



Council of the
European Union

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'I/A' ITEM NOTE

From:	ACP Working Party
To:	Permanent Representatives Committee/Council
No. Cion doc.:	6126/16 + ADD 1-10 - COM(2016) 863final
Subject:	Draft Council Decision on the signing and provisional application of the Economic Partnership Agreement between the East African Community Partner States, of the one part, and the European Union and its Member States, of the other part - Adoption

1. On 11 February 2016, the Commission submitted to the Council a proposal for a Council Decision on the signing and provisional application of the Economic Partnership Agreement between the East African States, of the one part, and the European Union and its Member States, of the other part¹.
2. The ACP Working Party examined the abovementioned Agreement and on 7 April 2016 agreed on the text of the draft Council Decision on its signature and provisional application.
3. The statement set out in the Annex to this note will be included in the minutes of the Council session that will adopt the Council Decision.

¹ Document 6126/16 + ADD 1-10.

4. Against this background, Coreper is invited to request the Council to:

- adopt the draft Decision set out in document 6296/16 and thereby authorise the signing on behalf of the European Union and provisional application of the Agreement set out in documents 6298/16 + ADD 1-2;
 - enter in its minutes the statement set out in the Annex to this note.
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Statement by Hungary regarding the provisional application of the Economic Partnership Agreement between the European Union and its Member States, of one part, and the EAC EPA States, of the other part

Hungary notes that, should it be necessary to amend its domestic legislation for the provisional application by the European Union of those parts of the Economic Partnership Agreement between the European Union and its Member States, of one part, and the EAC EPA States, of the other part, covered by shared competence, such amendments shall be made, because of the nature of its legal order, in conjunction with the national ratification process, which Hungary plans to initiate expediently.

Hungary recalls that according to Article 218 paragraph 5 of the Treaty on the Functioning of the European Union “*The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.*” It is, therefore, up to the Council to decide if provisional application is necessary and what its specific scope should be. Hungary notes that Article 139 paragraph 4 of the EAC EPA, as negotiated by the Commission, not only contains a commitment for provisional application by the EU but also a definition of its scope, pre-empting the Council’s opinion on these matters. Deciding on the necessity for provisional application through the text of agreements and defining its specific scope in the absence of explicit a priori guidance by the Council may lead to problems particularly in Member States, like Hungary, whose legal order does not allow provisional application before ratification. Hungary is of the view that the Commission should refrain from using the approach reflected in Article 139 paragraph 4 of the EAC EPA in future trade negotiations, unless the directives approved for the negotiations by the Council specifically invite the Commission to do so.