UNLOCKING OPPORTUNITIES FOR KENYAN SMES & STARTUPS IN EUROPEAN UNION

Critical Review of EU-Kenya EPA Text Agreement

Viffa Consult
Unlocking Africa's Entrepreneurship Spirit

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ABSTRACT

The paper reviews the EU-Kenya EPA text agreement with the goal of unpacking opportunities that Kenyan MSMEs and startups can tap in the short, medium and long term. The paper focuses on critical review of the provisions of the agreement and makes recommendations that enables the Kenyan government unlock value to Kenyan MSMEs and Startups

INTRODUCTION

The EU-Kenya Economic Partnership Agreement (EPA) has entered into force.

The agreement is touted to boost bilateral trade in goods, increase investment flows, strengthen the ties between reliable partners, and facilitate mutually advantageous economic relations in a sustainable manner, stimulating job creation and economic growth.

The paper reviews the EU-Kenya EPA text agreement with the goal of unpacking opportunities that Kenyan MSMEs and startups can tap in the short, medium and long term. The paper focuses on critical review of the provisions of the agreement and makes recommendations that enables the Kenyan government unlock value to Kenyan MSMEs and Startups

EPA Text Agreement Review

The EPA scope under article 1 covers; general provisions; trade in goods; fisheries; agriculture; economic and development cooperation; institutional provisions; dispute avoidance and settlement; general and final provisions, annexes, Protocols and Joint Statements and general exceptions.

Agriculture

Kenya's agricultural sector is a key economic pillar contributing over 20 percent of GDP directly and over 40 percent in aggregate with the sector growing by 7 percent in 2023 underpinned government intervention through the fertilizer subsidy program and favorable weather (KNBS 2024 Economic Review). Kenya must prioritize other agricultural products other than traditional exports such as coffee, tea and cut flowers .

Kenya's focus must shift to developing SME value chain in fruits and nuts, oilseeds and protein crops with the three categories of fruits, oilseed and coffee-tea representing 40% of total EU agri-food imports as of 2023 and valued at between €21 and €22 billion, accounting for 13% to 14% of EU imports.

Further focus must shift to high value export value added agricultural products with strong organic made in Kenya branding support on cereal products, dairy products, wine based products and confectionary cognisant that these are top EU exports hence good market intelligence

Manufacturing

Manufacturing in Kenya continues to decline with share of manufacturing to GDP between 2019 and 2023 falling from 8.4 percent to 7.6 percent with key drivers in 2023 ; Motor Vehicle,Trailers and Semi Trailers Assembly (21.7%), Manufacture of Structural Metal Products (17 percent), Manufacture of Basic Metals (16.4) Processing and preserving of fish (16.2%), Manufacture of Machinery and Equipment (16.4%) and Manufacture of Sugar (15%).

Linking EU market with CAIPS

Kenya must ensure its county aggregation industrial parks (CAIPs) offer significant value to SME in order to convince them to join through a market driven approach. Kenya must develop market opportunities on top EU manufacturing imports to be manufactured under CAIPs on products such as ; electrical and electronic equipment, organic chemicals, pharmaceuticals products and furniture among others. Where applicable products under county CAIPs can be protected under article 74 Geographical Indications

B2B Manufacturing as opposed to direct import to Kenya

Article 5. 2.(b) liberalise progressively and gradually the EAC Partner State(s) market(s) for goods originating in the EU in accordance with the modalities established in the agreement. The provision can be win-win if the partners pursued B2B collaboration in the manufacturing of these products originating from the EU to enable technology transfer to Kenyan MSMEs through BPO or local partner manufacturing which leads to greater economic dividend to Kenya as opposed to direct import of finished products from EU.

Kenya must abolish CESS and all redundant levies to increase its competitiveness

Kenya must rationalise and abolish internal taxes such as CESS, Branding fee and various levies charged by county and national government agencies that make Kenyan MSME uncompetitive otherwise imported products from EU under the EPA will not be subject to these internal taxes as per article 20 (1) National Treatment with respect to Internal Taxation and Regulation- Imported products originating in one Party shall not be subject, either directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products of the other Party. Moreover, the Parties shall not otherwise apply internal taxes or other internal charges so as to afford protection to their respective production.

Kenya must incorporate Innovation stakeholders in trade in service negotiations

Article 3 titled rendez-vous Clause of the EU-Kenya EPA which states that the parties undertake to conclude the negotiations on the subject matters listed below, within five (5) years from the date of entry into force of this Agreement: (a) trade in services; (b) trade-related issues, namely: (i) competition policy; (ii) investment and private sector development; (iii) trade, environment and sustainable development; (iv) intellectual property rights; (v) transparency in public procurement; (c) any other areas that the Parties may agree upon.

As part of negotiations in services under article 3 above , Kenya must engage the innovation ecosystem through the various associations such as Technology Service Providers Of Kenya (TESPOK),KICTANet, Association of Startup and SMEs Enablers of Kenya (ASSEK), Association of Countrywide Innovations Hubs (ACIH), Digital Financial Services Association of Kenya (DFSAK) and startups among others.

Kenya must priorities its innovators and startups in accessing the EU market through; Startup VISA that will give Kenyan startups preferential VISA for a set number of years as they explore the EU market and develop partnerships, linkages to High value BPO value chain such as deeptech, robotics among others supporting innovators such as GearBox and incentives for EU based investors seeking to invest on Kenyan startups

Kenya must co-opt key experts as represented by key innovation ecosystem associations such as Technology Service Providers Of Kenya (TESPOK),KICTANet, Association of Startup and SMEs Enablers of Kenya (ASSEK), Association of Countrywide Innovations Hubs (ACIH), Digital Financial Services Association of Kenya (DFSAK) and startups among others as advisors to the minister who is a member of the EPA council under the EPA Council established under Article 104 (hereinafter referred to as "the EPA Council") shall, by decision, adopt a protocol governing the rules of origin at the latest five (5) years after the date of entry into force of this Agreement during trade in service negotiations .

As per article 26 Relations with the Business Community , Kenya must strive to include all other trade associations other than KEPSA, KAM and KNCCI that represents MSMEs, ESOs and Startups

Article 81 on Information and Communications Technologies focuses on cooperation in the following areas: (a) ICT connectivity and cost-effectiveness at the national, regional and global levels; (b) dissemination of new ICT; (c) development of the legal and regulatory frameworks for ICT; (d) technology development, transfer and applications, research and development, innovation, information exchange and networks and marketing; (e) capacity building in human resources, improvement in service standards, and institutional structures; (f) partnerships, linkages and joint ventures between economic operators; (g) promotion and support for the development of niche markets for ICT-enabled services.

The government of Kenya in collaboration with the innovation stakeholders must develop a clear roadmap or strategy of tackling each of the above stated cooperation areas to ensure the ecosystem reaps maximum value

Kenya must focus on ease of doing business and export readiness support for MSMEs

Article 86 states that the parties agree to cooperate on enterprise development within the EAC Partner State(s) through supporting among others ;efforts for the promotion and integration of micro-, small- and medium-sized enterprises (MSMEs) into mainstream business activities,

the promotion of a favorable environment for the development and growth of MSMEs and private sector organizations' capacities to comply with international standards.

The Kenyan government must focus on ease of doing business for MSMEs through review of national and county regulations and license regines as well as support programs on export readiness

References

KNBS Economic Review 2024

European Commission - https://trade.ec.europa.eu/access-to-markets/en/home

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