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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.3.2008
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2008/0061 (AVC)

Proposal for a

COUNCIL DECISION

concluding the Economic Partnership Agreement between the European Community and its Member States, of the one part, and the CARIFORUM States, on the other part

(presented by the Commission)

EXPLANATORY MEMORANDUM

The attached proposals constitute the legal instruments for the signature, provisional application and conclusion of an Economic Partnership Agreement (EPA) between the European Community and its Member States, of the one part, and the Caribbean Forum of ACP States (CARIFORUM), of the other part:

- (i) Proposal for a Council Decision on the signature and provisional application of the EPA;
- (ii) Proposal for a Council Decision concluding the EPA.

The CARIFORUM EPA was negotiated in accordance with the objectives for EPAs set out in the Cotonou Agreement¹ and the negotiating directives for the Economic Partnership Agreements with ACP States adopted by Council on 12 June 2002. Negotiations were concluded by the initialling of the EPA on 16 December 2007 before the expiry of the trade regime set out in Annex V of the Cotonou Agreement on 31 December 2007 and the World Trade Organisation (WTO) waiver covering that trade regime.

As a result all CARIFORUM States were included in the list of countries in Annex 1 of the EPA Market Access Regulation adopted by Council on 20 December 2007² that have benefited from the Community market access offer made in the context of EPAs from 1 January 2008. Their inclusion on this list will become permanent following ratification of the EPA by all parties. This will ensure a single harmonised trade regime with the EU providing improved market access for all CARIFORUM States, including Haiti which is recognised as a Least Developed Country by the United Nations.

The Caribbean EPA is the first comprehensive Economic Partnership Agreement concluded. It includes all the measures necessary to establish a Free Trade Area compatible with the provisions of Article XXIV of the GATT 1994³. It also includes a Title on Services, Investment and E-commerce and the related schedules of commitments, which are compatible with the provisions of Article V of the GATS⁴.

The EPA also contains provisions on Customs and Trade Facilitation, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Agriculture and Fisheries, Current Payment and Capital Movements, Competition, Innovation and Intellectual Property, transparency in Public Procurement, dialogue on finance issues, transparency and best practices in the area of tax policy, as well as Environmental and Social Aspects. Sustainable development is further promoted through the involvement of civil society and parliamentarians in joint committees, and special consultation mechanisms.

There are also Development Cooperation provisions setting out priority areas of action for the implementation of the EPA. Each individual substantive chapter of the Agreement includes specific areas of cooperation and a Development Cooperation declaration establishes the link with the EU Aid for Trade strategy and recalls the Commission's and Member States' intention to contribute to a regional development fund.

¹ The ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 as revised in Luxembourg on 25 June 2005

² Council Regulation 1528/2007

³ General Agreement on Tariffs and Trade (1994)

⁴ General Agreement on Trade in Services

The institutional provisions include a Joint CARIFORUM-EC Council ("Joint Council") to supervise the implementation of the EPA. The Joint Council shall be composed of representatives of the CARIFORUM States as well as members of the Council and of the Commission. The Joint Council will be assisted by a CARIFORUM-EC Trade and Development Committee.

The EPA includes provision to establish comprehensive monitoring of the impact of the EPA. This will be supported by the provision for a CARIFORUM-EC Parliamentary Committee to provide a forum for members of the European Parliament and the CARIFORUM States legislatures. A CARIFORUM-EC Consultative Committee will furthermore assist the Joint Council to promote dialogue and cooperation between civil society representatives.

Pending the entry into force of the EPA, the Agreement foresees the provisional application of the Agreement.

The Commission has judged the results of the negotiations to be satisfactory and in accordance with the negotiating directives from the Council and requests the Council:

- to authorise the signature, on behalf of the European Community, of the Caribbean EPA;
- to approve the provisional application of the EPA pending its entry into force;
- to conclude the EPA on behalf of the Community.

The European Parliament will be called upon to give its assent to the conclusion of the EPA.

The Member States are also parties to the Agreement, which therefore needs to be ratified by them according to their internal procedures.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57(2), 133(1) and (5) and 181 in conjunction with the first and second subparagraphs of Article 300(3) thereof,

Having regard to the proposal from the Commission⁵,

Having regard to the assent of the European Parliament⁶,

Whereas:

- (1) On 12 June 2002 the Council authorised the Commission to open negotiations of Economic Partnership Agreements with ACP countries.
- (2) These negotiations have been concluded and the Economic Partnership Agreement between the European Community and its Member States and the CARIFORUM States (comprising Antigua and Barbuda, The Commonwealth of the Bahamas, Barbados, Belize, The Commonwealth of Dominica, the Dominican Republic, Grenada, The Republic of Guyana, Haiti, Jamaica, Federation of Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, The Republic of Suriname and The Republic of Trinidad and Tobago) (hereinafter referred to as the 'EPA') was initialled on 16 December 2007.
- (3) Pursuant to Article 243(4) of the EPA, certain elements of the EPA have been applied on the basis of Council Regulation (EC) No. 1528/2007.
- (4) The EPA has been provisionally applied since [...] pending its entry into force.
- (5) The EPA should be approved.
- (6) This Agreement shall not seek to affect the rights of investors of the Member States of the European Union to benefit from any more favourable treatment provided for in any agreement related to investment to which a Member State and a CARIFORUM State are Parties. Member States may maintain and conclude such agreements in so far as they comply with Community law,

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

HAS DECIDED AS FOLLOWS:

Article 1

The Economic Partnership Agreement between the CARIFORUM States and the European Community and its Member States is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification referred to in Article 243(1) of the Agreement on behalf of the Community.

Done at Brussels, [...]

For the Council
The President
[...]

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

1. NAME OF THE PROPOSAL:

COUNCIL DECISION concluding the Economic Partnership Agreement between the European Community and its Member States, of the one part, and the CARIFORUM States, on the other part

2. BUDGET LINES:

Chapter and Article: 12/20

Amount budgeted for the year concerned: **16 431 900 000 (PDB 2008)**

3. FINANCIAL IMPACT

- ☒ Proposal has no financial implications
- ☐ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

4. ANTI-FRAUD MEASURES

In order to protect the Communities' financial interests against fraud and other irregularities, the Commission may carry out on-the-spot checks and inspections in accordance with Article 20 of the Economic Partnership Agreement between the CARIFORUM States and the European Community and its Member States. Where necessary, investigations shall be conducted by the European Anti-Fraud Office (OLAF) and these shall be governed by Regulation (EC) No 1073/1999 of the European Parliament and of the Council. The Commission will conduct regular document-based and on-the-spot checks.

5. OTHER REMARKS

All remaining customs tariffs on products originating in those ACP regions or states that concluded negotiations on Economic Partnership Agreements or agreements including WTO compatible trade arrangements were removed by the adoption of Council Regulation 1528/2007. There is, therefore, no additional financial impact associated with this proposal.