



EUROPEAN COMMISSION

Brussels, 16.5.2011  
COM(2011) 265 final

2011/0114 (NLE)

Proposal for a

**COUNCIL DECISION**

**extending Decision 2010/371/EU concerning the conclusion of the consultation procedure with the Republic of Madagascar under Article 96 of the ACP-EU Partnership Agreement**

## **EXPLANATORY MEMORANDUM**

On 7 June 2010, the Council of the European Union decided to take appropriate measures<sup>1</sup> against Madagascar following the conclusion of the consultations held under Article 96 of the ACP-EU Partnership Agreement. The decision, which was adopted for a period of 12 months, expired on 6 June 2011.

The appropriate measures adopted by Decision 2010/371/EU include the suspension of budgetary support, of the implementation of the 10th EDF National Indicative Programme and of the activities and payments directly involving the Government and its agencies under the 9th EDF. They also involved the take-over of the functions of National Authorising Officer for the EDF. They do not affect contributions to humanitarian operations or certain projects directly benefiting the population.

Since the adoption of the Decision, national political dialogue has been picking up speed and mediation by the SADC has resumed, with the submission of a roadmap charting a neutral, consensus-based transition process to help Madagascar find a way out of the crisis. This transition should result in free, credible elections that will restore constitutional order in Madagascar. The roadmap was initialled on 9 March 2011 by the High Transitional Authority and all the other political parties taking part in the negotiations, with the exception of the factions of former Presidents Ratsiraka, Zafy and Ravalomanana.

A summit of the Troika of the SADC Organ, meeting in Livingstone on 31 March 2011, took note of the drafting of this roadmap and undertook to consolidate and protect achievements but fell short of endorsing the content, recommending that an Extraordinary Summit of the SADC be convened to discuss it in depth.

Endorsement of the roadmap by the SADC would possibly lead to endorsement by the African Union and subsequently by the international community, including the European Union.

Since the roadmap has not been endorsed at this juncture and there has therefore been no substantial progress in the consensus-based transition process to restore constitutional order, extending the period of application of the decision for 12 months would be justified, subject to regular reviews during this period.

In order to convey a signal from the EU to encourage our Madagascar partners to intensify their efforts to reach agreement, it is proposed that another letter (annexed to this Communication) be sent to the Madagascar authorities stating that the EU undertakes to provide political and financial support to any consensus-based transition arising from the implementation of a roadmap endorsed by the SADC, the AU and the international community. However, given that the decision proposes only an extension of the existing appropriate measures without amending the substance, it is not necessary to amend the Annex to Decision 2010/371/EU. Neither is there any point at this stage in reopening the consultations started with the Republic of Madagascar under Article 96 of the ACP-EU partnership agreement.

---

<sup>1</sup> OJ L 169, 3.7.2010, p. 13.

Proposal for a

**COUNCIL DECISION**

**extending Decision 2010/371/EU concerning the conclusion of the consultation procedure with the Republic of Madagascar under Article 96 of the ACP-EU Partnership Agreement**

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<sup>2</sup> and revised in Luxembourg on 25 June 2005<sup>3</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-EU Partnership Agreement<sup>4</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 6 July 2009, under Article 96 of the ACP-EU Partnership Agreement, consultations were started with Madagascar in the presence of representatives of the African, Caribbean and Pacific (ACP) Group of States, during which representatives of the High Transitional Authority failed to present satisfactory proposals or undertakings.
- (3) Major efforts have been made in terms of mediation by the SADC and all the political parties in order to find a solution to the political crisis, in particular the negotiation of a roadmap, proposed by the SADC mediators, charting a consensus-based transition process with a view to holding free, credible elections that would permit a return to constitutional order.

---

<sup>2</sup> OJ L 317, 15.12.2000, p. 3.

<sup>3</sup> OJ L 287, 28.10.2005, p. 1.

<sup>4</sup> OJ L 317, 15.12.2000, p. 376.

- (4) However, twelve months have elapsed and the European Union must now acknowledge that, despite these efforts, the roadmap has not yet been signed by the parties involved or endorsed by the SADC, the African Union or the international community. This makes it impossible, for the moment, to envisage a consensus-based transition for a return to constitutional order, which is essential to amend the appropriate measures in force.
- (5) The period of application of Decision 2010/371/EU expires on 6 June 2011. In the light of the situation described above, it should be extended for one year, subject to regular review during this period.

HAS ADOPTED THIS DECISION

*Article 1*

Decision 2010/371/EU is amended as follows:

In Article 3, the second sentence shall be replaced by the following: "It shall remain in force until 6 June 2012 subject to regular review during this period".

*Article 2*

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

*Article 3*

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

Done at Brussels,

*For the Council  
The President*

## ANNEX

Brussels,

### DRAFT LETTER TO THE PRESIDENT OF THE HIGH TRANSITIONAL AUTHORITY

Sir,

The European Union attaches the utmost importance to the provisions of Article 9 of the ACP-EU Partnership Agreement. As essential elements of the Partnership Agreement, respect for human rights, democratic institutions and the rule of law form the basis of our relations.

By letter of 16 June 2010, the European Union informed you of its Decision 2010/371/EU of 7 June 2010 to conclude the consultations held under Article 96 of the ACP-EU Partnership Agreement and to take "appropriate measures" within the meaning of Article 96(2)(c) of that Agreement.

The European Union is aware that all the political parties have made efforts since that date to find a solution to the political crisis afflicting your country. It notes with great interest the developments in the negotiations on a roadmap produced by the SADC mediators, charting a neutral, consensus-based transition process to help Madagascar find a way out of the crisis, which should result in free, credible elections that would permit a return to constitutional order.

However, twelve months have elapsed and the European Union must now acknowledge that, despite these efforts, the roadmap has not yet been signed by the parties involved or endorsed by the SADC, the African Union or the international community. This makes it impossible, for the moment, to envisage a consensus-based transition for a return to constitutional order, which is essential to amend the appropriate measures in force.

In the light of the above, the European Union has decided to extend the application of Decision 2010/371/EU until 6 June 2012.

The European Union would like to emphasise that it is quite willing to provide political and financial support to any consensus-based transition arising from the implementation of a roadmap endorsed by the SADC, the AU and the international community. Moreover, it attaches prime importance to such support with a view to ending the lengthy political crisis which is having an increasingly serious economic and social impact on the people of Madagascar.

Yours faithfully,

*For the European Union*