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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.12.2008
COM(2008) 861 final

2008/0251 (AVC)

Proposal for a

COUNCIL DECISION

concluding the interim agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States on the one part and the European Community and its Member States on the other part

(presented by the Commission)

EXPLANATORY MEMORANDUM

The attached proposal constitutes the legal instrument for the conclusion of an interim agreement establishing a framework for an Economic Partnership Agreement (EPA) between Eastern and Southern Africa (ESA) States on the one part and the European Community and its Member States on the other part:

(i) Proposal for a Council Decision concluding the interim agreement establishing a framework for an EPA.

As announced in the Communication to the Council and the European Parliament dated 23 October 2007, the interim agreement establishing a framework for an EPA has been negotiated to avoid disrupting trade with the Community on 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. These negotiations were concluded by the initialling of the interim agreement establishing a framework for an EPA on 28 November 2007 with Seychelles, Zambia and Zimbabwe, on 4 December 2007 with Mauritius and on 11 December 2007 with Comoros and Madagascar.

As a result, five of these six ESA States (Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe) were included in the list of countries in Annex 1 of the EPA Market Access Regulation adopted by Council on 20 December 2007¹ 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 the entry into force of the interim agreement establishing a framework for an EPA. This will ensure a harmonised trade regime with the EU providing improved market access for all initialling ESA States, including the two countries recognised as Least Developed Countries by the United Nations. Given that Zambia did not table a market access offer, it was not included in the Regulation. As a LDC, Zambia continues to benefit from the Everything But Arms (EBA) trade regime.

The scope of the interim agreement establishing a framework for an EPA between ESA States and the Community and its Member States will be extended by the outcome of negotiations for a comprehensive EPA reached by December 2008. It includes currently all the measures necessary to establish a Free Trade Area compatible with the provisions of Article XXIV of the GATT 1994². This Agreement also contains provisions on rules of origin, non-tariff measures, trade defence measures, dispute avoidance and settlement, as well as fisheries, development and administrative and institutional provisions.

The negotiation of a full EPA continues consistently with the directives for EPAs with ACP States adopted by Council on 12 June 2002.

The institutional provisions include an EPA Committee composed of representatives of the Parties to be responsible for the administration of all matters under the agreement.

Pending the entry into force of the interim agreement establishing a framework for an EPA, the interim agreement foresees the provisional application of the Agreement.

¹ Council Regulation 1528/2007

² General Agreement on Tariffs and Trade (1994)

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 conclude the interim agreement establishing a framework for an EPA between ESA States and the Community and its Member States 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 133 and 181 in conjunction with the second subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission³,

Having regard to the assent of the European Parliament⁴

Whereas:

- (1) On 12 June 2002 the Council authorised the Commission to open negotiations of Economic Partnership Agreements (EPA) with ACP countries.
- (2) Negotiations for an interim agreement establishing a framework for an Economic Partnership Agreement (hereinafter referred to as the 'interim EPA') have been concluded on 28 November 2007 with Seychelles, Zambia and Zimbabwe. On 4 December 2007, the interim EPA was initialled by Mauritius and on 11 December 2007 by Comoros and Madagascar.
- (3) The interim EPA has been provisionally applied since [...] pending its entry into force.
- (4) The interim EPA should be concluded on behalf of the European Community.

HAS DECIDED AS FOLLOWS:

Article 1

The interim agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States and the European Community and its Member States is hereby concluded on behalf of the Community.

The text of the interim EPA is attached to this Decision.

³ OJ C [...], [...], p. [...]

⁴ OJ C [...], [...], p. [...]

Article 2

The President of the Council shall give the notification referred to in Article 62(2) of the interim EPA 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 interim agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States on the one part and, the European Community and its Member 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 22 of the Agreement between the ESA States and the European Community and its Member States and article 7 of Protocol 2 attached to therein. 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.