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INFORMATION NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a regulation of the European Parliament and of the Council amending Annex I to Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations - Outcome of the European Parliament's first reading (Strasbourg, 10 to 13 September 2012)

I. INTRODUCTION

The Rapporteur, Mr David MARTIN (S&D - UK), presented a report consisting of four amendments (amendments 1-4) to the proposal for a Regulation on behalf of the Committee on International Trade. In addition, the EUL/NGL political group tabled a further two amendments (amendments 5-6).

II. DEBATE

The Rapporteur opened the debate, which took place on 12 September 2012, and:

- argued that it would be reasonable to set an end date for the temporary solution provided by the Market Access Regulation 1528/2007, and that this would be fair to non-ACP developing countries who are currently denied the benefits which this affords;
- warned that the EU must not create the perception, fair or otherwise, that it is bullying African countries into signing and ratifying Economic Partnership Agreements (EPAs) without giving them sufficient time for careful consideration. The Committee had therefore voted for a deadline of 1 January 2016, which would give due notice to the ACP countries that their preferences are not permanent but which would also leave sufficient time to complete negotiations;
- disagreed with those who argue that 2016 would constitute an extension of the deadline, because there is currently no deadline at all. This new deadline will be set in stone, however, because it would not be possible to alter it without a Commission proposal and without the agreement of both the Parliament and Council. He further opined that it was unlikely that the Commission would submit another proposal on this point; and
- noted that the Commission believes that its proposed 2014 deadline would inject momentum into the EPA negotiations, but stated that many of his contacts in the ACP countries believed 2014 to be an unreasonable target. A 2014 deadline would exclude 17 countries from the scheme because they would simply not be able to meet the 2014 deadline.

Commissioner DE GUCHT:

- denied that there was any question of the EU being on the verge of bullying developing countries. The countries in question had for a long time received generous unilateral tariff preferences, for which the EU had been attacked in the WTO context in Geneva. In 2000, the EU and ACP countries had signed the Cotonou Agreement, whereby they agreed without coercion to modernise their trade and aid relations. The EU had received several waivers from the WTO, but the last had expired in 2007. The EU had in that year adopted the Market Access Regulation to grant the EU's EPA partners continued market access on a duty-free and quota-free basis - but on the understanding that they would sign and ratify their EPAs within a year or two. Most did, but some eighteen had not until 2011. Zimbabwe has since ratified its interim EPA. Of the remaining seventeen, nine are least developed countries and will continue to enjoy duty-free quota-free status because they remain eligible for 'everything but arms' benefits. The remaining eight countries are Botswana, Cameroon, Ivory Coast, Fiji, Ghana, Kenya, Namibia and Swaziland. He wondered why these eight countries need more time to make adjustments that were already required in 2000 - whilst another 87 countries and territories had adjusted to the Generalised System of Preferences (GSP) proposal in less than three years; and
- suggested that any extension of the current status quo beyond 2014 would be letting down the budding entrepreneurial class in the eight ACP countries in question, because it would for that amount of time remain subject to heavy duties on exports to the EU. This would hinder business development and job creation. These countries have the potential to export much more than basic agricultural commodities.

Speaking on behalf of the EPP political group, Mr Christofer FJELLNER (EPP - SE):

- called for the swift entry into force of the new agreements;
- argued that the present situation is unfair for non-ACP countries and for those ACP countries which have concluded the new accords with the EU. The eight countries in question should not expect to retain their current advantageous treatment simply because they had in the past benefitted from a non-WTO-compliant agreement. In the worst-case scenario where the countries failed to meet the deadline, they would merely receive the same treatment as other non-ACP countries; and

- noted that twelve years had already passed since Cotonou. The deadline is an important issue, but it should be possible to reach an agreement on this with the Council. He therefore called for a speedy first-reading agreement.

Speaking on behalf of the S&D political group, Mr Bernd LANGE (S&D - DE) called for a date of 2016, arguing that the countries in question should be given more time to negotiate. They should not be forced into signing a new agreement too quickly.

Speaking on behalf of the ALDE political group, Mr Niccolò RINALDI (ALDE - IT) called for the deadline to be postponed by two extra years in order to allow the countries in question sufficient time to negotiate and conclude the new agreements.

Speaking on behalf of the Greens/EFA political group, Mrs Franziska KELLER (Greens/EFA - DE) called for the rejection of the Commission's proposal.

Speaking on behalf of the EUL/NGL political group, Mr Helmut SCHOLZ (EUL/NGL - DE) criticised the Commission for acting in a short-sighted and high-handed manner by forcing the countries in question into signing the agreement by threatening them with exclusion from the EU market. This would do great damage to the EU's international reputation. The issue should also be considered from the development perspective.

Mr Vital MOREIRA (S&D - PT) argued that 2016 would be a reasonable deadline, but that it should not be postponed any further beyond that.

Mr Paul MURPHY (EUL/NGL - IE) argued that the Commission was effectively blackmailing and bullying the countries in question into signing up to the new EPAs. He argued for the Commission's proposal to be rejected altogether. It was not enough to set a deadline of 2016 or later.

Mrs Maria BADIA I CUTCHET (S&D - ES) called for greater legal certainty, but argued that a postponement of 2016 was acceptable.

Mr Michael CASHMAN (S&D - UK) and Mr Patrice TIROLIEN (S&D - FR) supported a 2016 deadline.

Mr João FERREIRA (EUL/NGL - PT) accused the Commission of adopting a neo-colonial approach which does not respect the sovereignty of the states in question.

Commissioner DE GUCHT once more took the floor and:

- stated that the eight countries in question had not ratified an agreement that had been concluded in 2007. The current regime had always been considered to be temporary. So long as it persists, these eight countries would have an unfair advantage over 50 or 60 other countries;
- denied that the eight countries were being forced into concluding new agreements. If the countries do not want to ratify the agreement which they had themselves concluded in 2007, then they do not have to do so. The EU would still be prepared to continue negotiating with them. It hardly constitutes bullying or blackmailing to ask a country to ratify an agreement which it had already signed five years earlier - particularly when they are also being offered a further eighteen months to do so; and
- stated that the Commission was not opposed to asymmetrical trading agreements with African states, but did insist that they should live up to their existing trade commitments.

The Rapporteur once more took the floor and:

- stated that some of the eight countries which had signed but not yet ratified EPAs had legitimate reasons for not doing so. For example, Kenya would benefit from ratifying an EPA but if it were to ratify unilaterally, it would break its relationship with other East African states. The cut flower industry is vital to Kenya and will suffer from heavy tariffs if Kenya does not ratify its EPA and if the currently proposed Regulation were to be adopted. In addition, the EU is probably going to pass the Colombia Free Trade Agreement which will give trade preferences on cut flowers to Colombia, Kenya's biggest competitor in this market. These would be heavy blows to Kenya, which should therefore have a further two or three years to find a solution that would allow it to ratify an EPA and at the same time remain within the East African regional partnership. A similar dilemma faces Botswana and Namibia in the context of their trading relationship with South Africa; and

- argued that 2016 would be a reasonable date in all respects. It would also be a fixed deadline - for the first time.

III. VOTE

When it voted on 13 September 2012, the plenary adopted four amendments to the proposal for a Regulation (amendments 1-4).

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto ¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Exclusion of certain countries from trade preferences *I**

European Parliament legislative resolution of 13 September 2012 on the proposal for a regulation of the European Parliament and of the Council amending Annex I to Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations (COM(2011)0598 – C7-0305/2011 – 2011/0260(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0598),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0305/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinion of the Committee on Development (A7-0207/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) In order to ensure that partners can swiftly be reinstated in Annex I to that Regulation as soon as they have taken the necessary steps towards ratification of their respective Agreements, and pending their entry into force, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of reinstating the countries removed from Annex I through this Regulation. It is of particular importance that the European Commission carry out appropriate consultations during its preparatory work, including at expert level. The European Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council,

Amendment

(5) In order to ensure that partners can swiftly be reinstated in Annex I to that Regulation as soon as they have taken the necessary steps towards ratification of their respective Agreements, and pending their entry into force, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of reinstating the countries removed from Annex I through this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. ***The Commission should provide full information and documentation on its meetings with national experts within the framework of its work on the preparation and implementation of delegated acts. The Commission should invite Parliament's experts to attend those meetings,***

Amendment 2

Proposal for a regulation Article 1 – point 1

Regulation (EC) No 1528/2007
Article 2b – paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Article 2a shall be conferred on the Commission ***for an indeterminate period of time from the entry into force of this Regulation.***

Amendment

2. The delegation of power referred to in Article 2a shall be conferred on the Commission ***for a period of five years from ... * . The Commission shall draw up a report in respect of the delegation of power not later than nine months before***

the end of the five- year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

** OJ: Please insert the date of entry into force of this Regulation.*

Amendment 3

Proposal for a regulation

Article 1 – point 1

Regulation (EC) No 1528/2007

Article 2b – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 2a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **2 months** at the initiative of the European Parliament or the Council.

Amendment

5. A delegated act adopted pursuant to Article 2a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of *two* months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **four months** at the initiative of the European Parliament or the Council.

Amendment 4

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

It shall apply **on 1 January 2014**.

Amendment

It shall apply **from 1 January 2016**.