



Council of the
European Union

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COVER NOTE

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

date of receipt: 14 November 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 8355 final

Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 14.11.2014
amending Annex I to Council Regulation (EC) No 1528/2007 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

Delegations will find attached document C(2014) 8355 final.

Encl.: C(2014) 8355 final



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COMMISSION DELEGATED REGULATION (EU) No .../..

of 14.11.2014

amending Annex I to Council Regulation (EC) No 1528/2007 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 (EC) No 1528/2007 (Market Access Regulation) governs the EU duty-free quota-free import regime for 36 African, Caribbean and Pacific countries that have negotiated Economic Partnership Agreements with the EU. The Market Access Regulation is a bridging solution for countries which have concluded negotiations on interim Economic Partnership Agreements but have not yet ratified them. In order to avoid a disruption in trade, the Regulation anticipates the duty-free quota-free access that the EU offers in these agreements while the countries concerned move towards ratification.

To ensure that countries can swiftly be added into Annex I to the Market Access Regulation after they have concluded negotiations on Economic Partnership Agreements with the EU, and pending entry into force thereof, the power to adopt delegated acts was delegated to the Commission in accordance with Articles 2(2) and 24a of the Market Access Regulation.

Kenya had not taken the necessary steps towards ratification of its Agreement. Consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, Annex I to that Regulation was amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council. Kenya ceased to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014.

However, Kenya has now concluded negotiations on an Economic Partnership Agreement with the EU and meets, therefore, the condition of Article 2(2) of the Regulation. Consequently, Kenya shall be added to Annex I to the Market Access Regulation.

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.

Following the date of application of the present Regulation, the addition of Kenya to Annex I to the Market Access Regulation will be subject to the conditions of Article 2(3) of the Regulation, in particular point (b) thereof. Therefore, the Commission will take appropriate action to remove Kenya from Annex I if it has not ratified its agreement by 1 October 2016.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission, appropriate and transparent consultations, including at expert level, have been carried out on this delegated act.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Articles 2(2) and 24a of the Market Access Regulation empower the Commission to adopt a delegated act to amend Annex I to this Regulation so as to add states from the ACP Group of States which have concluded negotiations on an Economic Partnership Agreement.

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 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 Agreements¹, and in particular Article 2(2) thereof,

Whereas:

- (1) The list of beneficiary countries of the EU duty-free quota-free import regime is established by Annex I to Regulation (EC) No 1528/2007.
- (2) Kenya had not taken the necessary steps towards ratification of its interim Economic Partnership Agreement and consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, pursuant to Regulation (EU) No 527/2013² ceased to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014.
- (3) However, Kenya, the European Union and its Member States concluded negotiations on an Economic Partnership Agreement on 16 October 2014.
- (4) The Commission is empowered to adopt delegated acts in accordance with Article 24a of Regulation (EC) No 1528/2007 to amend Annex I to that Regulation so as to add regions or states from the ACP Group of States that have concluded negotiations on an agreement between the European Union and that region or state which meets the requirements of Article XXIV GATT 1994.
- (5) Following the date of application of this Regulation, the addition of Kenya in Annex I to Regulation (EC) No 1528/2007 will be subject to the conditions of Article 2(3) of that Regulation and in particular point (b) thereof,

¹ OJ L 348 of 31.12.2007, p. 1.

² Regulation (EU) No 527/2013 of the European Parliament and of the Council of 21 May 2013 amending 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 (OJ L 165, 18.6.2013, p. 59).

HAS ADOPTED THIS REGULATION:

Article 1

In Annex I to Regulation (EC) No 1528/2007 the following country is inserted:

"THE REPUBLIC OF KENYA"

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, 14.11.2014

For the Commission
The President
Jean-Claude JUNCKER