



EUROPEAN COMMISSION

Brussels, 14.5.2012
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2012/0107 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union within the ACP-EU Council of Ministers concerning the status of the Republic of South Sudan in relation to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, and the European Community and its Member States

EXPLANATORY MEMORANDUM

On 23 June 2000, the members of the African, Caribbean and Pacific Group of States (hereinafter referred to as ACP States), on the one hand, and the European Community and its Member States, on the other, signed a Partnership Agreement in Cotonou (Benin) (hereinafter referred to as the "Cotonou Agreement").

On 25 June 2005 in Luxembourg, the ACP States and the European Community and its Member States signed an Agreement amending the Cotonou Agreement. In accordance with Article 93(3) thereof, the amended Cotonou Agreement entered into force on 1 July 2008 following ratification of the revision by the European Community and its Member States and by two thirds of the ACP States.

On 22 June 2010 in Ouagadougou, the ACP States and the European Union signed an Agreement amending for the second time the Cotonou Agreement, which is provisionally applied since 31 October 2010.

On 9 July 2011, South Sudan formally declared its independence from Sudan, as a result of a self-determination referendum under the 2005 Comprehensive Peace Agreement.

In a letter dated 20 March 2012 sent to the President of the ACP-EU Council, through the General Secretariat of the Council of the European Union, the Republic of South Sudan's Minister for Foreign Affairs and International Cooperation, Mr Nhial Deng Nhial, formally requested accession to the Cotonou Agreement in accordance with the provisions of Article 94 of the Agreement. The Republic of South Sudan asked that it in the meantime be granted observer status, until the accession procedure is completed, so as to enable it to participate in the joint institutions set up by the Cotonou Agreement.

The European Union should respond favourably to these requests, which should be approved by a formal decision by the Joint ACP-EU Council of Ministers, during their meeting in Vanuatu, on 14 and 15 June 2012.

The observer status should be granted until the authorities of the Republic of South Sudan are in a position to deposit the Act of Accession, foreseen for 20 November 2012 at the latest, without prejudice to South Sudan doing so at an earlier date.

In accordance with Article 218(10) of the Treaty on the Functioning of the European Union, the European Parliament will be informed.

The Commission therefore proposes that the Council adopt the attached proposal for an EU position concerning the status of the Republic of South Sudan in relation to the amended Cotonou Agreement.

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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 proposal from the European Commission,

Whereas:

- (1) 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 2000¹, as first amended in Luxembourg on 25 June 2005² (hereinafter "the Cotonou Agreement"), entered into force on 1 July 2008 in accordance with Article 93(3) thereof. The Cotonou Agreement was amended for the second time in Ouagadougou on 22 June 2010³. The second amendment to the Cotonou Agreement is provisionally applied since 31 October 2010⁴.
- (2) Article 94 of the Cotonou Agreement stipulates that any request for accession by a State is to be presented to, and approved by, the ACP-EU Council of Ministers.
- (3) On 20 March 2012, the Republic of South Sudan presented a request for accession in accordance with Article 94 of the Cotonou Agreement, as well as a request for observer status, enabling it to participate in the joint institutions set up by the Cotonou Agreement, until the accession procedure is completed.

¹ OJ L 317, 15.12.2000, p. 3.

² Agreement amending 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 (OJ L 209, 11.8.2005, p. 27).

³ Agreement amending for the second time 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, as first amended in Luxembourg on 25 June 2005 (OJ L 287, 4.11.2010, p. 3).

⁴ Decision n° 2/2010 of the ACP-UE Council of Ministers of 21 June 2010, JO L 287, 04.11.2010, p.68.

- (4) The approval by the ACP-EU Council of Ministers of South Sudan's accession, and the granting in the meantime of observer status to South Sudan, until 20 November 2012, by the ACP-EU Council of Ministers should be approved by the European Union, The Republic of South Sudan should deposit their Act of Accession no later than the aforementioned date, with the Secretariat General of the Council of the European Union and the Secretariat of the ACP States, Depositaries of the Agreement.
- (5) It is therefore appropriate to establish the position to be adopted by the EU within the ACP-EU Council of Ministers in response to these requests.

HAS ADOPTED THIS DECISION:

Sole Article

The position of the European Union within the ACP-EU Council of Ministers, on the matter of the Republic of South Sudan's requests for accession and observer status to the Cotonou Agreement, as amended in Luxembourg and Ouagadougou, is to accept these requests under the terms of the draft Decision of the ACP-EU Council of Ministers annexed to this Decision.

The observer status shall be valid until 20 November 2012. The Republic of South Sudan should deposit the Act of Accession with the Secretariat General of the Council of the European Union and the Secretariat of the ACP States before that date.

Formal and minor changes to the draft Decision of the ACP-EU Council of Ministers may be agreed without requiring this Decision, including its annex, to be amended.

Done at Brussels,

*For the Council
The President*

ANNEX

Draft

Decision No.../....

OF THE ACP-EU COUNCIL OF MINISTERS

of.....

concerning the observer status and subsequent accession of the Republic of South Sudan to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, and the European Community and its Member States

THE ACP-EU COUNCIL OF MINISTERS,

Having regard to 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 2000¹, as first amended in Luxembourg on 25 June 2005² and as amended for the second time in Ouagadougou on 22 June 2010³ (hereinafter "the Cotonou Agreement") and in particular Article 94 thereof,

Having regard to Decision No 1/2005 of 8 March 2005 of the ACP-EU Council of Ministers concerning the adoption of the Rules of Procedure of the ACP-EU Council of Ministers⁴ and, in particular, Article 8(3) thereof,

Whereas

- (1) The Cotonou Agreement entered into force on 1 July 2008 in accordance with Article 93(3) thereof. It was first amended in Luxembourg on 25 June 2005, and for a second time in Ouagadougou on 22 June 2010. The second revision is provisionally applied since 31 October 2010⁵.
- (2) Article 94 of the Cotonou Agreement stipulates that any request for accession by a State is to be presented to, and approved by, the ACP-EU Council of Ministers.
- (3) On 20 March 2012, the Republic of South Sudan presented a request for accession in accordance with Article 94 of the Cotonou Agreement and a request for observer status enabling it to participate in the joint institutions set up by the Cotonou Agreement until the accession procedure was completed.

¹ OJ EC L 317, 15.12.2000, p. 3.

² Agreement amending 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 (OJ EU L 209, 11.8.2005, p. 27).

³ Agreement amending for the second time 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, as first amended in Luxembourg on 25 June 2005 (OJ EU L 287, 4.11.2010, p. 3).

⁴ OJ EU L 95, 14.4.2005, p. 44.

⁵ Decision n° 2/2010 of the ACP-UE Council of Ministers of 21 June 2010, JO L 287, 04.11.2010, p.68.

- (4) The Observer status should be valid until 20 November 2012. Before that date, the Republic of South Sudan should deposit the Act of Accession with the Depositaries of the Cotonou Agreement, namely the Secretariat General of the Council of the European Union and the Secretariat of the ACP States.

HAS DECIDED AS FOLLOWS:

Article 1

Approval of requests for accession and observer status

South Sudan's request to accede to 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, as first amended in Luxembourg on 25 June 2005 and as amended for the second time in Ouagadougou on 22 June 2010 is hereby approved.

South Sudan shall have observer status until 20 November 2012. It shall deposit its Act of Accession with the Depositaries of the Cotonou Agreement, namely, the Secretariat General of the Council of the European Union and the Secretariat of the ACP States, before that date.

Article 2

Entry into force

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

Done at,

For the ACP-EU Council of Ministers
The President