



Africa–European Union Going Forward

Strategy note for the European Union–African Union Summit

**African Trade Policy Centre
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The present strategy note is aimed at providing policy directions regarding the post-Cotonou Africa–European Union trading relationship. It has been prepared to support the deliberations of African Union member States ahead of the fifth African Union–European Union Summit, to be held in Abidjan, Côte d’Ivoire in November 2017. In the strategy note, the following is recommended: (a) a standstill in the Economic Partnership Agreements process to allow for the finalization of the Continental Free Trade Area; and (b) a consolidated approach to the Africa–European Union trading relationship going forward.

I. Introduction

The European Union (EU) is an important trading partner for African countries. Although the relative share of the EU in Africa’s exports has decreased over the years, the EU still represents more than 30 per cent of the imports and exports to and from Africa.¹ The composition of trade between Africa and the EU has remained relatively stable, with imports to Africa from the EU mainly consisting of manufactures, such as machinery and mechanical appliances, technology, vehicles, processed foodstuffs and pharmaceutical products, and Africa’s exports to the EU being heavily concentrated on a few products, in particular, mineral raw materials.

Historically, Africa has benefited from preferential trade arrangements with the EU. However, several reciprocal trade agreements were introduced, such as free trade agreements centred on the Economic Partnership Agreements (EPAs) for African, Caribbean and Pacific countries and the association agreements with some North African countries. While the Cotonou Agreement, which provides the basis for the EPAs, frames the agreements as developmental in nature, the agreements have raised a significant amount of controversy in Africa and in Europe. With the Cotonou Agreement due to expire in 2020, African countries – under the auspices of both the African Union and the African, Caribbean and Pacific Group of States – are now considering the redefinition of the cooperation framework with the EU. The post-Cotonou framework negotiations are expected to start in 2018.

Meanwhile, the effort to reach an Africa-wide trade agreement is ongoing. The negotiations pertaining to the establishment of a Continental Free Trade Area (CFTA) were launched by the Assembly of the African Union in June 2015, with the aim to complete the first phase of the negotiations by 2017. Once in place, an agreement for the CFTA will cover more than a billion people and provide significant opportunities for the countries in Africa and

¹ Based on the International Trade Centre Trade Map.

their trading partners. The process to establish the CFTA, however, raises the issue of coherence of internal and external trade policies. As Africa moves towards deeper integration, it is key that its external commitments, including free trade areas (FTA) with the EU, are aligned with the internal priorities.

This strategy note is comprised of five sections, including the introduction. In section 2, the current arrangements for Africa in accessing the EU markets and the status of the EPA negotiations are discussed. In section 3, the implications of key EPA provisions, in particular, the rules of origin provisions for the regional integration of Africa and the industrial development agenda are examined. In section 4, key strategic considerations are put forward. Section 5 concludes with some recommendations.

II. Current market access conditions for African countries and status of the Economic Partnership Agreements negotiations

To date, various schemes are applied to African countries when accessing the EU market (table 1). The arrangements are as follows:

- Two African countries are subject to the most favoured nation (MFN) treatment;
- Two to the Generalized System of Preferences (GSP) general arrangement;
- One to GSP+;
- Thirty-one to the “Everything But Arms” initiative (EBA);
- Eighteen to FTAs, with 14 of them being EPAs.

Table 1

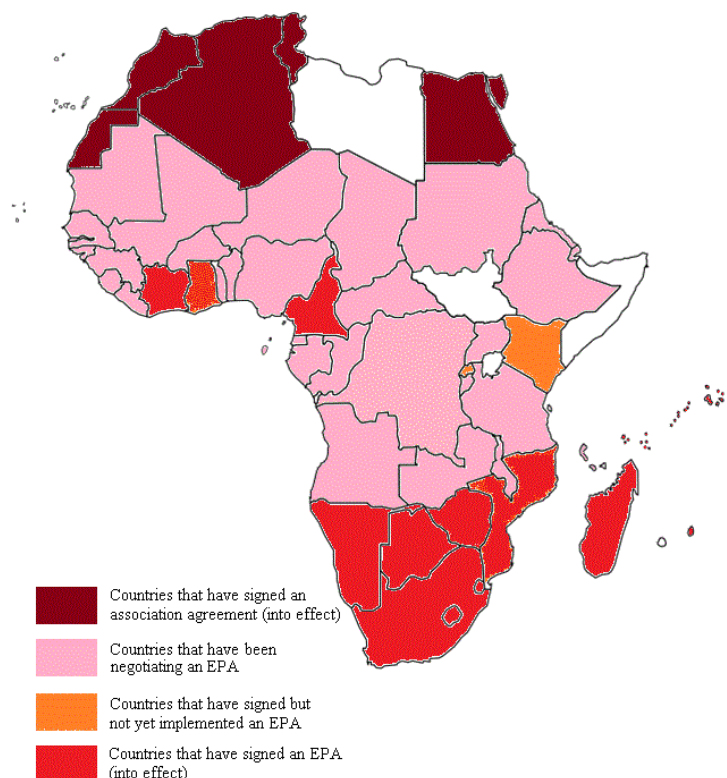
Market access for African countries to the European Union market

Most Favoured Nation	GSP General Arrangement	GSP +	EBA		FTA/EPA
Gabon Libya	Congo Nigeria	Cabo Verde	Angola Benin Burundi Burkina Faso Central African Republic Chad Comoros Democratic Republic of the Congo Djibouti Equatorial Guinea Eritrea Ethiopia Gambia Guinea Guinea-Bissau Liberia	Malawi Mali Mauritania Niger Rwanda Sao Tome and Principe Senegal Sierra Leone Somalia South Sudan Sudan United Republic of Tanzania Togo Uganda Zambia	Algeria Egypt Morocco Tunisia Botswana Cameroon Ghana Côte d’Ivoire Kenya Lesotho Madagascar Mauritius Mozambique Namibia Seychelles South Africa Swaziland Zimbabwe

A stated motivation from the EU for the EPAs has been to move away from unilateral preferences to more WTO-compliant arrangements. The agreements are based on a gradual removal of barriers to trade between the parties in a way that is reciprocal, though

asymmetrical.² In addition, they cover enhanced cooperation in all areas relating to trade. In Africa, negotiations have been carried out in five blocs.

EPA negotiations have been ongoing in the **Central African region** with eight countries, namely Cameroon, Central African Republic, Chad, the Congo, the Democratic Republic of the Congo, Equatorial Guinea, Gabon and Sao Tome and Principe. Nonetheless, the EU and Cameroon concluded an interim EPA in 2009, which has been provisionally applied since 2014. The remainder of the countries of the region access the EU market under different regimes, with the least developed countries (Chad, the Central African Republic, the Democratic Republic of the Congo, Equatorial Guinea and Sao Tome and Principe) benefiting from the EBA regime, while the Congo is a beneficiary of the general arrangement of GSP and Gabon has been subject to the most-favoured nation (MFN) treatment since 2014.



The EPA negotiations have been completed with five countries of the **East African Community (EAC)**, namely Burundi, Kenya, Rwanda, United Republic of Tanzania and Uganda.³ The signing of the EAC EPA was scheduled to take place on the sidelines of the fourteenth session of the United Nations Conference on Trade and Development (UNCTAD XIV) in July 2016. It was, however, postponed to allow time for further consultation because of concerns raised over the impact of Brexit and remaining issues over the impact of the agreement on the industrialization process of the region. Subsequently, Kenya and Rwanda signed the agreement on 1 September 2016. Although two countries have already signed the EPA, the EAC EPA provides for entry into effect only upon ratification by all EAC countries. The EAC EPA is, therefore, in the signature process and has not yet taken effect. Kenya is the sole EAC Market Access Regulation beneficiary.⁴ The rest of the countries of the region, being least developed countries, benefit from duty-free quota-free access under the EBA regime.

The EPA negotiations are ongoing in the **Eastern and Southern African (ESA) region** with eleven countries, namely the Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Mauritius, Seychelles, the Sudan, Zambia and Zimbabwe. Nonetheless, the EU and four of the

² The EU markets are fully and immediately opened, while African countries are allowed transition periods to open up partially to EU imports, in addition to protection of limited sensitive sectors.

³ It is worth noting that South Sudan acceded to EAC in 2016, with commitments to gradually adopt all of the Community's policy instruments. To this end, the EAC EPA provides for accession clauses with eventual transitional measures, where needed.

⁴ Kenya, being a middle-income country, lost preferential access to the EU market in October 2014. The preferential access was reinstated in December 2014.

aforementioned countries (Madagascar, Mauritius, Seychelles and Zimbabwe), concluded an interim EPA in 2009, which has been provisionally applied since 2012. As the remaining countries are classified as least developed countries, they benefit from the EBA regime.

The EPA negotiations have been ongoing in the region comprising the **Southern African Development Community (SADC)** with seven countries, namely Angola and Mozambique, and the five member countries of the South African Customs Union, namely Botswana, Lesotho, Namibia, South Africa and Swaziland. The SADC EPA negotiations were completed in 2014 with the South African Customs Union grouping and Mozambique. The Agreement entered into provisional application for the Southern African Customs Union grouping in October 2016. Mozambique has signed and ratified the agreement and, accordingly, the SADC EPA entered into effect for Mozambique on 16 September 2017. The Agreement is open for the accession of Angola.

Negotiations of the regional EPA were completed in February 2014 in the **West African (WA) region**, comprising Mauritania and the Economic Community of West African States (ECOWAS), which includes Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, the Niger, Nigeria, Senegal, Sierra Leone and Togo. The signature process is ongoing and the agreement has not yet to take effect. The WA EPA will enter into force after the ratification of all EU member States and at least two thirds of the West African States. If the agreement enters into force without some ECOWAS member States ratifying it, there may be distortive effects on the ECOWAS common external tariff. Furthermore, some countries in the region, such as Nigeria, have expressed concerns over the impact of the agreement on the policy space available for industrialization. The private sector and trade unions have noted that some domestic industries may not be ready for the expected competition from Europe.

In parallel, the EU and two countries of the region, namely, **Côte d'Ivoire and Ghana**, have concluded interim EPAs in 2009 and 2016, respectively, which have been provisionally applied since 2016. For both the Côte d'Ivoire and Ghana EPAs, protocols on rules of origin need to be negotiated.

North African countries are not part of the EPA process. However, the EU and some Mediterranean countries have entered into a cooperation framework under the Euro-Med Partnership. The objective of this partnership is to create a deep Euro-Mediterranean free trade area between EU and Southern Mediterranean countries and among the Southern Mediterranean countries. The Euro-Mediterranean Association Agreements (currently limited to trade in goods) are in force with most of the countries concerned, including the countries in Northern Africa: Algeria; Egypt; Morocco; and Tunisia. Morocco and Tunisia have also launched negotiations towards Deep and Comprehensive Free Trade Areas in 2013 and 2015, respectively. Similar to EPAs, the Association Agreements provide for slightly asymmetrical market access conditions, with the Mediterranean countries opening up their markets progressively to the EU – not fully reciprocating treatment on agricultural products – while the EU offers duty-free treatment for industrial products and the elimination of tariffs on about 80 per cent of the agricultural products.

On the EU side, the United Kingdom submitted a notification on its intention to leave the EU on 29 March 2017, starting a two-year withdrawal process. This will have implications on Africa's trade with the EU. In 2015, the United Kingdom absorbed 4.3 per cent of Africa's total exports and 12.4 per cent of African exports to the EU. The United Kingdom is a particularly important export destination for certain African countries and sectors. In 2015, more than one fifth of the exports from Botswana, Mauritius, Seychelles, the Gambia, Kenya,

Equatorial Guinea, Zambia, Rwanda and South Africa to the EU went to the United Kingdom. To date, the details of the exit package have yet to be agreed, and there is considerable uncertainty over the post-Brexit relationship the United Kingdom will have with the EU and external trading partners, including African countries. This has raised questions on the relative benefits of the EPAs for some African countries.

III. Economic Partnership Agreements and Africa's regional integration and industrial development agenda

Agenda 2063 puts the structural transformation of African economies at the forefront of the continent's development agenda. Structural transformation and industrialization are also incorporated into the Sustainable Development Goals as a global priority for economic, social and environmental sustainability, and the advancement of developing countries. The contribution that trade can make in that regard was highlighted extensively in the 2015 edition of the *Economic Report on Africa: Industrializing through trade*, which is published by the Economic Commission for Africa (ECA).⁵ In the report, it was noted that the more industrialized nature of intra-African trade has provided an opportunity for African countries to diversify their production and exports, and through trade in intermediate goods – already the most dynamic component of intra-African trade – the development of regional value chains. Regional value chains offer a path for development of industrial capacities and pooling of resources, and provide a basis for entering global value chains for African producers, which currently face high barriers for entry. Accordingly, in the report, the need to ensure that trading arrangements within Africa, as well as with external partners, support the enhancement of intra-African trade was highlighted.

In that regard, ECA modelling work points to possible negative impacts from EPAs on intra-African trade and industrialization. Using the example of West Africa and Eastern and Southern Africa, one study indicates that the implementation of the EPAs would generate increased exports for both the EU and the African countries involved.⁶ The gains would, however, be greater for the EU because African countries already enjoy relatively good access to the EU markets. The gains for African countries would also be concentrated to non-least developed countries and be limited to a few non-industrial sectors, such as meat, rice or sugar. The results also indicate that the trade creation with the EU would happen to the detriment of intraregional trade. This implies that the EPAs may not be supportive of the industrialization and boosting intra-African trade goals of the continent.

Bearing in mind the current status of the EPAs in Africa, with several countries implementing them or at advanced stages of the process, a comparative review of the EPA texts^{7,8} has also been carried out to examine the policy space available in the agreements to achieve the integration and industrialization objectives. All the EPAs include regional

⁵ Economic Commission for Africa, *Economic Report on Africa 2015: Industrializing through Trade* (Addis Ababa: ECA, 2015).

⁶ Simon Mevel, Giovanni Valensisi and Stephen Karingi, *The Economic Partnership Agreements and Africa's integration and transformation agenda: the cases of West Africa and Eastern and Southern Africa Regions*, selected paper for presentation at the 18th Annual Conference on Global Economic Analysis, Melbourne, Australia, 17-19 June 2015. Available at: <https://www.gtap.agecon.purdue.edu/resources/download/7649.pdf>.

⁷ The study took into consideration the comprehensive CARIFORUM, West African, SADC and EAC EPAs, as well as the interim Central and ESA EPAs. At the time of the study, the Ghanaian and Ivorian stepping stones EPAs had not taken effect. The assumption was to consider the comprehensive EPA.

⁸ Economic Commission for Africa and African Union Commission, *Comparison on the provisions of the Economic Partnership Agreements (EPAs)*. (Addis Ababa: ECA, Forthcoming).

integration as an objective⁹ and provide a number of provisions to support regional integration in the EPA regions. It was found that the EPA texts generally provide sufficient space for the establishment of the CFTA. In terms of industrialization and integration, several provisions provide some policy space for the African parties:

- *MFN*. The MFN clauses included in the African EPAs allow sufficient policy space for African countries to negotiate more favourable reciprocal trade arrangements with each other, without triggering the need to extend those deeper preferences to the EU.
- *Regional preference*. All the EPAs, with the exception of those with EAC and the Eastern and Southern Africa region, include provisions related to regional preference. This clause provides that parties can offer more favourable treatment to the other members of their regional bloc in the context of their regional integration process. However, more favourable treatment given to the EU must be extended to the other parties in the regional bloc. This provision can have some unexpected effects in cases in which countries that are not a member of a specific regional economic community have negotiated with countries of a particular community as part of a regional grouping under EPAs, such as in the case of ECOWAS and Mauritania.¹⁰
- *Regional value chains*. Cumulation provisions are made available for sourcing materials in a wide variety of countries, including African countries in other EPA blocs.
- *Industrialization provisions*: The policy space provided includes exclusion lists (provided by asymmetric liberalization commitments), infant industry clauses, and temporary export subsidies (in the cases of EAC, SADC and Western Africa). Similar to this, in the text of the EPAs, reliance of African countries on agriculture is recognized and provisions are provided for the protection of the agricultural sector.
- *Development cooperation*. In all of the EPAs, the need for regional cooperation in a certain number of areas of varying importance depending on the regions is highlighted.

It is important to note that in contrast to the Caribbean and the Pacific regions, the African EPA negotiations have been carried out in five negotiating blocs. This means that EPA provisions are focused at subregional levels. As a consequence, the regional integration objectives are directed at deepening integration in the EPA regions specifically, rather than continentally. The negotiating blocs are not in all cases aligned with the recognized regional economic communities of the African Union.

Additionally, the policy space provided will only be useful to the extent that African countries are able to use them effectively. A majority of the provisions that allow for the promotion of industrialization are time-bound, meaning that a clear strategy and resources have to be in place for a country or region to use the time provided to build productive capacity. The development cooperation provisions do not include clear financial commitments, and it has

⁹ See Art. 2.1(b) EAC EPA; Art. 2(c) CA EPA; Art. 1(b) WA EPA; Art. 2(b) ESA EPA; Art. 1(b) SADC EPA.

¹⁰ For more details on the regional preference provisions, see Economic Commission for Africa and African Union Commission, Comparison on the provisions of the Economic Partnership Agreements (EPAs) (Addis Ababa: ECA, Forthcoming).

been questioned whether the funds provided under the provisions will indeed be additional to existing development cooperation and funding.

A practical consideration will also be the fragmentation of the continent because of the five EPA blocs. There are divergent provisions from one EPA to another. Going forward, as Africa moves towards establishing a continental customs union, the various agreements, especially in terms of exclusion lists and tariff schedules, will need to be harmonized. However, there is currently no timeline for the establishment of the customs union, although in the Abuja Treaty, 2019 is the indicative date.

A pressing concern is the incompatibility between the different cumulation provisions under the rules of origin of the EPAs and the barriers this may pose to the development of regional value chains. By definition, cumulation allows a specific country to source production materials or processes from another country or a defined region and still qualify for trade preferences on exported transformed products. In general, the countries considered must be subject to identical rules of origin.

In the case of EPAs, general provisions refer to bilateral,¹¹ diagonal,¹² or full¹³ cumulation. Cumulation may also be possible with neighbouring developing countries beyond the African Caribbean Pacific Group of States.¹⁴ Other cumulation types are also allowed under specific EPAs,¹⁵ including even cross-cumulation.¹⁶ The wider the cumulation provision being offered, the higher the latitude in sourcing materials or processes, and thus the greater the opportunities to exploit regional value chains. In that regard, the EPAs, in general, offer relatively flexible and generous cumulation provisions.

In practice, the application of the cumulation provisions may be more complicated. This is because of the varying conditions in terms of the application of the cumulation requirements among the EPAs, which are driven by the fact that the set of rules of origin have been negotiated in different configurations. These differences ultimately limit the potential of utilization of the cumulation provisions and scope for regional value chains. For example, the cumulation provisions under the SADC EPA, the EAC EPA and the WA EPA allow for *a priori* straightforward cumulation with other EPA groups, regardless of the applicable rules of origin between the cumulation partner and the EU (cross-cumulation). The interim ESA EPA, on the other hand, provides for cumulation with all African countries *insofar as they apply the same rules of origin*. The Pan Euro-Mediterranean Convention (PEM) on Preferential Rules of Origin and its Benefits (applicable for North Africa) does not accommodate room to facilitate pan-African cumulation.¹⁷

¹¹ A country can source materials from the EU, (materials originating from the EU can be considered as originating from the country of focus).

¹² A country can source materials from a defined country-as specified in the corresponding provision (materials originating from a defined country as specified in the corresponding provision can be considered as originating from the country of focus).

¹³ Processes carried out in either the EU or a defined country - as specified in the corresponding provision – can be considered as carried out in the country of focus.

¹⁴ An EPA country may source materials from a neighboring developing country other than African, Caribbean and Pacific States (a definition of neighbouring developing countries is listed in each protocol).

¹⁵ For example, special cumulation rules apply in the case of SADC EPAs; further details are available at: <http://trade.ec.europa.eu/tradehelp/economic-partnership-agreements-epas>.

¹⁶ As opposed to the other types of cumulation, cross-cumulation does not require identical rules of origin.

¹⁷ Cumulation for the PEM regime is limited to diagonal cumulation among PEM countries.

Furthermore, under the EPA regimes,¹⁸ an administrative cooperation arrangement must be in place between the cumulation-eligible countries. The African, Caribbean and Pacific countries have raised concerns pertaining to the difficulty of complying with this administrative cooperation requirements and may circumvent the issue through a multilateral instrument.¹⁹ An additional administrative burden comes in the form of the requirement that notices indicating the fulfilment of the necessary requirements to apply cumulation must be published in the *Official Journal of the European Union (C series)* and in accordance with the procedures of the contracting (African) parties. Again, this acts as a possible obstacle for the effective use of cumulation provisions.

IV. European Union-Africa going forward – strategic considerations

It is clear from the above discussion that while a developmental impact is intended, many complications are affecting the potential of EPAs to contribute towards achieving the industrialization and structural transformation goals of Africa. With this in mind, several strategic considerations may be contemplated.

A. The establishment of the Continental Free Trade Area should be a key priority for Africa

In the study mentioned above on the EPAs and their impacts on Africa's trade, the authors also examined the potential trade-related effects of the EPAs using a scenario in which the agreement pertaining to a CFTA was fully implemented prior to the full implementation of the EPAs. It was found that the increase in intra-African trade as a consequence of the CFTA offset the negative impacts of the EPAs on intra-African trade. It was also found that following the establishment of the CFTA, the majority of the benefits in Africa was focused on industrial goods, supporting structural transformation. When combined with trade facilitation measures, intra-African trade was found to double.

B. A standstill in the Economic Partnership Agreements process should be put in place

At this point in time, the EPAs are still largely unimplemented, while the first stage of the CFTA negotiations is close to conclusion. As shown above, the sequencing of trade policy reforms is not irrelevant – there is a strong case for a standstill in the EPA processes to first allow for the finalization of the CFTA. The uncertainty created by the Brexit process further supports this approach.

In terms of market access, most preference-dependent non-least developed countries already benefit from preferences to varying degrees under other regimes. The CFTA would also alleviate some of the difficulties related to the inconsistencies in cumulation regimes, as it would provide a common framework for the African cumulation networks. Harmonizing the cumulation opportunities that exist under the cumulation rules under the comprehensive EPAs, on the one hand, and the interim EPAs, on the other hand, would reinforce the potential of regional value chains. Doing so after the CFTA negotiations would help to leverage what has been achieved under the CFTA.

¹⁸ Except for the interim EPA countries that are allowed full cumulation across Africa by application of the Market Access Regulation rules of origin (Cameroon, Ghana and Cote d'Ivoire).

¹⁹ The initiative has received political appraisal by the EU but no evidence of its technical applicability was found. Work is ongoing to further evaluate it. Preliminary results tend to indicate only partial technical applicability.

Moreover, the CFTA is only a part of the regional integration process as set out in the Abuja Treaty. A deeper integration will increasingly require that the continent's external commitments be harmonized. This process will start during the implementation of the agreement to establish the CFTA. Therefore, some African countries may wish to renegotiate EPA provisions. Resistance in some parts towards the EPAs is likely to encourage demand for reopening negotiation on some provisions. In that regard, the yet-to-be-implemented EPAs do not entail any implementation cost and do not further increase the complexity of continental harmonization by creating legacy practices.

C. A better Africa-European Union partnership can be designed looking forward

A standstill pending the conclusion of the agreement to establish the CFTA will in fact be mutually beneficial. The CFTA is expected to go beyond a traditional free trade area. It will serve as a basis for continental trade policy coherence and will recreate Africa as a unified – stronger – grouping with a shared trade and developmental vision. Once in place, African countries will be in a better position to move towards a harmonized relationship with the EU. As indicated above, the fragmented approach applied in the EPA negotiations thus far has created many practical complications that work against the priorities of Africa. At the same time, the EU side is also inconvenienced through the long negotiation processes and the difficulties associated with implementing the Agreements.

Accordingly, African countries may wish to consider establishing a consolidated, coherent single Africa-EU FTA after the CFTA is in place. The planned European Union-African Union Summit is an opportunity to lay the groundwork for a renewed relationship. A common position should thus be developed on the continental strategy on the implementation (where applicable) and consolidation of the Africa-EU trade relationships in a way that supports the continent's policy objectives. Win-win outcomes can be achieved through a careful and strategic sequencing of the implementation of FTAs. A road map setting out the steps towards such a continental FTA with the EU would, therefore, be a very practical and potentially mutually acceptable approach to a topic that has long been a source of tension between Africa and its European partners.

V. Recommendations

1. The establishment of the CFTA should be the priority for African countries in terms of trade policy. In that regard, a standstill of the EPA processes is recommended until the CFTA process has been finalized.
2. To initiate the process, African Union and EU technical experts should constitute a working group to examine the modalities for the implementation of the standstill recommendation. The working group should report to the African Union and the EU trade commissioners on a time frame to be agreed by the parties.
3. Going forward, African countries should take a more unified approach towards the Africa-EU trade relationship. A road map for the development and implementation of a continental FTA with the EU should be developed with assistance from the African Union and ECA.

4. For the purposes of the fifth European Union-African Union Summit, a common position that makes the case for a comprehensive Africa-EU trade arrangement after the CFTA has been established should be developed and adopted.