EUROPEAN COMMISSION

Brussels, 27.5.2010
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2010/0149 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union within the ACP-EC Council of Ministers concerning the transitional measures applicable from the date of signing to the date of entry into force of the Agreement amending for the second time the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005

EXPLANATORY MEMORANDUM

By decision of 23 February 2009, the Council authorised the Commission to open negotiations with the African, Caribbean and Pacific Group of States (hereinafter referred to as 'the ACP States') with a view to undertaking the second revision of the Partnership Agreement between the ACP States of the one part, and the European Union and its Member States, of the other part (hereinafter referred to as 'the Cotonou Agreement').

In line with Article 95(3) of the Cotonou Agreement, the negotiations were successfully concluded by an extraordinary Joint Ministerial meeting on 19 March 2010 with the EU negotiator initialling the endorsed texts which will amend the Agreement.

Article 95(3) of the Cotonou Agreement authorises the Joint Council to adopt transitional measures in respect of the amended provisions until they come into force.

In accordance with Art. 218(5) TFEU, the decision of the Council, on a proposal by the negotiator, authorising the signing of the Agreement, may be accompanied by its provisional application before entry into force. In addition, in accordance with Article 218(9) TFEU, the Council shall adopt, on a proposal from the Commission, a decision establishing the positions to be adopted on the Union's behalf within the ACP-EC Council of Ministers.

The Commission has transmitted a proposal for a Council decision concerning the signature of the Agreement amending for the second time the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005.

Considering that all the provisions of the Amending Agreement can be provisionally applied without technical difficulties, the Commission proposes to the Council to adopt a decision supporting the provisional application of the Amending Agreement.

The Commission proposes that the Council adopts the attached decision.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(9) thereof,

Having regard to the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as revised in Luxembourg on 25 June 2005 (hereinafter referred to as 'the Cotonou Agreement') and in particular Article 95(3) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Cotonou Agreement was concluded for 20 years commencing on 1 March 2000. However provision was made for the possibility of amending the Agreement through a revision process after each five-year period.

(2) Negotiations for the first revision of the Cotonou Agreement were concluded in Brussels on 23 February 2005. The revised Agreement was signed in Luxembourg on 25 June 2005 and entered into force on 1 July 2008.

(3) By decision of 23 February 2009, the Council authorised the Commission to open negotiations with the African, Caribbean and Pacific Group of States (hereinafter referred to as 'the ACP States') with a view to undertaking the second revision of the Cotonou Agreement.

(4) In line with Article 95(3) of the Cotonou Agreement, the negotiations were successfully completed with the initialling, done at an extraordinary ACP-EU Ministerial meeting on 19 March 2010, of the draft texts which will amend the Agreement for the second time.

(5) The Amending Agreement, [to be signed in Ouagadougou on XX June 2010,] will enter into force upon completion of the ratification procedures referred to in Article 93 of the Cotonou Agreement.

(6) In accordance with Article 95(3) of the Agreement, the Council of Ministers shall adopt transitional measures as necessary to cover the period from the date of signing to the date of entry into force of the Agreement amending the Cotonou Agreement for the second time.

(7) The provisional application of the provisions modified in the second revision should constitute both a necessary and sufficient transitional measure.

HAS DECIDED AS FOLLOWS:

Sole Article

The European Union position within the ACP-EC Council of Ministers regarding the transitional measures applicable from the date of signing to the date of entry into force of the Agreement amending for the second time the Cotonou Agreement, is to approve its provisional application, pursuant to the terms of the attached draft Decision of the ACP-EC Council of Ministers.

Minor changes to this draft may be agreed without requiring the annex to the present decision to be amended.

Done at Brussels,

For the Council
The President

ANNEX

Draft

DECISION No …/2010 OF THE ACP-EC COUNCIL OF MINISTERS

of XX June 2010

on transitional measures applicable from the date of signing to the date of entry into force of the
Agreement amending for the second time the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005 (hereinafter referred to as 'the Cotonou Agreement'), and in particular Article 95(3) thereof;

Whereas:

(1) The Cotonou Agreement was concluded for 20 years commencing on 1 March 2000. However provision was made for the possibility of amending the provisions of the Agreement through a revision process after each five-year period.

(2) Negotiations for the first revision of the Cotonou Agreement were concluded in Brussels on 23 February 2005. The revised Agreement was signed in Luxembourg on 25 June 2005 and entered into force on 1 July 2008.

(3) Negotiations for the second revision of the Cotonou Agreement were officially launched at the Joint Council on 29 May 2009 and were completed in Brussels on 19 March 2010. The Amending Agreement, [signed in Ouagadougou on 22 June 2010,] will enter into force upon completion of the ratification procedures referred to in Article 93 thereof.

(4) In accordance with Article 95(3) of the Agreement, the Council of Ministers shall adopt transitional measures as necessary to cover the period from the date of signing to the date of entry into force of the Agreement amending the Cotonou Agreement for the second time.

(5) The parties deem it appropriate to provide for early application of the revised Agreement, to take effect following the date of signature.

(6) The Parties will endeavour to complete the ratification process within two years from the signature of the Agreement amending for the second time the Cotonou Agreement.

HAS DECIDED AS FOLLOWS:

Article 1

Provisional application of the Agreement

The Agreement amending for the second time the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005, shall be provisionally applied from the date of its signature.

Article 2

Entry into force and validity of this Decision

This Decision shall enter into force from the date of its publication. It shall apply until the entry into force of the revised Agreement.

The European Union shall take all necessary measures to ensure the full implementation of the revised Cotonou Agreement, and the parties endeavour to complete all the necessary procedures to ensure the full entry into force of the later within two years from signature.

The EU Member States and the ACP States are invited to take the measures they deem appropriate in order to implement this decision.

Done at Ouagadougou, XX June 2010.

For the ACP-EC Council of Ministers

The President

ANNEX

Agreement amending for the second time the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005.