

COUNCIL

COUNCIL DECISION

of 19 December 2002

concerning the conclusion of the Partnership Agreement between 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

(2003/159/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 310 thereof in conjunction with Article 300(2), first subparagraph, second sentence, and Article 300(3), second paragraph,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the assent of the European Parliament ⁽²⁾,

Whereas:

- (1) Pursuant to Article 96 of the Partnership Agreement between 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 (hereinafter referred to as 'the Partnership Agreement') ⁽³⁾, the Party which considers that another Party has failed to fulfil an obligation in respect of one of the essential elements referred to in Article 9 may invite the other Party to hold consultations and, in certain circumstances, take appropriate measures, including where necessary, the partial or full suspension of application of the Partnership Agreement to the party concerned.
- (2) Pursuant to Article 97 of the Partnership Agreement, the Party which considers that a serious case of corruption has occurred may invite the other Party to hold consultations and, in certain circumstances, take appropriate measures, including where necessary, the partial or full suspension of application of the Partnership Agreement to the Party concerned.
- (3) An effective procedure should be adopted when it is intended to take appropriate measures under Article 96 or Article 97 of the Partnership Agreement.
- (4) The position of the Community on requests for derogations from the rules of origin set out in Protocol 1 to the ACP-EC Partnership Agreement is established by the Commission in accordance with the provisions of Council Decision 2000/399/EC ⁽⁴⁾.

- (5) The Partnership Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Partnership Agreement between 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, together with the Annexes and Protocols attached thereto and the declarations made by the Community unilaterally or jointly with other parties that are attached to the Final Act, are hereby approved on behalf of the Community.

The texts of the Partnership Agreement, Annexes, Protocols and the Final Act are attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of approval as required by Article 93(2) of the Partnership Agreement on behalf of the Community.

Article 3

1. Where, at the initiative of the Commission or a Member State, the Council considers that an ACP State has failed to fulfil an obligation concerning one of the essential elements referred to in Article 9 of the Partnership Agreement, or in serious cases of corruption, the ACP State concerned shall be invited, unless there is special urgency, to hold consultations in accordance with Articles 96 and 97 of the Partnership Agreement.

The Council shall act by a qualified majority.

In the consultations, the Community shall be represented by the Presidency of the Council and the Commission.

⁽¹⁾ OJ C 240 E, 28.8.2001, p. 5.

⁽²⁾ Assent given on 17 January 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 317, 15.12.2000, p. 3.

⁽⁴⁾ OJ L 151, 24.6.2000, p. 16.

2. If, on expiry of the deadlines set in Articles 96 and 97 for the consultations, and despite all efforts, no solution has been found, or immediately in a case of urgency or refusal to hold consultations, the Council may, pursuant to those Articles, decide, by a qualified majority on a proposal from the Commission, to take appropriate measures including partial suspension.

The Council shall act unanimously in case of a full suspension of application of the Partnership Agreement in relation to the ACP State concerned.

These measures shall remain in force until such time as the Council has used the applicable procedure as set out in the first subparagraph to take a decision amending or revoking the measures adopted previously, or where applicable, for the period indicated in the Decision.

For that purpose the Council shall proceed to review regularly and at least every six months the above measures.

The President of the Council shall notify the measures thus adopted to the ACP State concerned and to the Council of Ministers, before they enter into force.

The Council's decision shall be published in the *Official Journal of the European Union*. Where the measures are adopted immediately, notification thereof shall be addressed to the ACP State and to the Council of Ministers at the same time as an invitation to hold consultations.

3. The European Parliament shall be immediately and fully informed on any decision taken under paragraphs 1 and 2.

Article 4

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

Done at Brussels, 19 December 2002.

For the Council

The President

L. ESPERSEN
