriers, including, where applicable, in the field of domestic regulation. EPAs may also include disciplines on performance requirements related to investments.

In the context of the increasing digitalisation of trade and strong development dimensions of digital trade, the negotiations should result in rules covering digital trade, including cross-border data flows, while neither negotiating nor affecting the EU's personal data protection rules and without prejudice to the EU legislation. These rules should aim to improve the conditions for digital trade for the benefit of business and consumers, and to increase the participation of micro, small and medium-sized (MSMEs) enterprises, as well as to create new opportunities to promote inclusive and sustainable growth and development. EPAs should provide for appropriate flexibility, cooperation and dialogue on regulatory issues raised by digital trade.

EPAs will provide for audio-visual services to be dealt with separately in specific agreements for cultural cooperation and partnership between the parties. Such agreements will ensure the possibility for the European Union and its Member States as well as for the ACP to preserve and develop their capacity to define and implement their cultural and audio-visual policies for the preservation of their cultural diversity, while recognizing, preserving and promoting the cultural values and identities of the ACP to foster intercultural

dialogue by improving market access opportunities for the cultural goods and services of these countries, in accordance with the provisions of Article 27 of the Cotonou Agreement and the relevant provision of its successor agreement, once applicable.

The parties will agree that no new or more discriminatory measures will be introduced by either party after the application of the EPAs between the regional grouping and the European Union. The parties should take into account this principle from the beginning of the negotiations.

The liberalisation process will take place on an asymmetrical basis. The ACP countries will be allowed a certain measure of flexibility depending on their level of development, in overall terms as well as in terms of sector and sub-sector in accordance with the provisions of the GATS, in particular those relating to developing countries' participation in the liberalisation agreements.

For the European Union, the transition period should not exceed 10 years.

For the ACP side, a transition period, compatible with the objectives of the Cotonou Agreement, its successor agreement and WTO rules, will be applied in a flexible way, to take into account specific constraints of the ACP countries concerned, but should not in principle exceed 15 years.

ACP countries belonging to an EPA will undertake to apply at least the same arrangements between them as they apply to the European Union.

EPAs will reconfirm the commitments related to services made under the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable.

#### 4.2. *Practical arrangements*

Where justified by particular economic, social and environmental constraints encountered by the ACP countries, the negotiations may be postponed. In such an event the parties will regularly assess the situation in the course of the EPA negotiations. They will ensure that the preparatory phase to these negotiations is actively used to prepare for the negotiations, in particular by mobilising appropriate support for the development of services in line with the provisions of the Cotonou Agreement, in particular Article 41(5) thereof, and the relevant provisions of its successor agreement, once applicable.

### 5. **Current Payments and Capital Movements**

EPAs will reconfirm the commitments undertaken in the framework of Article 12 of Annex II to the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable.

EPAs should aim for full liberalisation of current payments and capital movements related to transactions covered under the EPAs. They should include all safeguard and carve-out provisions (e.g. concerning the Union's economic and monetary union and balance of payments), which should be in accordance with the provisions of the TFEU on the free movement of capital.

### 6. **Trade-related Areas**

#### 6.1. *General*

EPAs will reconfirm the respective commitments in trade-related areas undertaken in the framework of the Cotonou Agreement <sup>(3)</sup> and its successor agreement, in particular with regard to competition policy, protection of intellectual property rights (including geographical indications), standardisation and certification, sanitary and phytosanitary measures, trade and environment, trade and labour standards, consumer policy and protection of consumer health. These provisions in the EPAs will be reviewed in the light of the results of multilateral, plurilateral and bilateral trade negotiations.

#### 6.2. *Specific areas*

In addition, the following shall apply with regard to the following areas:

**Investment.** In accordance with the objective of "reducing and eventually eradicating poverty consistent with the objective of sustainable development" (and with regard to articles 1, 29, 75 to 78, and to Annex II to the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable) the parties agree to establish a framework which shall facilitate, enhance and stimulate mutually beneficial sustainable investment between them,

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<sup>(3)</sup> Articles 45 to 51 and 78 of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable.

taking into account multilateral initiatives on investment facilitation. This framework will be based on principles of non-discrimination, openness, transparency and stability. The parties will foster the development of attractive and stable investment environments by supporting stable and transparent rules for investors, and seek to improve financial inclusion and access to finance.

Where identified by both parties as an area for negotiation, and subject to additional country- or region-specific negotiating directives, provisions on investment protection may be negotiated. They shall be in line with the EU's reformed approach to investment protection, including investment dispute settlement. Those provisions shall also ensure a strong protection of investors and investments, while fully preserving the parties' right to regulate within their territories to achieve legitimate policy objectives. Possible negotiations should also take into account relevant internationally recognised principles and guidelines related to sustainable development and responsible business conduct, as referred to in the European Union's reformed approach to investment protection.

**Public Procurement.** EPAs will aim to ensure full transparency in procurement rules and methods at all government levels, following the principles of the Government Procurement Agreement (WTO). In addition, the parties may seek progressive liberalisation of their procurement markets on the basis of the principle of non-discrimination and taking into account their development levels.

**Standards, Technical Regulations and Conformity Assessments.** EPAs should contain a comprehensive chapter on Technical Barriers to Trade (TBT), building on and going beyond the WTO Agreement on TBT. This chapter should aim at, inter alia, compatibility and convergence of technical regulations through the application of international standards, streamlining testing and certification requirements through the adoption of risk based conformity assessment procedures and strengthening transparency.

**Sanitary and Phytosanitary Standards.** EPAs should contain a comprehensive chapter on Sanitary and Phytosanitary Standards (SPS), in line with other recent EU agreements. Building on the principles of the WTO Agreement on SPS, the negotiations should aim to include issues, such as the use of international standards (IPPC, OIE and Codex), transparency and non-discrimination, avoidance of undue delay, harmonization, the recognition of equivalence, the recognition of the parties' health and pest status, regionalisation (zoning), control, inspection and approval of procedures, precautionary principle, audit, certification, import checks, emergency measures, pre-listing in the veterinary field, treatment of the European Union as a single entity, technical cooperation, improved cooperation on anti-microbial resistance and animal welfare and the mechanisms to address specific trade concerns related to SPS measures. Furthermore, the chapter should stress the relevance of information exchange between the parties in case of changing standards and the need for flanking policies, including technical cooperation.

**Data Protection.** EPAs will set the objective of ensuring a high-level of protection of privacy and personal data through appropriate legal regimes and policies, including effective enforcement by independent supervisory authorities, as a central factor of citizens' trust in the digital economy and a key element to facilitate commercial exchanges and enforcement cooperation between the Parties.

**Intellectual Property Rights.** EPAs should create an adequate, balanced and effective level of protection and provide for civil and border enforcement provisions in the area of intellectual property rights, including geographical indications (GIs), going beyond the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement). EPAs should reaffirm the flexibilities under the TRIPS Agreement. EPAs should recognise the importance of the declaration on the TRIPS Agreement and Public Health, adopted on 14 November 2001 by the Ministerial Conference of the WTO. In interpreting and implementing the rights and obligations under the EPAs, the parties shall ensure consistency with the Doha Declaration. Inter alia, the parties should implement Article 31bis of the TRIPS Agreement, as well as the Annex and Appendix to the Annex related hereto, which entered into force on 23 January 2017.

EPAs should provide direct protection and effective recognition through the agreement of a list of GIs (wines, spirits, agricultural products and foodstuffs), building on the level of protection set out in Article 23 of TRIPS, including against evocation, passing off, appropriate and effective enforcement, co-existence with bona fide prior trademarks, protection against subsequent genericness, and provisions on adding new GIs. Issues concerning



individual prior rights, for example related to plant varieties, trademarks, generic or other legitimate prior uses, should be addressed with the aim of solving existing conflicts in a mutually satisfactory manner.

**Trade and Competition.** EPAs should aim to minimise distortions of competition by means of provisions on competition policy, subsidies and state-owned enterprises. The provisions will not impede the delivery of public services. The provisions will furthermore allow appropriate flexibility to implement measures to foster economic development, tackle poverty or achieve other public policy objectives such as food security.

**Trade and Sustainable Development.** EPAs should promote the implementation of the 2030 Agenda and adhere to the relevant internationally agreed principles and rules on labour rights, including gender non-discrimination.

Therefore, EPAs should include provisions on labour, gender equality and enhancing opportunities for women in trade, and environmental aspects of trade and sustainable development, including sustainable fisheries and aquaculture, biodiversity, forests and forestry products, and those related to climate change, in particular the UNFCCC and the Paris Agreement and climate change mitigation-related initiatives, such as at the International Maritime Organization (IMO).

EPAs should include provisions that promote adherence to and effective implementation of relevant internationally agreed principles and rules, including the core labour standards and fundamental conventions of the International Labour Organisation (ILO) and multilateral environmental agreements, as well as of health and safety at work, labour inspections and social dialogue as well as social and labour protection. They should include a commitment by each Party to make continued and sustained efforts towards ratifying fundamental ILO conventions.

EPAs should reaffirm the right of the parties to regulate in the labour and environmental areas, consistent with their international commitments, and encouraging high levels of protection, including by taking into account the most environmentally advantageous options. They should reiterate the respect of the precautionary principle. They should include provisions for labour and environmental levels of protection not to be lowered in order to encourage trade and foreign direct investment. These should include a commitment not to derogate from or fail to enforce domestic labour or environmental laws.

EPAs should promote a greater contribution of trade and investment, including foreign direct investment to sustainable development, including by addressing areas such as the facilitation of trade in environmental and climate-friendly goods and services, and the promotion of voluntary sustainability assurance schemes and of corporate social responsibility, having regard to internationally recognised instruments and encouraging parties to use international practices, including OECD and UN Guiding Principles on Business and Human Rights and sector specific guidelines.

EPAs should include provisions for the effective implementation and monitoring of these provisions, as well as a mechanism to address any disputes arising between the parties. EPAs should provide for civil society bodies' participation, including regular consultations and communication action. These bodies should monitor the implementation of the whole Agreement and have an advisory role towards the parties.

**Agricultural Dialogue.** Given the relevance of the agricultural sector for the socio-economic development and food security of ACP countries, EPAs should foresee a dialogue on agriculture (Agriculture Partnership), which may cover issues like commodities (especially those relevant for food security) and regional value chains, use of new technologies, trade facilitation, market access, responsible investments, research and innovation with due attention to climate change adaptation and mitigation as well as biodiversity and sustainable food systems.

### 6.3. *Implementation*

The EPA Council (see below, point 8), assisted by a Joint Implementation Committee composed of senior technical experts, will monitor the implementation of these provisions. The Joint Implementation Committee will meet on a regular basis and at least once a year. It will draw up annual reports assessing the progress made and formulating recommendations on measures for further achievements, including the provision of development co-operation in accordance with the provisions of the Cotonou Agreement and the relevant provision of its successor agreement, once applicable. Special sub-committees for certain trade-related areas could be considered, if needed.

## 7. **Complementarity**

EPAs and the development strategies of ACP partners shall be mutually supportive. In particular, in order to facilitate the achievement of the objectives of EPAs, the ACP parties will undertake to fully integrate EPAs within their development strategies and the European Union to do likewise within its development co-operation strategies. This would encompass fostering support to the private sector development, in particular micro, small and medium-size enterprises (MSMEs), including its gender dimension and stressing the importance of the collection of gender disaggregated data for the follow-up and implementation. The parties will undertake to allocate adequate resources for that purpose within the national and regional indicative programmes, in accordance with the relevant provisions of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable.

## 8. **Institutional Framework**

A Joint EPA Council will be established for each EPA, which will perform the following functions:

- ensure that the EPA operates properly;
- study the development of economic and trade co-operation between the parties;
- seek appropriate methods of preventing problems which might arise in areas covered by the EPA, in particular with regard to the achievement of the EPA's development objectives;
- exchange opinions and make recommendations on any issue of common interest relating to economic and trade co-operation, including future actions for the proper implementation of the EPA and, in particular, the need for development co-operation to be provided in accordance with the relevant provisions of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable.

The composition, frequency, agenda and venue of joint EPA Council meetings will be agreed on through consultation between the parties.

The EPA Council will have the power to take decisions in respect of all matters covered by the EPA. It will report to the Council of Ministers established in accordance with the provisions of Article 15 of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable, on matters of common concern to the entire ACP Group of States and the European Union.

EPAs should provide for regular consultations and communication with civil society.

## 9. **Exceptions Clause**

EPAs will include a standard exceptions clause, applicable to the relevant parts of these agreements, allowing measures to be taken, for instance, on grounds of protection of public order, human, animal or plant life or health, conservation of exhaustible natural resources etc., provided that such measures are applied in conformity with WTO rules.

## 10. **Final Provisions**

EPAs will include:

- a chapter on dispute settlement and a clause on non-execution, including provisions corresponding to Articles 96 and 97 of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable. Dispute settlement provisions on trade or trade related matters will not affect the parties' rights and obligations under WTO rules, in particular the Understanding on Rules and Procedures Governing the Settlement of Disputes;
- a clause on future developments providing that EPAs may be extended, in particular through accession, or merged, in accordance with the progress made in regional integration;
- a clause on their entry into force, the duration (unlimited), termination, notice required for denunciation and a territorial application clause.

For the purpose of EPAs, the parties on the ACP side shall mean the regional grouping or its Member States or the regional grouping and its Member States, in accordance with their respective spheres of competence. EPAs shall apply as well to measures taken by any state, regional or local authorities within the territories of the parties.

## 11. **Structure and Organisation of the Negotiations**

In accordance with the relevant provisions of the Cotonou Agreement and the relevant provisions of its successor agreement, once applicable, the period of negotiations will also be used for capacity building in the public and private sector of the ACP countries, with a view to enhance their ability to define and implement appropriate regional and multilateral trade strategies and policies. This will include measures to enhance competitiveness, to strengthen regional organisations and to support regional trade integration initiatives, where appropriate with assistance to budgetary adjustment and fiscal reform, as well as to upgrade infrastructure, and to improve investment. These measures will be monitored at regional level, where appropriate by the regional grouping engaged in EPA negotiations and the European Union. That regional grouping will inter alia provide suggestions to be considered within the national and regional programming dialogue between the European Union and the ACP countries.

Appropriate mechanisms will be established to ensure that Non-state actors in the European Union and in the ACP countries will be informed and consulted on the content of negotiations and that coordination with ongoing ACP-EU dialogues is ensured.

These directives will be reviewed, and where appropriate be revised, at least every 10 years.

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