



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 October 2009

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"I/A" ITEM NOTE

from : ACP Working Party
on : 9 October 2009
to : Permanent Representatives Committee / Council

No. prev. doc. : 10432/09

Subject : Equatorial Guinea: ratification of the revised Cotonou Agreement
- Draft letter to be sent to the President of the Republic of Equatorial Guinea

1. On 17 September 2008 the Republic of Equatorial Guinea deposited at the General Secretariat of the Council its instrument of ratification of the revised Cotonou Agreement, including a reservation relating to the non-acceptance of the new Article 11(6), in which the parties undertake to "seek to take steps towards ratifying and implementing the Rome Statute and related instruments".
2. The European Community and its Member States objected to the reservation. Equatorial Guinea subsequently failed to provide a valid instrument of ratification before the expiry of the deadline of 30 June 2009. Nevertheless, the President of the Republic of Equatorial Guinea, in a letter addressed to the President of the Commission, announced the intention of the authorities of Equatorial Guinea to ratify the Agreement.

3. On 9 October 2009, the ACP Working Party finalised a draft letter to the President of the Republic of Equatorial Guinea setting out the procedure for acceding to the Agreement. The draft letter is attached.

4. COREPER is invited to recommend that the Council approve the draft letter as an "A" item on its agenda.

Draft

Letter to the President of the Republic of Equatorial Guinea

Brussels,

H.E. Teodore OBIANG NGUEMA MBASOGO,
President of the Republic of Equatorial Guinea
MALABO

Your Excellency,

Thank you for your letter of 27 June 2009. The European Community and its Member States are pleased to learn that Equatorial Guinea intends to ratify the Cotonou Partnership Agreement (CPA) as revised in Luxembourg in June 2005 ('Cotonou 2005'). This will not only ensure continuity in our good relationship but also allow for further strengthening of our political and economic ties. The grace period for ratifying the revised Cotonou Agreement expired on 30 June 2009.¹ Article 93(4) of the Cotonou Agreement does not allow any extension of this deadline. As Equatorial Guinea did not complete its ratification process by 30 June 2009, it currently is not a signatory party to Cotonou 2005. Nevertheless, it is possible to accede to Cotonou 2005 in accordance with the procedure set out in Article 94 of the Cotonou Agreement. This implies that the request for accession will have to be approved by the ACP-EC Council; this could be done through recourse to a written procedure, as soon as the ACP-EC Council has received a request for accession from Equatorial Guinea. Following approval by the ACP-EC Council, Equatorial Guinea would have to submit an act of accession, which should not comprise any reservations.

¹ See Article 93 (4) of the Cotonou Agreement.

In its request for accession, Equatorial Guinea could request to be granted observer status in the ACP-EC joint institutions. In accordance with Article 8 (3) of the Rules of Procedure of the ACP-EC Council, observer status can be granted to Equatorial Guinea once its application for accession has been filed. It goes without saying that the European Community and its Member States will support that Equatorial Guinea is granted observer status in the ACP-EC joint institutions pending the completion of the accession procedure.

Lastly, it is noted that the unilateral declaration attached to your letter does not bind the Parties to the Cotonou Agreement, which continues to apply in full to all Parties, including to acceding States. The European Community and its Member States look forward to Equatorial Guinea taking the constitutionally required steps and re-acceding to Cotonou 2005.

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

For the Council

For the Commission
