



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.10.2003
COM(2003)629 final

Proposal for a

COUNCIL DECISION

**concluding the consultation procedure opened with the Central African Republic
under Article 96 of the Cotonou Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 22 May 2003 the European Union opened consultations with the Central African Republic under Article 96 of the Cotonou Agreement following the military coup which took place there on 15 March 2003 and the subsequent suspension of the Constitution, the removal of the President of the Republic and the Government, and the dissolution of the national Parliament.

The coup and the events that followed it violate the essential elements of Article 9 of the Cotonou Agreement.

2. The consultations took place in Brussels on 12 June 2003. The European Union was pleased to note that the Central African side made certain commitments, in particular to ensure the return to constitutional rule, to maintain a multi-party political system and to launch a national dialogue; to restructure the defence and security forces; and to improve the management of public finances and fight against corruption so as properly to meet its sovereign obligations on expenditure, first and foremost the regular payment of salaries.

However, the European Union feels that some of these undertakings are insufficiently concrete or that their timetable is insufficiently precise for their fulfilment to be ensured.

The European Union therefore notes that the transitional government has made the following commitments:

- (1) Within a few days, the process of preparing for a national dialogue that excludes no-one will be relaunched. The European Union hopes firstly that this dialogue will be broadly based and founded on an agenda focussing on the assimilation of democratic values, and will lay the foundations for a new constitutional order, and secondly that it will effectively commence, with a first plenary session, within three months.
- (2) A National Transitional Council has been established with 96 members. The European Union wishes its opinions and recommendations to be made public and duly taken into account.
- (3) The transitional government has made a commitment to respect public freedoms, the exercise of fundamental rights and access by political parties and trade unions to the public media. The European Union hopes that within three months a law on the status of the opposition will be adopted.
- (4) The transitional government has made commitments on deadlines for the presidential, parliamentary and local elections. The European Union wishes this commitment to be translated within three months into a precise timetable, setting out the steps to be followed and the resources to be put in place for the effective organisation of these elections.
- (5) The transitional government has made a commitment to respect human rights. The European Union wishes a programme to improve conditions for respect for human rights and for monitoring the situation in the CAR to be established.

- (6) The transitional government has made a commitment that salaries will be paid when they are due. The European Union considers this commitment to be essential for the maintenance of social peace and stability.
- (7) The transitional government has undertaken to adopt a plan to improve public finances. The European Union welcomes this commitment and wishes the plan to be adopted within three months.
- (8) The transitional government has undertaken to apply the anti-corruption law currently in force and if necessary to adopt additional measures to combat corruption effectively, especially in the public sector. The European Union wishes the law to be applied in reality.
- (9) The transitional government has committed itself to respecting the Kimberley process. The European Union wishes the recommendations approved for the CAR under the Kimberley certification scheme to be applied.
- (10) The transitional government has undertaken to set up a programme to restructure the defence and security forces as well as a disarmament, demobilisation and reintegration programme. The European Union wishes the transitional government to draw up precise and realistic programme documents to this effect within three months.
- (11) The European Union asks that, from now on, the authorities of the Central African Republic present a regular report to the European Union institutions on progress made in the various areas and on the fulfilment of the commitments they have made. These reports will be presented to a local Monitoring Committee consisting of representatives of the transitional government and of the European Union.

The Presidency and Commission conclusions also stated that:

"The European Union will continue the dialogue to ensure that democracy and the rule of law, which are prior conditions for the normalisation of its cooperative relations with the Central African Republic, are re-established in that country as soon as possible. These consultations will be conducted in the hope of contributing to the establishment of enduring constitutional rule, to provide the Central African Republic with the stability it needs to fight poverty, to contribute to the stability of the region and to integrate more fully into the world economy.

On the basis of the regular reports which the Central African side has undertaken to provide on the implementation of the above commitments, the European Union will follow the developing situation very closely. It will monitor compliance with those commitments, particularly as regards the electoral timetable and the adoption of measures guaranteeing the transparency and democratic basis of the elections.

The scope and implementation of the commitments made by the Central African authorities will be critical in determining the nature and extent of the appropriate measures that may, if need be, and on the basis of Article 96(2)(c) of the Cotonou Agreement be decided at the end of the three-month period for continuing dialogue and consultations on the ground. The European Union stresses that the full cooperation of the

Central African authorities is essential if it is to continue to help that country in its development efforts."

This regular in-depth dialogue took place in Bangui. It was based on a "scoreboard" and monthly monitoring reports which were presented to the members of the local Monitoring Committee. Implementation of the CAR commitments was systematically evaluated by Presidency and Commission representatives on the ground in cooperation with the UNDP representative and ACP Ambassadors. The ACP Group also sent an information mission to the Central African Republic from 17 to 20 August 2003, the conclusions of which were incorporated into the reports of the committee monitoring the consultations.

Monitoring showed that certain commitments gave rise to encouraging initiatives by the Central African authorities. In particular:

- A national dialogue appears to have been initiated.
- The NTC functions normally, its opinions are made public and the main thrust of its recommendations are taken on board.
- Salaries were paid from March to July 2003, despite certain delays.
- On 11 September 2003 the Council of Ministers approved the action plan to improve public finances.
- The recommendations made to the CAR by a Kimberley mission have been applied.

However, the following concerns remain:

- While political activities are continuing normally, the status of the opposition still has not been presented to the NTC.
- The electoral timetable announced when the consultations began has not been translated into actions or measures, so there is no guarantee that it will be complied with.
- The human rights situation deteriorated in the first half of the year, as noted by the UN Secretary-General in his report to the June 2003 Security Council. Although this deterioration during the political/military crisis seems to have slowed, causes of concern persist. The press, the National Transitional Council, the Office of the High Commissioner for Human Rights and other sources report frequent cases of human rights violations, in particular by military forces or "liberators".
- Salaries were paid more or less on time throughout most of the period, constituting considerable progress. However, it is doubtful whether this practice (which has been made possible up to now thanks partly to external contributions) can continue since income from tax and customs is extremely meagre.
- In this context of financial stringency, certain efforts have been made to pay off public debt, increase tax and customs income, audit public-sector companies and reduce expenditure. A plan to improve public finances was adopted on 11 September 2003 but the methods and timetable for its introduction remain to be established.

- Ad hoc measures to fight corruption have taken place, including arrests. However they do not seem to form part of an overall action plan and the anti-corruption law does not seem to be applied systematically. While arrests of persons responsible for the former regime continue, corrupt practices seem to persist.
- Measures to strengthen the armed forces (appointments, reinstatements, creation of new units, deployment to the regions, training, etc.) have been taken with major assistance from France. However the intentions behind these measures are not clear, as there is no explicit programme. A revised disarmament, demobilisation and reintegration policy letter are also awaited.

Overall the European Union considers that a process of transition towards a return to constitutional rule has begun. However, considerable uncertainties remain as to the firmness and clarity of the authorities' policy guidelines and the administration's ability to implement them.

The Commission proposes to introduce the following as appropriate measures under Article 96(2)(c) of the Cotonou Agreement, :

- (a) A partial suspension of cooperation. This suspension will apply to the operations provided for in the 9th EDF National Indicative Programme concerning the Bouar-Garoua Boulai roads, the upgrading of Bangui's roads and macroeconomic support.
- (b) The progressive continuation of other areas of cooperation and existing programmes in order to support the efforts of the Central African authorities in response to the actual implementation of the commitments made at the meeting on 12 June 2003 and the progress noted in the transition towards democracy. This approach could be as follows:
 - (1) At the end of the consultations, cooperation will be centred on the social fields, in particular health, and on direct support for the population. Ad hoc support for measures taken by the authorities to fulfil their commitments could be considered, in particular regarding preparation of the elections and technical assistance for the adoption of an action plan to improve public finance.
 - (2) Once the government has drawn up a clear policy letter for the DDR programme (disarmament, demobilisation, reintegration) and established the broad outline of the restructuring of the army and the security forces, support for peace-keeping and security operations in the Central African Republic could be considered.
- (c) The resumption of macroeconomic support alongside a programme with the IMF, once an electoral plan has been adopted laying down the steps and procedures for the organisation of the elections and as long as respect for human rights is ensured. This support will be on the basis that the public finance improvement programme has been established.
- (d) The full and complete resumption of cooperation when democracy and the rule of law have been re-established following the elections, which should take place by early 2005 at the latest. However, this might require a revision of programming in

the light of requirements and constraints. Discussion of this issue will be launched immediately between the Central African authorities and the Commission.

In the case of non-fulfilment of the commitments made by the Central African authorities, the European Commission reserves the right to reduce the 9th EDF allocation to the Central African Republic by 20% a year as of the end of the consultations.

A strengthened political dialogue must be maintained with the Central African Government in order to make sure that it continues the course of action already embarked on with a view to restoring the rule of law and achieving social and economic stability in the Central African Republic.

In the light of the foregoing and in accordance with Articles 9 and 96 of the Cotonou Agreement, the Commission proposes that the Council conclude consultations with the Central African Republic.

Proposal for a

COUNCIL DECISION

concluding the consultation procedure opened with the Central African Republic under Article 96 of the Cotonou Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the ACP-EU Partnership Agreement signed in Cotonou on 23 June 2000,¹

Having regard to Council Decision 2003/159/EC 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 2000,² and in particular Article 3 thereof,

Having regard to the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EU Partnership Agreement, as provisionally applied by decision of the representatives of the Governments of the Member States on 18 September 2000,³ and in particular Article 3 thereof,

Having regard to the Commission proposal,

Whereas:

- (1) The essential elements of Article 9 of the Cotonou Agreement, namely respect for democratic principles and the rule of law on which the ACP-EU partnership is based, were violated by the military coup of 15 March 2003, which was condemned by the European Union in its statement of 21 March 2003.
- (2) In accordance with Article 96 of the Cotonou Agreement, consultations took place on 12 June 2003 with the ACP countries and the Central African Republic, during which the Central African authorities made specific commitments to remedy the problems identified by the European Union, to be implemented over a three-month period of in-depth dialogue.
- (3) At the end of this period the European Union considers overall that a process of transition towards the return to constitutional rule has begun. However, considerable uncertainties persist as to the firmness and clarity of the authorities' policy guidelines and the administration's ability to implement them,

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 65, 8.3.2003, p. 27.

³ OJ L 317, 15.12.2000, p. 376.

HAS DECIDED AS FOLLOWS:

Article 1

The consultations with the Central African Republic under Article 96 of the Cotonou Agreement are hereby concluded.

Article 2

The measures set out in the draft letter at annex are 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 valid until 30 June from the date of its adoption by the Council.

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

Done at Brussels,

For the Council
The President

ANNEX

Draft letter

To the Prime Minister, Head of the National Transitional Government of the Central African Republic

Sir,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement. The observance of democratic principles and human rights, including respect for fundamental social rights and the rule of law, on which the ACP-EU partnership is based constitute essential elements of that agreement and consequently the basis of our relations.

In this spirit, in its statement of 21 March 2003 the European Union firmly condemned the military coup of 15 March.

The Council of the European Union accordingly decided on 22 May 2003 to invite the authorities of the Central African Republic and the ACP countries to consultations in order to examine the situation in depth and the means of remedying it.

The consultations took place in Brussels on 12 June 2003. Several fundamental issues were addressed and you presented the Central African authorities' viewpoint and analysis of the situation. The European Union was pleased to note that the Central African side made certain commitments, in particular to ensure the return to constitutional rule, to maintain a multi-party political system and to launch a national dialogue; to restructure the defence and security forces; to improve the management of public finances and to fight against corruption so as to properly meet its sovereign obligations on expenditure, first and foremost the regular payment of salaries.

It was also agreed that an in-depth dialogue would take place in Bangui over a three-month period on the various issues raised and that the situation would be reviewed at the end of that period.

This regular in-depth dialogue took place in Bangui. It was based on a "scoreboard" and monthly monitoring reports which were presented to the members of the local Monitoring Committee. Implementation of the CAR commitments was systematically evaluated by Presidency and Commission representatives on the ground in cooperation with the UNDP representative and ACP Ambassadors. The ACP Group also sent an information mission to the Central African Republic from 17 to 20 August 2003, the conclusions of which were incorporated into the reports of the committee monitoring the consultations.

Monitoring showed that certain commitments gave rise to encouraging initiatives by the Central African authorities. In particular:

- A national dialogue appears to have been initiated.
- The National Transitional Council (NTC) functions normally, its opinions are made public and the main thrust of its recommendations are taken on board.
- Salaries were paid from March to July 2003, despite certain delays.

- On 11 September 2003 the Council of Ministers approved the action plan to improve public finances.
- The recommendations made to the CAR by a Kimberley mission have been applied.

However, the following concerns remain:

- While political activities are continuing normally, the status of the opposition still has not been presented to the NTC.
- The electoral timetable announced when the consultations began has not been translated into actions or measures, so there is no guarantee that it will be complied with.
- The human rights situation deteriorated in the first half of the year, as noted by the UN Secretary-General in his report to the June 2003 Security Council. Although this deterioration during the political/military crisis seems to have slowed, causes of concern persist. The press, the National Transitional Council, the Office of the High Commissioner for Human Rights and other sources report frequent cases of human rights violations, in particular by military forces or "liberators".
- Salaries were paid more or less on time throughout most of the period, constituting considerable progress. However, it is doubtful whether this practice (which has been made possible up to now thanks partly to external contributions) can continue, since income from tax and customs is extremely meagre.
- In this context of financial stringency, certain efforts have been made to pay off public debt, increase tax and customs income, audit public-sector companies and reduce expenditure. A plan to improve public finances was adopted on 11 September 2003 but the methods and timetable for its introduction remain to be established.
- Ad hoc measures to fight corruption have taken place, including arrests. However they do not seem to form part of an overall action plan and the anti-corruption law does not seem to be applied systematically. While arrests of persons responsible for the former regime continue, corrupt practices seem to persist.
- Measures to strengthen the armed forces (appointments, reinstatements, creation of new units, regional deployment, training, etc.) have been taken with major assistance from France. However the intentions behind these measures are not clear, as there is no explicit programme. A revised disarmament, demobilisation and reintegration policy letter are also awaited.

The European Union considers overall that a process of transition towards a return to constitutional rule has begun. However, considerable uncertainties remain as to the firmness and clarity of the authorities' policy guidelines and the administration's ability to implement them.

In the light of the commitments made and this assessment of their implementation, the European Community and its Member States are ready to conclude the consultations carried out in accordance with Article 96 of the Cotonou Agreement. Since important measures have yet to be implemented under the commitments of 12 June 2003, the Council of the European Union has decided to introduce as appropriate measures under Article 96(2)(c) of the Cotonou Agreement:

- (a) A partial suspension of cooperation. This suspension will apply to the operations provided for in the 9th EDF concerning the Bouar-Garoua Boulai roads, the upgrading of Bangui's roads and macroeconomic support.
- (b) The progressive continuation of other areas of cooperation and existing programmes in order to support the efforts of the Central African authorities in response to the actual implementation of the commitments made at the meeting on 12 June 2003 and the progress noted in the transition towards democracy. This approach could be as follows:
 - (1) At the end of the consultations, cooperation will be centred on the social fields, in particular health, and on direct support for the population. Ad hoc support for measures taken by the authorities to fulfil their commitments could be considered, in particular regarding preparation of the elections and technical assistance for the adoption of an action plan to improve public finance.
 - (2) Once the government has drawn up a clear policy letter for the DDR programme (disarmament, demobilisation, reintegration) and established the broad outline of the restructuring of the army and the security forces, support for peace-keeping and security operations in the Central African Republic could be considered.
- (c) The resumption of macroeconomic support alongside a programme with the IMF, once an electoral plan has been adopted laying down the steps and procedures for the organisation of the elections and as long as respect for human rights is ensured. This support will be on the basis that the public finance improvement programme has been established.
- (d) The full and complete resumption of cooperation when democracy and the rule of law have been re-established following the elections, which should take place by early 2005 at the latest. However, this might require a revision of programming in the light of requirements and constraints. Discussion of this issue will be launched immediately between the Central African authorities and the Commission.

In the event of non-fulfilment of the commitments made by the Central African authorities, the European Commission reserves the right to reduce the 9th EDF allocation to the Central African Republic by 20% a year as of the end of the consultations.

The European Union will continue to follow the situation closely and to monitor the continuation of the transition process. It sincerely hopes that a strengthened and close political dialogue with the Central African authorities will continue with a view to accompanying the return to the rule of law and achieving social and economic stability in the Central African Republic.

Yours faithfully,

Done at Brussels

For the Council,

For the Commission