EUROPEAN COMMISSION

Brussels, 30.4.2010
COM(2010)211 final

2010/0114 (NLE)

Proposal for a

COUNCIL DECISION

of […]

on the signature, on behalf of the European Union, 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, both the ACP and the EU side notified the other party of the provisions that they wished to review with a view to a possible amendment of the Agreement. The ACP and EU notifications converged in many areas, with both parties recognising that the Cotonou Agreement should be further developed in terms of its political dimension, in the area of regional integration and in implementation of the partnership with regard inter alia to development cooperation.

Following the official launch of negotiations at the Joint Council on 29 May 2009, a series of negotiation sessions took place between June 2009 and March 2010.

For the purpose of organising the negotiations, three thematic negotiation groups were set up:

(i) Political dimension, institutional issues and sector specific policies;
(ii) Economic cooperation, regional integration and trade;
(iii) Development finance cooperation and related issues.

The negotiations on behalf of the European Union and its Member States were conducted by the European Commission. The Commission regularly informed the Member States on the progress of negotiations through the ACP Working Party. Member States could attend formal negotiation sessions.

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.

The Commission considers that the Amending Agreement, which is subject to signature by both sides, conforms to the negotiating directives.

In accordance with Article 218 (6)(a) TFEU, the European Parliament shall give its consent before the Commission proposes to the Council a decision on the conclusion of the amending agreement.

At a later date, the text of the Cotonou Agreement will need to be further revised to introduce changes deriving from the entry into force of the Lisbon Treaty, notably as regards the replacement of the terms 'European Community' by 'the European Union' and as regards the external representation of the EU.

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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 (5) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) 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 Community and its Member States, of the other part (hereinafter referred to as 'the Cotonou Agreement').

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

(3) The Agreement should be signed subject to its conclusion at a later date.

(4) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community.

HAS ADOPTED THIS DECISION:

Article 1

(1) The President of the Council is authorised to designate the person(s) empowered to sign, on behalf of the European Union, 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 text of the Agreement to be signed is attached to this Decision.

(2) The President of the Council shall, on behalf of the European Union, make the following declaration which is inserted into the final act of the Amending Agreement:

"*As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" or to "the Community" in the text of the Agreement are, where appropriate, to be read as to "the European Union".*

The European Union will propose to the ACP Parties an exchange of letters with the aim of updating the text of the Agreement in line with the institutional changes in the European Union resulting from the entry into force of the Treaty of Lisbon."

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels, […]

For the Council
The President