Basic information

2011/0260(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
EU/ACP countries' Economic Partnership Agreements: exclusion of certain countries from trade preferences; Commission delegated powers **Subject** 6.20.03 Bilateral economic and trade agreements and relations 6.20.04 Union Customs Code, tariffs, preferential arrangements, rules of origin 6.30.01 Generalised scheme of tariff preferences (GSP), rules of origin	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
INTA International Trade	MARTIN David (S&D)	11/10/2011
	Shadow rapporteur FJELLNER Christofer (PPE) KELLER Ska (Verts/ALE) STURDY Robert (ECR) SCHOLZ Helmut (GUE/NGL)	

Former committee responsible	Former rapporteur	Appointed
INTA International Trade	MARTIN David (S&D)	11/10/2011

Former committee for opinion	Former rapporteur for opinion	Appointed
DEVE Development	ZIMMER Gabriele (GUE/NGL)	11/10/2011

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3210	2012-12-11
Agriculture and Fisheries	3193	2012-10-22
Agriculture and Fisheries	3237	2013-05-13

European Commission	

Commission DG	Commissioner
Trade and Economic Security	DE GUCHT Karel

Key events

Date	Event	Reference	Summary
30/09/2011	Legislative proposal published	COM(2011)0598	Summary
12/10/2011	Committee referral announced in Parliament, 1st reading		
21/06/2012	Vote in committee, 1st reading		
25/06/2012	Committee report tabled for plenary, 1st reading	A7-0207/2012	Summary
12/09/2012	Debate in Parliament		
13/09/2012	Decision by Parliament, 1st reading	T7-0342/2012	Summary
11/12/2012	Council position published	15519/1/2012	Summary
17/01/2013	Committee referral announced in Parliament, 2nd reading		
21/03/2013	Vote in committee, 2nd reading		
25/03/2013	Committee recommendation tabled for plenary, 2nd reading	A7-0123/2013	Summary
16/04/2013	Decision by Parliament, 2nd reading	T7-0112/2013	Summary
16/04/2013	Results of vote in Parliament		
13/05/2013	Act approved by Council, 2nd reading		
21/05/2013	Final act signed		
21/05/2013	End of procedure in Parliament		
18/06/2013	Final act published in Official Journal		

Technical information

Procedure reference	2011/0260(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 207-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	INTA/7/11134

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE483.670	13/04/2012	
Amendments tabled in committee		PE489.418	09/05/2012	
Committee opinion	DEVE	PE486.224	05/06/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0207/2012	25/06/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0342/2012	13/09/2012	Summary
Committee draft report		PE506.096	28/02/2013	
Committee recommendation tabled for plenary, 2nd reading		A7-0123/2013	25/03/2013	Summary
Text adopted by Parliament, 2nd reading		T7-0112/2013	16/04/2013	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	16737/2012	05/12/2012	
Council position	15519/1/2012	11/12/2012	Summary
Draft final act	00013/2013/LEX	21/05/2013	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2011)0598	30/09/2011	Summary
Commission communication on Council's position	COM(2013)0007	10/01/2013	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2013)0277	03/05/2013	Summary
Commission response to text adopted in plenary	SP(2013)338	15/05/2013	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0598	12/01/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	

European Commission	EUR-Lex	

Final act	
Regulation 2013/0527 OJ L 165 18.06.2013, p. 0059	Summary

Delegated acts	
Reference	**Subject**
2014/2784(DEA)	Examination of delegated act
2014/2954(DEA)	Examination of delegated act
2014/2781(DEA)	Examination of delegated act
2016/2833(DEA)	Examination of delegated act

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

2011/0260(COD) - 25/06/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by David MARTIN (S&D, UK) on the proposal for a regulation of the European Parliament and of the Council amending Annex I to 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.

The committee recommends that the European Parliament's position in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Powers conferred on the Commission: the committee made the following amendments:

- it emphasised the need for the European Parliament to be duly involved in preparation and implementation of delegated acts;
- the delegation of power shall be conferred on the Commission for a **period of five years (rather than for an indeterminate period**, as the Commission had proposed);
- the Commission shall draw up a **report in respect of the delegation of power** not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than **three months** before the end of each period;
- the European Parliament and Council will have **four months (rather than two)** to object to a delegated act.

Date of application: the Regulation will apply from **1 January 2016**, rather than 2014.

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

2011/0260(COD) - 13/09/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 322 votes to 78 with 218 abstentions a legislative resolution on the proposal for a Regulation of the European Parliament and of the Council amending Annex I to 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.

Parliament adopted its position on first reading following the ordinary legislative procedure. The main amendments are as follows:

Postponement of the date of entry into force of the Regulation: Parliament wants the Regulation to apply from 1 January 2016 rather than 2014. It considers that the proposed timetable is unrealistic and is far too short to permit the satisfactory conclusion of the negotiations under way on the partnership agreements.

Date of application: the Regulation will apply **from 1 January 2016, rather than 2014**.

Powers conferred on the Commission: Parliament made the following amendments:

- it emphasised the **need for the European Parliament to be duly involved in preparation and implementation of delegated acts**;
- the delegation of power shall be conferred on the Commission for a period of **five years** (rather than for an indeterminate period, as the Commission had proposed);
- the Commission shall draw up **a report in respect of the delegation of power** not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension **not later than three months** before the end of each period;
- the European Parliament and Council will have **four months (rather than two)** to object to a delegated act.

It should be noted that the plenary session rejected a proposal from the GUE/NGL group to reject the Commission's proposal by 98 votes for, 510 against, with 9 abstentions.

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.

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

2011/0260(COD) - 22/10/2012

The Council reached **political agreement** on a draft regulation amending Annex I to Regulation 1528/2007 ("Market Access Regulation") as regards the exclusion of a number of countries from the list of regions or states that have concluded negotiations on economic partnership agreements (EPAs) with the EU.

The Draft Regulation is aimed at withdrawing the benefits of the market access regulation for those countries that have not yet taken the necessary steps towards ratifying EPAs signed with the EU.

The Council's text differs from the Commission's proposal in that it adds Zimbabwe to the list of beneficiary countries, given that Zimbabwe has notified the deposit of its instrument of ratification of the interim EPA between the Eastern and Southern African States and the EU.

The Council will adopt its position at first reading once the text has been finalised.

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

2011/0260(COD) - 11/12/2012 - Council position

In accordance with the political agreement reached on 22 October 2012, the Council adopted its position in first reading on the proposal for a Regulation of the European Parliament and of the Council amending Annex I to 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 on an economic partnership agreement.

Council position: overall, the Council supports the Commission proposal with a technical adjustment related to the insertion of Zimbabwe in Annex I to Council Regulation (EC) No 1528/2007.

At the time when the Commission submitted its proposal, 18 countries, including the Zimbabwe, had not taken the necessary steps towards ratifying the Economic Partnership Agreements. However, in spring 2012, Zimbabwe notified the deposit of the instrument of ratification of the Interim Economic Partnership Agreement. This is why the Council adds Zimbabwe to Annex I of the amended Regulation.

EP amendments: on 13 September 2012, the European Parliament adopted its position at first reading introducing several amendments to the proposal:

- **Timetable for entry into force**: with regard to the postponement of the date of entry into force of the Regulation from **1 January 2016** instead of 1 January 2014, the Council shares the Commission's approach that the initially proposed timetable gives those potentially affected countries the time to implement an Economic Partnership Agreement and thus maintain their current access to the EU. Consequently **the Council could not accept this EP amendment**.
- **Delegation of powers**: as for the **powers conferred on the Commission**, the European Parliament has emphasised the need to be properly involved in the preparation and implementation of delegated acts by limiting the delegation of power conferred on the Commission for a period of five years, and asking the Commission to draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The European Parliament suggests that the delegation of power should be tacitly extended for periods of an identical duration, unless Parliament or the Council opposes such extension not later than three months before the end of each period. The European Parliament also suggests that the European Parliament and Council should have four months (rather than two) to object to a delegated act. The Council shares the Commission's approach regarding the powers conferred on the Commission and, consequently, **the Council could not accept EP amendments on the delegation of power**.

In conclusion, the Council supports the Commission proposal with a technical adjustment in order to reflect the introduction of Zimbabwe in Annex I to Council Regulation (EC) No 1528/2007. It looks forward to constructive discussions with the European Parliament at second reading with a view to the early adoption of the Regulation.

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

2011/0260(COD) - 10/01/2013 - Commission communication on Council's position

In its opinion on the position of the Council on the adoption of a Regulation of the European Parliament and of the Council amending Annex I to Council Regulation (EC) No 1528/2007, the Commission states that it can accept the amendments introduced by the Council to its proposal.

The Commission rejects three of four amendments adopted by the European Parliament at first reading: two of the amendments concern procedural aspects related to delegated acts and are not in line with the Common Understanding on Delegated Acts. The third one relates to the date of entry into force of the amendment to the Regulation (1 January 2016 rather than 1 January 2014).

The Council did not take up the Parliament's amendments. It did, however, introduce one amendment which re-instates Zimbabwe in Annex I. This country has ratified an EPA since the Commission's proposal was adopted. The modification is in line with the logic of the proposal itself therefore the Commission can accept the amendment introduced by the Council.

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

2011/0260(COD) - 25/03/2013 - Committee recommendation tabled for plenary, 2nd reading

The Committee on International Trade adopted the report by David MARTIN (S&D, UK) on the proposal for a regulation of the European Parliament and of the Council amending Annex I to 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.

The committee recommends that the position of the European Parliament, adopted in first reading following the ordinary legislative procedure, should amend the Commission proposal as follows:

Delegated acts: Members propose limiting the delegation of power conferred on the Commission to **five years from the entry into force of the Regulation** (period may be tacitly extended for periods of an identical duration) and obliging the Commission to draw up a report in respect of the delegation of power not later than nine months before the end of the five- year period.

Entry into force: Members propose that the Regulation shall apply as from **1 October 2014**.

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

2011/0260(COD) - 16/04/2013 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Annex I to 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.

Parliament adopted its position at second reading, following the ordinary legislative procedure, which amends the Council position.

The amendment adopted by the Parliament concerns the conditions as regards the delegation of power conferred on the Commission to adopt delegated acts : the power to adopt delegated acts shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation (tacitly extended for periods of an identical duration) and the Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five- year period.

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

2011/0260(COD) - 03/05/2013 - Commission opinion on Parliament's position at 2nd reading

In its opinion on the European Parliament's amendments to the Council's position amending Annex I to Council Regulation (EC) No 1528/2007, the Commission states that it supports the Parliament’s position.

To recall, the proposal aims to amend the list of countries benefiting from the preferences (Annex I of the Regulation) by removing, on 1 January 2014, those which have still not taken the necessary steps towards ratification of an EPA. It is intended to ensure equitable treatment vis-à-vis EPA partners that are fully complying with their obligations (19 countries in total).

As regards the amendments proposed by the Parliament, the Commission expresses itself as follows:

- **delay of the date of entry into force**: at second reading, the European Parliament proposes to delay the entry into force of the amendment to the Market Access Regulation by ten months, i.e. to 1 October 2014. The Commission considers its original proposal of entry into force on 1 January 2014 preferable as any further delays increase the risks associated with extending a temporary arrangement that cannot provide a solid legal basis of ACP market access. However, with a view to ensuring inter-institutional unity and a broad majority for the adoption of the amendment proposal the **amendment is nevertheless acceptable**;
- **amendment to limit the delegation of powers**: in another amendment, Parliament limits in time the delegation of powers conferred to the Commission to five years with tacit renewal. While this is not the preferred approach of the Commission, this does not raise any particular problems in the case at hand and is **therefore acceptable**.

In conclusion, the Commission amends its proposal as set out above.

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

2011/0260(COD) - 21/05/2013 - Final act

PURPOSE: to amend Annex I of Council Regulation (EC) No 1528/2007 applying the arrangements for products originating in certain African, Caribbean and Pacific (ACP) states provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements (EPAs).

LEGISLATIVE ACT: Regulation (EU) of the European Parliament and of the Council 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.

CONTENT:

Regulation (EC) No 1528/2007 granted a number of countries duty-free, quota-free access to the EU market under certain conditions (in particular, the extension of certain trade preferences to these countries as of 1 January 2008, in anticipation on their behalf of the steps towards ratification of an EPA).

Following the negotiation process on Economic Partnership Agreements with the ACP countries, which ran from 2002 until December 2007, a certain number of countries neither took the necessary steps toward ratification of their respective EPAs nor concluded the overall regional negotiations. These countries therefore no longer fulfil the necessary conditions laid down in Regulation (EC) No 1528/2007 permitting them to benefit from the envisaged provisional application of trade preferences.

On the basis of the criteria laid down in Article 2(3) of Council Regulation (EC) No 1528/2007, **the trade preferences granted to these countries should no longer be maintained**. Accordingly, the Regulation should be amended by **removing the countries in question from the list** (Annex I of the Regulation).

As a result, the European Parliament and the Council have adopted this Regulation amending Regulation (EC) No 1528/2007 and, in particular, its Annex I with a view to removing from its list those countries that have not taken the necessary steps towards ratification of an EPA.

Annex: the countries (i.e. those that have not concluded negotiations) listed in Annex I of the amended Regulation are as follows:

- Antigua and Barbuda
- The Commonwealth of the Bahamas
- Barbados
- Belize
- The Commonwealth of Dominica
- The Dominican Republic
- Grenada
- The Cooperative Republic of Guyana
- Jamaica
- The Republic of Madagascar
- The Republic of Mauritius
- The Independent State of Papua New Guinea
- Federation of Saint Kitts And Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- The Republic of Seychelles
- The Republic of Suriname
- The Republic of Trinidad and Tobago
- The Republic of Zimbabwe.

DELEGATED ACTS: the Commission is empowered to adopt delegated so as to amend the annex of the Regulation and to reinstate ACP countries or regions which were removed from the list and that, in the meantime, have taken the necessary measures towards the ratification of their respective EPAs.

The power to adopt delegated acts will be conferred on the Commission for a period of **five years from 21 June 2013.** The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period.

The European Parliament or the Council may object to the delegated act within a period of two months of notification of that act (which may be extended by two months.) If the European Parliament or Council objects, the delegated act shall not enter into force. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

The delegation of power may be revoked at any time by the European Parliament or by the Council. It shall not affect the validity of the delegated acts already in force.

The European Parliament or the Council may object to the delegated act within a period of **two months** of notification of that act (which may be extended by a further two months). If either the European Parliament or Council objects, the delegated act shall not enter into force.

ENTRY INTO FORCE: the Regulation enters into force on 21.06.2013. It is applicable from 1 October 2014.