

**Proposal for a Council Decision concluding consultations with Liberia under Article 96 and Article 97 of the Cotonou Agreement**

(2003/C 20 E/04)

COM(2002) 103 final

(Submitted by the Commission on 21 February 2002)

**EXPLANATORY MEMORANDUM**

1. The Council of the European Union decided, on 23 July 2001, to open consultations with the Liberian Government pursuant to Article 96 and to Article 97 of the Cotonou Agreement. This decision was based on the fact that on a number of occasions, since its arrival on power in 1997, the Government had acted in ways that amounted to a failure to fulfil its obligations stemming from the essential elements of Article 9 of the Agreement; that it had also acted in violation of good governance requirements as serious corruption is made possible by the lack of transparency of the management of public utilities and resources.
2. The consultations took place in Brussels on 9 November 2001. According to the conclusions of the Presidency and of the Commission <sup>(1)</sup>, they were held in an open and constructive spirit, as the European Union could note the Liberian authorities' willingness to remedy the problems and was encouraged by the following commitments:
  - to systematically launch legal investigations each time there are serious and corroborated reports that members of the armed forces are involved in violence towards civilians, including in the war zone of Lofa county,
  - to expand the ongoing training programme on human rights to all security personnel,
  - to review the relevant legislation in order to create a credible independent human rights commission, with representation of the civil society,
  - to review the relevant legislation in order to create a credible independent national reconciliation commission, with representation of the civil society,
  - to continue to encourage the return of key opposition leaders, especially by the withdrawal of accusations against them; that their personal protection will be guaranteed,
  - that NGO members and journalists who remain within the law will not be harassed for speaking against the Government, which will publicly commit itself accordingly,
  - that procedures for granting short-wave radio licenses will be simplified and accelerated; to review the law, with a view to have it amended, and also have the cases of Radio Veritas and Star Radio reviewed on their request,
  - to review the relevant legislation in order to create a credible independent election commission in close consultation with the main political partners,
  - to revitalise the judicial review body so that it can advise and make independent recommendations to the Government,
  - to improve the payment of proper salaries and expenses to the civil service in particular as regards the operation of the administration of justice,
  - that all public utility and parastatal revenue including those from the forestry sector will be accounted for in a transparent manner,

<sup>(1)</sup> General Secretariat of the Council, doc. No 164/01 ACP.

- to undertake to further liberalise the fuel and rice sectors to ensure competition and transparency,
- to comply with UN requests in relation to the involvement of Liberia in the conflict in Sierra Leone, in particular in terms of cutting all ties with the R.U.F.

The conclusions of the meeting also provided that an intensive dialogue would be held with the Liberian authorities on the various points raised, in order to prepare the conclusion of the consultations.

3. This intensive dialogue process is now completed. Two EU/Liberia monitoring meetings were held in Monrovia, on 6 December 2001 and on 12 February 2002, co-chaired by the EU Presidency, represented first by the Ambassador of Belgium accredited in Liberia, in the presence of Mr Dahlgren, as Representative of the EU Presidency for the Mano River Union, and on the second occasion by the Ambassador of Spain accredited in Liberia. The Head of the Delegation of the European Commission took part to these meetings.

On 22 January 2002, a letter was sent by the EU Presidency and the European Commission to the Ambassador of Liberia to the EU <sup>(1)</sup>, as a reply to the intermediary report on the situation prepared by the Government of Liberia and dated 19 December 2001 <sup>(2)</sup>.

The dialogue process focussed on measures proposed by the Government of Liberia in order to fulfil the undertakings mentioned above. The following measures have been planned and/or launched:

- in the recent period, several members of the security forces have been subject to legal investigation in relation with their involvement in cases which amount to human rights violations;
- a plan to expand the human rights training to all the security forces is under preparation;
- reviews of the existing human rights and reconciliation commissions are underway; as regards reconciliation, a national forum has been announced for July 2002, where all opposition leaders would be invited;
- President Taylor has publicly called on opposition leaders to return to Liberia stating that they will be protected;
- the strengthening and expansion of the elections commissions is planned;
- Radio Veritas is to receive its short wave licence back and the resumption of the operation of Star Radio is under consideration; short wave broadcasting facilities will be made available to opposition politicians during the elections period;
- a judicial review body ('Judicial Reform Committee') is to be revitalised;
- measures to improve the public management of fiscal revenue drawn from the forestry sector and the maritime registry are planned;
- further liberalisation of the rice sector is underway, as the dominant position of the main importer is decreasing;
- the principle of external audits of the parastatal agencies and the Government financial institutions has been accepted.

<sup>(1)</sup> General Secretariat of the Council, doc. No SGS2/0511 ACP.

<sup>(2)</sup> The Government of Liberia response to the concerns of the European Union, 19 December 2001.

Nevertheless, serious points of concern remain:

- misconduct by the security forces towards civilians, which amount to human rights violations, is still reported;
- uncertainties remain about the real intentions of the authorities with regard to enhancing the independence of the human rights and of the reconciliation commissions;
- no concrete guarantee that all opposition leaders will be treated equally in the run-up to the 2003 elections has been given;
- transparency remains insufficient in the management of public utilities and of parastatal revenue, and no liberalisation of the fuel sector is foreseen.

As for the compliance of the Government of Liberia with UN request to cut all ties with the Revolutionary United Front in Sierra Leone, a new mission of the UN Expert panel is due in April 2002, which should lead to a decision of the UN Security Council in May.

4. The Government of Liberia appears to have confirmed its intention to comply with a number of the undertakings given at the opening of the consultations. Some concrete achievements can be reported, even though high uncertainties remain on the sustainability of the democratic and financial transparency processes promised by the Government.

Therefore the Commission proposes to build on the current results of the consultations and to prompt the Government of Liberia to implement sustainable democratic and good governance process:

- (a) by continuing political dialogue;
- (b) by funding institutional building and poverty alleviation in parallel;
- (c) by conditionally and gradually re-launching development cooperation with Liberia.

The following concrete steps are expected from the Government of Liberia in the near future:

- to ensure the independence of an efficient and effective judiciary;
- to conduct an external independent audit of Government financial institutions and parastatal agencies;
- to effectively guarantee the personal security and freedom of movement of opposition leaders in Liberia;
- to establish an independent and efficient human rights commission;
- to implement a human rights training programme for all security forces;
- to establish an independent and efficient reconciliation commission, in charge of organising and supervising a reconciliation forum (July 2002);
- to implement decisions taken to enlarge access to short-wave broadcasting;
- to establish an independent and efficient election commission;
- to dismantle the monopoly on fuel import.

These steps are expected to be part of general trends towards improving human rights, democracy, rule of law and good governance in Liberia, which would imply:

- the improvement of the human rights situation and effective fight against impunity;

- the constant promotion and guarantee of freedom of press;
- elections in 2003, in compliance with international standards, with participation of all opposition leaders on an equal basis with the candidate of the current ruling party;
- enhanced transparency in the way public concessions and licences are run and on the fiscal revenue derived therefrom.

It is also expected that Liberia will soon be in a position to be considered as having complied with the request of the UN Security Council that all ties with the RUF be cut.

In practice, the situation will be reviewed every six months. To start with, institution support can be made available to help implement political and financial undertakings. According to the pace of political reforms, a decision could be made to conclude negotiations on the 8<sup>th</sup> EDF prior to the signature of the National indicative programme. A first instalment aimed at funding institution building and direct support to populations in view of the 2003 elections could then be implemented. If these elections are considered to international standards in an overall context of an improved situation, a second instalment could be implemented in order to fund infrastructure support and poverty alleviation, and the notification of the 9<sup>th</sup> EDF could be made.

5. As regards the conditional and gradual re-launch of EU aid to Liberia, the Commission proposes to take the following measures, in accordance with Article 96-2(c) and of Article 97-3 of the Cotonou Agreement:

- regular follow-up will be ensured by means of a close political dialogue, involving the Presidency of the European Union and the European Commission, and six-monthly political reviews;
- implementation of current projects funded under Article 72 of the Cotonou Agreement continues;
- contributions to regional projects, operations of a humanitarian nature, trade cooperation and trade related preferences are not affected;
- institution support to allow for the implementation of the measures aimed at fulfilling undertakings given within the consultations can be provided;
- the 8<sup>th</sup> EDF National indicative programme is prepared; it will be divided into two instalments: a first instalment will cover institution building and direct support to populations, and a second one more structured aid. Its signature and the implementation of the first instalment will be linked to actual progress made in restoring efficient democratic structures and in improving public financial management. The implementation of the second instalment is conditional upon the holding of elections to international standards in 2003 in a wider context of improvement of the political and governance situation;
- support to the preparation of the elections will be provided subject to the existence of a framework which would allow for them to be held with respect for international standards;
- notification of the 9<sup>th</sup> EDF allocation will be made once elections to international standards have taken place;
- the Commission continues to exercise the function of National Authorising Officer on behalf of the latter and cooperates with the authorities in view of creating the conditions for returning this function to the Government.

6. In the light of the above, and in keeping with Articles 9, 96 and 97 of the Cotonou Agreement, as already put into anticipated application by decision 1/2000 of the ACP-EC Council of Ministers, the Commission proposes to the Council to conclude the consultations with Liberia and to adopt the attached decision.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 300 paragraph 2 subparagraph 2 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 Agreement, as put into provisional application by decision of the representatives of the governments of the Member states of 18.9.2000, and, in particular, Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Government of Liberia has acted on a number of occasions in ways that amount to a failure to fulfil its obligations stemming from the essential elements of Article 9 of the Agreement; it has also acted in violation of good governance requirements as serious cases of corruption can be identified.
- (2) Consultations under Articles 96 and 97 of the ACP-EC Cotonou Agreement were held on 9 November 2001 with the ACP countries and Liberia, at which the Liberian authorities explained their point of view and made specific commitments particularly as regards the

human rights situation, democratic principles, the rule of law and good governance.

- (3) Some positive steps have recently been taken to meet these commitments; nevertheless more substantial action to address all the commitments and to uphold the situation in a sustainable manner still needs to be undertaken,

HAS DECIDED AS FOLLOWS:

*Article 1*

Consultations with Liberia under Articles 96 and 97 of the ACP-EC Cotonou Agreement are hereby concluded.

*Article 2*

The measures specified in the annexed draft letter are hereby adopted as appropriate measures within the meaning of Article 96.2(c) and of Article 97.3 of the ACP-EC Cotonou Agreement. These measures will expire two (2) years from the adoption of the present decision by the Council.

*Article 3*

This Decision takes effect on the day of its adoption.

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

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## ANNEX

## DRAFT LETTER TO THE MINISTER OF FOREIGN AFFAIRS

Brussels, ...  
D(2002)

H.E. Mr Monie CAPTAN  
Minister of Foreign Affairs  
Liberia

Dear Minister,

The European Union attaches the utmost importance to the provisions of Article 9 of the ACP-EC Cotonou Agreement. As essential elements of the Partnership Agreement, respect for human rights, democratic institutions and the rule of law, and as a fundamental element, good governance, are the basis of our relations.

Thus, the European Union has been concerned by reports of human rights abuses in Liberia since the end of the civil war, and about the apparent impunity of the security forces in their relations with civilians. The absence of political opposition activity in the country, especially in the run up to the 2003 elections and reported limitations to freedom of expression have also been a matter of deep concern. The European Union has also been deeply preoccupied by the lack of transparency in the public accounting system and by the risks of serious corruption in particular out of the management of natural resources and of the exploitation of monopolies. Furthermore, the assistance Liberia has offered to the R.U.F., accused of gross human rights violations in Sierra Leone, induced the European Union to support the sanctions decided by the United Nations Security Council in March 2001.

The Council of the European Union therefore decided, on 23 July 2001, to open consultations with the Liberian Government pursuant to Article 96 and to Article 97 of the Cotonou Agreement, with a view to assessing the situation in detail and remedying it.

The opening meeting of the consultations took place in Brussels on 9 November 2001. A number of key issues were addressed; the point of view of the Liberian Government was presented and a series of commitments were made:

- to systematically launch legal investigations each time there are serious and corroborated reports that members of the armed forces are involved in violence towards civilians, including in the war zone of Lofa county,
- to expand the ongoing training programme on human rights to all security personnel,
- to review the relevant legislation in order to create a credible independent human rights commission, with representation of the civil society,
- to review the relevant legislation in order to create a credible independent national reconciliation commission, with representation of the civil society,
- to continue to encourage the return of key opposition leaders, especially by the withdrawal of accusations against them; that their personal protection will be guaranteed,
- that NGO members and journalists who remain within the law will not be harassed for speaking against the Government, which will publicly commit itself accordingly,
- that procedures for granting short-wave radio licenses will be simplified and accelerated; to review the law, with a view to have it amended, and also have the cases of Radio Veritas and Star Radio reviewed on their request,
- to review the relevant legislation in order to create a credible independent election commission in close consultation with the main political partners,
- to revitalise the judicial review body so that it can advise and make independent recommendations to the Government,

- to improve the payment of proper salaries and expenses to the civil service in particular as regards the operation of the administration of justice,
- that all public utility and parastatal revenue including those from the forestry sector will be accounted for in a transparent manner,
- to undertake to further liberalise the fuel and rice sectors to ensure competition and transparency,
- to comply with UN requests in relation to the involvement of Liberia in the conflict in Sierra Leone, in particular in terms of cutting all ties with the R.U.F.

It was also agreed that an intensive dialogue would be held with the Liberian authorities on the various points raised at the consultation meeting in view of the conclusion of the consultations. This process is now completed. It focussed on the measures which the Government itself proposed could be implemented to fulfil the undertakings.

The Liberian authorities have indicated their willingness to make progress on the various issues raised by the European Union. In particular, we welcome that:

- in the recent period, several members of the security forces have been subject of legal investigation in relation to their involvement in cases which amount to human rights violations;
- a plan to expand the human rights training to all the security forces is under preparation;
- reviews of the existing human rights and reconciliation commissions are underway; as regards reconciliation, a national forum has been announced for July 2002, to which all opposition leaders would be invited;
- President Taylor has publicly called on opposition leaders to return to Liberia stating that they will be protected;
- Radio Veritas is to receive its short wave licence back and the resumption of the operation of Star Radio is under consideration;
- a judicial review body ('Judicial Reform Committee') is to be revitalised;
- measures to improve the public management of fiscal revenue drawn from the forestry sector and the maritime registry are planned;
- further liberalisation of the rice sector is underway, as the dominant position of the main importer is decreasing;
- the principle of external audits of the parastatal agencies and of the Government financial institutions has been accepted.

More generally, the Government indicated that it would uphold all the fundamental rights of all citizens and residents in Liberia.

However the following points continue to give cause for concern despite the commitments already taken:

- the human rights situation still needs to be improved;
- in view of 2003 elections, guarantees are not yet sufficient that all candidates will be treated equally;
- transparency in the management of public accounts, especially as regards resources drawn from the fuel, timber and rice sectors, is not established.

Furthermore, the European Union calls the Liberian authorities to continue their efforts to comply with the UN requests as regards their relations with the RUF in Sierra Leone.

In the light of the above the European Community and its Member States have decided to conclude the consultations held under Article 96 and Article 97 of the ACP-EC Cotonou Agreement. Awaiting substantive steps to fulfil the commitments taken to uphold the respect of human rights, democracy, rule of law and good governance principles, it is decided to gradually and conditionally re-launch EU co-operation in line with progress made.

In particular, the European Union invites the Government of Liberia to take the following measures in the near future:

- to ensure the independence of an efficient and effective judiciary;
- to conduct an external independent audit of Government financial institutions and parastatal agencies;
- to effectively guarantee the personal security and freedom of movement of opposition leaders in Liberia;
- to establish an independent and efficient human rights commission;
- to implement a human rights training programme extended to all security forces;
- to establish an independent and credible reconciliation commission, in charge of organising and supervising a reconciliation forum (July 2002);
- to implement decisions taken to enlarge access to short-wave broadcasting;
- to establish an independent and credible election commission;
- to dismantle the monopoly on fuel imports.

These steps are expected to be part to general trends towards improving human rights, democracy, the rule of law and good governance in Liberia, which would imply:

- the improvement of the human rights situation and effective fight against impunity;
- the constant promotion and guarantee of freedom of press;
- elections are prepared for 2003, in compliance with international standards, with participation of all opposition leaders on an equal basis with the candidate of the current ruling party;
- enhanced transparency in the way public concessions and licences are issued and on the revenue derived therefrom.

It is also expected that Liberia will soon be in a position to be considered as having complied with the request of the UN Security Council in relation with the situation in Sierra Leone.

As regards the implementation of its aid, the Community has decided to take the following measures, in the sense of Article 96-2(c) and of Article 97-3:

- regular follow-up will be ensured by means of a close political dialogue, involving the Presidency of the European Union and the European Commission, and six-monthly political reviews;
- implementation of current projects funded under Article 72 of the Cotonou Agreement continues;
- contributions to regional projects, operations of a humanitarian nature, trade co-operation and trade related preferences are not affected;
- institution support to allow for the implementation of the measures aimed at fulfilling undertakings given within the consultations can be provided;



- the 8<sup>th</sup> EDF National indicative programme is prepared; it will be divided into two instalments: a first instalment will cover institution building and direct support to populations, and a second one more structured aid. Its signature and the implementation of the first instalment will be linked to actual progress made in restoring efficient democratic structures and in improving public financial management. The implementation of the second instalment is conditional upon the holding of elections to international standards in 2003 in a wider context of improvement of the political and governance situation;
- support to the preparation of the elections will be provided subject to the existence of a framework which would allow for them to be held with respect for international standards;
- notification of the 9<sup>th</sup> EDF allocation will be made once free and fair elections have taken place;
- the Commission continues to exercise the function of National Authorising Officer on behalf of the latter and cooperates with the authorities in view of creating the conditions for returning this function to the Government.

The European Union will continue to follow closely the situation in Liberia. We propose that our intensive political dialogue should continue, on the basis of Article 8 of the Cotonou Agreement.

Yours faithfully,

*For the Commission*

*For the Council*

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