

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of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements (repealed)

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of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements (repealed)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000<sup>(1)</sup> (hereinafter referred to as the ‘ACP-EC Partnership Agreement’) provides that Economic Partnership Agreements (EPAs) are to enter into force no later than 1 January 2008.
- (2) The ACP-EC Partnership Agreement provides for the maintenance of the trading arrangements contained in Annex V to that Agreement until 31 December 2007.
- (3) Since 2002 the Community has been negotiating Economic Partnership Agreements with the ACP Group of States in the form of six regions comprising the Caribbean, Central Africa, Eastern and Southern Africa, the Pacific Island States, the South African Development Community and West Africa. Such Economic Partnership Agreements will be consistent with WTO obligations, support regional integration and promote the gradual integration of the ACP economies into the rules-based world trading system, thereby fostering their sustainable development and contributing to the overall effort to eradicate poverty and to enhance living conditions in the ACP countries. In a first stage, negotiations may be concluded on agreements leading to the establishment of Economic Partnership Agreements covering at least WTO compatible goods arrangements consistent with regional economic and political integration processes, to be complemented as soon as possible by complete Economic Partnership Agreements.
- (4) Those agreements establishing, or leading to the establishment of, Economic Partnership Agreements for which negotiations have been concluded provide that the parties may take steps to apply the agreement, before provisional application on

a mutual basis, to the extent feasible. It is appropriate to take action to apply the agreements on the basis of these provisions.

- (5) The arrangements included in this Regulation are to be amended, as necessary, in accordance with the agreements establishing, or leading to the establishment of, Economic Partnership Agreements, as and when such agreements are signed and concluded pursuant to Article 300 of the Treaty and are either provisionally applied or in force. The arrangements are to be terminated in whole or in part if the agreements in question do not enter into force within a reasonable period of time in accordance with the Vienna Convention on the Law of Treaties.
- (6) For imports into the Community, the arrangements in the agreements establishing, or leading to the establishment of, Economic Partnership Agreements, should provide for duty free access and no tariff rate quotas for all products with the exception of arms. These arrangements are subject to transitional periods and arrangements for certain sensitive products and specific arrangements for the French Overseas Departments. In the light of the specificities of the situation of South Africa, products originating in South Africa should continue to benefit from the relevant provisions of the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and South Africa, of the other part<sup>(2)</sup> (hereinafter referred to as the 'TDCA'), until such time as an agreement establishing, or leading to the establishment of, Economic Partnership Agreements enters into force between the Community and South Africa.
- (7) Instead of relying on the special arrangements for least-developed countries provided for in Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences<sup>(3)</sup>, it is preferable that those least-developed countries which are also ACP States base their future trade relationship with the Community on Economic Partnership Agreements. In order to facilitate such a development, it is appropriate to provide that such countries which have concluded negotiations on agreements establishing, or leading to the establishment of, Economic Partnership Agreements, and which can benefit from the arrangements provided under this Regulation may continue to benefit, for a limited period of time, from the special arrangements for least-developed countries in Regulation (EC) No 980/2005 in respect of those products where the transitional arrangements set out in this Regulation are less favourable.
- (8) The rules of origin applicable to imports made under this Regulation should for a transitional period be those laid down in Annex II to this Regulation. Those rules of origin should be superseded by those annexed to any agreement with the regions or states listed in Annex I when that agreement is either provisionally applied, or enters into force, whichever is the earliest.
- (9) It is necessary to provide for the possibility of temporarily suspending the arrangements set out in this Regulation in the event of any failure to provide administrative cooperation, irregularities or fraud. Where a Member State supplies information to the Commission concerning possible fraud or failure to provide administrative cooperation, the relevant Community legislation should apply, in particular Council

Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters<sup>(4)</sup>.

- (10) It is appropriate that this Regulation should provide for transitional arrangements for sugar and rice, together with special transitional safeguard and surveillance mechanisms applicable after the termination of the transitional arrangements.
- (11) In the context of the transitional arrangements for sugar, according to Council Decision 2007/627/EC<sup>(5)</sup>, Protocol 3 on ACP sugar attached to Annex V to the ACP-EC Partnership Agreement will cease to apply with effect from 1 October 2009.
- (12) Upon the termination of Protocol 3 on ACP sugar and in view of the particular sensitivity of the sugar market, it is appropriate to adopt transitional measures for that product. At the same time, it is appropriate to adopt specific transitional surveillance and safeguard measures for certain agricultural processed products with a potentially high sugar content which could be traded to circumvent the transitional specific safeguard measures for sugar imports into the Community.
- (13) It is also appropriate to adopt general safeguard measures for the products covered by this Regulation.
- (14) In view of the particular sensitivity of agricultural products, it is appropriate that bilateral safeguard measures may be taken when imports cause or threaten to cause disturbances in the markets for such products or disturbances in the mechanisms regulating those markets.
- (15) In accordance with Article 299(2) of the Treaty, due account should be taken in all Community policies of the particular structural, social and economic situations of the outermost regions of the Community specifically with reference to customs and trade policies.
- (16) Special account should therefore be taken both of the sensitivity of agricultural products, especially sugar, and of the particular vulnerability and interests of the outermost regions of the Community when laying down the rules on bilateral safeguards in an effective manner.
- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(6)</sup>.
- (18) This Regulation makes it necessary to repeal the current set of regulations adopted in the context of Annex V of the ACP-EC Partnership Agreement, notably Council Regulation (EC) No 2285/2002 of 10 December 2002 on the safeguard measures provided for in the ACP-EC Partnership Agreement<sup>(7)</sup>, Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States)<sup>(8)</sup> and Article 1(2) of Council Regulation (EC) No 1964/2005 of 29 November 2005 on the tariff rates for bananas<sup>(9)</sup>. As a

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**Status:** This is the original version (as it was originally adopted).

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consequence, all implementing measures based on those provisions which are repealed are rendered obsolete,

HAS ADOPTED THIS REGULATION:

- (1) [OJ L 317, 15.12.2000](#), p. 3. Agreement as amended by Agreement of 22 December 2005 ([OJ L 209, 11.8.2005](#), p. 27).
- (2) [OJ L 311, 4.12.1999](#), p. 1. Agreement as amended by the Additional Protocol of 25 June 2005 ([OJ L 68, 15.3.2005](#), p. 33).
- (3) [OJ L 169, 30.6.2005](#), p. 1. Regulation as last amended by Commission Regulation (EC) No 606/2007 ([OJ L 141, 2.6.2007](#), p. 4).
- (4) [OJ L 82, 22.3.1997](#), p. 1. Regulation as amended by Regulation (EC) No 807/2003 ([OJ L 122, 16.5.2003](#), p. 36).
- (5) Council Decision 2007/627/EC of 28 September 2007 denouncing on behalf of the Community Protocol 3 on ACP sugar appearing in the ACP-EEC Convention of Lomé and the corresponding declarations annexed to that Convention, contained in Protocol 3 attached to Annex V to the ACP-EC Partnership Agreement, with respect to Barbados, Belize, the Republic of Congo, the Republic of Côte d'Ivoire, the Republic of the Fiji Islands, the Republic of Guyana, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Mozambique, the Federation of Saint Kitts and Nevis, the Republic of Suriname, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe ([OJ L 255, 29.9.2007](#), p. 38).
- (6) [OJ L 184, 17.7.1999](#), p. 23. Decision as last amended by Decision 2006/512/EC ([OJ L 200, 22.7.2006](#), p. 11).
- (7) [OJ L 348, 21.12.2002](#), p. 3.
- (8) [OJ L 348, 21.12.2002](#), p. 5.
- (9) [OJ L 316, 2.12.2005](#), p. 1.