



# THE RAMPAL INSTITUTE CONFERENCE: BREXIT AND EPAS: EXPLORING THE IMPLICATIONS FOR THE TRADE OF COMMONWEALTH DEVELOPING COUNTRIES

## IMPLICATIONS OF BREXIT FOR ACP COUNTRIES

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Brexit poses risks but also opportunities for ACP countries, and to take maximum advantage of these opportunities it is critical that ACP countries take the initiative as soon as possible. Waiting until UK-EU negotiations are underway, or even concluded, is not only unnecessary, but potentially detrimental to ACP interests.

### THE UK IN THE WTO

If the UK and the EU do not reach any agreement in time, then the day that Brexit takes effect, likely to be in 2019, there are likely to be two consequences. First, the UK will drop out of all EU trade agreements, including those to which the UK is formally a treaty party. This is because even in this latter case these agreements only apply to EU territory, which would then not include the UK.

The UK would instead be subject to WTO rules. In terms of its commitments, the UK would almost certainly continue to be bound by the EU's current scheduled commitments. This is because the UK is already an original WTO Member 'for which' (cf Art XI:1 WTO Agreement) the EU submitted schedules in 1995. If so, the UK would only need to negotiate within the WTO if its trade barriers increased above these commitments, or, in the case of agricultural products, its share of these commitments. At the outside, it is conceivable that the EU would not apportion the UK's share of the EU's agricultural trade rights (eg subsidy rights or export tariff quotas) to the UK. But this would most likely be illegal.

### IMPLICATIONS FOR ACP COUNTRIES

If the UK keeps the EU schedule, it would most likely also, at least initially, keep the EU's trade regime (which in some respects is more liberal). That includes the EU's GSP tariff regime for developing countries, its duty-

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free quota-free tariff regime for least developed countries, and its preferences for services for least developed countries.

This has significant implications for ACP countries. For EPA parties, this means that their current duty free exports to the UK would be subject to higher UK GSP tariffs. For LDCs (including EPA parties) and for ACP countries that have not yet concluded an Economic Partnership Agreement (EPA) with the EU, their situation vis-à-vis- the UK would, at least initially, most likely remain unchanged (other than some possible changes in rules of origin). However, it is also possible that the UK reduces or abolishes GSP and LDC preferences or, equally important, that it reduces its ordinary MFN tariff, which would reducing the preference margin enjoyed by ACP countries.

## EARLY NEGOTIATIONS

The UK is expected to notify its withdrawal from the EU under Article 50 of the Treaty on European Union in 2017, and withdrawal will then take effect two years later. Once this happens, it is almost certain that the UK will be legally permitted to engage in third country trade negotiations, although it will not be able to conclude such agreements until it leaves the EU.

It is therefore desirable that all ACP countries commence trade negotiations with the UK as soon as possible. EPA parties will want to keep their duty free quota free access to the UK market. Other ACP countries might be interested in keeping their GSP access, but they might also be able to ask the UK to expand these preferences in a way that favours them. In addition, non-EPA partner ACP countries could use this opportunity to ask the UK to bind preferential market access as Article II GATT scheduled tariff commitments for the purposes of legal security.

## CONCLUSION

In short, ACP countries should not delay in commencing talks with the UK, informally now, and formally as soon as Article 50 is triggered. Doing so will minimise the risk of losing existing market access in 2019, and may even lead to certain improvements in this regard.