



BusinessEurope considers the EPAs important building blocks towards the future African Continental Free Trade Area (ACFTA) and believes that broadening the agreements to the issues included in modern EU Free Trade Agreements would strongly contribute to improving the investment climate in Africa (see BusinessEurope's paper [A better investment climate in Africa: business views](#)). Below, BusinessEurope sets out a number of issues to which policymakers should pay particular attention when updating the EPA negotiating mandates and broadening the agreements.

1. PROVISIONS IN RENDEZVOUS CLAUSES

The “rendez-vous clauses” in the African EPAs foresee the extension of the agreements to issues such as trade in services, investment, competition and intellectual property protection. Once negotiated, these deeper disciplines will facilitate business operations and give assurances to investors, thereby contributing to an investment climate conducive to attracting FDI on the African continent.

Intellectual Property and GIs

The protection of intellectual property rights is highly important to business. Exchanges of technology are facilitated by assurances that foreign knowledge owners will be treated fairly, and their intellectual property rights will be respected. This also involves accentuating cooperation in the fight against counterfeit goods. It is important to avoid the circumvention of the rules by defining a right balance between:

- i) the smoothness of trade flows,
- ii) appropriate controls at the border to fight counterfeit goods and illicit trade.

Moreover, in negotiations on broadening EPAs, the EU should seek to increase the number of geographical indications (GIs) recognized by our African counterparts. In this regard, new provisions should aim to replicate what has been achieved - ideally with CETA but, more realistically, with the EPA with the Southern African Development Community (SADC) signed on June 2016: This agreement *includes* a bilateral protocol between the EU and South Africa on the protection of geographical indications and on trade in wines and spirits. The country agreed to protect more than 250 EU names spread over the categories food, wines and spirits.

Trade Facilitation, Trade in Services, Investment and Competition

Foreign investments in staff training, physical plants and the development of long-term business relationships are facilitated by assurances on property rights, rights of establishment and fair competition; Therefore, these issues should get due attention in the negotiations on broadening the EPAs. Moreover, investment protection is a *sine qua non* issue for companies investing on the continent.

Coordinating international production facilities also requires the continuous two-way flow of goods, people and ideas. Thus, access to world-class services (e.g. freight transport, telecoms, banking, logistics, energy) and assurances on the short-term movement of



managers and technicians is important for global value chains. Ambitious provisions on services trade facilitates such flows and would make African countries a more attractive investment destination for European companies.

These domains are essential for ensuring that the private sector can play its central role in the development of the African continent.

Public Procurement

The liberalization of procurement markets in Africa is of great interest to European companies. This would be mutually beneficial as European companies are market leaders in many areas that are critical for the development of African countries and can provide governments with sustainable long-term solutions at adequate prices.

2. ISSUES NOT INCLUDED IN 2002 NEGOTIATING DIRECTIVES

EU trade policy has evolved since the negotiating mandates for the EPAs were adopted in 2002. To make sure that the EPAs are fit to support 21st century trade after they have been broadened, also issues such as trade and sustainable development, anti-corruption, investment protection should be added to the updated mandates to ensure a favourable investment climate and responsible business conduct.

If negotiators from partner countries think that discussing such issues is premature, investment protection, trade, sustainable development and anti-corruption should be added to the “rendezvous clauses” to allow for more ambitious negotiations in the future.

Anticorruption and responsible business conduct

Companies continue to be exposed to undue solicitations, particularly from foreign public officials (e.g. customs agents). They are also losing market shares because of the unlawful behaviour of competitors. Sometimes the endemic nature of corruption pushes them to withdraw from a country altogether.

BusinessEurope supports the inclusion of a specific anti-corruption chapter in all EPAs. The chapter should meet the following objectives:

- The anti-corruption chapter should guarantee the principle of *non bis in idem*. To do so, it could build on Article 4.3. of the [1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions](#). This would ensure judicial cooperation between the competent authorities. It would also prevent situations where companies are sentenced several times for similar acts in different jurisdictions.
- Companies often report problems of corruption in public procurement, for example in the field of infrastructure. The chapter should encourage partner countries to develop transparent and easily accessible web tools as these would



make the award of public contracts less opaque and strengthen integrity in this area.

Trade and Sustainable Development

BusinessEurope recognizes that trade agreements are a lever for promoting social and environmental standards to tend towards a more level playing field, and we are in favour of strengthening the consideration of sustainable aspects in Free Trade Agreements (FTAs), including EPAs. While integrating sustainable development issues in an adequate manner, FTAs must first and foremost focus on enhancing trade and maintaining the international competitiveness of EU companies. Consequently, BusinessEurope is not in favour of conditioning the beginning of negotiations or the entry into force of the EU FTAs upon the ratification of international conventions and treaties.

In this regard, EPAs should:

- be ambitious in reducing tariffs and non-tariff barriers on trade in sustainable products and services, in consultation with businesses.
- Encourage responsible business practices throughout the value chain.
- Enable cooperation on norms and regulatory standards to streamline international trade in sustainable services and products.
- Facilitate sustainable investment. For example, by encouraging parties to find common financial solutions to promote responsible and sustainable trade.
- Include recognition of diplomas and professional qualifications to enable competent persons to work on subjects of common interest.
- Strengthen market surveillance, for example concerning substances banned by the EU which are present in imported products.

Digital Trade

Digitalization will play a central role in the African economy. An institutional and regulatory framework favourable to investment is therefore key to accelerate digital transformation and the economic transition of the continent.

A structural transformation of the African economy requires investment in basic infrastructure. Here, digitisation must be a priority, given its strong and positive impact on labour productivity in all industries. The potential economic growth from digitalisation is expected to reach \$300 billion dollars by 2025 (Mc Kinsey, 2013, [Lions go digital: The Internet's transformative potential in Africa](#)).

Data is the key resource of the new economy and is playing an ever more important role in international economic exchanges. Therefore, EPAs should facilitate the free cross-border flow of data and ban data localisation requirements.



Arbitration/Dispute settlement

The monitoring process under EPAs needs to be strengthened and ensure more binding and effective ways of settling disputes to guarantee that the Parties respect the provisions of the agreements they signed. This is particularly important for the EPAs with African countries.

Export Restrictions, Export Taxes and Measures of Equivalent Effect

These measures are a source of many problems in up-stream sectors. They distort the market and the free market pricing mechanisms of commodities, and lead to a sub-optimal allocation of resources, corruption and poor competitiveness of domestic operators. Ideally, they should be avoided but if allowed on an exceptional basis, they should be limited in time.

3. CONTRIBUTION TO AFRICAN CONTINENTAL INTEGRATION

Through joining up Africa's fragmented markets, the African Continental Free Trade Area could unlock the tremendous development potential of intra-African trade. The EU should help give its full support to African countries to reach this goal. EPAs are an essential tool to reach this aim and should be used as building blocks towards continental free trade.

Therefore, the different EPAs should aim at having a harmonized set of rules and provisions on the main issues of economic integration in African countries to reach similar rules in important domains, such as goods and services regulations, customs procedures and rules of origin, resulting in closer economic regional integration.

To ensure the effectiveness of the EU support to the construction of the African Continental Free Trade Area, EPAs should contribute to build the capacity (through institutional and technical support) of African public administration on economic policy making and the various domains covered in EPA negotiations, including technical barriers to trade, services and investment. This support should also be given to African business representatives, strengthening their sustainability and skills allowing them to participate effectively and actively in policy making domestically and regionally and allowing them to engage actively in the negotiation process.