

Ex-Post Evaluation of the Economic Partnership Agreement (EPA) between the EU and its Member States and the Southern African Development Community (SADC) EPA States

(TRADE2022/C1/C12 - 2022/OP/0007)

Preliminary findings on the implementation of the EPA

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Overview



Structure and scope of the EPA



Implementation of commitments



Performance of EPA institutions



Trade remedies and disputes



Civil society involvement and TSD chapter



Development cooperation

Structure of the EPA (selection)

Part I: Sustainable development and other areas of cooperation

Part II: Trade and trade-related matters

Part III: Dispute avoidance and settlement

Part IV: General exceptions

Part V: Institutional provisions

Part VI: General and final provisions

Ch I: Trade in goods

Ch II: Trade Defence Instruments

Ch III: Non-tariff measures

Ch IV: Customs and trade facilitation

Ch V: Technical barriers to trade

Ch VI: Sanitary and phytosanitary measures

Ch VII: Agriculture

Ch VIII: Current payments and capital movements

Ch IX: Trade in services and investment

Annex I-III: Tariff schedules (and TRQs, where applicable) by the EU, SACU, and Mozambique

Protocol 1: Rules of origin

Other annexes and protocols:
Annex IV-V: Agricultural and BELN safeguards
Annex VI: SPS priority products & sectors
Protocol 2: Mutual administrative assistance in customs matters
Protocol 3: Geographical indications and trade in wines and spirits
Protocol 4: Relationship between the TDCA and the EPA

Findings on scope

- Rather shallow FTA – **focus on trade in goods**
 - Core: tariff liberalisation
 - EU: duty-free and quota-free (DFQF) access for all goods (except arms and ammunition) to all SADC EPA States except South Africa (DFQF for 94.4% of tariff lines, 3.2% partial liberalisation)
 - SACU: DFQF treatment for EU for 84.9% of tariff lines, 12.9% partial liberalisation
 - Mozambique: liberalisation (full and partial, gradual) for 74% of EU exports in terms of trade volume
 - NTMs, customs issues, IPR, public procurement: mostly multilateral obligations, transparency, cooperation & capacity building
 - GIs only between South Africa and EU
- **Limited trade and sustainable development (TSD) chapter** (compared to other EU FTAs)
- **No commitments on services or investment** – rendez-vous clauses: negotiations on investment initiated but no progress
- **Limited institutional structure and involvement of non-state actors** (compared to other EU FTAs)

Findings on implementation of commitments

- **Tariff preferences**
 - **Tariff cuts:** no issues determined to date; analysis still ongoing for Mozambique
 - **Preference utilisation** by SADC EPA State exporters generally high (>90%) and has mostly increased over time. Mozambique very low (<5%) – continues to use EBA (>90%)
 - **TRQ utilisation** (EU-SACU only): uneven across products, both ways
- **Customs and trade facilitation:** no major issues identified
 - But: **diagonal cumulation** by SACU only activated in 2023; Mozambique not yet
- **SPS:** difficult area - issues regularly raised by all Parties in TDC meetings
 - Variety of products including poultry, game, ostriches, horses and citrus
 - Variety of measures respectively acceptance of standards applied by the respective other Party, including regionalisation principle, market re-opening after declaration of pest-free status, and others
- **TBTs:** less problematic – fewer cases
- **GIs:** Apply only between EU and South Africa, South Africa's register just became operational
- Going forward: **concerns by SADC EPA stakeholders about tightening regulations in the EU** (following European Green Deal, Carbon Border Adjustment Mechanisms, SPS requirements), reducing the value of EPA preferences and making it increasingly difficult to export to the EU

Performance of institutions under the Agreement

- EPA foresees the establishment of the following **institutions and dialogue forums**:
 - Joint Council,
 - Trade and Development Committee (also responsible for TBT, SPS and Trade and Sustainable Development),
 - Special Committee on Customs and Trade Facilitation,
 - Special Committee on Geographical Indications and Trade in Wine and Spirits (only with South Africa)
 - Agricultural Partnership.
- **All bodies have been established**, adopted their rules of procedure and have held meetings.
- At the **technical level, meetings have been constructive**:
 - A forum to inform about changes in laws and policies and to discuss EPA interpretation & implementation.
 - Presence of experts from relevant institutions (e.g., customs) has been helpful.
- When necessary, **training** has been provided or additional activities, like workshops, have been organised to build capacity and improve understanding and implementation of the Agreement.
- There is **room to better use the Agricultural Partnership** for discussions on EPA and agriculture, development, food security, regional integration and value chains. So far, only EU presentations.
- **TDC could also be better used**, or Working Groups created to facilitate discussions on TBT, SPS & TSD.

Use of trade remedies and disputes

Use of bilateral safeguards under the EPA

- Single use of safeguards under EPA to date – Tribunal found measure to violate the EPA

Use of trade remedies under WTO rules

- Significant use of anti-dumping by SACU (South Africa) – 41% against EU Members
- Also three safeguard measures, that impacted imports from the EU
- As of 30 September 2023, SACU had 12 anti-dumping measures in place against EU Members (Germany – 3; Belgium, Denmark, Ireland, Latvia, Lithuania, Netherlands, Poland, Spain – 1 each)
- As of 30 September 2023, the EU had no anti-dumping or countervailing measures in place against any SADC EPA State
- South Africa included in EU steel safeguards since April 2022 (after expiry of 5-year exclusion period)

Civil society involvement and TSD chapter

Commitments

- Progress by the Parties in the ratification of the ILO Conventions.
- Steps taken by the SADC EPA States to improve the implementation of the ILO Conventions (laws, Action Plans, etc.).
- Tripartite discussions with employers and trade unions but not related to the EPA.
- SADC EPA States' improved policies and governance related to the MEAs.
- No links between the EPA and progress in the implementation of environmental or labour standards have been identified.

Institutional aspects

- No separate TSD Committee set up by the EPA and no civil society institution.
- Trade & Development Committee in charge but no discussions on TSD chapter, only 3 EU presentations on its new laws (climate, raw materials, CO2 standards for cars, etc.)
- Civil Society Dialogue meetings in 2017 & 2018, but no long-term arrangement (talks in T&D Committee not conclusive).
- EPA implementation & the Parties could benefit from discussions on trade, labour, climate and environment with civil society.

Awareness and development cooperation

- **Awareness for EPA** uneven across SADC EPA States and different types of stakeholders:
 - public sector entities dealing with trade matters: well informed in all countries
 - other government entities generally less aware of the EPA
 - businesses and organisations not directly involved in trading (esp. CSOs) hardly aware of the EPA
 - knowledge of the EPA particularly limited in Lesotho and Mozambique (continuation of EBA). Stakeholders: “limited EPA outreach activities targeting businesses directly”
- **Development cooperation:** EU and Member States have provided assistance and technical support to the SADC EPA States in various areas, e.g.:
 - SADC Trade Related Facility (2015-2021): support in different areas, incl. upgrading quality infrastructures;
 - SADC Trade Facilitation Programme (2019-2024): address barriers to trade, facilitate harmonisation and recognition of trade tools
 - National-level technical assistance: e.g. Promove Comércio in Mozambique; programmes aimed at supporting various SADC EPA States in implementation of national EPA implementation plans
 - Stakeholders: “more, more targeted (in terms of focussing on SADC EPA States rather than SADC overall) and stronger technical support required in various areas, including productive capacity, customs, or SPS issues”
 - Evaluation of development cooperation effectiveness remains to be done

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