

The revised Lome IV convention

I. Introduction

Since 1975 Lome remains a practical partnership between the African and Southern Pacific (ACP) states and the European Union (EU) and has become the most complete instrument of North-South cooperation ever. Lome IV has been signed in December 1989 by 68 ACP states and 12 EU states. Namibia joined the ACP states after Independence bringing their number to 70.

Lome IV is both a trade and an aid agreement. Its trade provisions place ACP countries at the top of the EU's pyramid of trade preferences. Its aid provisions extend financial and technical assistance to long term national and regional development programs. The main objectives of Lome IV are to develop, diversify and increase the trade of the ACP states and to improve their competitiveness in domestic, regional and international markets. Trade, financial and technical cooperation, should reach these goals. The EU shall contribute towards the ACP states' own development efforts by providing adequate financial and technical help and pay particular attention to the least developed countries. The ACP states agreed to facilitate investment and to improve their access to capital markets. Besides this, the African countries want to stabilize their export earnings, i.e. most of all they have to stabilize their agricultural commodity markets. It is the goal of the revised Lome IV agreement to integrate the ACP states into the world economy in a harmonious manner.

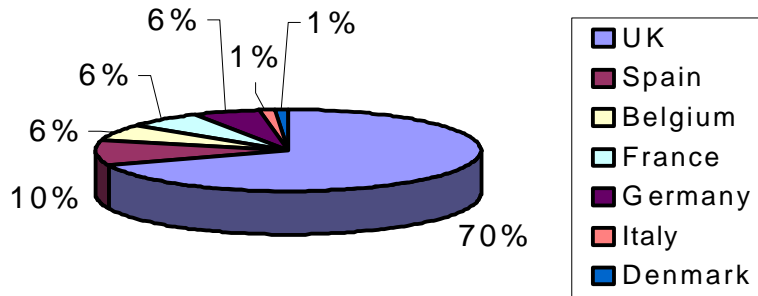
The fourth Lome Convention was concluded for a period of ten years. Only the financial protocol was limited to a five-year phase. Due to major political changes, e.g. the globalisation of international relations and the liberalisation of world trade, the Lome partners decided in 1994 to negotiate some amendments. The results were formalized in the revised Lome IV agreement which is valid until the year 2000.

II. Namibia's trade with the EU

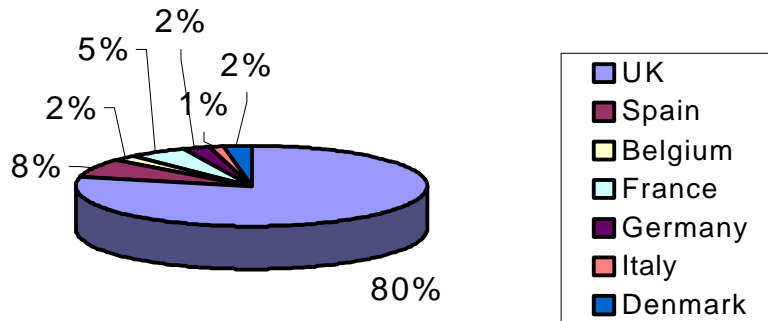
Namibia exports carcass, fish, flowers, roots, rubbers, fruits, food preparation, cigarettes, copper, lead, uranium, arsenic, wood, leather, books and other printed paper, unsorted diamonds, silver, gold, jewelry, cadmium, electrical articles and electric motors, furniture and zoological articles into the EU.

In 1995 Namibia exported goods for N\$ 3,102,200 Millions and in 1996 for N\$ 4,882,500 Millions. The main value of exports was destined for UK, where Namibia exported unsorted diamonds for N\$ 1,975,000 Millions in 1995 and for N\$ 3,610,400 Millions in 1996.

Namibia's exports to EU in 1995

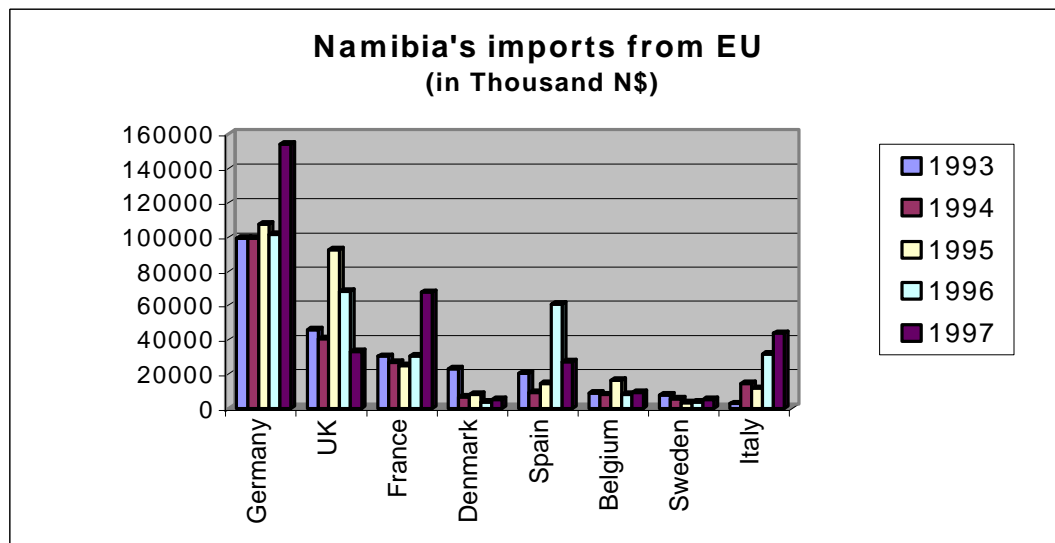


Namibia's exports to EU in 1996



Source: Central Statistics Office of Namibia

Namibia's imports from EU are increasing: From N\$ 243.6 Millions in 1993 to N\$ 395.1 Millions in 1997. Namibia receives its main imports from Germany, which are mostly butter and other fats, cheese, wheat, malt, tubes and pines. Other important imported goods from the EU are food preparation, vessels, petroleum oil, garment, compression engines and parts thereof, machinery, electrical apparatus and vehicles.



Source: Central Statistics Office of Namibia

III. Relevant points for Namibian exporters

Which products / services can be traded under the agreement?

The following products wholly obtained in the ACP states shall be imported into the EU without any quantitative restrictions and free of customs duties and any charges having equivalent effect:

Meat and meat products, fish, dairy products, eggs, vegetables, fruits and nuts, bristles, hair and bones, gums, fat, oils, sugar, chocolate, cocoa, malt, pasta, bread, bakers' wares, sauces, soups, syrup, water, alcohol and alcoholic drinks, tobacco and tobacco products, monumental and building stones, powder, earth colors, inorganic and organic chemicals, pharmaceutical products, human and animal blood, soap and other washing preparations, matches and other explosive products, photographic goods, miscellaneous chemical products, raw skins, leather, wood and wood products, woven fabrics and other textiles, footwear, hats, umbrellas, glass and glass products, articles of natural or cultured pearls, steel, iron, nickel, aluminum, lead, zinc, tin and products thereof, other base metals, nuclear reactors, boilers, machinery, turbines, engines and motors, industrial fans, air conditioning machines, refrigerators, freezer, recorded media, TV, electrical equipment, railway or tramway locomotives and parts thereof, motorcycles and bicycles, ships, boats, optical and photographic apparatus, navigational instruments, instruments and apparatus for physical or chemical analysis, gas, clocks and watches, musical instruments, toys, lamps and lighting, articles of animal, vegetable or mineral carving materials.

These products shall also be considered to be originating in the ACP states if they are sufficiently worked or processed in the ACP states. The general value tolerance is that non-originating materials may be used in the manufacturing process of goods, provided their total value does not exceed 15% of ex-work price of the final product.

For the respective percentages of the ex-work price of each final product that confers to originating status you are asked to contact NCCI, Mr. Sam Geiseb, Head of Corporate Services Department, Tel. 061-22 88 09.

Processes like packing, mixing, preparations for shipping and sale, simple assembly and dilution and other minor operations, like repairing, slaughtering, washing, sorting etc. are insufficient to support a claim that goods originate in a member state. This is also valid for electrical power, fuel, plant, equipment and machines used in production.

Originating products made up in two or more ACP states shall be treated as products originating in the ACP state where the last working took place. Sets shall be regarded as originating when all component articles are originating products or gone under sufficient process.

Please note that the fishing industry has its own provision. It is prescribed that the vessel sails under the flag of a member state or is registered or recorded in an ACP state, at least 50% of the officers and the crew are nationals of the member state and at least 50% of control of the vessel is held by nationals of the member state. If an ACP states offer the EU a fishery agreement which the EU does not accept the ACP state concerned can charter or lease third country vessels and fish in its exclusive economic zone. Such vessels should be treated as “ACP vessels” if at least 50% of the officers and the crew are ACP nationals and if the charter or lease contract has been accepted by the Commission as providing adequate opportunities for development in ACP states.

What do I have to observe if I want to benefit from this agreement?

In order to prove the originating status of the products the movement certificate EUR.1 shall be issued by the customs authorities of the exporting ACP state which is only available on application having been made in writing by the exporter or an authorized representative. The description of the goods in EUR.1 must be indicated without leaving any blank lines. Where the space is not completely filled a horizontal line must be drawn. Besides this, you are asked to type the description of the goods or write it in ink in capital letters. The EUR.1 shall be issued by the customs authorities when the products which it relates are exported and made also available to the exporter as soon as possible.

The movement certificate EUR.1 shall be accompanied by a separate supplier's declaration for each consignment on the commercial invoice related to that shipment which describes the materials concerned in sufficient detail. Moreover the exporter has to submit any appropriate documents proving that the products to be exported are originating products as mentioned on the certificate. For verifying the originating status of the goods the customs authorities have the right to call for any documentary evidence or to carry out investigations.

In exceptional circumstances, like errors or involuntary omissions, the EUR.1 can also be issued after export of products. In this case the exporter must indicate the place and date of export and certify that no EUR.1 was issued at the time of exports and state the reasons for retrospectively application. The issue of a duplicate EUR.1, e.g. in the event of theft, and the replacement of one or more EUR.1 are also possible.

Moreover, the exporter has to ensure that the value of his consignment does not exceed ECU 3,140 (= N\$ 21.980, January 1999). A form EUR.2 shall be completed for each postal consignment and attached to the dispatch note. You will find a sample of the EUR. 1 and 2 and of the declaration form on page... of this guide. Please note that penalties will be imposed if any document required contain incorrect particulars.

Products sent as small packages to private persons and imports that consist solely of products for the personal use shall not be considered as imports by way of trade and are exempted from proof of origin.

Rules for ACP products not specified under this agreement

ACP products imported into the EU, which are not specified under this agreement shall enjoy more favorable treatment than that granted to other countries but not more favorable than that applied to trade among the member states of the EU. The EU has the right to modify the specified goods as a result of the implementation of its common agricultural policy but it has to ensure that products originating in the ACP states continue to enjoy an advantage treatment in relation to third countries. Besides this, the EU shall on request from the ACP states examine on a case-by-case basis whether agricultural products enjoy preferential access and inform the ACP states within six month accordingly.

If the EU intends to conclude a preferential agreement with third countries it shall inform the ACP states thereof. Furthermore, the EU shall inform the ACP states about any new measures or regulations, which affect trade of ACP states. If movement of ACP goods is affected in a negative way, consultations shall take place and ensure a satisfactory solution.

IV. Transit

The PTA applies only to products, which are transported between the territory of the ACP states, of the EU or of overseas countries and territories (OCT) without entering any other territory. However, goods may be transported through other territory for transshipment or warehousing, provided that they will not go under any operations. For evidence that these conditions have been fulfilled, the exporter shall supply a bill of lading to the responsible customs authorities issued in the exporting country and covering the country of transit or a certificate issued by the customs authorities of the country of transit which gives an exact description of the goods, states the dates of loading of the goods and certifies the conditions under which the goods remained in the transit country.

If goods, exported from ACP countries, the EU or the OCT, return, they must be considered as non-originating unless it is proved that the goods returned are identical with the exported goods and that they have not gone under any operation and are in a good condition.

V. General trade cooperation

Exhibitions

Products sent from an ACP state for exhibition in a country other than ACP states, EU or OCT and sold thereafter for importation into the EU, shall benefit from the PTA when the rules of origin are fulfilled and customs authorities of the importing party accept that the products have not, since they were consigned for exhibition, been used for any other purposes. The EUR.1 has to be issued in the normal manner and indicate the name and address of the exhibition.

Cooperation in the field of commodities

In order to support the development efforts of the ACP countries and to ensure economic and social progress a system shall be operated to guarantee the stabilization of export earnings derived from the ACP states' exports to the EU or OCT of products on which their economies are dependent and which are affected by fluctuations in world prices or quantities. Therefore transfers shall be devoted in accordance with a framework that records the loss of export earnings and should be used for the benefit of the producer concerned. 50 products are covered by this cooperation, e.g. nuts, cocoa, coffee, cotton, coconuts, palm oil, leather and skins, wood, bananas, tea, vanilla, wool, pepper, fish, rubber, beans and mangoes.

If at least 70% of an ACP states total earnings from the products mentioned above do not come from exports to the EU, the system shall be automatically applied to its exports of each of the products whatever the destination is.

Mining products

As it is expected that the viability of a lot of enterprises in the mining sector has been seriously affected by technical, economic or political difficulties, which leads to a significant fall in revenue for the ACP state concerned, the EU provided special financing facilities for ACP states whose mining sectors occupy an important place in their economies. If 15% or more of their export earnings are from copper (including cobalt), phosphates, manganese, bauxite and alumina, tin, iron or uranium or if 20% or more of their export earnings are from all mining products covered in this system the ACP state concerned can request for aid.

If return to viability of the mining enterprise affected is deemed possible financing programs, which re-establish the level of production and export capacity shall be granted. Where it is not thought possible to maintain viability of the mining enterprise other development projects should be financed in order to reach economic growth.

Development finance cooperation

In order to support the efforts of ACP states to achieve long-term and self-determined social, cultural and economic development the EU grants finance cooperation, which shall be implemented on the basis. The ACP states are responsible for defining the objectives of the projects, to choose the programs and to ensure their efficient execution. The sectors of intervention are agriculture, industrialization, fishery, energy, mining and tourism where the authorities of ACP states and the Investment Bank of the EU support

economic and social infrastructure, education and training programs, marketing, trade and industrial promotion, assistance for transport and communication and investment opportunities.

Companies, firms and groups of producers who are Namibian citizen can apply for a loan at the National Planning Commission (NPC) of Namibia or at the Investment Bank of the EU. The interest rate of the loan will be neither less than 3% nor more than 6% while the duration of loans shall not exceed 25 years. Besides this, the ACP states will exempt the loans from all duties, fiscal charges on interest, commissions and amortization.

Micro-projects

The EU will also support the financing of micro-projects at local level if they have an economic and social impact, meet a priority need and are undertaken with the active participation of the local community. The local community and the European Fund will contribute cash services which shall normally not exceed three-quarters of total costs and may not exceed ECU 300,000 (= N\$ 2,100,000).

Investment

It is a special interest of the EU to promote private investment in ACP states. Therefore the Investment Bank of the EU and the NPC of Namibia will provide financial assistance in form of loans for private enterprises, in particular SME's and support productive investment projects and programs. Besides this, the Investment Bank of the EU and the NPC of Namibia will grant technical assistance, advisory services and information services, and provide management training.

Technical cooperation

Technical cooperation shall assist the ACP states in their development of national and regional manpower resources and shall be made available only on request. It may be either of a general or specific nature and includes e.g. technical, economic, statistical, financial and commercial studies, staff training, organization of seminars, preparation of projects and evaluation of operations.

General provisions for the least developed ACP states

The strengthening of regional cooperation, the transport and communication infrastructure, the efficient exploitation of fishery, structural development, the implementation of food strategies and integrated development programs are the main objectives for the least developed ACP states. Namibia does not count to these countries but it claims to be least developed as its economic situation undergoes a significant and lasting change and its export facilities are underdeveloped.

The least developed countries shall be accorded to more favorable treatment than the other ACP countries in the objectives agriculture, fishery, industry, trade, services, regional cooperation, finance, structural adjustment, micro-projects and rules of origin.

Derogation from this protocol

The derogation of this protocol shall be granted where the value added to the non-originating products used in the ACP state is at least 45% of the value of the finished

product, provided that the derogation does not cause serious injury to an economic sector of the EU or of one or more member states. Derogations concerning tuna shall be automatically granted, within an annual quota of 4,000 tons for canned tuna and 500 tons for tuna loins. The general period for any derogation is five years and can be renewed, provided that the ACP state proves three months before the end of the period that it is still unable to meet the conditions of this protocol.

VI. The future of Lome IV

The revised Lome IV agreement will expire in February 2000. While it has been agreed that the poorest 41 ACP countries will continue to receive the benefits currently available, the remaining 29 countries – including Namibia – have to agree on a new deal with the EU. The EU considered at least six options for a post Lome arrangement, which could bring large drops in revenue to Namibia and the other 28 countries.

1. The status quo with a few adjustments
2. Integration into the EU's Gross Social Product (GSP) where the least developed ACP countries will be grouped together with the least developed non-ACP countries.
3. Uniform reciprocity; means that all ACP countries should extend reciprocity of preferences to the EU
4. Differentiated reciprocity; means that only some ACP countries grant EU the same preferences they get
5. A combination of the first four trading arrangements would be offered
6. Multiple trading arrangements between EU and single ACP countries would be offered

VII. Implications for Namibia

For most of its products Namibia enjoys non-reciprocal preferential access to EU. The beef industry is one of the main beneficiaries of Namibia's exports under Lome IV. The EU grant Namibia a quota of 13 000 tons per year what had major stimulus effect on the beef production and led to significant increase in employment in the abattoirs. Also the leather industry profits from the agreement. The meat industry would like to continue or even expand this protocol so that it includes also sheep, goats, pigs and ostriches.

The fish industry benefits also from preferential access into the EU market. Namibia exports its fish mainly to Spain. Actually, the fishing industry is one of the fastest growing sectors in Namibia. Agricultural products that found their way into EU market are grapes, cut flowers and water melons. The exportation of grapes is with 900 tons per year quite big, but could still expand if the quotation would be higher (at least 1800 tons).

Besides this, the EU the Lome IV agreement granted Namibia financial aid (N\$ 160 Millions) for projects in the mining and mineral industry. These projects cover mine development, intensive prospecting and drilling, value adding mineral processing, regional geophysical surveys and small scaling mining.