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

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[(1)], 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

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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.

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[(2)], 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;

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— 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;

— 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

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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[3], 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.