There are no translations available.

The World Trade Organization (WTO)-recently concluded fifteenth trade policy review of the European Union (EU) gives an update on the status of negotiations between Kenya and the EU of an interim Economic Partnership Agreement (EPA). EPAs are reciprocal free trade agreements where each Party (the EU and its member States on one side, and the EPA partner country or countries on the other), offers duty-free access to its respective market in an asymmetrical way (i.e., in a different measure, which is 100% for the EU and lower for the other contracting party – usually about 80% or more).

In February 2022, the EU and Kenya agreed to move forward with the bilateral implementation of an interim Economic Partnership Agreement (EPA) with the European Union (EU) after a decision was taken by the East African Community Heads of State at their 21st ordinary summit of February 2021 that allowed the country to do so. This decision, after admitting that not all EAC Partner States were in a position to sign, ratify and implement an EPA with the EU, recognized that individual EAC members wishing to commence engagements with the EU for the EU-EAC-EPA implementation, were allowed to do so under the principle of variable geometry.

The EPA between the EU and the EAC countries was concluded in 2014, when five EAC States (at that time South Sudan and DRC were not yet EAC members) finalized its negotiation. Kenya and Rwanda signed the Agreement in September 2016, but only Kenya ratified it, which happened in the same year. For the EAC-EU EPA to enter into force, all EAC members need to sign and ratify the agreement. However, this does not prevent individual EAC Partner State to negotiate “interim” bilateral EPAs with the EU, awaiting the conclusion of the regional EPA. Examples of such bilateral interim EPA are those that the EU concluded with Cameroon, Cote d’Ivoire and Ghana.

Pending the entry into force of an EU-EAC EPA, the trade relationships between the EU and EAC countries are regulated by the EU Generalized System of Preferences (GSP). The GSP is a unilateral tariff concession scheme which comprises three different preferential arrangements: 1) the standard GSP, 2) the GSP+, and 3) the Everything But Arms (EBA) Initiative, each providing for distinct benefits and conditions depending on the country's level of development. The fact that most of the EAC countries are on the United Nations list of Least Developed Countries (LDCs) allows them to benefit from a duty-free access the EU market under the Everything But Arms (EBA) initiative, the most favourable of the EU’s GSP arrangements, which is reserved to those countries with an LDC status.

On the other hand Kenya, being classified by the World Bank as a lower-middle income economy, currently benefits from the less favorable “standard GSP” arrangement. As such, Pursuant to Article 8(1) of the EU Regulation No 978 of 25 October 2012 (which currently regulates the GPS of the EU), it is exposed to the risk of temporary withdrawals of preferences from the EU. On the basis of such provision, in 2019, the EU suspended tariff preferences on imports of live plants and floricultural products originating from Kenya (which are among the main produts that Kenya exports to the EU), on the assumption that the country reached a sufficient level of competitiveness in their production, according to the product graduation criteria adopted by the EU. This suspension from tariff preferences under the GSP was subsequenty extended by another
EU Regulation
adopted in June 2022 until
December 2023.

Product graduation criteria are thresholds (listed in Annex VI of the EU Regulation No 978/2012) that the EU Commission uses as a reference for evaluating the need to remove from the GSP tariff preferences specific product sections for a given beneficiary country. If the average value of imports of certain products to the EU from a GSP beneficiary exceeds such thresholds for three consecutive years, the product is suspended from the preferential treatment. Product graduation criteria apply uniquely to the GSP standard and the GSP+, but not to the EBA.