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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EU) 2016/1076 of the European Parliament and the Council of 8 June 2016 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 (formerly known as the Market Access Regulation)

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I. Introduction

Regulation (EC) No 1528/2007 (the so-called Market Access Regulation) was established to govern the EU import regime for African, Caribbean and Pacific countries that had negotiated Economic Partnership Agreements (EPAs). These countries were listed in Annex I to that Regulation.

By May 2013, Botswana, Cameroon, Côte d'Ivoire, Fiji, Ghana, Kenya, Namibia and Eswatini had not taken the necessary steps towards ratification of their respective EPAs. 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 to remove these countries. By Regulation (EU) No 527/2013 of 21 May 2013, those countries ceased to be covered by the market access arrangement permitted under Regulation (EC) No 1528/2007, as from 1 October 2014.

Regulation (EU) No 527/2013 also amended Regulation (EC) No 1528/2007 by delegating to the Commission the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union. The Commission was empowered to adopt delegated acts to adapt Annex I to the Market Access Regulation so as to reinstate ACP countries as soon as they had concluded EPA negotiations with the EU.

By July 2014, having concluded negotiations and having taken the necessary steps towards ratification of their agreements, Botswana, Cameroon, Côte d'Ivoire, Fiji, Ghana, Namibia and Eswatini were reinstated in Annex I to the Market Access Regulation by delegated Regulations (EU) No 1025/2014, 1026/2014 and 1027/2014 of 25 July 2014, and Kenya by delegated Regulation (EU) No 1387/2014 of 14 November 2014.

Having been substantially amended several times, the Market Access Regulation was recast in the interest of clarity under Regulation (EU) 2016/1076 of 8 June 2016 (hereinafter "the Regulation"). Furthermore, the Regulation empowered the Commission to adopt delegated acts:

- to amend Annex I in order to add regions or states which have concluded negotiations on an agreement so that they can notably be subject to the safeguard mechanism foreseen under the Regulation (Article 2(2));
- to amend Annex I in order to remove regions or states from that Annex (Article 2(3));
- to reinstal those regions or states which were removed from Annex I by Regulation (EU) No 527/2013 and which have, since such removal, taken the necessary steps towards ratification of their respective agreements (Article 3);

- to add an annex setting out the regime applicable to products originating in South Africa (Article 4(3));
- to technically amend Annex II (Rules of origin) where required to take account of amendments to other Union customs legislation (Article 5(3)); and
- to amend Article 6 (Administrative cooperation) and Articles 9 to 20 (General safeguard provisions) which may be required as a result of differences between the regulation and agreements signed with provisional application or concluded in accordance with Article 218 TFEU with the regions or states listed in Annex I (Article 21).

The power to adopt delegated acts has been conferred on the Commission subject to the conditions laid down in Article 22 of the Regulation.

Lesotho, Mozambique, Samoa and South Africa, having taken the necessary steps towards ratification of their respective EPAs in the period under review, were included in Annex I to the Regulation by delegated Regulations (EU) 2017/1550 and 2017/1551 of 14 July 2017 and 2019/821 of 12 March 2019.

II. Legal Basis

Pursuant to Article 22(2) of Regulation (EU) 2016/1076, the power to adopt delegated acts referred to in Article 3 of that Regulation is conferred on the Commission for a period of five years from 21 June 2013. The power to adopt delegated acts referred to in Article 2(2) and (3), Article 4(3), Article 5(3) and Article 21 of Regulation (EU) 2016/1076 is conferred on the Commission for a period of five years from 20 February 2014. The delegation of power shall be tacitly extended for periods of identical duration.

Article 22(2) of Regulation (EU) 2016/1076 asked the Commission to draw up a report to the Council and the European Parliament in respect of the delegation of power.

III. Exercise of the Delegation

A. Procedural aspects

Under Article 22(4) of Regulation (EU) 2016/1076, before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. For each of the delegated acts, the Commission duly consulted Member State experts through meetings or by written procedure. In parallel, the Commission also informed the European Parliament. In accordance with Article 22(5) of the Regulation, the Commission notified the delegated acts simultaneously to the European Parliament and to the Council as soon as it adopted them.

B. Since 21 May 2013, seven (7) delegated acts were adopted and entered into force as follows:

1. Delegated acts referred to in Article 3 of Regulation (EU) 2016/1076 (reinstating ACP regions or states removed from the Market Access Regulation by Regulation (EU) No 527/2013):

- **COMMISSION DELEGATED REGULATION (EU) No 1025/2014 of 25 July 2014 amending Annex I to Council Regulation (EC) No 1528/2007 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, as amended by Regulation (EU) No 38/2014 of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures

Having concluded EPA negotiations, Botswana, Côte d'Ivoire, Ghana, Namibia and Eswatini were reinserted in Annex I to Regulation (EC) No 1528/2007 from 1 October 2014.

- **COMMISSION DELEGATED REGULATION (EU) No 1026/2014 of 25 July 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, as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations**

Having taken the necessary steps towards ratification of its EPA, Fiji was reinserted in Annex I to Regulation (EC) No 1528/2007 from 1 October 2014.

CORRIGENDUM TO COMMISSION DELEGATED REGULATION (EU) No 1026/2014 OF 25 JULY 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, as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council of 21 May 2013 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations

'The Republic of the Fiji Islands' was replaced by 'The Republic of Fiji'.

- **COMMISSION DELEGATED REGULATION (EU) No 1027/2014 of 25 July 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, as amended by Regulation (EU) No 527/2013 of the European Parliament and of the Council as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations**

Having taken the necessary steps towards ratification of its EPA, Cameroon was reinserted in Annex I to Regulation (EC) No 1528/2007 from 1 October 2014.

- **COMMISSION DELEGATED REGULATION (EU) No 1387/2014 of 14 November 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

Kenya, the European Union and its Member States concluded EPA negotiations on 16 October 2014. Kenya was reinserted in Annex I to Regulation (EC) No 1528/2007.

2. Delegated acts referred to in Article 4(3) of Regulation (EU) 2016/1076 (regime applicable to products originating in South Africa):

- **COMMISSION DELEGATED REGULATION (EU) 2017/1550 of 14 July 2017 adding an Annex to Regulation (EU) 2016/1076 of the European Parliament and of the Council 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**

  Following ratification of the SADC EPA, Annex V setting out the market access regime applicable to the importation into the EU of products originating in South Africa was added to Regulation (EU) 2016/1076.

3. Delegated acts referred to in Article 2(2) of Regulation (EU) 2016/1076 (adding ACP regions or states having concluded EPA negotiations):

- **COMMISSION DELEGATED REGULATION (EU) 2017/1551 of 14 July 2017 amending Annex I to Regulation (EU) 2016/1076 of the European Parliament and of the Council 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**

  Having ratified their EPA, Lesotho and Mozambique were inserted into Annex I to Regulation (EU) 2016/1076.

- **COMMISSION DELEGATED REGULATION (EU) 2019/821 of 12 March 2019 amending Regulation (EU) 2016/1076 of the European Parliament and of the Council in order to include the Independent State of Samoa in Annex I**

  Following Samoa's deposition of its Act of Accession to the EU-Pacific EPA, Samoa was inserted in Annex I to Regulation (EU) 2016/1076.

IV. Conclusions

The Commission invites the European Parliament and the Council to take note of this report in the context of the proper exercise by the Commission of the power delegated by the Regulation.