

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 5 December 2011

amending and extending the application period of Decision 2010/371/EU concerning the conclusion of consultations with the Republic of Madagascar under Article 96 of the ACP-EC Partnership Agreement

(2011/808/EU)

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 2000 ⁽¹⁾ and amended in Ouagadougou, Burkina Faso, on 22 June 2010 ⁽²⁾, hereinafter referred to as "the ACP-EC Partnership Agreement", and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement ⁽³⁾, and in particular Article 3 thereof,

Having regard to the proposal from the European Commission,

In agreement with the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) Decision 2010/371/EU of 7 June 2010 concerning the conclusion of consultations with the Republic of

Madagascar under Article 96 of the ACP-EU Partnership Agreement ⁽⁴⁾ was adopted in order to implement appropriate measures in response to the violation of the essential elements referred to in Article 9 of the said ACP-EU Partnership Agreement.

(2) These appropriate measures were extended until 6 December 2011 by Decision 2011/324/EU ⁽⁵⁾ since, after twelve months, no road map for a consensus-based transition had been signed by the Malagasy parties or endorsed by the Southern African Development Community (SADC), the African Union or the international community.

(3) Thanks to major efforts by all Malagasy political parties and the mediation of the SADC, a "roadmap" to end the crisis in Madagascar was signed by a clear majority of Madagascar's political stakeholders on 16 September 2011. This roadmap outlines the commitments entered into by the signatories with a view to a neutral, inclusive and consensus-based transition process leading to the holding of transparent, free and credible elections and the return to constitutional order. Implementation has already begun with the appointment of a consensus Prime Minister on 28 October 2011.

(4) Accordingly, the appropriate measures should be amended so that the European Union can support the transition process, on condition that the Malagasy side fulfils its commitments in terms of the key transition milestones of the roadmap or of those that may emerge by agreement in the course of any political dialogue between the Malagasy government and the Union.

⁽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.

⁽⁴⁾ OJ L 169, 3.7.2010, p. 13.

⁽⁵⁾ OJ L 146, 1.6.2011, p. 2.

- (5) The period of application of Decision 2010/371/EU expires on 6 December 2011. The appropriate measures as amended by this Decision should be applicable for twelve months, subject to their regular review over this period,
- (2) the appropriate measures set out in the letter in the Annex to Decision 2010/371/EU of 7 June 2010 are replaced by the appropriate measures set out in the Annex to this Decision.

HAS ADOPTED THIS DECISION:

Article 2

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

Article 1

Decision 2010/371/EU is hereby amended as follows:

Done at Brussels, 5 December 2011.

- (1) in Article 3 the second sentence is replaced by the following:

"It shall remain in force during the period until 6 December 2012, subject to regular review during this period";

For the Council

The President

M. DOWGIELEWICZ

ANNEX

LETTER TO THE INTERIM PRESIDENT

Sir,

The European Union (EU) attaches the utmost importance to the provisions of Article 9 of 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 and amended in Ouagadougou, Burkina Faso, on 22 June 2010 (hereinafter "ACP-EC Partnership Agreement"). As essential elements of the ACP-EU Partnership Agreement, respect for human rights, democratic institutions and the rule of law form the basis of our relations.

By letter of 16 June 2011, the European Union informed you of its Decision 2011/324/EU to extend until 6 December 2011 the appropriate measures under Article 96(2)(c) of the ACP-EC Partnership Agreement.

Since that date the European Union has closely monitored developments in your country and actively supported the mediation efforts brokered by the Southern African Development Community (SADC) and supported in particular by the Indian Ocean Commission and other African partners, which finally led to the signing on 16 September 2011 of the "roadmap" to end the crisis in Madagascar, as amended and explicitly extended to cover the return to Madagascar of all Malagasy citizens in exile for political reasons following the SADC summit on 11 and 12 June 2011.

The European Union welcomes the signing of the roadmap, which opens the way to a transition process leading to the holding of transparent, free and credible elections and a rapid return to constitutional order. The European Union would point out that it remains ready to back the transition process and support it politically and financially, should it be called on to do so by the SADC and the African Union (AU), and in close cooperation with the international community. The European Union is ready to intensify the political dialogue with the transition authorities emerging from the implementation of the roadmap in order to examine the conditions and detailed arrangements for support.

In accordance with Articles 4, 5, 6 and 8 of the roadmap, the appointment of the consensus prime minister and the transitional government are crucial steps in the implementation of the process since they are responsible for creating the necessary conditions for the holding of credible, fair and transparent elections, in cooperation with the international community.

Political and financial support from the European Union is subject to the Malagasy party's fulfilling the commitments set out below:

Commitments of the Malagasy party	Commitments of the European Union
Signing of the roadmap	<p>Statement by the spokesperson of the High Representative of the Union for Foreign Affairs and Security Policy (HR) (welcoming the signing and expressing willingness to offer political and financial support for implementation of the transition, subject to its being carried out)</p> <p>Initial high-level contacts with the Malagasy authorities (visit of two Malagasy ministers)</p> <hr/> <p>Identification/formulation of programmes to support vulnerable sections of the population (Health, education and nutrition programme, Programme of support for civil society, Food security and rural infrastructure programme, Labour-intensive rural roads programme) under the 10th European Development Fund (EDF) for around EUR 100 million and budget lines</p> <p>Identification of programmes to support the transition under the 10th EDF and budget lines</p> <p>Identification of development cooperation programmes under the 10th EDF mainly via the Technical Cooperation Facility (TCF) of EUR 6 million (in the intervention areas specified in the national indicative programmes (NIP) of the 10th EDF) and budget lines and European Investment Bank operations.</p>
Appointment of the consensus prime minister and transitional government of national unity	Recognition of the legitimacy of Madagascar's interim President and government, opening the door to the presentation of credentials by the EU's ambassador to Madagascar

Commitments of the Malagasy party	Commitments of the European Union
	<p>EU's affirmative response and active participation, in consultation with the SADC and the AU, in coordinating the international community's joint response</p> <p>Identification of electoral support measures under various instruments, in particular the Stability Instrument, taking into account available financial resources</p> <p>Formulation of programmes to support the transition under the 10th EDF and budget lines</p> <p>Formulation of development cooperation programmes under the 10th EDF (in the intervention areas specified in the NIP of the 10th EDF) and budget lines.</p>
<p>Setting up a transitional parliament and independent national electoral commission (CENI) and drafting and implementing a credible electoral framework with United Nations (UN) support (electoral evaluation report)</p>	<p>If the report of the UN electoral assessment mission is deemed satisfactory and the electoral timetable realistic:</p> <ul style="list-style-type: none"> — Inclusion of Madagascar in the list of priority countries for an EU election observation mission in 2012, thus confirming the Union's willingness to send an EU election observation mission, depending on available funds and following the results of an exploratory mission — Formulation of electoral support measures using various instruments, in particular the stability instrument, taking into account available financial resources
<p>Adoption of an amnesty law ratified by the interim parliament and adoption by the said parliament of a law laying down the conditions for implementing the resignation of the interim president, the prime minister and members of the interim government if they decide to stand for election</p>	<p>Identification/formulation of measures to support national reconciliation and democratisation</p>
<p>Holding of parliamentary and presidential elections</p>	<p>Sending an EU election observation mission, depending on available funds</p>
<p>Proclamation of the election results</p>	<p>Statement by HR on the conduct and results of the elections and assessment of their credibility</p> <p>If the assessment of the elections is favourable, start of the procedure for repealing the Decision under Article 96 of the ACP-EC Partnership Agreement and the European Commission's decision to take over the functions of NAO</p>
<p>New president, government and parliament take up their functions and the country returns to constitutional order</p>	<p>EU statement by the HR and the Commissioner for development welcoming the return to constitutional order and confirming the full normalisation of relations between the EU and Madagascar and complete resumption of development cooperation</p> <p>Repeal of the Decision under Article 96 of the ACP-EU Partnership Agreement and the Commission's decision to take over the functions of the NAO</p>

We urge you and all Malagasy political stakeholders to persevere in your efforts to implement the roadmap as soon as possible so that the EU can support the consensus-based, neutral transition process to help Madagascar emerge from the crisis.

The European Union has decided to replace the appropriate measures set out in the letter annexed to Decision 2010/371/EU with the following appropriate measures:

- humanitarian and emergency aid is not affected,
- the European Commission will implement certain projects and programmes that directly benefit the population,
- budgetary aid provided for in the 9th and 10th EDF NIPs will remain suspended,

- projects and programmes already under way under the 9th EDF will continue to be implemented, except for activities and payments directly involving the government and its agencies; a revision may be possible in the light of developments in the political situation. Amendments and addenda to current contracts will be examined on a case-by-case basis,
- regional projects will be evaluated on a case-by-case basis,
- the implementation of the 10th EDF NIP is subject to the Malagasy party's fulfilment of the commitments set out in the above schedule. The said fulfilment of these commitments will find a response from the European Union, which will gradually implement development cooperation programmes, measures to support the transition and particularly the electoral process, and will eventually fully resume development cooperation, making the main part of the funds allocated available to Madagascar.

These measures will remain in force for 12 months but may be reviewed at any moment in the light of positive or negative developments in the political situation in Madagascar.

Yours faithfully,

For the Council

For the Commission
