



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

**COUNCIL DECISION**

**concerning the conclusion of consultations with the Islamic Republic of Mauritania  
under Article 96 of the revised Cotonou Agreement**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

On 29 November 2005 the European Union decided to open consultations with the Islamic Republic of Mauritania under Article 96 of the revised Cotonou Agreement. This decision was taken because the coup d'Etat that took place in Mauritania on 3 August 2005 constituted a violation of two of the essential elements listed in Article 9 of the revised Cotonou Agreement (respect for democratic principles and the rule of law). After preliminary contacts between the different parties, the consultations began on 30 November 2005. The EU was thus able to satisfy Mauritania's desire for dialogue to begin as soon as possible.

The opening meeting was cordial and constructive, and was attended by representatives from Mauritanian political parties and civil society, who were given the opportunity to air their points of view. A group of ambassadors from ACP countries also took part in the consultations. Mauritania gave a presentation on developments in the country's situation since the coup of 3 August, and on the authorities' programme for the transition period.

Mauritania gave 23 undertakings at the meeting, in the areas of respect for democratic principles, fundamental freedoms and rights, the rule of law and good governance. Briefly, these undertakings entailed:

- Holding free and transparent local, parliamentary, senatorial and presidential elections during the transition period, and a referendum on certain changes to the Constitution. The changes are intended to introduce a system of alternating political power and repeal the measures that enabled laws contrary to constitutional principles to be applied.
- Establishing electoral rolls, publishing them on the Internet and, in the event of any dispute, guaranteeing a right of appeal either to the National Independent Electoral Commission (CENI) or to the courts.
- Making it possible to change the electoral system and the size of constituencies to ensure that the number of elected members is more commensurate with the population of each constituency.
- Guaranteeing all citizens the full enjoyment of their fundamental rights and freedoms, as set down in the Constitution.
- Ensuring that the principle of pluralism will be respected in the audiovisual sector, and that the press law will be revised. The interim authorities have also given an undertaking not to apply the censorship measures which are still in force in the lead-up to the revision.
- Initiating the process to establish an Independent National Commission for Human Rights, facilitating the return of refugees of proven Mauritanian origin and implementing any measures necessary for the reinstatement of their rights.
- Taking all measures necessary for the effective implementation of the legislation prohibiting slavery and ensuring the appropriate treatment of all problems arising from slavery and its damaging social consequences.
- Implementing a reform of the justice sector through the compilation, revision and updating of existing legal texts and regulations, and by prioritising the training of sitting judges, and, in the future, the recruitment conditions for new magistrates.

- Ongoing methods of governance, and developing a national strategy to fight corruption.
- Accepting and applying of the principles of the Extractive Industries Transparency Initiative (EITI).
- Boosting the State Inspectorate-General and strengthening the Court of Audit.

A further undertaking was also given regarding monitoring and reporting.

If the transitional government respects these undertakings, constitutional democracy will have been restored by the end of May 2007 at the latest, after the new democratically elected bodies are in place. Under these conditions, the armed forces and the security forces would return to the roles they are allocated in the Constitution and in law, and would refrain from any involvement in the political life of the country.

The EU was pleased to note that Mauritania had confirmed the undertakings made by the new authorities since 3 August 2005 regarding the transition period and the return to constitutional order. It also noted that other points of consensus that had emerged from the October 2005 national consultation workshops had been adopted by Mauritania, which had proposed positive steps regarding the implementation of all its undertakings.

In the spirit of partnership that underlies the Cotonou Agreement, and in view of the undertakings made by Mauritania, the EU expressed its readiness to support the process of transition. In particular, the EU will continue and step up dialogue to ensure the swiftest possible return to democracy and the rule of law, which are a prerequisite for the complete normalisation of cooperation relations with Mauritania. The dialogue will be conducted in the hope of contributing to the establishment of a durable constitutional order that will bring the country the stability it needs to ensure its sustainable development.

The EU has stated its preparedness to monitor developments very closely, on the basis of the reports Mauritania will provide on the performance of its undertakings. It will check whether these are carried out and that measures are adopted to ensure transparent and democratic parliamentary elections in November 2006 and presidential elections in March 2007.

When the consultations opened, Mauritania undertook to provide the EU with a progress report in mid-January 2006. The report was submitted on time. It includes a detailed description of the status of implementation of the undertakings made at the opening of the Article 96 consultations, and demonstrates that steady progress has been made so far. It also makes clear that the indicative timetables established in the different areas have been respected.

At the conclusion of the consultations, in view of the initiatives witnessed thus far and the implementation timetable for measures still to be put in hand, the Commission proposes to adopt appropriate measures under Article 96(2)(c) of the revised Cotonou Agreement as set out in the attached Decision. The measures are proposed with a view to underpinning the process of transition, which is acknowledged to have delivered progress, while motivating the government to consolidate the progress of the undertakings concerning democratisation.

An enhanced political dialogue will be conducted with the Mauritanian government over an 18-month monitoring period in order to ensure that it continues on the path mapped out towards democracy and the rule of law and pursues and consolidates its efforts in the field of

human rights and fundamental freedoms and good governance. This dialogue will involve the EU Presidency and the European Commission and six-monthly evaluations will be carried out over the monitoring period.

If implementation of the Mauritanian authorities' undertakings speeds up, or on the contrary breaks down, the EU reserves the right to adjust the appropriate measures by means of a new Council decision amending the one proposed here.

In view of the above, and in accordance with Articles 9 and 96 of the revised Cotonou Agreement, the Commission proposes that the Council conclude the consultations with the Islamic Republic of Mauritania and adopt the attached Decision.

Proposal for a  
**COUNCIL DECISION**

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under Article 96 of the revised Cotonou Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000<sup>1</sup> and revised in Brussels on 25 June 2005<sup>2</sup>, 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 Agreement<sup>3</sup>, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The essential elements referred to in Article 9 of the Cotonou Agreement have been violated.
- (2) On 30 November 2005, pursuant to Article 96 of the Cotonou Agreement, consultations started with the ACP countries and the Islamic Republic of Mauritania during which the Mauritanian authorities gave specific undertakings designed to remedy problems identified by the European Union and to implement them during a period of intensive dialogue lasting 120 days.
- (3) At the conclusion of this period some substantive initiatives have been taken in respect of some of the undertakings referred to above, and some undertakings have been fulfilled; nevertheless several important measures concerning essential elements of the Cotonou Agreement have yet to be implemented,

HAS DECIDED AS FOLLOWS:

*Article 1*

Consultations with the Islamic Republic of Mauritania under Article 96 of the Cotonou Agreement are hereby concluded.

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<sup>1</sup> OJ L 317, 15.12.2000, p. 3.

<sup>2</sup> OJ L 287, 28.10.2005, p. 4.

<sup>3</sup> OJ L 317, 15.12.2000, p. 376.

*Article 2*

The measures set out in the annexed letter are hereby adopted as appropriate measures under Article 96(2)(c) of the Cotonou Agreement.

*Article 3*

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

It shall be valid for 18 months from the date of its adoption by the Council. It shall be reviewed regularly at least once every six months.

Done at Brussels, [...]

*For the Council*  
*The President*

## ANNEX

### **Draft letter**

Dear Prime Minister,

The European Union attaches great importance to the provisions of Article 9 of the revised Cotonou Agreement. The ACP-EU partnership is founded on respect for human rights, democratic principles and the rule of law; these are essential elements of the Agreement and thus form the basis for relations between us.

In its statement of 3 August 2005 on the coup in Mauritania, the EU reiterated its condemnation of all attempts to seize power by force, and called for respect for democracy and a return to constitutional order.

Under Article 96 of the revised Cotonou Agreement, and considering that the coup d'Etat that took place on 3 August 2005 constituted a violation of certain essential elements listed in that Article, the EU invited Mauritania to consultations in order, as provided for in the Agreement, to study the situation in depth and, where necessary, take steps to remedy it.

These consultations began in Brussels on 30 November 2005. Mauritania gave a presentation based on a memorandum dated 24 November 2005 on developments in the country's situation since the coup of 3 August, and on the authorities' programme for the transitional period.

For its part, the EU was pleased to note that Mauritania had already confirmed a number of undertakings it had previously given, and had proposed positive steps regarding their implementation.

As noted below, Mauritania gave 23 specific undertakings at the meeting, in the areas of respect for democratic principles, fundamental freedoms and rights, the rule of law and good governance. The country also promised to provide the EU with a report on the implementation of these undertakings by mid-January 2006, to be followed by regular quarterly reports on developments in the situation.

The report submitted in mid-January allowed the EU to conclude that steady progress had been made. In addition to the progress already noted at the opening of consultations, a number of changes have been observed, particularly regarding:

- defining the procedures for the administrative survey for electoral purposes, to compile electoral rolls that are reliable and transparent;
- the adoption by the Council of Ministers of the draft law on Constitutional amendments to be submitted to a referendum;
- the appointment of new Walis (regional governors) and Hakems (prefects), and a circular sent to local and regional authorities when they take office about the neutrality of the central and territorial administration;
- the development of a programme to raise awareness of civic issues and instil civic values, and the launch of a civic awareness campaign attended by the government authorities, the

National Independent Electoral Commission, political parties, civil society organisations and the press;

- the creation of a working party under the Justice Minister to verify the constitutionality of texts on democratic freedoms and rights, and to make any proposals necessary;
- the establishing by decree and the setting up of a National Consultative Commission for the reform of the press and the audiovisual sector;
- the organisation of a workshop on the creation of a National Independent Human Rights Commission;
- circulars sent by the Justice Ministry and the Ministry of the Interior to the prosecution service and the territorial administration authorities asking them to seek, detect and prosecute any cases that might involve the direct or indirect exploitation of persons;
- the adoption by the Council of Ministers of draft ordinances authorising accession to the UN Convention against Corruption, and authorising the ratification of the African Convention against Corruption;
- the creation of a temporary committee to monitor the application of the Extractive Industries Transparency Initiative (EITI), and the adoption of a draft decree on the creation, organisation and workings of the National EITI Committee.

The initiatives introduced by the transitional authorities will undoubtedly help strengthen the respect for democratic principles, fundamental freedoms and rights, the rule of law and good governance in your country. However, most of the undertakings made at the outset of the consultations will be implemented over an extended period, and it will be necessary to monitor their implementation over time.

In this connection, the EU is anxious that the implementation of substantive measures should continue, in particular through:

- the organisation and holding of free and transparent elections using electoral rolls that are reliable and complete, using electoral systems and constituency weightings that are fair and agreed with the political parties;
- respect for pluralism in the audiovisual sector, and, in particular, the creation of free radio stations outside cities, and the revision of the press law;
- promoting human rights, especially through continued efforts to create a national independent human rights commission, the return of refugees and the restoration of their rights;
- application of the laws banning slavery and promising appropriate treatment for all problems arising from this evil;
- reform of the justice system;
- continued improvements in governance, including the publication of updated economic and budgetary statistical data;



- effective implementation of the Extractive Industries Transparency Initiative in the mining and hydrocarbon sectors and the application of the same good governance principles in the other natural resource sectors, in particular, as regards fisheries.

In the spirit of partnership that underlies the Cotonou Agreement, the EU expressed its readiness to support implementation of Mauritania's undertakings. In follow-up to the consultations, and in view of the undertakings given thus far and the measures still to be put in hand, the Commission proposes to adopt the following appropriate measures under Article 96(2)(c) of the revised Cotonou Agreement:

- cooperation activities under way under the 9th EDF and its predecessors will continue, on condition that the special conditions of the Financing Agreements are observed;
- preparation and implementation of the institutional support projects bolstering the transition process, whose launch was decided when the consultations opened, will continue;
- preparation and implementation of the measures envisaged under the 9th EDF and its predecessors in other areas of Community cooperation will also continue;
- programming activities for the 10th EDF will be launched in accordance with the timetable drawn up by the relevant Commission departments. Closure of the different stages in the programming process will be conditional on the holding of the referendum on the constitution and the planned elections under satisfactory conditions and within the timescale fixed by the transitional authorities;
- The 10th EDF Country Strategy Paper for Mauritania cannot be signed before confirmation that the country has effectively returned to a constitutional order after free and transparent presidential and parliamentary elections have led to new democratically elected bodies taking office.

The EU Presidency and the European Commission will carry out regular joint reviews, the first of which will take place within the next six months.

The European Union will continue to follow closely the situation in Mauritania. Under Article 8 of the Cotonou Agreement, an enhanced political dialogue will be conducted with your government over an 18-month monitoring period to ensure the restoration of democracy and the rule of law, notably through the holding of free and transparent local, parliamentary, senatorial and presidential elections, and a strengthening of respect for human rights and fundamental freedoms.

If implementation of the Mauritanian authorities' undertakings speeds up, or on the contrary breaks down, the EU reserves the right to adjust the appropriate measures.

I have the honour to be, Sir, yours faithfully,

Done at Brussels,

For the Commission

For the Council

## ANNEXE À L'ANNEXE

### Engagements de la République Islamique de Mauritanie

#### A. Respect des Principes Démocratiques

##### **Engagement N° 1**

Les autorités de transition s'engagent à réaliser les scrutins électoraux prévus pour la période de transition dans les meilleurs délais et, en tout état de cause jusqu'à fin mars 2007. Les autorités de transition s'engagent à installer les nouveaux organes élus à la fin mai 2007 au plus tard.

##### **Engagement N° 2**

Les autorités de transition s'engagent à soumettre à referendum en juin 2006 des modifications à la Constitution pour rendre possible l'alternance politique et pour abroger les dispositions qui permettraient l'application de lois qui vont à l'encontre des principes constitutionnels.

##### **Engagement N° 3**

Les autorités de transition s'engagent à garantir la neutralité des membres du CMJD, du Gouvernement, de l'administration centrale et territoriale et de la magistrature pendant les processus électoraux qui auront lieu pendant la période de transition.

##### **Engagement N° 4**

Les autorités de transition s'engagent à définir, avant fin mars 2006, des mécanismes équitables de financement des partis politiques et d'encadrement des campagnes électorales. De nouvelles règles garantissant le libre accès des partis et candidats aux media publics seront aussi établies avant fin juillet 2006.

##### **Engagement N° 5**

Les autorités de transition s'engagent à lancer une campagne d'éducation civique en vue des différents scrutins électoraux avant fin mars 2006.

##### **Engagement N° 6**

Les autorités de transition s'engagent à établir de nouvelles listes électorales avant fin mai 2006 et à les publier sur Internet. En cas de contentieux, le droit de recours, soit à la CENI (Commission Electorale Nationale Indépendante), soit aux tribunaux, sera garanti. Les autorités de transition s'engagent à étudier la possibilité d'accorder le droit de vote aux Mauritaniens établis à l'étranger.

##### **Engagement N° 7**

Les autorités de la transition s'engagent à étudier avant fin mars 2006 la possibilité de revoir les modes de scrutin et le poids des circonscriptions électorales dans le sens de garantir une plus grande équité entre le nombre d'élus et la population de chaque circonscription.

### **Engagement N° 8**

Les autorités de transition s'engagent à respecter le mandat et les attributions de la CENI et à lui donner les moyens de son fonctionnement.

### **Engagement N° 9**

Les autorités de transition s'engagent à réaliser des scrutins électoraux libres et transparents, dans le respect des dispositions de la Déclaration sur les principes régissant des élections démocratiques en Afrique, adoptée par l'Union africaine à Durban en 2002, et à inviter des observateurs internationaux pour y assister.

### **Engagement N° 10**

Les autorités de transition s'engagent sur un retour à l'ordre constitutionnel au plus tard à la fin mai 2007 suite à l'installation des nouveaux organes démocratiquement élus. Lors du retour à l'ordre constitutionnel les forces armées et de sécurité reprendront les rôles qui leur sont attribués par la Constitution et la Loi et s'abstiendront de toute participation dans la vie politique.

## **B. Respect des Droits et Libertés Fondamentaux**

### **Engagement N° 11**

Les autorités de transition s'engagent à garantir à tous les citoyens le plein exercice de leurs droits et libertés fondamentaux, tels que prévus dans la Constitution et, notamment, les libertés d'expression, de libre circulation et de rassemblement dès l'entrée en vigueur de la Constitution.

### **Engagement N° 12**

Les autorités de transition s'engagent à assurer le plein respect du principe du pluralisme dans le secteur de l'audiovisuel. A cet effet, elles établiront avant la fin décembre 2005 une Commission chargée de traiter de toutes les questions relatives à l'audiovisuel, y compris la régulation de l'audiovisuel public et les différents aspects de la problématique de la création de radios et télévisions privées et de radios rurales. Cette Commission complètera ses travaux avant fin mai 2006.

### **Engagement N° 13**

Dans l'attente de la révision de la loi sur la presse avant fin juin 2006, les autorités de transition s'engagent à ne pas appliquer les dispositions en vigueur sur la censure et à garantir à tous les journalistes le plein exercice de leurs droits et libertés fondamentaux.

### **Engagement N° 14**

Les autorités de transition s'engagent à lancer immédiatement le processus de création d'une Commission Nationale Indépendante des Droits Humains. Elles s'engagent également à faciliter le retour des réfugiés dont la nationalité mauritanienne est établie et à prendre des mesures nécessaires pour leur réintégration dans leurs droits y compris dans le cas des fonctionnaires.

### **Engagement N° 15**

Les autorités de transition s'engagent à prendre l'ensemble des mesures nécessaires en vue d'une application effective de la législation relative à l'interdiction de l'esclavage et à assurer le traitement adéquat de tous les problèmes résultant de l'esclavage et de ses conséquences préjudiciables à la société, en se basant notamment sur les idées et propositions émanant de la concertation nationale menée en octobre 2005.

### **C. Respect de l'Etat de Droit**

#### **Engagement N° 16**

Les autorités de transition s'engagent à mettre en œuvre pendant la période de transition les mesures classifiées comme immédiates (garantir le statut des magistrats, adopter un code déontologique, renforcement de l'inspection générale, garantir la subordination de la police judiciaire au parquet) ainsi celles prévues pour 2006-2007 dans la matrice de mesures annexée au Rapport Final du Comité Interministériel chargé de la réforme de la justice. Par ailleurs, les autorités de transition s'engagent à accorder la priorité à la formation des juges existants, et, dans l'avenir, à recruter les magistrats sur base de concours auxquels ne seront admis que des candidats avec une formation appropriée notamment en droit moderne.

#### **Engagement N° 17**

Les autorités de transition s'engagent à mettre en œuvre les recommandations du Rapport Final du Comité Interministériel chargé de la réforme de la justice en ce qui concerne la compilation, la révision et la réactualisation des textes législatifs et réglementaires.

#### **Engagement N° 18**

Les autorités de transition s'engagent à proposer une modification constitutionnelle qui prévoit l'abrogation des textes juridiques non conformes aux droits et libertés constitutionnels dans un délai n'excédant pas 3 ans à compter de l'entrée en vigueur de la Constitution. Par ailleurs elles s'engagent à ratifier les conventions internationales relatives aux droits de l'homme auxquelles la Mauritanie n'a pas adhéré.

### **D. Bonne Gestion des Affaires Publiques**

#### **Engagement N° 19**

Les autorités de la transition s'engagent à changer les modes de gouvernance et à élaborer une Stratégie nationale de lutte contre la corruption avant fin 2006. Les organisations de la société civile seront associées à la discussion et à la mise en œuvre de cette stratégie. Les autorités de la transition s'engagent par ailleurs à ratifier la convention des Nations Unies contre la corruption et la Convention Africaine de Lutte Contre la Corruption avant mars 2006.

#### **Engagement N° 20**

Les autorités de la transition s'engagent à fournir au FMI toutes les données nécessaires pour clarifier la situation des comptes publics pendant les exercices budgétaires 2000-2004. Les audits prévus seront complétés. Les données statistiques actualisées seront rendues publiques et serviront de base à l'établissement du nouveau Cadre Stratégique de Lutte Contre la Pauvreté (CSLP).

### **Engagement N° 21**

Les autorités de la transition s'engagent à organiser avant fin juin 2006 une conférence avec des représentants des industries extractives et des organisations de la société civile pour discuter le modèle de mise en œuvre de l'initiative EITI (*Extractive Industries Transparency Initiative*) en Mauritanie. Les principes de l'EITI sont acceptés et seront appliqués par les autorités de transition.

### **Engagement N° 22**

Les autorités de transition s'engagent à dynamiser l'action de l'Inspection Générale d'Etat et à renforcer et donner plus d'autonomie à la Cour des Comptes. Le rapport annuel de la Cour des Comptes sera publié à partir de 2006. La réforme du système d'attribution des marchés publics sera mise en place avant la fin 2006.

### **Engagement N° 23**

Les autorités de transition s'engagent à compléter la réforme du secteur des transports routiers avant fin 2006 dans le cadre de la mise en œuvre du partenariat qui existe entre elles et ses partenaires au développement.

## **E. Divers**

### **Engagement N° 24**

Les autorités de transition s'engagent à transmettre à la partie européenne un rapport avec un tableau de bord d'ici la mi-janvier informant l'Union européenne sur les progrès dans les différents domaines et sur la réalisation des engagements pris, en vue de la clôture rapide des consultations. Elles s'engagent par la suite à fournir des rapports réguliers trimestriels sur l'évolution de la situation et la mise en œuvre