6

Investment Negotiations in the Economic Partnership Agreements

6.1 Introduction

This chapter examines the negotiation issues, the resolution of which will contribute to the character of the agreement on investment under the West Africa-EU EPA. Such an agreement should be influenced by a set of important considerations drawn from past experience and perhaps by the potential for increasing investment flows between the parties to the EPA. At least six factors should be considered in predicting the nature and form of the envisaged investment component of the West Africa-EU EPA. They are:

- Existing domestic investment regulations in each of the countries making up the two groups – West African countries and EU members;
- The bilateral investment treaties that countries in the groups have signed with either individual EU or non-EU countries;
- Regional investment treaties;
- Multilateral investment agreements such as the relevant parts of the GATS;
- The investment provisions of the Lomé Conventions and the Cotonou Agreement;
- The investment provisions of EU free trade agreements with other countries or regions, such as the EU-Mediterranean Agreements, the EU-South Africa Trade, Development and Co-operation Agreement (TDCA), and the EU-Mexico and EU-Chile Agreements.

Each of these agreements covers standard investment issues comprising the various necessary elements of an investment agreement, such as the definition of investment, scope of application, investment promotion, pre-admission (e.g. market access for foreign investors), post-admission (e.g. regulatory conduct towards foreign investors after entry and establishment in the host country) and investment protection, including dispute settlement issues. Each of these elements is discussed within the context of the identified agreements and protocols.

6.2 Investment agreement issues

Domestic investment regulations in West Africa

The domestic legal framework for both local and foreign investment in the typical West African country is covered in chapter 3. A summary of this analysis suggests that national

legislation in West African countries currently promotes and protects investment through special measures that safeguard investors' interests. This current form reflects unilateral investment liberalisation that has removed restrictive measures and eliminated laws that discriminate against foreign investors.

Bilateral investment treaties

The bilateral investment treaties that West African and EU countries have entered into cover the main areas of definition of investment, scope of application, investment promotion and investment protection, as well as dispute settlement procedures. These elements were addressed in the review of some of the bilateral treaties involving West African countries and the UK, the Netherlands and Germany in chapter 4. These treaties are broadly similar in many respects. As was demonstrated in chapter 4, they define investment broadly and cover investments made before and after the agreements. Investment promotion and protection are also considered in the treaties, and the obligation to contracting parties consists of the need to encourage and create a favourable environment for their nationals or companies to invest capital in each other's territory, depending on existing laws. They contain provisions dealing with fair and equitable treatment, including non-discriminatory full protection and security for each other's investment, and MFN and national treatment between the nationals or companies of contracting parties and third countries. Expropriation and losses arising from unforeseen events and corresponding 'compensations, restitution, indemnification or other settlements', and the settlement of disputes arising from the interpretation of the treaties are also covered.

Regional investment treaties: Lomé and the Cotonou Partnership Agreement

The main regional investment treaties analysed in chapter 4 were the Lomé Conventions. The analysis indicated that Lomé III was the first to deal explicitly with investment promotion and post-admission treatment such as fairness, equitability, protection and security. Lomé IV represented an extension of Lomé III and included provisions on protection, financing and support of investment.

The CPA's provisions on investment promotion, protection, financing and support were similar to those of Lomé III and IV. Its equity participation provision was limited to non-controlling minority holdings, and it affirmed the significance of concluding investment protection agreements that may be a basis for insurance and guarantee schemes as was the case under Lomé IV. The CPA required parties not to discriminate between investors of the parties and third countries, but limited issues arising from MFN, expropriation, transfer of capital and international dispute arbitration to further research.

The General Agreement on Trade in Services

This multilateral agreement signed by the EU and many countries in West Africa also provides an insight into the elements of investment agreements that may evolve in the EPA negotiations. In particular, its application to mode 3 or 'commercial presence' has been referred to as an 'investment agreement in disguise', due to its relationship with the

establishment, through a subsidiary, affiliate or branch, of a firm of a WTO member in the territory of another member, in the form of FDI. In relation to this, the GATS contains three important principles: MFN (Article II), market access (Article XVI) and national treatment (Article XVII).

The article on MFN treatment, with some exemptions, requires each member to accord treatment 'no less favourable' to services and services suppliers of any other member. Market access provision prohibits a member from treating services and services suppliers of another member 'less favourably' than the terms, limitations and conditions in its schedule of commitment; and from adopting or maintaining measures not contained in its schedule which limit the number of service suppliers, the total value of service transactions or assets, the total number of service operations, the total number of natural persons that may be employed, the type of legal entity or joint ventures and the extent of participation of foreign capital in the scheduled services sector.

The provision on national treatment requires each member to accord to services and services suppliers of another member treatment no less favourable than it accords to its own services and services suppliers. A measure is 'less favourable' if it modifies the conditions of competition in favour of domestic firms. The WTO's dispute settlement mechanism is available to resolve disputes if any member fails to carry out its obligation under the GATS.

EU free trade agreements

To date, the EU has concluded about 34 FTAs with countries spread across North America (two), South America (six), Europe (seven), Asia (five), North Africa and the Middle East (eleven), Southern Africa (one), and with Australia and New Zealand. A detailed analysis of EU FTAs, focusing on the EU-Mediterranean countries (Med agreements), EU-South Africa Trade, Development and Co-operation Agreement (TDCA), and EU-Chile and EU-Mexico agreements, indicates that the TDCA and Med agreements have provisions on investment that are relatively lightweight (Szepesi, 2004). This is because the provisions on the liberalisation of capital movements are an expression of interest rather than a commitment. For instance, the Med agreements and the TDCA contain investment promotion provisions that underscore co-ordination and co-operation, with measures including harmonisation and simplification of procedures, examination of the creation of joint ventures, establishment of co-investment machineries and provision of technical assistance. Additional measures are included in the EU-Chile agreements, such as the establishment of a favourable legal framework which may be bilateral and the development of uniform procedures for promoting investment. Few of the agreements are biased in favour of industries such as tourism and mining, to which the measures will apply. The TDCA and Med agreements do not include detailed commitments on investment promotion, as is the case with the EU-Mexico agreement.

In general, investment protection provisions do not appear to be sufficiently strong or detailed in relation to current payments and FDI-related capital flows. The agreements leave investment protection to BITs involving Mediterranean countries and EU

member states. The slight difference in the EU-Mexico and EU-Chile agreements is that investment protection provisions only cover payments and capital flows, and the rest is left to BITs. The EU-Mexico agreement defines payments and capital movements broadly as involving FDI, real estate investment and the purchase and sale of any kind of securities, and is similar to the OECD Codes of Liberalisation (Szepesi, 2004). This broad definition perhaps explains why it was necessary to include protection provisions in the agreement.

The Med agreements are compelling in terms of market access conditions relating to current payments and capital flows which are free of restrictions (EU-Lebanon) and which are allowed in a freely convertible currency (EU-Algeria). In effect, the parties are required to ensure free movement of capital relating to FDI, its liquidation and repatriation and the profits thereof (EU agreements with Algeria, Morocco, South Africa and Tunisia), while full liberalisation of the movement of capital other than FDI is limited to parties' consultations (TDCA) and at an appropriate time (EU-Tunisia and EU-Morocco) or appropriate condition (EU-Jordan). Despite their appearing to liberalise capital movement, the agreements make important exceptions through the inclusion of provisions which cater for serious balance of payment difficulties (EU agreements with Algeria, Lebanon, Morocco, the Palestinian Authority, South Africa and Tunisia) and for serious problems with the operation of monetary and or exchange rate policies (EU-Jordan and EU-Israel); and freedom to maintain any restrictions which existed before the agreements came into force (EU-Israel, EU-Jordan and EU-Lebanon). The EU-Mexico agreement favours progressive elimination of restrictions on payments and introduces a standstill on any new restrictions, but also grants exceptions for serious balance of payment difficulties and problems with the operation of monetary and or exchange rate policies. The provisions of the EU-Chile agreement are similar to those of the TDCA, Med and EU-Mexico agreements with regard to current payments and capital movements, but contain substantial derogation (limitation to market access) from the market access principle. In addition, Chile reserves the right to maintain or introduce investment legislation that may restrict capital movements.

The contentious issue of equal treatment of foreign investors in relation to domestic investors appears to be played down in the TDCA and Med agreements, as they do not include national treatment provisions, except in the case of the agreement with Jordan which also features many exemptions that make the provisions less significant. In contrast, the definition of national treatment in the EU-Mexico agreement is more robust in the sense that it applies to the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of commercial operations of financial services suppliers, implying coverage of pre-and post-admission issues. In the EU-Chile agreement, the principle of national treatment, though it is formulated in line with GATS, is not as explicit as in the EU-Mexico agreement in terms of its definition of financial services. The principle was adopted for all non-service sectors in the EU-Chile agreement, with full application of the principle regarding establishment in agriculture and manufacturing.

The relationship between the relevant investment sections of regional integration agreements (RIAs) and the GATS is a subject for comparison in the literature. Hoekman and Saggi (1999) consider that the extent to which RIAs go beyond GATS in eliminating discrimination in services markets helps to determine whether RIAs have a discriminatory effect, and that the further RIAs go beyond the GATS, the greater the potential negative spill-over. Assessed from this point of view, the TDCA and Med agreements only refer to parties' commitments in the GATS and refrain from assuming additional commitments. In comparison, the EU-Mexico agreement explicitly incorporates the GATS principles of market access, MFN and national treatment, particularly in the chapters on services and financial services and contains nothing more than these pre- and post-admission investment commitments. However, these principles are contained in the EU-Chile agreement for financial services and the relevant provisions go further in prohibiting all measures that restrict or require a foreign financial services supplier to engage in specific legal entity or joint venture.

The EU-Mexico and EU-Chile agreements have no separate dispute settlement mechanism for investment except in the case of financial services, where an arbitral panel 'shall be set up for the specific service', the members of which must be appointed before disputes arise.

6.3 Options in a West Africa-EU EPA investment agreement

Unilateral investment policies, BITs, RIAs and the Multilateral Agreement on Investment

In addition to the indications given by the various agreements described above, the investment component of the West African-EC EPA will be driven by the desire of both parties to increase investment flows between themselves with a view to strengthening the EU-ACP relations that have existed for over three decades. However, because the relationship is between developed and developing countries, and the groups are in an unequal stage of development, this objective of increasing the capital flows between the contracting parties has two important dimensions. The developed countries have an export interest in capital flows or investments and to that extent want investment flows from their countries to the developing and least developed countries to be faced with less cumbersome pre-entry and post-entry requirements. The least developed and developing countries, on the other hand, while they need investment flows from developed country partners to bridge their widening domestic savings-investment gap, are tend to want to be able to deliberately cultivate such investment flows with appropriate government policies.

As large importers of FDI, LDCs and developing countries are faced with the implications of unfettered foreign investment flows disrupting the profits of domestic investors and may therefore wish to protect such investments and adopt a restrictive investment policy in the context of their objective of attracting increased foreign capital flows into their territories. While many developing countries are now more eager than they were in the 1960s to attract FDI and have taken steps to promote investment

through domestic incentives and bilateral BITs, they continue to subject multinational corporations, the main vehicle for the flow of FDI, to performance requirements (Hoekman and Saggi, 1999). Hoekman and Saggi show that such restrictions have existed in spite of theoretical submissions on their welfare-reducing nature and their ability to create investment in 'hub' countries which discriminate against non-originating FDIs. There are also issues concerning ineffectiveness and the heavy economic costs that entry and performance requirements impose on the investment-importing country in terms of the creation of less than expected backward and forward linkages, encouragement of inefficient entry, and, in the view of Moran (1998), their ability to render future liberalisation more difficult. One significant implication of such restrictions is the proposition that unilateral FDI policies do not generate considerable supply response, this being induced by policy reversals which risk-averse investors have learned to incorporate into their investment decision process. Regrettably, evidence linking the conclusion of BITs, an alternative to using unilateral investment policies, with increases in FDI flows is also scanty (Szepesi, 2004).

The drawbacks with which restrictions on investment flows have been afflicted provide ample explanation for the emergence of BITs and RIAs. Attempts to impose a multilateral framework on the international flow of investments have failed twice, once with the Multilateral Agreement on Investment (MAI) which was under negotiation among the OECD countries until April 1998, and once as part of the Singapore issues that the WTO's Ministerial Conference in Cancun in 2003 failed to discuss. The failure has been attributed to the fact that most countries are either lukewarm or opposed to committing themselves to a multilateral framework because of the perception that multilateral investment rules may undermine their sovereign right to pursue their own domestic development policies. In the case of the MAI, the fear that too much power would be transferred from host governments to foreign investors through provisions on investor-state dispute settlement procedures was central to its breakdown; many countries attempted to circumvent clauses relating to investment protection through derogations and exceptions which whittled away the provisions of the proposed agreement. The investor-bias of the MAI, in the sense that the agreement did not contain correspondingly effective provisions on investors' responsibility to consumers, workers and the environment in the host countries, coupled with coverage of movements of portfolio capital and know-how, constrained the ability of host governments to regulate investment flow in the national interest.

From the perspective of the host country, BITs appear to be the most stringent of the available investment-related options with regard to the post-admission requirements of FDI. Nevertheless, they have proliferated. This is probably because countries perceive that BITs are under their control in that they can decide which country to negotiate with and have space to shape the quantum, direction, pace, form and character of BIT-induced FDIs. Despite the fact that developing countries are agreeable to BIT-induced FDIs, BITs are considered more far-reaching than the MAI (Sauve, 1998) in terms of the stringency of their provisions on investment protection. A study by UNCTAD (2001)

shows that there were over 1,900 BITs and 2,100 double taxation treaties by the end of 2000. BITs generally include binding commitments, provided on a national treatment or MFN basis, on expropriation, transfer of funds and compensation for losses caused by armed conflict or political instability. The International Centre for Settlement of Investment Disputes constitutes the main arbitration channel for disagreements between foreign investors and host governments.

Despite the bias of BITs towards the protection of foreign investors, they may not always be implemented effectively in lower-income countries, and there is inadequate empirical evidence showing strong links between BITs and increases in FDI flows (Brooks and Hill, 2003). BITs reduce policy options for the host country's government and make it vulnerable to litigation, the resolution of which cannot by changed by the domestic legal system. According to Hoekman and Saggi (1999), BIT-type disciplines have formed the fulcrum of most RIAs, which have also required national treatment (subject to exceptions of a negative list type) and limitations on the use of performance requirements. In effect, RIAs have become as stringent as BITs as they have proliferated. This proliferation appears to have intensified after the demise of the MAI. However, the stringency of RIAs depends on many factors, some of which are not obvious. For example, the EU has concluded agreements which are either already in force or undergoing national ratification with Mediterranean countries, namely Tunisia (since 1998), Israel (2000), Morocco (2000), Jordan (2002), Egypt (2004), the Palestinian Authority (on an interim basis since 1997), Algeria (2001), Lebanon (2002) and Syria (negotiations concluded in October 2004). These agreements contain no specific commitments on the liberalisation of services and no right of establishment is granted, while their provisions on investment consist of future objectives and to that extent constitute an expression of intent (Szepesi, 2004; Hoekman and Saggi, 1999).

West Africa-EU EPA investment agreement: provisions, prohibitions and likely concessions

Based on the foregoing analysis, it is possible to summarise the investment component of the West Africa-EU EPA in three propositions:

- First, many West African countries can currently lay claim to investment rules that are liberal with respect to FDI, even though they may be wary of admitting FDI from all the EU countries on the basis of national treatment and MFN principles;

- Second, many of those with liberal domestic investment rules have also entered into bilateral investment treaties with developed countries, the implementation experience of which will become useful in dealing with partner countries within the EPA framework;

- Third, West African countries have historical ties in terms of social, political and economic co-operation with their EU partners, from the Yaoundé II agreements through the Lomé Conventions to the CPA, so that it is also possible to draw on the experi-

ence of these relationships in the EPA negotiations in general and its investment component in particular.

More specifically, the Lomé Conventions granted preferences to ACP countries on a wide range of manufactured products and on some agricultural products, but these preferences were granted to countries with little export potential in manufactures and to agricultural goods that do not actually or potentially compete with EU products. Where agricultural products benefited from preferences, they were limited by quotas, seasonal restrictions and rules of origin which did not allow much cumulation with non-ACP countries. Not surprisingly, the EU Green Paper of 1997 found that ACP countries' share of the EU market fell from 6.7 per cent in 1976 to 3 per cent in 1998; ten products accounted for 60 per cent of total ACP exports to the EU between 1962 and 1992; GDP per person in sub-Saharan Africa grew by 0.4 per cent, compared to 2.3 per cent for all developing countries; and in general, EU preference schemes had only a marginal effect on the economies of the ACP states. West African countries would replicate these experiences in their potential relationship with the EU.

The tendency of these considerations, and perhaps others such as the stage of development of West African countries, to shape the investment negotiations of the West Africa-EC EPA cannot be ruled out. Indeed, they will define the type of prohibitions and concessions that West African countries may be allowed to retain, including the character of investment promotion, protection and guarantee measures, as well as the scope of application that may be included in the EPA investment agreement. Table 6.1 shows indicators of economic size and investment ratios of Mediterranean and West African countries in addition to those of Mexico and Chile, and Tables 6.2 and 6.3 compare current EU FTAs in terms of investment promotion, protection measures and provisions relating to current payments and capital movements. The tables also show two scenarios with respect to the probable form that the investment component of the West Africa-EU EPA will take on pre- and post-admission issues.

At least two scenarios can be explored, given the trend of events indicated by Tables 6.1–6.3. In the first, because the Med agreements were recently signed but have modest provisions on post-admission issues, coupled with the size of West African countries' economies (which has been used to approximate stage of development) relative to Mediterranean countries, the investment provisions of the West Africa-EU EPA may bear a close resemblance to those of the Med agreements. In the second scenario, employing in the analysis the trend of the investment provisions in the Lomé Conventions and the wording of the CPA, the West Africa-EU EPA may develop into an agreement similar to the EU-Mexico or EU-Chile agreements.

Analysing the first option, therefore, the investment component of the West Africa-EU EPA could contain investment promotion provisions that stress co-ordination and co-operation, as well as investment promotion measures relating to harmonisation and simplification of procedures, creation of joint ventures, establishment of co-investment machineries and provision of technical assistance, and perhaps the establishment of a

favourable bilateral legal framework and the development of uniform procedures for promoting investment. These are also contained in the Lomé Conventions and the CPA. It may be reasonable to favour specific sectors to hasten the pace of their development. The investment protection provisions would also not be stringent, with the EU preferring to leave investment protection issues to BITs with EU member states. There could also be a standstill on new restrictions to current payments and capital movement, but with an obligation to liberalise these over time.

Table 6.1 Economic size and investment ratios, 2000

	Foreign direct investment, net inflows (% of gross capital formation)	Foreign direct investment, net inflows (% of GDP)	GDP as a proportion of Mexico's GDP (%)
Chile	22.2	5.2	12.3
Mexico	9.9	2.3	100.0
Mediterranean countries			
Algeria	0.1	0.0	9.3
Egypt, Arab Rep.	5.2	1.3	17.2
Israel	20.6	4	19.2
Jordan	0.7	6.7	1.5
Lebanon	10.0	1.8	2.9
Morocco	1.3	0.0	5.8
Syrian Arab Republic	3.2	0.7	3.0
Tunisia	11.3	3.9	3.4
West African countries			
Benin	7.0	1.4	0.4
Burkina Faso	1.7	0.5	0.4
Côte d'Ivoire	9.2	1.1	1.6
Gambia, The	19.2	3.3	0.1
Ghana	8.9	2.1	0.9
Guinea	9.5	2.1	0.5
Guinea-Bissau	–	0.0	0.0
Liberia	–	–	–
Mauritania	1.8	0.5	0.2
Niger	7.7	0.8	0.3
Nigeria	11.6	2.6	7.2
Senegal	12.3	2.4	0.8
Togo	12.0	2.5	0.2
Sierra Leone	2.0	0.2	0.1
Mali	14.6	3.3	0.4
Cape Verde	9.3	1.8	0.1

Source: World Development Indicators CD-ROM, 2002

Market access conditions for current payments and capital flows would be free of restrictions and allowed in a freely convertible currency, with the parties ensuring free movement of capital relating to FDI. This would imply the inclusion of provision for exemptions for serious balance of payments and exchange rate or monetary policy difficulties, while repatriation or liquidation of investments or the profits derived thereof would be guaranteed. Full liberalisation of the movement of capital other than FDI (i.e. portfolio capital) would be left to consultations between the parties. The West Africa-EU EPA may not include national treatment provisions; if it does include them, there would be many exemptions to safeguard West African countries. In relation to West African countries' commitments in the GATS, the West Africa-EU EPA may not go beyond these countries' GATS commitments. Where dispute settlement procedures are included, there is little likelihood that they would have investor-to-state provisions, which would be too stringent for West African countries to comply with.

With respect to the second option, the provisions and measures of the CPA in relation to investment promotion which are similar to EU FTAs provide an insight into the West Africa-EU EPA negotiations. Considered in this context, the investment promotion provisions in the West Africa-EU EPA would emphasise co-ordination and co-operation as in the CPA and other EU FTAs. The measures for promoting investment would therefore include harmonisation and simplification of procedures, examination of the creation of joint ventures, establishment of co-investment machineries and provision of technical assistance, the establishment of a favourable legal framework, which may be bilateral, and the development of uniform procedures for promoting investment.

Apart from the standard investment finance and support provisions in the CPA which grant financial and technical assistance, equity participation as a condition of investment financing, though limited to non-controlling minority holdings, suggests portfolio investment flows. Thus West African countries appear to have been prepared in the CPA for a subsequent portfolio investment agreement. In terms of market access conditions for current payments and capital flows, the West Africa-EU EPA could include provisions for the progressive elimination of restrictions on payments, but maintain a standstill on any new restrictions and grant exceptions for serious balance of payments difficulties and problems with the operation of monetary and/or exchange rate policies. It may also contain many exemptions to this principle. As a corollary, West African countries could have reservations in relation to the right to maintain or introduce investment legislation that might restrict capital movements. Investment protection provisions could only then cover payments and capital flows, while other flows would be determined under BITs with EU member states.

The West Africa-EU EPA may explicitly integrate the GATS principles of market access, MFN and national treatment for services generally, and financial services in particular. It could thus forbid all measures that restrict or require a foreign financial services supplier to take the form of a specific legal entity or joint venture. The national treatment principle is likely to be adopted for all non-services sectors in the West Africa-EU EPA. This is because Article 15 of Annex II of the CPA already requires the parties

to take account of such principles as non-discrimination between the investors of the parties and third countries. The definition of national treatment may apply to the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of the commercial operations of financial services suppliers.

Finally, the West African-EC EPA may not have separate dispute settlement mechanism for investment as in the EU agreements with Mexico and Chile. For financial services, an arbitral panel may be established for the specific service, the members of which may be appointed before or after disputes arise. This is similar to the ground-clearing provision in the CPA regarding investment protection, which acknowledged the significance of concluding investment protection agreements that may be a basis for insurance and guarantee schemes. It also contains provisions for the study of issues relating to legal guarantees, a most favoured investor clause, protection in cases of expropriation and nationalisation, transfer of capital and profits, and international dispute arbitration.

6.4 What are the investment provisions of the interim EPA texts of Ghana and Côte d'Ivoire?

On 10 November 2008, only Ghana and Côte d'Ivoire initialled a bilateral 'stepping stone' or interim EPA with the EC. Title IV of both interim texts contained provisions relating to services, investment and trade-related rules. The provisions specified that the parties will co-operate in facilitating all measures necessary to conclude global EPAs between the whole of the West Africa region and the EC on these issues, including investments, before the end of 2008. The text also stated that negotiations on global EPAs would be based on the EC-West Africa road map and subsequent developments since its adoption. A two-step approach would be pursued, commencing with the formulation and implementation of regional policies and building of regional capacities, and deepening the EC-West Africa trade provisions that had been mutually agreed.

Table 6.2 Investment promotion and protection provisions in selected EU FTAs

	Investment promotion			Investment protection							
	Technical assistance/ investment promotion instruments	Harmonisation and simplification	Co-investment machinery	Reference to BITs	National treatment		Performance requirements Commitments not to maintain or introduce			Horizontal reservation	Protection against expropriation
					For services	For other economic sectors	Quantitative restrictions on suppliers, transactions, operations or personnel	Legal entity require-ments for inward investment (e.g. joint ventures)	Limits on proportion of foreign ownership	Specific reservation to retain limits on the proportion of foreign ownership	
Med	√	√	√	√	–	–	–	–	–	–	–
South Africa	√	√	√	√	–	–	–	–	–	–	–
Palestinian Authority	√	√	√	–							
Jordan	√	√	√	√	√	√	–	–	–	√	–
Lebanon	√	√	√	√							
Israel	–	–	–	–							
Mexico	–	√	–	√	√	√	–	–			
Chile	√	√	–	√	√	√	√	√	√	–	–
West Africa (option 1)	√	√	√	√	√	–	–	–	–	√	–
West Africa (option 2)	√	√	–	√	√	√	√	√	√	–	–

Source: Adapted from Szepesi, 2004

Table 6.3 Current payments and capital movements in EU FTAs

Agreements	Standstill on new restrictions to payments or capital movements	(Progressive) liberalisation of current payments and capital movements	Exemptions for		Repatriation/liquidation of investments or the profits derived thereof	
			Serious balance of payments difficulties	Serious exchange rate or monetary policy difficulties	Guaranteed	Exemption for specific investment laws
Med4/TDCA	√	√	√	–	√	–
Israel	√	–	√	–	√	–
Jordan	√	–	√	√	√	–
Lebanon	√	–	√	–	√	–
Mexico	√	√	√	√	√	–
Chile	√	√	√	√	√	–
West Africa (option 1)	√	–	√	√	√	–
West Africa (option 2)	√	√	√	√	√	–

Source: Adapted from Szepesi, 2004