



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.12.2002
COM(2002) 716 final

Proposal for a

COUNCIL DECISION

**amending Council Decision 2002/131/EC concluding the consultation procedure with
Haiti under Article 96 of the ACP-EC Partnership Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Following the general elections held on 21 May and 9 July 2000, the observers mission of the Organisation of American States (OAS) noted various irregularities and frauds as well as the use of an illegal method of calculation for the appointment of senators. Despite various statements and demarches by the EU, the Haitian authorities refused to rediscuss the outcome of the elections, thereby jeopardising the credibility and legitimacy of the institutions based on them.

The Council of the European Union decided on 2 August 2000 to invite the government of Haiti to enter into consultations under Article 96 of the Cotonou Agreement in order to review the situation in detail and find out how Haiti intended to comply with the essential elements referred to in Article 9 of the Agreement, in particular the provisions on democratic principles and the rule of law. Consultations were held in Brussels on 26 September of that year

When the Haitian authorities subsequently failed to take into account the concerns expressed by the European Union regarding the legitimacy of the process, the Council of the European Union decided on 29 January 2001, in accordance with Article 96(2)(c) of the Cotonou Agreement, to take the following appropriate measures with regard to cooperation with Haiti: (a) Non-provision of the second tranche under the 8th EDF, totalling EUR 44.4 million. (b) Suspension of direct budget aid. (c) Redirection of the remaining funds of the first 8th EDF tranche to projects that are of direct benefit to the Haitian people, to strengthen civil society and the private sector, and to support democratisation and underpin the rule of law. (d) Preparations for 9th EDF programming by the Commission delegation in Haiti, which will consult the Haitian government on all necessary points. Unless otherwise decided by the Council, no allocation of resources to be notified while this decision is valid. These measures were taken with the objective not to penalise the poorest Haitians

A joint review of the situation by the Commission and the Council took place at the end of 2001. That review recognized that various attempts had been made to resolve the political crisis and to mediate, including in particular multiple missions by the Organisation of American States (OAS). It nevertheless concluded that no formal agreement had signed by the parties, Lafamni Lavallas and Convergence Démocratique, though some advancement had been made certain points. On 21 January 2002, the Council decided to maintain the appropriate measures taken by the Council of the EU on 29 January 2001 until 31 December. The Council Decision foresees that all the cooperation instruments affected by the measures decided on 29 January 2001 shall be gradually reactivated as soon as an agreement is signed between the two sides and on the basis of four crisis exit indicators: (1) constitution of the provisional electoral council; (2) setting up of the electoral guarantee committee, both at central and decentralized level; (3) holding of a general election; and (4) holding of local and regional elections. The appropriate measures linked to four indicators are: (1) release of first tranche under the 8th EDF for programmes in partnership with the state to combat poverty and support democracy; (2) provision of the second tranche under the 8th EDF for programmes to support the electoral process, provide roads, combat poverty and support democracy; (3) notification of the allocation of the 9th EDF and signing of the relevant NIP with immediate implementation of projects and programmes education and non-focal sectors (40% of the NIP); (4) release of the 60% of the NIP of the 9th EDF assigned to transport and envelope B, for possible support for structural adjustment

These measures expire on 31 December 2002. The decision therefore provides for a joint review of the situation by the Commission and the Council, on the basis of which the

measures may be reviewed and on the basis of which the Commission, if necessary, will submit new proposals to the Council.

Since the implementation of the appropriate measures, various attempts have been made to resolve the political crisis through mediation. These include the efforts made by the Organisation of American States (OAS) and the Caribbean Community (CARICOM). The OAS special mission for strengthening democracy in Haiti has played a particular role in the search for a solution to the crisis.

Nevertheless, to date, no satisfactory solution has been found. The Government of Haiti has committed itself to give increased priority to the restoration of a climate of security and of confidence in the country, including the completion of inquiries into all politically motivated crimes and the strengthening of the disarmament programs. The carrying out of this commitment by concrete action is considered a precondition to solve the current crisis.

The socioeconomic situation on the ground continues to deteriorate. Several calls have been issued for the strengthening of international cooperation of benefit to the Haitian people, in support of the electoral process and of the return to democracy.

In particular, OAS Resolution n° 822 of 4 September 2002 states its support for the normalization of economic cooperation between the Government of Haiti and the international financial institutions, and invites those parties to resolve the technical and financial obstacles that prelude such normalization. In case of a positive development, the European Union should give itself the means of supporting such a scenario through budgetary support and other measures aimed at facilitating the implementation of the conditions attached to it, and to reduce the social and human impacts of the macroeconomic adjustment measures. This could only take place in a favorable political climate for which a solution of the electoral crisis remains a first step

It is therefore proposed to take the following appropriate measures:

- (a) Release of first tranche under the 8th EDF and provision of the second tranche under the 8th EDF for programmes that are of direct benefit to the Haitian people, to strengthen civil society and the private sector, and to support democratisation and the electoral process
- (b) The allocation of resources for the 9th EDF will not be notified and the corresponding NIP will not be signed while this decision is valid.

All the cooperation instruments affected by these measures will gradually be reactivated on the basis of the advancement of the electoral process. This includes a possible budgetary support conditioned to the resumption of cooperation with the international financial institutions. These measures expire on 31 December 2003.

Proposal for a

COUNCIL DECISION

amending Council Decision 2002/131/EC concluding the consultation procedure with Haiti under Article 96 of the ACP-EC Partnership Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the ACP-EC Partnership Agreement, implemented in advance by Decision No 1/2000 of the ACP-EC¹ Council of Ministers, 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, as provisionally applied by decision of the representatives of the governments of the Member States on 18 September 2000, and in particular Article 3 thereof

Having regard to the proposal from the Commission

Whereas:

- (1) On the basis of Council Decision 2002/131/EC², the provision of financial aid to Haiti is partially suspended as "appropriate measures" pursuant to Article 96(2)(c) of the ACP-EC Partnership Agreement.
- (2) The Decision expires on 31 December 2002 and requires a review of the measures before this date.
- (3) Democratic principles are still not upheld in Haiti. However, certain actions deserve to be supported and cooperation of benefit to the Haitian people has to be maintained,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 2002/131/EC is amended as follows:

- 1) Article 3 shall be amended as follows: the date of 31 December 2002 mentioned in the second and third sub-paragraph shall be replaced by that of 31 December 2003.
- 2) The Annex shall be replaced by the text of the Annex to this Decision.

¹ OJ L 195, 01.08.2000 p.46

² OJ L 47, 19.02.2002, p.34

Article 2

This Decision shall take effect the day of its adoption.

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

Done at Brussels, ...

For the Council
The President

ANNEX

Draft letter

Dear Sir,

The European Union attaches great importance to Article 9 of the ACP-EC Agreement. Democratic principles and the rule of law, on which the ACP-EC partnership is founded, are essential elements of the Agreement and thus form the cornerstone of our relations.

By letter of 31 January 2001, the Union expressed its regret that no satisfactory solution to remedy the violation of the Haitian electoral law had been found. It informed you of the appropriate measures taken as foreseen in Article 96(2) (c) of the ACP-EC partnership agreement. In its letter of ... , the Union reviewed its decision of 29 January 2001 to allow that all the cooperation instruments affected by these measures be gradually reactivated subject to the achievement of objectives as regards the electoral process.

Today, after more than two years of political crisis, the Union considers that democratic principles are still not upheld in Haiti. However, it recognizes numerous efforts in contribution to the search for a solution to this crisis, and in particular those of the Organisation of American States (OAS) and of the Caribbean Community (CARICOM), and it reaffirms its wish to support these efforts. It welcomes the commitment of the Government of Haiti to give increased priority to the restoration of a climate of security and of confidence in the country, including the completion of inquiries into all politically motivated crimes and the strengthening of the disarmament programs. It encourages the Government to translate this commitment into concrete actions. The European Union is worried about the socioeconomic situation in Haiti and reaffirms its wish to continue cooperation of benefit to the Haitian people.

In the light of these elements, the Council of the European Union reviewed its decision of 21 January 2002 and decided to review the appropriate measures referred to in Article 96(2) (c) of the Agreement as follows:

- (a) Release of first tranche under the 8th EDF and provision of the second tranche under the 8th EDF for programmes that are of direct benefit to the Haitian people, to strengthen civil society and the private sector, and to support democratisation and the electoral process
- (b) The allocation of resources for the 9th EDF will not be notified and the corresponding NIP will not be signed while this decision is valid.

The Union will follow further developments in the democratization process closely, in particular the achievement of the steps towards general and local elections, such as the constitution of the provisional electoral council and the setting up of a electoral guarantees committee. All the cooperation instruments affected by these measures will gradually be reactivated on the basis of the advancement of the electoral process. This includes a possible budgetary support conditioned to the resumption of cooperation with the international financial institutions.

The Union is ready to review its Decision if there are encouraging developments. It reiterates its readiness to engage in enhanced political dialogue.

Please accept, Sir, the assurance of my highest consideration.

For the Commission

For the Council