

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.08.2005
COM(2005) 367 final

Proposal for a

COUNCIL DECISION

repealing Council Decision 2001/131/EC concluding the consultation procedure with Haiti under Article 96 of the ACP-EC Partnership Agreement

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Article 96 Decisions

Following the flawed elections of 2000, and considering the situation in Haiti as non-complying with the democratic principles of the Cotonou agreement, the Council of the European Union decided on 29 January 2001, in accordance with Article 96(2)(c) of the Cotonou Agreement, to adopt appropriate measures according to which aid to Haiti was partially suspended (no direct budget support to the Haitian Government), no notification of the 9th EDF funds (€239 million) and the remaining funds under the 8th EDF (€84.4 million) were redirected to the direct benefit of the Haitian people. The EU conditioned the normalisation of its relations with Haiti to the fulfilment of the conditions and measures foreseen in the OAS Resolution 822 in regard with the organisation of free and fair elections.

The 2001 Decision was reviewed and effectively reconducted by Decision 2002/131/EC on 21 January 2002, Decision 2003/53/EC on 10 January 2003 and Decision 2003/916/EC on 22 December 2003.

The political situation in Haiti changed dramatically in 2004 with the departure of then President Aristide. The rapid political developments, (the highlights of which are summarised below), necessitated a substantial review of the situation and Decision 2004/681/EC modifying Decision 2001/131/EC was adopted on 24 September 2004. It is valid till 31 December 2005, but requires a review after six months. This Decision effectively lifted all earlier measures (releasing €95.6 million) with the sole exception of the signature of the 9th EDF National Indicative Programme (€72 million) which would take place after national elections had been held in accordance with resolution 822 of the OAS and judged free and fair by the competent Haitian institutions and the international Community.

It is now considered that the progression of the transition period towards a democratically elected government that started with the installation of an interim Government in 2004 and will lead to local, legislative and presidential elections in the fall of 2005, warrants a review of the current decision and a lifting of the remaining measures as presented below, which will constitute a concrete support to the transitional Government in this difficult period and an encouragement to respect the electoral process.

Background elements

In early 2004, a protracted period of violence and bloodshed led to the departure of President Aristide on 29 February 2004. Supreme Court Chief Justice Boniface Alexandre was sworn in as Interim President and an Interim Government, led by Gerard Latortue was sworn in on 17 March 2004. The interim Government has committed itself to free and fair elections within 18 months. The current plan is to hold elections in the autumn of 2005; local elections on 9 October 2005, then legislative (parliamentary elections) and Presidential elections in two rounds on 13 November and 18 December 2005 in order to allow the elected President to take office on 7 February 2006. The Interim Government of Haiti has committed itself to give increased priority to the restoration of a climate of security and of confidence in the country, which is considered crucial to democratisation in the country.

UN Resolutions dated 29 February 2004 and 30 April 2004, approved respectively the creation of a Multinational Interim Force followed by a Stabilisation Force (MINUSTAH), which took over on June 1 under Brazilian leadership, to help stabilise the security situation and support the interim Government in the democratisation process. MINUSTAH's mandate has been extended till end of June 2005 pending discussions in the Security Council for a lengthier extension probably for a 12-month period.

Following informal consultations in May 2004, requested by the Council, PM Latortue addressed a letter to then Commissioner for Development Mr P. Nielson, outlining his **government's commitments** for the transition period on several fronts. In April 2005 the Commission presented to the Council ACP Group a report in accordance with the requirements of the Decision for a review after six months. The report was prepared in association with the Embassies of the EU MS in Port au Prince which presents the situation vis-à-vis these commitments. In March 2005 Commissioner L. Michel visited Haiti and had extensive consultations to assess the situation on the ground. The UN Security Council sent a mission to Haiti in April 2005 and the UN Secretary General presented a report on the UN Stabilisation Mission to Haiti in May 2005. **All the above reports paint a generally similar picture of the situation in Haiti.**

Current Situation

On the political front, the National Dialogue and Reconciliation process has been launched on April 7. The inclusiveness of this dialogue remains of some concern as the party of ex-President Aristide continues to refuse to be involved, notwithstanding the President's reported reaching out to get the Lavalas to participate. A number of small political parties are gradually grouping into bigger political entities in view of the upcoming elections.

The Electoral calendar, mentioned above, is reportedly progressing. Elections are the direct responsibility of the CEP — Conseil Electoral Provisoire — closely supported by MINUSTAH. The UNDP and the OAS are coordinating assistance for the organisation of elections, the latter particularly in the field of voter registration. The elections overall budget is currently US$ 62 million and is to be covered by donors. The EU has pledged a total of €18 million. The Commission is preparing to field an Observation Mission for the elections. The funding for the Observation Mission is additional to the aforesaid €18 million.

The security situation remains precarious and a cause of grave concern with recurrent upsurges of violence, killings, kidnappings and armed robberies. The Haitian National Police is too weak and has not had time to readjust from its corrupt past to make a significant impact on the security situation. Consequently MINUSTAH is providing much support and trying to maintain control. It is clear that MINUSTAH mandate and resources, both human and material need to be reinforced to allow it to become more effective and such proposals are currently under discussion in the UNSC.

In the area of Human Rights there is some improvement, as the human rights violations that were policy of the previous Government are certainly not part of the Interim Governments discourse. Nevertheless the proliferation of armed gangs in the country and a culture of impunity, which exists due to corrupt individuals in the security forces and the extreme weakness in the judicial system, are drawbacks in the efforts towards significant improvements in the human rights area. The EC is working on a programme to strengthen the Justice system together with the CIDA, while other donors, including EU MS are also active in that direction.

Some operations, still relatively sporadic, of **disarmament of armed groups**, and especially the ex-Military, have started, notably in the Cap Haitien area, and will need to accelerate in the build up of the kind of security level that is required for the holding of elections.

International Support for Haiti

The Interim Government enjoys strong support from all the major players in Haiti, including the United States, France, Spain and several Latin American States and International bodies such as the UN, the OAS, the World Bank, the IMF, the InterAmerican Development Bank and others. Relations with CARICOM, which had been strained over the conditions surrounding the departure of President Aristide, are gradually improving.

International Donors and the Interim Government adopted an Interim Cooperation Framework: ICF, which was used as the basic document for a Pledging Conference in Washington in July 2005. An amount of US$ 1.2 billion was pledged on that occasion, the largest single pledge being that of the EU.

An International Conference on Haiti was organised in Cayenne in March 2005. On that occasion donors reiterated their direct support by renewing pledges made in 2004 in Washington and committing themselves to an acceleration of aid disbursements to show solidarity for Haiti and allow the Haitian population to view tangible benefits from the political change process that is ongoing.

The Government of Canada, along similar lines, is organising an International Conference on Haiti in Montreal on 16-17 June, during which supporters of Haiti will debate issues related to security and stability, the elections and the delivery of aid.

Economic Recovery

The International Monetary Fund delivered a positive appraisal of the Haitian Government's efforts towards economic recovery. While recognising that recovery is a slow process, given the difficult general conditions in the country, the report recognises that the Governments efforts have resulted in a decline in inflation, a stabilisation of the exchange rate and a net increase in international reserves. Performance under and IMF SMP (April-September 2004) was satisfactory, all quantitative targets were met by wide margins and good progress was made on structural measures.[1] This was followed by an EPCA (October 2004–September 2005). Again most quantitative targets were observed and structural measures implemented. Haiti cleared its arrears to the World Bank thus allowing the WB to approve a fast disbursing adjustment operation. However, revenue shortfalls and delays in Donor Funded actions have required revisions to the budget and forced re-prioritising of expenditures to provide maximum support to economic recovery. According to the article IV report, the IMF foresees in 2005/2006 real GDP growth of 3 percent and inflation of 10 percent. The challenge thereafter will be to sustain growth of 4 percent and generate the government revenue needed to fund substantial improvement in social services and public sector institutional capacity. "Critical prerequisites will be successful elections, national reconciliation and continued donor support".[1]

[1] MF Staff Report on 2005 Article IV Consultations.

Commission Proposal

The Commission has considered the political and human rights situation, which while still not optimal, is slowly evolving. Nevertheless, the efforts to maintain the commitments related to the electoral calendar; the good performance by the government in the economic recovery process which is crucial to the battle against poverty which feeds discontent, violence and insecurity; the wide ranging expression of support to the people of Haiti and the Interim Government by the International Community; the not inconsequential lead times that are required for putting together and actually disbursing development assistance programmes, have led the Commission to propose that the remaining Article 96 measure relating to the release of the €72 million of the 9th EDF be lifted.

The Commission proposes that the letter to the Haitian Prime Minister announcing the lifting of the measures should stress the importance that the EU places on the democracy, the rule of law, good governance and human rights and that it encourages the Haitian government to maintain its efforts in implementing the commitments it has entered into vis-à-vis the EU and the people of Haiti.

The Union will continue its close association with developments in Haiti through continuous and enhanced political dialogue, in the context of the Cotonou Agreement, with the Interim government and with the new Government that will emerge from the upcoming elections

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the ACP-EC Partnership Agreement,[2] as entered into force on 1 April 2003, and in particular Article 96 thereof,

Having regard to the internal agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement,[3] and in particular, Article 3 thereof,

Having regard to the proposal from the Commission,[4]

Whereas:

(1) On the basis of Council Decision 2001/131/EC,[5] whereby, in accordance with Article 96(2)(c) of the ACP-EC partnership agreement, "appropriate measures" were adopted according to which financial aid granted to Haiti was partially suspended.

(2) Council Decision 2004/681/EC expires on 31 December 2005 and requires a review of the measures after six months.

(3) In March 2005 a working group, set up by the presidency of the European Union in Haiti, the European Commission and representatives of the Member States in Haiti, issued a report assessing progress on the Haitian Government's explicit commitments as regards the essential elements of Article 9 of the Cotonou Agreement, in particular respect for human rights, democratic principles and the rule of law, in view of the return of the country to full constitutional democratic governance.

(4) The current situation in Haiti is very alarming as regards safety, respect for human rights and poverty. This was confirmed by the April 2005 report of the UN Security Council mission. Nevertheless, on several occasions the international community has

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2 OJ L 317, 15.12.2000, p. 3.
3 OJ L 317, 15.12.2000, p. 376.
4 OJ C […] […], p. […]
5 OJ L 48, 17.02.2001, p. 31. Decision as last amended by Decision 2004/681/EC (OJ L 311, 08.10.2004, p. 30).

reaffirmed its commitment to supporting the Interim Government and the Haitian people in their efforts on behalf of democracy and economic and social development.

(5) The Interim Government deserves the confidence of the European Union to ensure the political transition, in particular by the organisation of the free and fair elections in full compliance with the announced electoral calendar,

HAS DECIDED AS FOLLOWS:

Article 1

Council Decision 2001/131/EC is repealed:

The Annex is replaced by the text annexed to this Decision.

Article 2

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

Article 3

The European Parliament shall be fully and immediately informed of this decision.

Done at Brussels, […]

For the Council
The President

ANNEX

Letter to be addressed to the Interim Government of Haiti

Dear Sir,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement. The ACP-EC Partnership is founded on respect for human rights, democratic principles and the rule of law, these are essential elements of the above Agreement and thus form the basis for relations between us.

In this respect, the European Union has followed closely the transition in Haiti that started with the designation of the new Interim Government of Haiti, under your leadership, sworn in on 17 March 2004 following an extensive consultation process based on the CARICOM/OAS plan.

On 12 May 2004, discussions took place in Brussels between you and the European Commission with a view to examining the political agenda of the Interim Government in relation to the restoration of democratic and constitutional rule. The European Union took note of your commitments particularly as regards the improvements of the human rights situation, the establishment of democratic principles including the holding of free and fair elections, the rule of law and good governance, as stated in your letter of 25 May 2004 to the European Commission. Those binding commitments, which are always valid, should lead in due course to greater political stability in Haiti.

The European Union has been following closely the developments in Haiti on all fronts and has played a very active role in the efforts of the International Community to assist the country on its ambitious and difficult trek towards democratic governance. We strongly believe in the entitlement of the Haitian people to a better life, in a secure and stable Haiti where democratic principles, human rights, the rule of law and good governance are fully respected.

The European Union, as you know, has played a leading role in the formulation and adoption of the Interim Cooperation Framework and was the largest single donor to make a commitment towards the development of Haiti at the Washington Conference in 2004. Since then, much progress has been made and financial flows are gradually attaining the desired levels as the countries capacity to absorb financial and technical assistance has grown.

The European Union has worked very closely with all the major international players and has expressed its full support for the UN mission in Haiti, MINUSTAH, and its major efforts to assist the Government and the Haitian National Police to establish the security and stability which are necessary for the country to progress towards elections in the fall of 2005 and for the successful implementation of sustainable development programmes.

The European Union has assessed the progress that has been achieved on the political and economic front, through its own resources and through the Security Council reports on Haiti and has decided that the measures taken under Decision xxx be repealed. Under those measures, the signature of the National Indicative Programme for Haiti under the 9th EDF was to have taken place after the national elections and with the new democratically elected government. Currently the programming of the 9th EDF is under way with your Government and the NIP will now be signed as soon as this programming exercise has been completed. It

is important that this process progress rapidly so that the related actions bringing benefits to the Haitian people are also rapidly implemented.

It is essential for the success of the cooperation to ensure a strengthened absorptive capacity for aid, which is currently lacking, through good governance and aid-management capacity-building measures. The modalities of implementation will be those adapted to the Country's capacity for adequate management of public finances.

The European Union will follow closely further developments in the democratisation process, in particular in relation to the achievement of the commitments of the Interim Government in the areas of human rights, national dialogue, democratic principles, economic governance and the steps towards local, national and presidential elections. We welcome the announcement of the Electoral calendar with local elections taking place in October 2005 and the National and Presidential Elections taking place in two rounds in November and December 2005 thereby allowing the new Government to assume office in February 2006. The European Union strongly believes that nothing should be allowed to delay this crucial calendar and is providing support for the electoral process to the tune of €18 million. Additionally the European Union is considering an Electoral Observation Mission.

The Union will continue its close association with developments in Haiti through continuous and enhanced political dialogue, in the context of the Cotonou Agreement, with your government and with the new Government that will emerge from the upcoming elections.

Please accept, Sir, the assurance of our highest consideration.

Brussels,

For the Commission

For the Council

The President