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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.9.2008
COM(2008) 562 final

Proposal for a

COUNCIL DECISION

on the signature and provisional application of the Interim Economic Partnership Agreement between the European Community and its Member States, on the one part, and the SADC EPA States, on the other part

(presented by the Commission)

EXPLANATORY MEMORANDUM

The attached proposal constitutes the legal instrument for the signature and provisional application of an Interim Economic Partnership Agreement (EPA) between the European Community and its Member States, of the one part, and the SADC EPA States, of the other part:

(i) Proposal for a Council Decision on the signature and provisional application of the Interim EPA.

The SADC Interim 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 23 November 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 five SADC EPA States (Botswana, Lesotho, Mozambique, Namibia and Swaziland) 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 Interim EPA by all parties. This will ensure an harmonised trade regime with the EU providing improved market access for several SADC EPA States, including Mozambique and Lesotho which are recognised as Least Developed Country by the United Nations.

The SADC EPA is an Interim EPA the scope of which will be extended by the outcome of negotiations for full EPA reached in 2008. It includes all the measures necessary to establish a Free Trade Area compatible with the provisions of Article XXIV of the GATT 1994³. The Interim EPA also contains provisions on Customs and Trade Facilitation, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Current Payment and Capital Movements as well as development cooperation and institutional provisions.

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

Pending the entry into force of the Interim 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:

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).

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

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133 and 181 in conjunction with the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission⁴,

Whereas:

- (1) On 12 June 2002 the Council authorised the Commission to open negotiations of Economic Partnership Agreements with ACP countries.
- (2) These negotiations for an Interim Economic Partnership Agreement have been concluded and the EPA between the European Community and its Member States and the SADC EPA States (comprising Botswana, Lesotho, Namibia, Swaziland and Mozambique) (hereinafter referred to as the 'EPA') was initialled on 23 November 2007 and on 12 December 2007 for Namibia.
- (3) Article 105(4) of the EPA provides for its provisional application pending its entry into force.
- (4) The EPA should be signed on behalf of the Community and applied on a provisional basis subject to its conclusion at a later date.

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Interim Economic Partnership Agreement between the SADC EPA States and the European Community and its Member States is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said Economic Partnership Agreement.

The text of the Agreement is attached to this Decision.

⁴ OJ C [...], [...], p. [...]

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the European Community subject to its conclusion.

Article 3

The Agreement shall be applied on a provisional basis as provided for in Article 105(4) of the Agreement, pending completion of the procedures for conclusion. The Commission shall publish a notice providing information on the date of provisional application.

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 on the signature and provisional application of the Interim Economic Partnership Agreement between the European Community and its Member States, on the one part, and the SADC EPA States, on the other part

2. BUDGET LINES:

Chapter and Article: 12/120

Amount budgeted for the year concerned: **16 431 900 000 (Budget 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 29 of the Economic Partnership Agreement between the SADC EPA 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.