THE KENYA–EU ECONOMIC PARTNERSHIP AGREEMENT EXPLAINED

HOW BIG IS EU-KENYA TRADE?

The EU is one of Kenya's largest trading partners, and it's most important export market. Total trade between the EU and Kenya reached €3.3 billion in 2022, with an increase of 27% compared to 2018. Trade between the EU and Kenya is balanced, with a slight surplus in the EU's favour of €768 million.

The EU's imports from Kenya are mainly vegetables, fruits, and flowers. EU's exports to Kenya are mainly in mineral and chemical products and in machinery.

The EU is Kenya's first export destination, with 16% of its total exports in 2022. The EU is Kenya's third largest source of imports, with 10% of total Kenyan imports.

WHY HAVE KENYA AND THE EU NEGOTIATED AN AGREEMENT?

Kenya and EU are major partners, in the economic and political context, and this agreement will bring our relationship to the next level. Kenya is one of the most stable democracies in the continent, with a growing political role in the region and internationally.

Kenya is one of the key EU partners in Sub-Saharan Africa to pursue an agenda of shared values and interests, promote peace and security, prosperity, and democratic stability in the region, as well as multilateralism.

The Economic Partnership Agreement (EPA) between Kenya and EU was explicitly integrated as a key deliverable of the EU-Kenya Strategic dialogue, launched in June 2021, and it is a crucial component of engagement between the two partners.

The EU-Kenya EPA aims at implementing the provisions the EU-East African Community (EAC) EPA that was concluded in 2014 and will be open for other EAC countries to join. Bilateral implementation is based on a decision of the East African Community from 2021 to let individual go ahead under the principle of "variable geometry".

The application of the regional agreement with the EAC is blocked since 2016, when Kenya, Rwanda and the EU Member States signed the agreement but not the other EAC partner states. The EU-Kenya Agreement will remain open to accession of the EAC Partner States.

The EU-Kenya EPA will boost bilateral trade in goods and investment flows and contribute to sustainable economic growth. It will also be accompanied by trade-related development cooperation to support economic growth and job creation.

WHAT WILL THE AGREEMENT MEAN FOR TRADE IN GOODS?

The main objective of the EPA is to liberalise trade between Kenya and the EU. As in other EPAs, the Kenya-EU EPA foresees asymmetric removal of tariffs. In practical terms, this means that the EU fully liberalises access to its market immediately upon application of the EPA and all goods from Kenya (except arms) can enter the EU market without tariffs or quotas.

Kenya will open its market gradually to imports from the EU, benefitting from transitional periods. In addition, Kenya will be able to exclude sensitive products from liberalisation.

Finally, Kenya may also benefit from other provisions that consider its development needs such as, special safeguards for agriculture, measures on food security and infant industry protection.

HOW DOES THE DEAL SUPPORT SUSTAINABLE AGRICULTURE?

The agreement includes a chapter on agriculture geared towards sustainable agricultural development, including food and nutrition security, rural development, including the sustainable use and management of natural and cultural resources, and income and job creation in the agricultural sector.

This chapter guarantees that the EU will not apply exports subsidies, even in times of market crisis, and commits the Parties to a deepened policy dialogue on agriculture and food security, including transparency as regards their respective domestic policies.

HOW WILL THE DEAL BENEFIT KENYAN FARMERS?

The bilateral agreement with Kenya, as for other EPAs, offers opportunities for farmers in EPA partner countries, as the EU is the biggest importer of agricultural products from ACP countries. As the overwhelming majority of exports to Kenya are horticultural products, this opportunity is particularly important.
Kenya, as other ACP partner countries, can protect some sensitive agricultural products, either by excluding them from tariff cuts or by keeping the option of triggering safeguards in case of unforeseen, sharp and sudden increase of imports from the EU.
Kenya, as other ACP partner countries, can also take food-security measures where necessary.

EU development assistance, through trade capacity-building measures, supports farming and rural employment, and farmers' capacity to comply with sanitary and phytosanitary and other agricultural standards. This alignment of standards makes it easier to comply with the requirements necessary to bring those products into the EU, further opening trading opportunities in the agricultural sector.

HOW DOES THE DEAL SUPPORT INDUSTRIAL DEVELOPMENT AND DIVERSIFICATION OF TRADE?

Together with the bilateral economic cooperation and development cooperation mechanisms, the agreement contributes to good governance in Kenya. These provisions will enhance the business and investment environment and help generate new trading and investment opportunities. Businesses that are in engaged in international trade are more productive, pay higher wages, contributing to the value added in the economy.
The EPAs are international agreements that do not expire. Thus, both the free access of Kenya into the EU market without any time limit, and the long-term free access of EU products to Kenyan market, increase incentives to invest in Kenya, as other EPAs do in other developing ACP countries, and in building capacity to meet EU standards.

Legal certainty, stability and predictability are among the main aspects potential investors are likely to consider when deciding on an investment.
How will the agreement foster the sustainability of trade?
This agreement with Kenya contains a robust and comprehensive chapter on trade and sustainable development (TSD) reflecting a high level of ambition. It incorporates the vast majority of the outcome of the EU's TSD review.

The agreement includes for example provisions on labour standards, climate change and biodiversity, gender equality. Furthermore, it prevents both parties from lowering labour and environmental standards to attract trade or investment. These commitments have strong normative value. Therefore, his agreement has a high transformative potential.

To what extent does the EPA eliminate existing customs duties?
Kenya has committed to liberalise the equivalent of 82.6% of imports from the EU by value. Under Kenya's current tariff regime, more than half of these imports are already imported duty free, not only from the EU but from the entire world. The remainder will be progressively liberalised within 15 years from the moment the EPA enters into application. 2.9% of it will be liberalised within 25 years.
Kenya decided to exclude from liberalisation various agricultural products, wines and spirits, chemicals, plastics, wood-based paper, textiles and clothing, footwear, ceramic products, glassware, articles of base metal and vehicles.
The liberalisation on Kenyan imports resulting from the EPA will therefore be entirely manageable and spread over a long period of time. There is no risk either of Kenyan market being "flooded" by EU products nor of any significant budget revenue shocks.

WHAT WILL BE THE ARCHITECTURE OF THE AGREEMENT?

This agreement with Kenya aims de-facto at the implementation of the former agreement successfully negotiated with the EAC members in 2014. It introduces the necessary adjustments for implementation of the regional EPA by an individual EAC member and is open to any other EAC country to join in the future. It has also been updated to reflect current challenges, such as promoting sustainability, as the negotiations took place almost 10 years ago. The parties agreed to add an ambitious Trade and Sustainable Development chapter and update the economic cooperation and development chapter.

On Economic and Development Cooperation, the original agreement with the EAC has been largely preserved, while some changes were needed to align the outdated text to the current EU development cooperation programming. An Annex, which is specific to Kenya and the EU, has been added to embody the changes to the regional agreement text. The Economic and Development Cooperations parts confirm the EU's ambition to support Kenya in its implementation of the agreement as part of the overall EU-Kenya cooperation and within the framework of the current EU cooperation instruments.

It was agreed that the rules of origin of the Market Access Regulation will apply on a temporary basis to both parties' trade, while the original reciprocal rules of origin are being updated.
The Market Access Regulation provides duty-free and quota-free access to the EU market for products originating in African, Caribbean and Pacific countries which firstly, do not benefit from the EU's Everything But Arms (EBA) scheme and secondly, have concluded, but not yet ratified, an EPA with the EU.
In practice, this means that the rules of origin currently applying to Kenyan exports to the EU will continue to apply for the moment. As a novelty, the Market Access Regulation rules will be applicable for future preferential EU exports to Kenya as well, in case reciprocal rules of origin are not negotiated and applied in the meantime.

It is envisaged that a new protocol on rules of origin will be negotiated as soon as possible, and at the latest within the first five years of the implementation of the EPA. The 2014 Protocol will be the basis for negotiation of the new set of rules, with limited adjustments particularly linked to the bilateral nature of the agreement.

WHAT ARE THE NEXT STEPS?

Following signature, the text will proceed for ratification procedures in both Kenya and EU and subsequently enter into force.