



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 February 2009

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PTOM 13**

"A" ITEM NOTE

from : Permanent Representatives Committee
on : 11 February 2009
to : Council

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No. Cion prop. : 14178/08 -SEC(2008) 2601 final - RESTREINT EU

Subject : Revision of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community, its Member States, of the other part, signed in Cotonou on 23 June 2000 as revised in Luxembourg on 25 June 2005
- notification letter

1. On 10 October 2008, the Commission submitted to the Council a communication on the revision of 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, containing a proposal of negotiation directives.
2. The ACP Working Party discussed the proposal on a number of occasions, and agreed with the Commission certain modifications. On the basis of the Commission Communication, a draft notification letter to be transmitted to the President of the Council of Ministers of the ACP Group has been established.
3. At its meeting on 11 February 2009 the Permanent Representatives Committee reached an agreement on the text of the draft notification letter, as set out in the Annex to this document.

4. The Council is accordingly invited to adopt the attached draft notification letter at its meeting on 23 and 24 February 2009.
5. The negotiations on behalf of the Community and its Member States will be conducted in accordance with the directives adopted by the Council and any supplementary directives, in conformity with the practice followed during previous negotiations with the ACP States, mainly:
 - The Commission will negotiate on behalf of the Community and its Member States;
 - The Commission will regularly inform Member States through the ACP Working Party of the state of negotiations;
 - Coordination meetings can be convened at any time during the negotiations;
 - Negotiations will be conducted *ad referendum* and the agreement of Member States will be sought at all stages of the negotiations;
 - Member States will be present at formal negotiating sessions;
 - The EU Presidency will preside negotiating meetings at Ministerial level. If necessary, the Presidency may delegate its functions to another Member State to negotiate a particular issue.

Draft

Transmission letter to the President of the Council of ACP Ministers

Brussels,

Honourable Minister,

The European Community and its Member States present their compliments to the African, Caribbean and Pacific (ACP) group of countries and restate their commitment to pursue and deepen the partnership which was established by the successive ACP-EC Conventions and renewed by the Cotonou Agreement. We also confirm the special character of this relationship founded on shared objectives and principles.

In order to preserve the relevance and the outstanding character of our partnership, we suggest to update the Cotonou Agreement, while maintaining its *acquis*. With a view to a possible amendment of the Agreement, and in accordance with its Article 95(3)¹, we therefore hereby notify to the ACP Party the provisions to be reviewed. The themes proposed for revision are listed in the Annex to the present notification.

The European Community and its Member States are convinced that the discussions in the context of the forthcoming revision exercise will confirm the common will of the Parties to improve further the implementation of our partnership and its effectiveness.

¹ "The Community and the Member States, on the one hand, and the ACP States, on the other, shall notify the other Party not later than 12 months before the expiry of each five-year period of any review of the provisions they desire to make with a view to a possible amendment of the Agreement..."

The European Community and its Member States avail themselves of this opportunity to renew to the ACP countries the assurances of their highest consideration.

For the Council

For the European Commission

His Excellency

President of the Council of the Ministers of the ACP Group

Av. Georges Henri 451

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LIST OF PROVISIONS WHICH THE COMMUNITY AND ITS MEMBERSTATES WISH TO REVIEW WITH A VIEW TO POSSIBLE AMENDMENTS TO THE COTONOU AGREEMENT

1. REGIONAL DIMENSION, NOTABLY TO TAKE INTO ACCOUNT REGIONAL INTEGRATION AND TRADE COOPERATION BETWEEN ACP COUNTRIES

Objective:

The EC side suggests to address diversity and diversification within the ACP Group of States better and to review the general approach to regional integration in order to

- (i) adjust action to different needs and realities,
- (ii) update regional integration as a tool to support development in ACP countries and
- (iii) improve consistency with Part 3, Title II of the Agreement concerning economic and trade cooperation.

Relevant provisions:

Part 3, Title I, Chapter 1, Chapter 2, Section 1 and 3, Title II, Chapters 2-6.

2. INCREASED COOPERATION WITH NON-ACP DEVELOPING COUNTRIES

Objective:

The objective of enlarging the partnership to regional dimensions and cross-border initiatives, especially in the light of the EU's active co-operation with African institutions, notably the African Union (AU) and, in particular, the new Africa-EU Strategic Partnership, shall be better reflected. To this end, a specific reference to the pan-African dimension and to cross-border initiatives including in the context of the Caribbean and Pacific strategies should be inserted in Part 3, Title I, Chapter 2, Section 3 on regional cooperation and integration. Co-ordination between different instruments within the regional dimension should also be addressed in order to expand the potential for financing initiatives and programmes involving different regions or groups of countries in compliance with the principles of reciprocity and proportionality.

Relevant provisions:

Part 1, Title I and II; Part 3, Title I, Chapter 1, Chapter 2, Section 3; Part 4, Title I, Chapter 1; Annex IV; Protocol 3 on South Africa.

3. THE POLITICAL DIMENSION

Objective:

The EC side suggests to update the political dimension of the Cotonou Agreement to reflect better the regional changes as highlighted above (for example, the strengthened co-operation with African institutions, in particular the African Union). Other important issues, such as the security development nexus, situations of state fragility and excessive and uncontrolled spread, illegal trafficking and accumulation of small arms and light weapons, should also be addressed. Women participation in the field of peace building, conflict prevention and resolution should be promoted and activities in the aforementioned fields should also include countering violence against women and children.

Migration should be addressed in order to strengthen the link between migration and development, the management of legal migration and the fight against illegal migration.

Governance should be further integrated, in particular in the fiscal area, and as part of the performance assessment of the ACP-EC development finance co-operation.

The EC side also suggests to reflect the positive contribution that a regular dialogue could make towards the reform of the multi-lateral system and the international institutions.

Relevant provisions:

Part 1, Title II; Part 3, Title I, Chapter 2, Section 4; Annex IV.

4. INSTITUTIONAL CLARIFICATIONS

Objective:

The EC side suggests to clarify the provisions regarding the joint institutions and the role of the ACP Secretariat, as well as to review, as appropriate, the mandates of the CDE and CTA in Annex III.

Relevant provisions:

Part 2; Annex III; Protocol I on the operating expenditures of the joint institutions.

5. PROMOTING THE MILLENNIUM DEVELOPMENT GOALS (MDGs), THE INTERNATIONAL PROCESS TOWARDS INCREASED AID EFFECTIVENESS AND POLICY COHERENCE FOR DEVELOPMENT

Objective:

The EC side suggests that the Agreement should reflect the main advances in development policy, including those comprised in the Millennium Development Goals (MDGs), in the international process towards increased aid effectiveness started in Rome, pursued in Paris and further developed in the Accra Agenda for Action, and Policy Coherence for Development, and subsequent policy commitments. The period up to 2015 will be crucial for enhancing the collective efforts to eradicate poverty and progress towards achieving the MDGs in the context of sustainable development.

Relevant provisions:

Preamble, Part 1; Part 3, Title I; Part 4, Title I and II; Annex IV.

6. MANDATE AND ACTIVITIES OF THE EUROPEAN INVESTMENT BANK (EIB)

Objective:

In the context of the Cotonou Agreement, the role of the EIB is geared to support the private sector, and this remains the Bank's main focus in the ACP. However, recent experience demonstrates that the public sector will need to remain an important player in economic development as a provider of basic infrastructure. Greater recognition in the Agreement of the role of the public sector in ACP infrastructure now seems necessary to effectively contribute to the reduction of poverty in ACP countries, complementing the Bank's mandated support for the private sector in this regard.

The EC side suggests that the Annex II on the terms and conditions of financing and notably its chapter 1 on investment financing reflects the requirements of the Highly Indebted Poor Countries (HIPC) Initiative and other internationally-agreed debt sustainability frameworks.

Relevant provisions:

Part 3, Title I, Chapter 2, Sections 1 and 4; Part 4, Title I and II; Annex II.

7. PARTICIPATORY APPROACHES

Objective:

The Cotonou Agreement aims at promoting the involvement of civil society and economic and social players in the partnership. Whereas the first five-yearly revision facilitated access by non-State actors to indicative programme resources and strengthened the involvement of local authorities, the EC side would now suggest to extend the participation to national parliaments in ACP countries in order to foster democratic legitimacy.

Relevant provisions:

Part 1; Part 2 (Article 17); Part 3, Title I, Chapter 2, Section 3; Annex IV.

8. HUMANITARIAN AID AND DISASTER PREVENTION

Objective:

The objective of this theme is to clarify the terminology regarding humanitarian, emergency and post-emergency assistance, so that flexible contracting procedures can be applied in situations of crisis and State fragility and to define more precisely which action may be funded from the envelope for unforeseen needs.

Relevant provisions:

Part 4, Title II, Chapter 6; Annex IV.

9. PROGRAMMING AND IMPLEMENTATION OF AID

Objective:

The objective under this theme is to address difficulties which have been encountered in the course of programming and implementing development finance cooperation under the partnership agreement, notably in its Annex IV, for example to insert a provision/chapter on the programming of the intra-ACP envelope; to foster untying of aid under the EDF while preserving the ACP preferences as agreed under the new Article 19c of annex IV²; to review the mechanism to respond to unforeseen needs in order to make it more flexible at national and/or regional level; clarify that the strategy the allocations can be revised in the case of 'ad hoc' reviews.

Relevant provisions:

Part 4, Title II, Chapter 3; Annex IV.

10. UPDATES, INCONSISTENCIES AND FORMAL RECTIFICATIONS

Objective:

The EC side suggests to rectify inconsistencies and outdated declarations, in particular review the five-year periodicity of the financial protocols in Article 95(2) and delete the reference to the special review procedure concerning economic and trade provisions in Article 95(3); update the list of LDC's in Annex VI in line with the list established by the UN Committee for Development Policy within ECOSOC and used by the OECD/DAC and modify Article 85 accordingly; update the list of island ACP countries and add East Timor.

² ACP-EC Council of Ministers Decision no 3/2008

In addition, with regard to the trade provisions in the Cotonou Agreement, the EC side proposes to adjust in particular Articles 36 to 38 and Annex V in order to adapt them to the existing legal situation since the expiry of the preparatory period on 31 December 2007.

Relevant provisions:

Throughout the text and the annexes.
