EU/ACP countries' Economic Partnership Agreements: exclusion of certain countries from trade preferences; Commission delegated powers

2011/0260(COD) - 30/09/2011 - Legislative proposal

PURPOSE : to amend the list of countries that benefit from trade preferences by removing those which have still not taken the necessary steps towards ratification of an Economic Partnership Agreements (EPA) from Annex I of Council Regulation (EC) No 1528/2007.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

BACKGROUND : Regulation (EC) No 1528/2007 granted a number of countries duty-free, quota-free access to the EU market under certain conditions. After the negotiation process of the EPA with the ACP regions was concluded in December of 2007, a number of countries were offered such access in anticipation of the steps towards ratification of an EPA. However, several countries have neither taken the necessary steps towards ratification of an EPA nor concluded comprehensive regional negotiations. Accordingly, the proposal intends to remove those countries which have not signed their Agreements or have not ratified their agreements.

IMPACT ASSESSMENT : no impact assessment was undertaken.

LEGAL BASIS : Article 207(2) of the Treaty on the Functioning of the European Union.

CONTENT : the following States have not taken steps towards the completion of their respective agreements and will be removed from Annex I of Council Regulation (EC) No 1528/2007:

- Botswana;
- Burundi;
- Cameroon;
- the Comoros;
- Côte d’Ivoire;
- the Fiji Islands;
- Ghana;
- Haiti;
- Kenya;
- Lesotho;
- Mozambique;
- Namibia;
- Rwanda;
- Swaziland;
- Tanzania;
- Uganda;
- Zambia;
- Zimbabwe.

According to the criteria set out in Article 2(3) of Council Regulation (EC) No 1528/2007, trade preferences granted to these countries should no longer be maintained. The Commission will continue to work with a view to ensuring that these countries become a contracting party to an EPA, and will use to the full the recent momentum of different negotiations to create a sustainable long term trade regime with these partners in keeping with the EPA negotiating directives and the priorities set out in the Cotonou Agreement.

The Commission has informed the Council, the European Parliament, the ACP Group of States and civil society that the current situation is not sustainable, as duty-free quota-free market access is still granted to beneficiary countries which are not taking the necessary steps towards ratification of the agreements on which this access is based, thus removing the justification for its advance provisional application.

Delegated acts: should the countries removed from Annex I take the necessary steps towards ratification of an EPA, they would continue to benefit from the respective trade preferences and could therefore be re-instated in the Annex as soon as possible in order to provide continuity of their market access. To this end the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the TFEU for the purpose of amending Annex I in order to reinstate these countries. The proposal states that the delegation of power shall be conferred on the Commission for an indeterminate period of time and may be revoked at any time by the European Parliament or by the Council. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. A delegated act 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 and that period shall be extended by 2 months at the initiative of the European Parliament or the Council.

BUDGETARY IMPLICATIONS: the proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows: the amount budgeted for the year 2011: EUR 16 653 700 000. **Own resources (customs duties) will increase by EUR 381.60 million** for each year from 2014 to 2016 inclusive.

The reason is that if a country is removed from a list of beneficiaries, it will export to the EU under a different trade regime which is either less favourable or at best equal to the regime offered by the Regulation, resulting in more customs duties being collected on behalf of the EU.

The calculation of impact on the EU budget takes the situation created by Regulation (EC) No 1528/2007 as the status quo (duty-free, quota-free access to the EU market, no duties paid). Then, for each country concerned, it compares the status quo to duties paid under an alternative trade regime each country will enjoy once removed from the list of beneficiaries, which is as follows:

- for least-developed countries (LDCs): the Everything But Arms (EBA) scheme, offering duty-free, quota-free access to the EU market (no duties paid);
- for upper-middle-income countries (UMICs): the most-favoured-nation (MFN) treatment (duties paid as per general EU tariff schedule);
- for other developing countries (DCs): the Generalised System of Preferences (GSP) that suspends or reduces tariffs (some duties paid, some at a reduced rate).

The final impact on the EU budget will depend on the number of countries removed from the list of beneficiaries. The amendment proposes to remove 18 countries from Annex I, of which 9 would not benefit from the EBA scheme and therefore their exports to the EU would be subject to a duty. However, if they fulfill certain conditions before the amendment takes effect on 1 January 2014, they will continue to benefit from current trade preferences. In this respect, the figure given is a maximum, as it assumes all 9 concerned countries will be removed: in fact, if a country continues to benefit from the Regulation, the customs duties will not accrue to the EU budget and the figure will be lower.