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2019/0099 (NLE)

Proposal for a

COUNCIL DECISION

on the accession of Solomon Islands to the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The attached proposal for a Council Decision constitutes the legal instrument for the approval, on behalf of the European Union (EU), of the accession of Solomon Islands to the Interim Partnership Agreement between the European Union, of the one part, and the Pacific States, of the other part, pursuant to Article 218(6) TFEU.

The Council authorised the Commission to open negotiations for Economic Partnership Agreements (EPA) with ACP countries on 12 June 2002.

On 30 July 2009 the EU signed the EPA between the European Community, of the one part, and the Pacific States, of the other part. The EPA has been provisionally applied by the Independent State of Papua New Guinea, the Republic of the Fiji Islands and the Independent State of Samoa since 20 December 2009, 28 July 2014 and 31 December 2018, respectively.

Article 80 of the EPA provides for the possibility for other Pacific Islands to accede to the Agreement. Accordingly, on 4 June 2018, Solomon Islands submitted a request to the Council together with a market access offer to accede to the EPA. The Commission assessed the offer and, after modifications, found it to be acceptable. Accordingly, it concluded negotiations on behalf of the Union on 23 October 2018.

The Commission informed EU Member States orally and in writing on the accession process with Solomon Islands via the ACP Working Party of the Council. The European Parliament was also informed via its Committee on International Trade (INTA). The text of the market access offer resulting from negotiations with Solomon Islands was circulated to both institutions on 20 November 2018.

The necessary technical modifications to the Agreement to take account of the accession are yet to be agreed by the Parties to the EPA (the EU, Papua New Guinea, Fiji and Samoa).

• Consistency with existing policy provisions in the policy area

This proposal implements 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 ('ACP-EU Partnership Agreement', or Cotonou Agreement)[1].

The accession of Solomon Islands to the EPA between the EU, Fiji, Papua New Guinea and Samoa[2], which is an asymmetric and WTO-compatible trade agreement, reinforces the legal framework of the EU trade relations with partner countries and facilitates reciprocal trade. It also incorporates Solomon Islands into the regime of joint rules and institutions established by the EPA.

Solomon Islands is projected to graduate from the Least Developed Countries (LDC) category in 2021. As a result, it will lose the EU's Everything-But-Arms (EBA) preferences three years thereafter. As of then, the standard form of the Generalised Scheme of Preferences (GSP) will

[1] OJ L 287, 4.11.2010, p. 3 Agreement as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 209,11.8.2005, p. 27) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p 3).

[2] Council Decision of 13 July 2009 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 (OJ L 272, 16.10.2009, p. 1).

apply to Solomon Islands' exports to the EU, which is however less generous than the EBA. To maintain full duty-free-quota-free access to the EU market, Solomon Islands would need to join the existing EPA between the EU, Fiji, PNG and Samoa.

Pending the completion of related internal procedures by Fiji, Papua New Guinea and Samoa, it is foreseen that the EU and Solomon Islands shall provisionally apply the Agreement subject to notifying each other in writing of the completion of the procedures necessary for this purpose in accordance with Article 76(3) of the Agreement.

- **Consistency with other Union policies**

The Economic Partnership Agreement contains provisions on Sustainable Development (Article 3), whereby the Parties reaffirm that the objective of sustainable development shall be an integral part of the provisions of this Agreement, consistent with the overarching objectives and principles set out in Cotonou Agreement, and especially the general commitment to reduce and eventually eradicate poverty in a way that is consistent with the objectives of sustainable development.

The EPA is a development-oriented trade agreement, which offers asymmetric market access to Solomon Islands and allows it to shield sensitive sectors from liberalisation, while providing a large number of safeguards and a clause for infant industry protection. It further contains provisions on the rules of origin that facilitate Solomon Islands' exports into the EU. These provisions contribute to the objective of Policy Coherence for Development and are consistent with Article 208(2) TFEU.

2. LEGAL ELEMENTS OF THE PROPOSAL

- **Legal basis**

The legal basis for this Council decision is the Treaty on the Functioning of the European Union, in particular its Article 207(3) and the first subparagraph of Article 207(4), in conjunction with Article 218(6)(a)(v), thereof.

- **Subsidiarity (for non-exclusive competence)**

The common commercial policy, in accordance with Article 3 of the TFEU, is defined as an exclusive Union competence.

- **Proportionality**

This proposal is necessary in order to implement the Union’s international commitments, as set out in the ACP-EU Partnership Agreement, in particular to conclude new WTO compatible trading arrangements progressively removing barriers to trade between the Parties and enhancing cooperation in all areas relevant to trade.

- **Choice of the instrument**

There exists no other legal instrument that could be used in order to achieve the objective expressed in this proposal.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Impact assessment**

A Sustainability Impact Assessment (SIA) of the EU-ACP Economic Partnership Agreements was carried out between 2003 and 2007. The terms of reference for this project were published by the European Commission in 2002 under a competitive call for tender. As a

result of this call for tender a five-year framework contract was awarded to PwC France in August 2002. A draft version of the SIA's final report was presented to stakeholders in Europe during the EU Civil Society Dialogue meeting organised by the European Commission on 23 March 2007 in Brussels, Belgium.

- **Regulatory fitness and simplification**

The approval of the accession of Solomon Islands to the EPA is not subject to REFIT procedures; it does not imply any costs for the Union SMEs; and it does not raise any issues from the viewpoint of the digital environment.

- **Fundamental rights**

The proposal does not have consequences for the protection of fundamental rights in the Union.

4. BUDGETARY IMPLICATIONS

Solomon Islands is projected to graduate from the Least Developed Countries category in 2021; as such it will continue to benefit from the 'Everything But Arms' initiative which offers exports duty-free quota-free market access into the EU for a transitional period of three years thereafter. There will be no budgetary implications as the accession to the Agreement will continue Solomon Islands' market access into the EU on the same terms.

5. OTHER ELEMENTS

- **Benefits of the accession for economic operators**

The EPA establishes the conditions for EU economic operators to take full advantage of the opportunities between our respective economies. Over the course of its implementation, the EPA will largely relieve EU exporters of industrial products to Solomon Islands from paying customs duties. It satisfies the criteria established in Article XXIV of the GATT 1994 (to eliminate duties and other restrictive regulations of commerce with respect to substantially all trade between the parties) i.e. 90.3% of tariff lines, corresponding to 83% in volume of EU exports over 15 years. Solomon Islands will benefit from maintaining their duty-free quota-free market access into the EU market.

The EPA also establishes a set of disciplines in the areas of sustainable development; technical barriers to trade; and Sanitary and Phytosanitary measures among others. Furthermore, the Parties to the EPA participate in the Trade Committee established under the Agreement. The possibility of the EU to avail itself of the bilateral dispute settlement mechanism foreseen under the Agreement contributes to the objective of securing a transparent, non-discriminatory and predictable environment for EU operators in the Pacific countries.

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Solomon Islands will take part in the Trade Committee, established in accordance with Article 68 of the EPA, which shall deal with all matters necessary for the implementation of the Agreement, including monitoring and review its implementation, providing coordination and consultation on TBT and SPS issues, identifying and reviewing priority sectors and products and the resulting priority areas for cooperation, and making recommendations for modifications to the Agreement. The Trade Committee shall be composed of the representatives of the Parties.

- **Detailed explanation of the specific provisions of the proposal**

Articles 1 and 2 of the proposal contain provisions on the approval, on behalf of the Union, of the accession of Solomon Islands to the EPA and on notifications in order to express the consent of the European Union to accession and the provisional application of the Agreement in accordance with Article 76(3) thereof.

Article 3 specifies that the approval of the accession must not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts or tribunals.

Article 4 establishes the date of the entry into force of the Decision.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(3) and the first subparagraph of Article 207(4), in conjunction with Article 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) On 12 June 2002, the Council authorised the Commission to open negotiations for Economic Partnership Agreements with the African, Caribbean and Pacific Group of States[3].

(2) On 30 July 2009, the Union (the European Community at the time) signed the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part[4] (the 'Interim Partnership Agreement'), which establishes a framework for an Economic Partnership Agreement. The Interim Partnership Agreement has been provisionally applied by the Independent State of Papua New Guinea, the Republic of the Fiji Islands and the Independent State of Samoa since 20 December 2009, 28 July 2014 and 31 December 2018, respectively.

(3) Article 80 of the Agreement lays down the provisions regarding the accession of other Pacific Islands States.

(4) On 4 June 2018, Solomon Islands submitted an accession request together with a market access offer to the Council.

(5) The Commission has assessed Solomon Islands' offer and, after amendments, found it acceptable. Accordingly, it concluded negotiations with Solomon Islands on 23 October 2018.

(6) In accordance with Article 76(3) of the Agreement, the Union and Solomon Islands are to provisionally apply the Agreement ten days after notifying each other in writing of the completion of the procedures necessary for this purpose.

(7) The accession of Solomon Islands should be approved on behalf of the Union,

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[3] Council Directives for the negotiations of Economic Partnership Agreements with ACP countries and regions (9930/02 (DG E II) HH/sg).

[4] Council Decision 2009/729/EC of 13 July 2009 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 (OJ L 272, 16.10.2009, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

1. The accession of Solomon Islands to the Interim Partnership Agreement between the European Union, of the one part, and the Pacific States, of the other part (the 'Interim Partnership Agreement'), is hereby approved on behalf of the Union, subject to Solomon Islands' deposit of the act of accession pursuant to Article 80 thereof.

2. The texts of the market access offer of Solomon Islands are attached to this Decision.

3. The President of the Council shall, on behalf of the Union, notify the Parties to the Interim Partnership Agreement and Solomon Islands of the approval, by the Union, of the accession of Solomon Islands to the Interim Partnership Agreement.

Article 2

1. For the purposes of applying the Interim Partnership Agreement provisionally between the Union and Solomon Islands, the President of the Council shall, on behalf of the Union, give the notification referred to in Article 76(3) of the Interim Partnership Agreement.

2. The Union and Solomon Islands shall provisionally apply the Interim Partnership Agreement ten days after they have, in accordance with paragraph 1, notified each other in writing of the completion of the procedures necessary for this purpose.

Article 3

The approval of the accession of Solomon Islands shall not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts or tribunals.

Article 4

This Decision shall enter into force on the day of its adoption.

Article 5

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President