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Proposal for a

COUNCIL DECISION

**extending the period of application of the appropriate measures in
Decision 2011/492/EU concerning the conclusion of consultations with the Republic of
Guinea-Bissau under Article 96 of the ACP-EC Partnership Agreement**

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EXPLANATORY MEMORANDUM

On 31 January 2011, the European Union decided to open consultations with the Republic of Guinea-Bissau under Article 96 of the revised Cotonou Agreement. This decision was taken in the wake of the events of 1 April 2010. On that day, on the orders of the Deputy Chief of Staff of the Armed Forces, General Antonio Indjai, a group of mutinous soldiers arrested Chief of Staff José Zamora Induta and the Prime Minister of Guinea-Bissau, Mr Gomes Junior. Following the mutiny, General Indjai became de facto Chief of Staff before being officially appointed on 25 June 2010 by decree of the President, Mr Bacai Sanha, on a proposal from the government.

The appointment on 8 October 2010 of Rear-Admiral Bubo Na Tchuto as head of the navy constituted a further setback to good governance in Guinea-Bissau. Rear-Admiral Na Tchuto played a destabilising role in the aftermath of the mutiny of 1 April and is subject to sanctions imposed by international partners for his suspected involvement in illegal activities.

The European Union regards the mutiny of 1 April 2010 and the subsequent appointment of its main instigators to high-ranking posts in the military hierarchy as a serious and evident breach of the essential elements of Article 9 of the Cotonou Agreement (respect for democratic principles) and as a case of special urgency within the meaning of Article 96(2)(b) of the Agreement. A letter was therefore sent to the Guinea-Bissau authorities on 2 February 2011 to invite them to hold consultations.

The opening meeting of the consultations took place in Brussels on 29 March 2011.

In the course of the meeting, the participants were informed of the proposals of the Guinea-Bissau side for progressively ensuring the primacy of civilian authority, improving democratic governance, guaranteeing the safeguarding of constitutional order and the rule of law, and tackling impunity and organised crime.

The Guinea-Bissau side undertook, in particular, to:

- conduct and conclude judicial investigations and proceedings, with regard to the assassinations in March and June 2009, that are fully independent and carried out under appropriate logistical and security conditions;
- effectively implement a reform of the security sector based on the strategy adopted by the national parliament and the legislative package drawn up with the support of the EU's Common Security and Defence Policy (CSDP) mission;
- ensure the appointment to senior posts in the military of persons not involved in unconstitutional or illegal conduct or acts of violence, in line with the conclusions and recommendations of the Economic Community of West African States (ECOWAS) roadmap for security sector reform;
- approve and assist an experts' mission to support security sector reform and the protection of political figures, to be carried out with the support of ECOWAS, the Community of Portuguese-speaking Countries (CPLP) and/or other partners;
- prepare, adopt and effectively implement national operational plans to implement security sector reform and combat drug trafficking;
- improve the administrative and financial management of civilian and military employees, and measures to combat money laundering.

The European Union noted these undertakings in its conclusions of the consultations. It urged the representatives of the Republic of Guinea-Bissau to carry out judicial investigations and proceedings into the events of 1 April 2010, to step up efforts to tackle the problem of

impunity and to specify a more detailed timetable for implementation of the undertakings in compliance with the timeframe in the ECOWAS roadmap.

The European Union decided on 18 July 2011, by Council Decision 2011/492/EU, to adopt appropriate measures for the fulfilment of these undertakings, including a scheme of mutual commitments for the gradual resumption of EU cooperation.

An Article 96 follow-up mission took place in Bissau on 18-20 January 2012. The mission report pointed to an insufficient degree of implementation of the first group of commitments indicated in Council Decision 2011/492/EU, which ruled out unblocking the corresponding cooperation programmes. The report was endorsed by the Council's Africa Working Group on 15 February 2012.

On 12 April 2012, a *coup d'état* by elements of the armed forces took place after the first round of the Presidential elections called following the death of President Bacai Sanha in January; the acting President and the Prime Minister were arrested.

Since then, ECOWAS has been mediating to broker a solution leading to the restoration of democratic order in Guinea-Bissau, but little progress has been achieved to date towards a return to constitutional order.

By Council Decision 2012/387/EU of 16 July 2012, Council Decision 2011/492/EU was extended by one year, until 19 July 2013.

The Commission considers it important that Council Decision 2011/492/EU is not allowed to expire, as it provides a fundamental framework for the promotion of democratic stability in Guinea-Bissau. It is therefore proposed that it be further extended until 19 July 2014.

After 31 December 2013, date of expiry of the 10th EDF, and before the entry into force of the 11th EDF, the EU commitments indicated in the schedule annexed to Council Decision 2011/492/EU would be funded by the bridging facility to be established.

The substance of the Decision (i.e. detailed conditionality and EU responses) may require adaptation as the political situation changes, but at this time it is not possible to predict such changes with sufficient accuracy.

Conclusion

In the light of the above, the Council is requested to adopt the attached draft proposal for a Council Decision extending the period of application of the appropriate measures with regard to Guinea-Bissau.

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extending the period of application of the appropriate measures in Decision 2011/492/EU concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the ACP-EC Partnership Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

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 (hereinafter referred to as the 'ACP-EC Partnership Agreement'), as revised at Ouagadougou, Burkina Faso on 22 June 2010², and in particular Article 96 thereof,

Having regard to the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement³, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision 2011/492/EU, consultations with the Republic of Guinea-Bissau under Article 96 of the ACP-EC Partnership Agreement were concluded and appropriate measures, as specified in the Annex to that Decision, were taken.
- (2) By Council Decision 2012/387/EU, Council Decision 2011/492/EU was extended by one year, until 19 July 2013.
- (3) The essential elements cited in Article 9 of the ACP-EC Partnership Agreement continue to be violated and the current conditions in Guinea-Bissau do not ensure respect for human rights, democratic principles and the rule of law.
- (4) Decision 2011/492/EU should therefore be amended to extend further the period of application of the appropriate measures,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/492/EU is hereby amended as follows:

Article 3 is replaced by the following:

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

It shall expire on 19 July 2014.

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 287, 4.11.2010, p. 3.

³ OJ L 317, 15.12.2000, p. 376, as amended in OJ L 247, 9.9.2006, p. 48.

It shall be reviewed regularly at least once every six months, preferably in the light of joint monitoring missions by the European External Action Service and the Commission.'

Article 2

The letter annexed to the present Decision shall be sent to the authorities of Guinea-Bissau.

Article 3

This Decision shall enter into force on the date of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*

ANNEX

H.E. the President of the Republic of Guinea-Bissau,
H.E. the Prime Minister of the Republic of Guinea-Bissau,
Sirs,

Following the consultations which took place in Brussels on 29 March 2011 in the framework of Article 96 of the ACP-EU Partnership Agreement, the European Union decided on 18 July 2011, by Council Decision 2011/492/EU, to adopt appropriate measures, including a scheme of mutual commitments for the gradual resumption of EU cooperation.

By Council Decision 2012/387/EU of 16 July 2012, Council Decision 2011/492/EU was extended by one year, until 19 July 2013.

Twelve months after this extension, the European Union considers that no significant progress has been made and has therefore decided to extend further the period of application of Decision 2011/492/EU, until 19 July 2014.

The European Union wishes to underline once again the importance that it attaches to future cooperation with Guinea-Bissau and to confirm its willingness to carry on the dialogue and make progress in the near future towards a situation where the resumption of full cooperation becomes possible.

Yours faithfully,

For the Council

C. ASHTON

President

For the Commission

A. PIEBALGS

Commissioner