

To Mr. David Martin  
Member of the European Parliament

Brussels, 24 January 2012

Re: Concerns about the Commission's proposal to amend annex 1 of Council Regulation 1528 / 2007

Dear Sir,

With regard to the exchange of views that will take place in INTA on 25 January, the undersigned organisations want to express their grave concern about the proposal of the Commission to end the market access given under the Council Market Access Regulation (MAR) 1528/2007 of 20 December 2007 for those ACP countries that have not started to ratify an EPA by the end of 2013.

As you know the interim EPAs were only presented to the ACP countries at the end of 2007 and adopted by them under great time pressure and under the threat of losing market access to the EU. Most of them were presented as non-negotiable "take it or leave it"-offers with a tight expiry date. As a result, the texts were not properly examined or negotiated. On 13 December 2007 the ACP Council of Ministers denounced "*the enormous pressure that has been brought to bear*" and stressed "*the need for revisiting the provisions which might be incompatible with their development goals and inconsistent with the binding provisions of the Cotonou Agreement*".

The Commission however, refused to re-negotiate the interim EPAs. Instead it proposed to review the contentious provisions as part of the continued negotiations for final EPAs which would in the end replace the interim agreements. Since then, the Commission and the ACP negotiators have been working to resolve these issues in the context of the continued EPA negotiations.

It therefore comes as a surprise that the Commission is saying in its motivation for its proposals that "*the EPA negotiation process ended at the end of 2007*", that 18 countries have since then not "*taken the necessary steps towards ratification*" and that therefore "*the conditions for the market access are no longer met*". Have the continued negotiations not been considered as necessary steps prior to ratification than?

We think that the proposed draft regulation is completely premature, as the negotiations are still ongoing and that it "*further shifts the balance of power in an already asymmetrical process of negotiations in favour of the EU*" as the ACP Council of Ministers has pointed out in a resolution on 9 December 2011.

Indeed if there have been delays in the EPA negotiations, these are to a large extent caused by important divergences of views and have as much to do with the rigidity of EU negotiating positions as with ACP hesitations. If the proposed regulation were to be adopted the EU could simply insist on its positions for any contentious issue, make no concessions and then withdraw market access when it considers that time is up. In other words, the proposal would seriously affect the negotiating space of the ACP countries. Yet, there are many examples of protracted negotiations which show that trade negotiations require time, certainly when the stakes are as high as in these EPA negotiations which are meant to further the development interests of the world's poorest countries.

We also fear that while EPAs were meant to be instruments to foster regional integration, the proposed regulation will eventually force individual ACP countries to ratify and implement unsatisfactory interim EPAs thereby further aggravating the divisions within the ACP regions.

At the same time, we are amazed that even Haiti would be removed from Annex 1 especially when this comes at a time when the Commission is considering how trade measures can be used to help countries that are hit by natural disasters. Would postponing trade commitments not constitute a good measure to give such countries breathing space?

We also do not agree with the Commission's assertion that the effects of removing countries from Annex 1 of MAR 1528/2007 would be limited as the low and lower middle income countries concerned would be able to fall back on the GSP which according to the Commission is "*less advantageous but still generous*". In fact, many key exports for the ACP countries (like beef, cocoa, vegetables, cut lowers) are not covered by the GSP and would therefore be seriously affected.

Finally, we would like to draw your attention to the legal advice given by Lorand Bartels in which he points out that the proposal is premature, that the Commission fails to give adequate reasons for the withdrawal of individual ACP countries and that "*the EU cannot withdraw an ACP country from the list of beneficiaries unless the EU notifies the respective country that it no longer intends to become a party to the interim or full EPA initialled with that country*".

Therefore, in line with the ACP Council Resolution of 9 December 2011, we want to urge you to join the ACP "*call for an immediate withdrawal of the proposed measures in view of their overall detrimental effect*" and to refuse to approve the proposal.

We remain available for further exchanges on this matter.

Yours sincerely,

Marc Maes  
11.11.11

On behalf of the undersigned,

AEFJN, Brussels  
Africa Groups of Sweden  
Afrika Kontakt, Denmark  
Aitec, France  
APRODEV, Brussels  
ATTAC-Spain  
Both ENDS, The Netherlands

CNCD-11.11.11, Belgium  
Comhlámh, Ireland  
FDCL, Germany  
Forum Environment & Development, Germany  
Forum Syd, Sweden  
KASA, Germany  
KOSA, Germany  
PowerShift, Germany  
SOMO, The Netherlands  
SOS Faim, Belgium  
Trade Justice Movement, UK  
Traidcraft Exchange, UK  
Transnational Institute, Amsterdam  
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