



# Current & Emerging Trade Issues for Kenya

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Brexit:

Implications for Kenya's trade with the  
United Kingdom & the European Union

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## Background: EPA with the EAC

- Negotiations for this EPA concluded 16 Oct 2014.
- All EAC countries must ratify it to take effect, but only Kenya has signed (Sept 2016) and ratified.
- Rwanda signed but did not ratify.
- EAC wants clarification from the EU re reciprocal commitments.
- An EPA is a WTO compatible FTA.
- Duty-free, quota-free access of EAC products to the EU.
- On a reciprocal basis.
- Kenya allowed temporary access to the EU.
- Kenya asking EAC partner states for variable geometry.
- This will allow member countries to implement EPA individually.
- The CET of the EAC re third countries will then be affected.
- EAC countries benefitting from EU's GSP & EBA
- Which are based on WTO Waivers --- of a temporary nature.
- UK part of these arrangements as an EU member.
- But seems not keen on post Cotonou deal.

# What is Brexit about?

- Something never done before.
- UK to leave the EU after 45 years of membership.
- In terms of Art. 50 Lisbon Treaty – which is untested.
- Art 50 = Exit clause for members withdrawing from EU.
- Divorce proceedings triggered on 29 March 2017.
- **The subsequent process:** i) Agree on the terms of the Withdrawal Agreement and exit. ii) Two years transition to follow iii) EU law then still applies. iv) Future trade relationship between EU & UK negotiated after exit. v) If this is an FTA, then UK must conclude new agreements with other nations. vi) Revive UK's WTO membership. vii) re-invent national trade governance.
- Hard Brexit will be catastrophic .... Not prepared & **all** trade then under WTO rules. Loss of *frictionless trade* benefits.
- Africa concerned about continuation of EU preferences & Economic Partnership Agreements (EPAs)

## What has happened thus far re Brexit?

- Referendum 23.06.2016 & its unique politics. (*What is EU?*)
- PM's 12 Point Plan of 17 Jan 2017 (Hard Brexit mentioned. No access to the Single Market -- gains full control over **immigration**. A future Tax haven?)
- PM's 6 pages notification letter of 29.03.2017 ("**deep and special partnership**" with a link to security.)
- EU's draft guidelines for negotiations 31.03.2017. (**Strive for certainty, 2 stages, security a different issue, 3m EU citizens.**)
- UK to settle divorce bill of €60 bn.
- UK's Great Repeal Bill. (Scotland, Northern Ireland, Wallis in)
- In mean-time EU acquis continues to apply to UK
- May's election disaster – enters the DUP
- Barnier got his Withdrawal Agreement.....
- But **Irish Backstop** sunk it twice in House of Commons.
- And Speaker refused a 3<sup>rd</sup> reading on 18 March 2019.

# Where does Brexit Process stand?

- May accepted “Meaningful Vote” in Parliament
- Her Withdrawal Agreement voted down twice
- Might it be before Parliament again?
- *No Deal* now rejected
- But so was Second Referendum
- Extension to be requested from EU Council
- For how long? For what to happen?
- EU Parliament elections in May
- Labour hopes for a new election
- Speaker invoked 17<sup>th</sup> century precedent.
- What caused this mess?

# How will UK trade with Africa?

- Initially UK promised “Rolling over” of EU preferences through legislation.
- But tough negotiations to roll over ESA & SADC EPA
- UK trade interests unique – will direct its trade negotiations
- New FTAs can take years (SADC EPA took 12)
- ....and will be “Partnerships” .... with reciprocity.
- Will the regional MFN principle pose a problem?
- When will UK be allowed to conclude own trade deals?
- Clearance & logistical problems for our goods in EU/UK
- Hard Brexit will be bad news for us. Why?
- UK cannot launch its own GSP/EBA without WTO waiver
- UK may not have detailed WTO Schedules now
- UK does not have all required national trade officials

## Specific Implications for Kenya

- Is Kenya part of a Customs Union?
- We don't know exactly when Brexit will happen
- We don't know in what form Brexit will happen
- A soft Brexit means another 2 years under EU law
- A hard Brexit means sudden exit in 9 days' time.
- Alternative scenarios in the continuation agreement
- When will this bilateral enter into force?
- What does national Constitution require?
- How to sort out the EAC angle?
- What does UK want when?
- How do Kenya's UK & EU export markets compare?
- Kenya (biggest EAC exporter to EU) allowed "*temporary access to the EU market*". What does this mean?
- How is the private sector affected & informed?
- How long to live under uncertainty?

## What Lessons?

- Dismantling a deep integration arrangement is difficult
- ....and costly
- We may try it in SACU
- Rise in fundamentalist politics changes many games.
- But the world does not work as in the days of the Empire
- The post Berlin Wall period now a distant honeymoon
- Do not believe promises about freebies in trade negotiations
- Loss of trade policy space a risk for domestic politics.
- ....and for regional integration plans.
- Implications of Brexit for AfCFTA plans?
- It would be good, but can Africa really speak with one voice?
- About what?