



Brussels, 21 December 2007
TAXUD/C/5/RL D(2007) 14475

**NOTE TO DELEGATES TO
THE CUSTOMS CODE COMMITTEE
(ORIGIN SECTION)**

Subject: Consequences of the ending of preferential tariff treatment granted under the Cotonou agreement; arrangements in force from 1 January 2008

1. Ending of the Cotonou agreement

Community operators were informed by a notice in the Official Journal on 16.11.2007¹ that:

- The preferential tariff treatment provided for under the Cotonou Agreement expires on 31 December 2007;
- The Commission is seeking to establish new trading arrangements for these countries within the context of Economic Partnership Agreements (EPA);
- For regions or countries which on 1 January 2008 have not yet concluded a WTO-compatible agreement, the Generalised System of Preferences (GSP) will apply. All ACP countries are already GSP beneficiaries (but see also point 4 below).

2. New arrangements from 1/1/2008: state of play

Insofar as the new EPA have not been signed by 31 December 2007, an interim regulation (Market Access Regulation - MAR) has been adopted by the Council on 20 December to allow countries which have initialled a WTO-compatible agreement to benefit from improved "Cotonou" rules of origin.

So far, 35 countries have initialled such an agreement.

¹ [OJ C 275, 16.11.2007, p. 12.](#)

For these countries only, the MAR already grants them unilaterally from 1 January 2008 duty-free/quota-free access to the EC market². It includes an annex on rules of origin based on the "Cotonou +" improvements (Annex II to the MAR).

The list of the 35 countries covered by the MAR is shown at Annex I.

For all other countries currently covered by the Cotonou Agreement and until further notice, GSP (including EBA for the LDCs) will apply.

3. Practical consequences for customs administrations in terms of the acceptance of origin certificates

(i) Goods originating in ACP countries covered by the MAR

The rules of origin are similar to those of Cotonou, with improvements in specific areas.

The MAR lays down transitional provisions concerning proof of origin (Article 39 of Annex II):

- (a) For goods which have been declared for free circulation in the EU before the date of entry into force of the MAR without a movement certificate EUR.1, movement certificates EUR.1 issued in accordance with Article 15 of Protocol 1 to Annex V of the ACP-EU Partnership Agreement (Cotonou Agreement) may be accepted within a period of ten months from the date of entry into force of the MAR.
- (b) For goods which on the date of entry into force of the MAR are either in transit or are in the Community in temporary storage in customs warehouses or in free zones, submission to the customs authorities of the importing country, within ten months of the said date, of a movement certificate EUR.1 issued retrospectively by the customs authorities of the exporting country together with the documents showing that the goods have been transported directly in accordance with the provisions of Article 12.

(ii) Goods exported from ACP countries not covered by the MAR on or after 1/1/2008

This situation concerns ACP countries other than those which are on the list in Annex I. These countries can benefit only from GSP.

Proof of origin issued in accordance with the GSP rules is required (certificate of origin Form A or, for consignments under €6,000, an invoice declaration).

² Council Regulation (EC) No. 1528/2007 of 20 December 2007 implementing the Arrangements applicable pursuant to the Economic Partnership Agreements to goods originating in certain states which are part of the African, Caribbean and Pacific Group of States (ACP). OJ L 348, 31.12.2007.

(iii) Goods exported before 31/12/2007 from ACP countries not covered by the MAR, but declared for free circulation in the Community on or after 1/1/2008

Movement certificate EUR.1 (or an invoice declaration issued under Cotonou) will no longer be valid and should be rejected. However, the importer should be informed that the exporter may ask his competent authorities to issue a certificate of origin Form A issued retrospectively on the grounds of special circumstances, provided that the GSP rules of origin are complied with.

4. Control of origin

(i) Origin within the framework of the MAR

When carrying out controls, it should be taken into account that all-ACP cumulation is no longer possible because of the different regimes in place. Full and diagonal cumulation remain in place between ACP countries benefiting from the MAR (those ones listed in Annex I). Cumulation with OCT under Article 6 is possible applying the rules laid down in Annex II of the MAR.

(ii) Origin within the framework of GSP

When carrying out controls, it should be borne in mind that there are a number of differences between the Cotonou Agreement and GSP rules (cumulation, the tolerance rule, the list of minimal operations and the conditions for fisheries vessels catching fish outside the territorial waters). Consequently, it is possible that some products which qualified under the Cotonou Agreement might not qualify under GSP.

The administrations as well as operators of many ACP countries are unused to dealing with GSP. The administrations have been reminded that they must comply with the administrative cooperation requirements of GSP. The benefit of GSP preference cannot be granted until they have communicated the details of their competent authorities and the stamps used to issue certificates for the first time.

5. Future changes

Once an ACP country concludes a WTO-compatible agreement, the list in Annex I of MAR will be modified accordingly.

Countries will remain in the MAR until such time as the formalities for a definitive EPA are completed, after which they will transfer to that new arrangement. The MAR has no specific time-limit.

Member States will be kept informed.

6. TARIC; origin web pages

The changes applicable from 1/1/2008 have already been integrated into TARIC.

The relevant pages on the TAXUD web-site will be updated as soon as possible.

Richard van Raan
Head of Unit
Signed

cc: Mrs Henzler, Mr Zielinski, Mr Carrusca, Mrs Klasen, Mr Swiderek, Mr
Marien, Mr Light

ANNEX 1

List of regions or states which have concluded negotiations in the sense of Article 2(2 of the MAR

ANTIGUA AND BARBUDA

THE COMMONWEALTH OF THE BAHAMAS

BARBADOS

BELIZE

THE REPUBLIC OF BOTSWANA

THE REPUBLIC OF BURUNDI

UNION OF THE COMOROS

THE REPUBLIC OF CÔTE D'IVOIRE

THE COMMONWEALTH OF DOMINICA

THE DOMINICAN REPUBLIC

THE REPUBLIC OF THE FIJI ISLANDS

THE REPUBLIC OF GHANA

GRENADA

THE COOPERATIVE REPUBLIC OF GUYANA

THE REPUBLIC OF CAMEROON

THE REPUBLIC OF HAITI

JAMAICA

THE REPUBLIC OF KENYA

THE KINGDOM OF LESOTHO

THE REPUBLIC OF MADAGASCAR

THE REPUBLIC OF MAURITIUS

THE REPUBLIC OF MOZAMBIQUE

THE REPUBLIC OF NAMIBIA

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

THE REPUBLIC OF RWANDA

FEDERATION OF SAINT KITTS AND NEVIS

SAINT LUCIA

SAINT VINCENT AND THE GRENADINES

THE REPUBLIC OF SEYCHELLES

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 ZIMBABWE