

**COUNCIL DECISION**  
**of 27 September 2010**  
**concerning the conclusion of consultations with the Republic of Niger under Article 96 of the**  
**ACP-EU Partnership Agreement**  
(2010/588/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 thereof,

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 <sup>(1)</sup> and revised in Luxembourg on 25 June 2005 <sup>(2)</sup> ('the ACP-EU 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 <sup>(3)</sup>, and in particular Article 3 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The essential elements referred to in Article 9 of the ACP-EU Partnership Agreement have been violated.
- (2) On 8 December 2009 and 26 May 2010, pursuant to Article 96 of the ACP-EU Partnership Agreement, consultations were held with the Republic of Niger in the presence of representatives of the African, Caribbean and Pacific (ACP) Group of States. At the last round of

consultations, the representatives of the transitional government of Niger put forward satisfactory proposals and undertakings,

HAS ADOPTED THIS DECISION:

*Article 1*

Consultations with the Republic of Niger under Article 96 of the ACP-EU Partnership Agreement are hereby concluded.

*Article 2*

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

*Article 3*

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

It shall remain in force for a period of 12 months. It shall be reviewed at least every six months on the basis of a follow-up mission of the Union.

Done at Brussels, 27 September 2010.

*For the Council*  
*The President*  
K. PEETERS

<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.

## ANNEX

**DRAFT LETTER**

President of the Supreme Council for the Restoration of Democracy

The Prime Minister

Sirs,

The European Union (EU) finds that the political crisis your country underwent in 2009 and the coup d'état of 18 February 2010 constituted a serious violation of the essential elements referred to in Article 9 of the ACP-EU Partnership Agreement. In a statement issued by the spokesperson of the High Representative Catherine Ashton on 19 February 2010, the EU roundly condemned the coup as being in contradiction with the very principles of democracy. In application of Article 96 of the ACP-EU Partnership Agreement, the EU has invited the Niger authorities to hold consultations in Brussels and has engaged in a political dialogue with the ruling regime in order to study the situation and possible solutions. The consultations opened on 8 December 2009 and a second round took place on 26 May 2010. Following that meeting the EU representatives expressed their willingness to propose to the Council of the European Union appropriate measures to support the transition under way in Niger towards a return to constitutional order, as announced by the Niger authorities.

During the meeting of 26 May the participants discussed how to organise a return to constitutional rule and the establishment of a democratic government elected through free and transparent elections. Niger also presented a memorandum on the stages and issues at stake in the transition. The EU noted the announcement of:

- the establishment of pluralist institutions for the transition, representing all political elements in Niger,
- the consensual adoption of an electoral code,
- the establishment of a National Independent Election Commission (CENI).

It also welcomed the adoption of a roadmap which, by means of a number of electoral steps, paves the way for the establishment of a new constitutional framework and new democratically elected authorities. Finally, the EU noted the commitment made by members of the Supreme Council for the Restoration of Democracy (CSR) and the civilian government established in February 2010 to manage the transition, not to stand for election and to hand over power to the elected civilians at the end of the transitional period, planned for March 2011.

The EU noted proposals put forward by Niger during the discussions, in particular the following undertakings which it considers especially important:

1. the adoption of basic texts by the CSR;
2. the organisation of a constitutional referendum on the basis of those texts;
3. the holding of local, parliamentary and presidential elections by March 2011;
4. respect for fundamental rights and civil liberties, including freedom of action for political parties;
5. the decriminalisation of press offences and a guarantee of independence for regulatory bodies and of access to information;
6. a commitment to sound economic and financial management throughout the transition.

The EU found the undertakings made by Niger to be broadly encouraging. It has therefore decided to adopt the appropriate measures listed in the annexed commitments table under Article 96(2)(c) of the ACP-EU Partnership Agreement with a view to the gradual resumption of cooperation in order to assist in the transition.

In particular, the EU will continue to finance humanitarian and emergency operations in direct support of the people of Niger and measures to support the political transition and help end the crisis. In this context, the EU may provide fresh aid for the preparation of the parliamentary and presidential elections.

However, the European Commission reserves the right, where necessary, to take over the duties of the EDF National Authorising Officer on its own account.

As part of the procedure under Article 96 of the ACP-EU Partnership Agreement, the EU will continue to monitor the situation in Niger closely over a period of 12 months. During this period an enhanced dialogue will be pursued with the Niger Government under Article 8 of the ACP-EU Partnership Agreement in order to support the transition process, and regular reviews will be conducted by the EU. The first follow-up mission will take place within no more than six months from the date of signature of this letter.

The EU reserves the right to amend the 'appropriate measures' in the light of progress in the implementation of commitments.

The EU also intends to hold, under Article 8 of the ACP-EU Partnership Agreement, a regular political dialogue with the new government formed after the elections, particularly on the subject of reforms in the field of political, judicial and economic governance and reforms in the security sector.

We have the honour to be, Sirs, yours faithfully,

*For the Council*

...

*For the Commission*

...

---

## ANNEX TO THE ANNEX: SCHEDULE OF COMMITMENTS

## Commitments by partners

Niger	EU
— Situation as of 26 May 2010	— The European Union will continue to finance humanitarian and emergency operations in direct support of the people of Niger and measures to assist in the political transition and in ending the crisis
<ul style="list-style-type: none"> <li>— Consensual adoption of an electoral code (with the favourable opinion of the National Consultative Council)</li> <li>— Establishment of the Independent National Electoral Commission with a consensually chosen membership (with the favourable opinion of the National Consultative Council)</li> </ul>	<ul style="list-style-type: none"> <li>— Resumption of the project Consolidation of Democracy, in particular the component for electoral support, and its extension until the forthcoming polls. The Financing Agreement is in force</li> <li>— Processing of a request from the authorities to increase the financial allocation for the Financing Agreement for 'Electoral Support'</li> <li>— Renewal of institutional support for reforms in the field of public-finance management, including support for the Court of Auditors, with the aim of maintaining eligibility for budgetary support</li> <li>— Resumption of the support programme for justice and the rule of law (PAJED)</li> </ul>
<ul style="list-style-type: none"> <li>— Adoption of the proposed basic laws by the Supreme Council for the Restoration of Democracy (with a favourable opinion of the National Consultative Council)</li> <li>— Displaying of electoral rolls (in order to update the electoral register)</li> <li>— Decriminalisation of press offences</li> </ul>	<ul style="list-style-type: none"> <li>— Reintroduction for approval of projects to support trade and the national statistics system</li> <li>— Resumption of the appraisal of 10th EDF NIP programmes (justice, decentralisation, rural development, etc.) and launch of the necessary studies</li> <li>— Retention of the remaining balances of the Financing Agreement on 9th EDF budgetary support</li> <li>— Launching of study to identify measures to support the stabilisation of the situation in the North</li> <li>— Start-up of support for the Rural Development Strategy (10th EDF)</li> <li>— Resumption of the Support Programme for Development of the Mining Sector</li> </ul>
— Holding of constitutional referendum in conditions deemed satisfactory	<ul style="list-style-type: none"> <li>— Gradual disbursement of budgetary support (9th and 10th EDFs)</li> <li>— Resumption of tender procedure for 10th EDF-financed road maintenance</li> <li>— Resumption of tender procedure for the extension of the Arlit hospital (mining sector programme)</li> </ul>
<ul style="list-style-type: none"> <li>— Holding of parliamentary elections and the first round of presidential elections in conditions deemed satisfactory</li> <li>— Holding of the second round of presidential elections (if necessary) in satisfactory conditions</li> <li>— Inaugural sitting of the new National Assembly</li> <li>— Inauguration of the President of the Republic</li> </ul>	<ul style="list-style-type: none"> <li>— Continued disbursements of the budgetary support already committed</li> <li>— Signing of Financing Agreements for the projects to support trade and the national statistics system</li> <li>— Resumption of cooperation activities across the board</li> </ul>