(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION
of 19 November 2001
on Rwanda

(2001/799/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) By Common Position 2000/558/CFSP [1], the Council defined the objectives and priorities of the European Union vis-à-vis Rwanda.

(2) By Joint Action 96/250/CFSP [2], the Council nominated a Special Envoy for the African Great Lakes Region.

(3) Article 8 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, signed in Cotonou on 23 June 2000 [3], makes provision for the establishment of a political dialogue between the European Union and all States signatory to the Agreement with a view to achieving the goals of the Agreement, in particular with regard to peace, security and the promotion of a stable and democratic political environment.

(4) In the light of developments in Rwanda since September 2000, Common Position 2000/558/CFSP should be revised,

HAS DEFINED THIS COMMON POSITION:

Article 1

The objectives and priorities of the European Union in its relations with Rwanda are to encourage, stimulate and support the process of:

— recovery from genocide and the promotion of national reconciliation;

— reconstruction and development;

— protection and promotion of human rights and fundamental freedoms;

— transition to democracy.

Insofar as regional instability may play a part in jeopardising the achievement of these goals, the European Union shall encourage the Government of Rwanda to work, in particular through its foreign policy, towards the achievement of regional stability, as it does with all other parties to conflicts in the region.

Article 2

The European Union affirms that progress in the areas referred to in Article 1 is primarily the responsibility of the Government of Rwanda. In order to support and encourage its efforts, the European Union shall pursue a constructive and critical political dialogue with the Government of Rwanda, including through the offices of its Special Envoy to the African Great Lakes Region, on the basis of the following provisions.

Article 3

With regard to the Government of Rwanda's regional foreign and security policy, the European Union:

(a) urges the Government of Rwanda to keep the commitments it made, *inter alia* in Lusaka (July 1999), Kampala (April 2000) and Harare (December 2000) in favour of a negotiated, peaceful and rapid settlement of the crisis in the Democratic Republic of the Congo (DRC), and to comply with the relevant Security Council resolutions on the withdrawal of foreign forces from the DRC, in particular Resolutions 1304 (2000), 1341 (2001) and 1355 (2001);

(b) considers it most important that the Rwandan troops present in the DRC and the other warring parties should abide by their obligations under international humanitarian law and in connection with the protection of human rights;

(c) invites the Government of Rwanda to promote dialogue and the systematic search for every peaceful solution with the competent authorities of the neighbouring states involved in the crises in the DRC and Burundi;

(d) asks the Rwandan authorities, as it asks all parties to the conflict, to take due account of the recommendations and measures that the United Nations could adopt regarding the illegal exploitation of natural resources in the DRC.

[1] OJ L 236, 20.9.2000, p. 1.
[2] OJ L 87, 4.4.1996, p. 1. Joint Action as last extended by Joint Action 2000/347/CFSP (OJ L 122, 24.5.2000, p. 6).
[3] OJ L 317, 15.12.2000, p. 3.

Article 4

With regard to the situation within Rwanda, the efforts of the European Union shall be based on the following principles:

(a) Concerning reconciliation and power-sharing, the European Union shall encourage and support reconciliation among all Rwandans within and outside Rwanda, through dialogue between all groups which reject violence and genocide. It points out that such dialogue must seek improved power-sharing, the democratisation of the country, national reconstruction and the protection of minorities. While having regard to the Government's own responsibility in this matter, the European Union stresses the importance it attaches to the independence of action and to the representativeness of the Commission on Reconciliation and National Unity. In that connection the European Union considers it important that that Commission should have a clearly defined programme of action that the European Union could possibly support;

(b) concerning democratisation, the European Union:

— stresses the importance of respecting the political balance laid down in Rwanda's basic law. It strongly encourages the Government of Rwanda and the Legal and Constitutional Commission to draw up a new constitution, designed to create a new institutional framework for the country, to guarantee effective protection of the civil and political rights of Rwandans, preservation of social cohesion and the safeguarding of fundamental rights and freedoms;

— welcomes the creation of a National Electoral Commission, which organised local government elections in March 2001;

— stresses its attachment to the independence that that Commission should possess for the credibility of the electoral processes and asks the authorities to guarantee the real independence of the Electoral Commission;

— urges the Government of Rwanda to establish a voting mechanism that will ensure free and fair elections, guaranteeing rights for all Rwandans and for all sectors of society (including political parties) to express their views, freedom of expression and the participation of civil society in public debate and transparency with regard to the whole electoral process and electoral legislation;

— urges the Government of Rwanda to specify its timetable for democratisation and to prepare actively to hold the various electoral processes which have to take place before the end of the transitional period in 2003;

— encourages the Government of Rwanda to continue to extend the responsibilities, powers and means of the elected local authorities so as to ensure the participation of the local population in the political and development process, and remains prepared to support this process by appropriate means as well as to continue to support the move towards decentralisation initiated by the Government in May 2000;

(c) concerning the judicial system and the 'Gacaca' method of administering justice (participatory justice based on traditional courts), the European Union:

— acknowledges the constructive role that the 'Gacaca' may play in resolving the consequences of the 1994 genocide, in particular by speeding up the trial of persons still in prison on suspicion of having taken part in the genocide;

— stresses the need to implement the 'Gacaca' system as soon as possible, while taking into account the fundamental rights of all concerned;

— in this respect encourages the Government of Rwanda and the Supreme Court to ensure that 'Gacaca' justice is administered in compliance with international human rights standards;

— also encourages the 'Gacaca' courts to establish clemency in general as a basic working principle and to safeguard rights guaranteed by law both to those accused, particularly as regards defence and appeals, and to civil parties;

— further encourages the Government of Rwanda to make certain that all measures relating to the proper administration of 'Gacaca' justice are adopted, in particular with regard to judicial procedure before such courts;

— will continue, with other partners of the Government of Rwanda, to provide coordinated support to the 'Gacaca' system as implemented in accordance with the aforementioned principles;

— encourages the Rwandan authorities to continue raising awareness, among the population in general and genocide survivors in particular, of the need to accept these principles, in order to deal simultaneously with the problem of impunity and to reach a pragmatic solution to the alarming problem of a large prison population awaiting trial under precarious conditions of detention;

— urges the Government of Rwanda to pursue its efforts to reduce the prison population (in particular vulnerable groups such as the elderly, the sick and infirm, those who are currently under age or who were so at the time of their arrest) and its awareness campaign, in particular by speeding up implementation of its decision, announced in 1998, to release prisoners against whom there are no files, or incomplete files;

— in this connection, welcomes the fact that preliminary, examining 'Gacaca' have taken place and led to the release of a number of prisoners against whom no case could be brought;

— supports the work of the International Criminal Tribunal in Arusha, and in particular renews its efforts to ensure that all States surrender to the Tribunal all those indicted by it for genocide and other serious violations of international humanitarian law. It shall seek continued improvement of the Tribunal's administrative effectiveness;

— encourages the Government of Rwanda to comply fully with its obligations under the International Covenant on Civil and Political Rights and to observe other international safeguards concerning the death penalty and actively encourages it to envisage the abolition of the death penalty;

(d) concerning villagisation policy, the European Union:

— encourages the Government of Rwanda to continue the critical reflection on the subject that it has already initiated;

— notes with interest that the Government of Rwanda now places this issue in the context of its poverty reduction strategy paper;

(e) concerning human rights, the European Union:

— is disappointed to note that the mandate of the Special Representative of the UN Commission on Human Rights has not been renewed;

— nevertheless encourages the Government of Rwanda to continue its cooperation with the Office of the UN High Commissioner for Human Rights;

— urges the Government of Rwanda to promote and take concrete steps to protect the human rights of all Rwandans, including through ensuring the independent and effective functioning of the National Human Rights Commission and by facilitating the activities of human rights organisations working in Rwanda;

— encourages the National Human Rights Commission to continue working with the NGOs concerned, to step up its activities and to speed up the implementation of its programme of action, to which the Union is contributing;

(f) concerning economic and social development and cooperation, the European Union stresses the close links between proper implementation of the poverty reduction strategy paper and continued efforts by the Government of Rwanda to achieve a return to peace and security in the region, especially in the DRC, and to consolidate the process of reconciliation and democratisation in Rwanda.

Noting the continued Rwandan presence in the DRC, motivated from the Rwandan point of view by security concerns, the European Union urges the Government of Rwanda to make moves with a view to a peaceful settlement of the conflict in the DRC, under the terms of the Lusaka and Kampala Agreements and in accordance with the relevant Security Council resolutions, in particular Resolution 1304, which would be likely, subject to detailed examination by the competent bodies, to influence the quality of the cooperation links between the European Union and Rwanda;

(g) concerning the reintegration into Rwandan society of genocide survivors, demobilised soldiers and all other displaced people, the European Union encourages and supports efforts by the Government of Rwanda to facilitate this process, including through cooperation with relevant international organisations. In particular, the European Union is ready to consider support for the demobilisation of the Rwandan army and a Disarmament, Demobilisation, Repatriation and Reintegration plan for the negative forces (ex–FAR and Interahamwe).

The European Union declares itself convinced that the question of disarming Rwandan armed groups driven back to the DRC, like that of disarming other armed groups, cannot be settled by force but must be solved voluntarily and using incentives in within the framework of political undertakings by the countries concerned. It accordingly demands that all States in the region refrain from giving military support to these groups. It welcomes the programmes devised by the Government of Rwanda for reintegrating returning refugees and it urges the Government of Rwanda to continue developing such programmes with a view to admitting in complete security all rebels who are not implicated in the genocide or in war crimes, in particular as part of the Disarmament, Demobilisation, Repatriation and Reintegration operations provided for in the Lusaka Agreement.

Article 5

The Council notes that the Commission intends to direct its action towards achieving the objectives and priorities of this Common Position, where appropriate by pertinent Community measures.

Article 6

In implementing this Common Position, the European Union will cooperate closely with the United Nations Organisation, the Organisation of African Unity and other interested organisations.

Article 7

The implementation of this Common Position will be monitored regularly. It will be reviewed within 12 months.

Article 8

This Common Position shall replace Common Position 2000/558/CFSP.

Article 9

This Common Position shall take effect on the day of its adoption.

Article 10

This Common Position shall be published in the Official Journal.

Done at Brussels, 19 November 2001.

For the Council
The President
L. MICHEL