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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.9.2008
COM(2008) 521 final

Proposal for a

COUNCIL DECISION

on the signature and provisional application of the agreement establishing a framework for an Economic Partnership Agreement between the European Community and its Member States, on one part, and the East African Community Partner 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 agreement establishing a framework for an Economic Partnership Agreement (FEPA) between the European Community and its Member States, on one part, and the EAC Partner States, on the other part:

(i) Proposal for a Council Decision on the signature and provisional application of the agreement establishing a framework for an Economic Partnership Agreement (FEPA).

As announced in the Communication to the Council and the European Parliament dated 23 October 2007, FEPA 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 FEPA on 27 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 EAC Partner States (Burundi, Kenya, Rwanda, Tanzania and Uganda) 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 ratification of FEPA by all parties. This will ensure a harmonised trade regime with the EU providing improved market access for all EAC Partner States, including the four countries recognised as Least Developed Countries by the United Nations.

FEPA is an agreement establishing a framework for an EPA the scope of which will be extended by the outcome of negotiations for a comprehensive EPA reached by July 2009. It includes 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 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 Council composed of representatives of the Parties to be responsible for the implementation of the agreement.

Pending the entry into force of the FEPA, 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 Council Regulation 1528/2007.

² General Agreement on Tariffs and Trade (1994).

- to authorise the signature, on behalf of the European Community, of the FEPA;
- to approve the provisional application of the FEPA 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 Commission³,

Whereas:

- (1) On 12 June 2002 the Council authorised the Commission to open negotiations of Economic Partnership Agreements with ACP countries.
- (2) Negotiations for an agreement establishing a framework for an Economic Partnership Agreement (hereinafter referred to as the 'FEPA') have been concluded on 27 November 2007 between the European Community and its Member States and the EAC Partner States (Burundi, Kenya, Rwanda, Tanzania and Uganda).
- (3) Article 45(4) of the FEPA provides for its provisional application pending its entry into force.
- (4) The FEPA 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 agreement establishing a framework for an Economic Partnership Agreement between the EAC Partner 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.

³ 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 45(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 agreement establishing a framework for an Economic Partnership Agreement between the European Community and its Member States, on one part, and the East African Community Partner 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 EAC Partner 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.