EU/Kenya Economic Partnership Agreement

2023/0338(NLE) - 08/12/2023 - Legislative proposal

PURPOSE: to conclude the Economic Partnership Agreement between the European Union and Kenya.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: on 12 June 2002, the Council authorised the Commission to open negotiations for Economic Partnership Agreements (EPAs) with the African, Caribbean and Pacific Group of States. Kenya signed and ratified the EU-EAC EPA on 1 and 28 September 2016, respectively. For the EU-EAC EPA to enter into force, all EAC members need to sign and ratify it. To this date, the signature and ratification of the other EAC members are still pending, thus preventing the EU-EAC EPA from entering into force.

On 19 December 2019, the Council updated the Commission's negotiating directives of 2002 by including the conclusion of a chapter on trade and sustainable development in EPAs. On 27 February 2021, the EAC Summit authorised individual EAC members to proceed with the bilateral implementation of the EU-EAC EPA under the principle of 'variable geometry'. On 4 May 2021, Kenya notified the Commission of its request to move forward in that sense.

On 17 February 2022, the Union and Kenya signed a Joint Statement on the margins of the EU-African Union Summit agreeing to advance the negotiations on an EPA between the Union and Kenya, which is to remain open for accession by other EAC Partner States.

Finally, on 24 May 2023, the negotiations for the Agreement were successfully concluded and in accordance with a Council Decision, the Agreement was signed, subject to its conclusion at a later date.

It is now necessary to approve the Agreement on behalf of the European Union.

CONTENT: the purpose of the draft Council Decision is to approve on behalf of the Union, the Economic Partnership Agreement between the European Union, of the one part, and the Republic of Kenya, Member of the East African Community, of the other part.

This Agreement aims de-facto at the implementation of the provisions of the former agreement negotiated with the EAC members in 2014. It introduces the necessary adjustments for the 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 align it with current challenges, such as promoting sustainability by including an ambitious Trade and Sustainable Development annex and updating the Economic Cooperation and Development chapter.

The EU-Kenya EPA contains provisions on:

- trade in goods,

- customs and trade facilitation,

- technical barriers to trade,

- sanitary and phytosanitary measures,

- agriculture and fisheries,

- development cooperation,

- dispute avoidance and settlement,

- and a trade and sustainable development annex.

The text of the EPA includes an undertaking to negotiate new areas to be included in the EPA (‘rendez-vous clause’), including provisions on trade in services, and trade-related rules addressing sustainable development, competition policy, investment and private sector development, intellectual property rights, transparency in public procurement.