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#### COVER NOTE

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 July 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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No. Cion doc.: C(2017) 4855 final

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 14.7.2017  
amending Annex I to Regulation (EU) 2016/1076 applying the  
arrangements for products originating in certain states which are part of the  
African, Caribbean and Pacific (ACP) Group of States provided for in  
agreements establishing, or leading to the establishment of, Economic  
Partnership Agreements

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Delegations will find attached document C(2017) 4855 final.

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Encl.: C(2017) 4855 final



EUROPEAN  
COMMISSION

Brussels, 14.7.2017  
C(2017) 4855 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 14.7.2017**

**amending Annex I to Regulation (EU) 2016/1076 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2016/1076 (“the Regulation”) applies the market access arrangements for products originating in those African, Caribbean and Pacific (ACP) Group of States that have concluded agreements establishing, or leading to the establishment of, economic partnership agreements (EPAs) with the EU, which are listed in Annex I of the Regulation. The Regulation also lays down how the European Union may apply safeguard measures in respect of those products.

The Southern African Development Community (SADC) EPA Group<sup>1</sup>, the European Union and its Member States concluded negotiations on an Economic Partnership Agreement<sup>2</sup> (the SADC EPA) on 15 July 2014.

The conclusion of such negotiations allowed Botswana, Namibia and Swaziland as non-Least Developed Countries to be listed in Annex I to the Regulation as from 1 October 2014 through Delegated Regulation (EU) No 1025/2014<sup>3</sup>, thereby maintaining their duty-free quota-free market access into the European Union.

Lesotho, Mozambique and South Africa relied on other market access regimes into the EU than the said Regulation. However, given the need to ensure the full application of the SADC EPA in view of the SADC EPA States' ratifications and the start of its provisional application on 10 October 2016, Lesotho and Mozambique will need to be included in the said Annex I as well so as to be covered by the safeguard provisions of the Regulation. By the same token, the specific market access regime for South Africa (not duty-free quota-free access) laid down in the SADC EPA will have to be specified under Article 4(3) of the Regulation. This is the subject of a separate Delegated Act to be adopted in parallel with the current act.

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.

### 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>4</sup>, the Commission carried out appropriate consultations during its preparatory work, including at expert level, on this delegated act.

### 3. LEGAL ELEMENTS OF THE DELEGATED ACT

Articles 2(2) and 22 of the Regulation empower the Commission to adopt a delegated act to amend Annex I to the Regulation in order to add states from the ACP Group of States which

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<sup>1</sup> Botswana, Lesotho, Mozambique, Namibia, South Africa, and Swaziland.

<sup>2</sup> OJ L 250, 16.9.2016, p. 3.

<sup>3</sup> OJ L 284, 30.9.2014, p. 1.

<sup>4</sup> OJ L 123, 12.5.2016, p. 1.

have concluded negotiations on an Economic Partnership Agreement with the European Union.

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2017

**amending Annex I to Regulation (EU) 2016/1076 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1076 of the European Parliament and of the Council of 8 June 2016 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, economic partnership agreements (recast)<sup>5</sup>, and in particular Article 2(2) thereof,

Whereas:

- (1) The list of beneficiary countries of the EU market access arrangements laid down by Regulation (EU) 2016/1076 is established by Annex I to that Regulation . That Regulation also lays down a procedure for the application by the European Union of safeguard measures in respect of products originating in countries listed in Annex I.
- (2) Regulation (EU) 2016/1076 empowers the Commission to adopt delegated acts to amend Annex I to that Regulation so as to add states from the ACP Group of States which have concluded negotiations on an Economic Partnership Agreement ('EPA') with the European Union.
- (3) The Southern African Development Community ('SADC') EPA States, the European Union and its Member States concluded negotiations on a comprehensive Economic Partnership Agreement on 15 July 2014. The SADC EPA States, the European Union and its Member States signed the agreement on 10 June 2016<sup>6</sup>.
- (4) Lesotho ratified the EPA on 16 September 2016.
- (5) Mozambique ratified the EPA on 28 April 2017.
- (6) The European Parliament approved the EPA on 30 September 2016.
- (7) As a result, the EPA is provisionally applied as of 10 October 2016.

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<sup>5</sup> OJ L 185, 8.7.2016, p. 1.

<sup>6</sup> Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part (OJ L 250, 16.9.2016, p. 3).

- (8) Consequently, Lesotho and Mozambique should be included in the said Annex I as well so as to facilitate the full application of the EPA by the EU,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Kingdom of Lesotho and the Republic of Mozambique are inserted into Annex I to Regulation (EU) 2016/1076.

*Article 2*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14.7.2017

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*