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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.12.2008
COM(2008) 858 final

Proposal for a

COUNCIL DECISION

**on the signature and provisional application of the Interim Partnership Agreement
between the European Community, of the one part, and the Pacific States, of the other
part**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The attached proposal constitutes the legal instrument for the signature and provisional application of the Interim Partnership Agreement between the European Community, of the one part, and the Pacific ACP States, of the other part:

Proposal for a Council Decision on the signature and provisional application of the Interim Partnership Agreement.

As announced in the Communication to the Council and the European Parliament dated 23 October 2007, the Interim Partnership Agreement 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 Interim Partnership Agreement on 23 November 2007 with the Republic of Fiji Islands and Papua New Guinea.

As a result the signatory Pacific States (Fiji and Papua New Guinea) 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 the Interim Partnership Agreement by all parties. This will ensure a single harmonised trade regime with the EU providing improved market access for signatory Pacific States.

The Interim Partnership Agreement is a framework for an EPA and includes all the measures necessary to establish a Free Trade Area compatible with the provisions of Article XXIV of the GATT 1994², including provisions on Customs and Trade Facilitation, Technical Barriers to Trade, Sanitary and Phytosanitary Measures and Dispute Settlement.

Both development cooperation provisions and institutional provisions are very limited, the major focus of the Interim Partnership Agreement is purely trade in goods. The Interim Partnership Agreement contains a rendezvous-clause for continuation negotiations of the comprehensive EPA, which will cover other areas, e.g. development cooperation, services, fisheries, agriculture, trade related rules, etc.

The negotiation of a comprehensive EPA continues consistently with the directives for EPAs with ACP States adopted by Council on 12 June 2002.

Pending the entry into force of the Interim Partnership Agreement, the provisional application of the Agreement is foreseen. 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:

- to authorise the signature, on behalf of the European Community, of the Interim Partnership Agreement;

¹ Council Regulation 1528/2007

² General Agreement on Tariffs and Trade (1994)

- to approve the provisional application of the Interim Partnership Agreement.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the Article 133, in conjunction with the first sentence of 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 Interim Partnership Agreement, which establishes a framework for an Economic Partnership Agreement (hereinafter referred to as the 'interim EPA') have been concluded on 23 November 2007 with Papua New Guinea and Republic of the Fiji Islands.
- (3) Article 76(3) of the interim EPA provides for its provisional application pending its entry into force.
- (4) The interim EPA 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 Interim Partnership Agreement between the Pacific States and the European Community is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said interim EPA.

The text of the interim EPA 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 interim EPA on behalf of the European Community subject to its conclusion.

Article 3

The interim EPA shall be applied on a provisional basis as provided for in Article 76(3) of the Agreement, pending completion of the procedures for conclusion. The Commission will 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 Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of 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 17 of the Interim Partnership Agreement between the Pacific States and the European Community. 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.