



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.1.2007
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Proposal for a

COUNCIL DECISION

extending the period of application of the measures in Decision 2002/148/EC concluding consultations with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 18 February 2002, the Council of the European Union decided to take “appropriate measures” against Zimbabwe¹ following the conclusion of the consultations held under Article 96 of the ACP-EC Partnership Agreement². These measures included the suspension of financing of budgetary support and support for projects, as well as the suspension of the signature of the 9th EDF National Indicative Programme, but explicitly did not affect the contributions to operations of a humanitarian nature and projects in direct support of the population, in particular those in social sectors, democratisation, respect for human rights and the rule of law. They also included the suspension of Article 12 of Annex 2 to the ACP-EU Partnership Agreement, concerning current payments and capital movements, in so far as required for the application of further restrictive measures, and in particular the freezing of funds.
2. The stated reason for introducing these measures was the serious violations of human rights and of the freedom of opinion, of association and of peaceful assembly. A more immediate reason was the attempts by the Zimbabwean government to prevent free and fair elections, notably by refusing access for international election observers and for the media.
3. According to Article 2 (3) of the Decision of 18 February 2002, the measures shall apply for a period of twelve months. According to the same provision, the measures will be revoked once conditions prevail which ensure respect for human rights, democratic principles and the rule of law.
4. On four occasions, on 18 February 2003³, 19 February 2004⁴, 17 February 2005⁵ and 14 February 2006⁶ the Council, taking into account that the essential elements referred to in Article 9 of the ACP-EC Partnership Agreement continued to be violated by the Government of Zimbabwe and that the conditions in this country did not ensure respect for human rights, democratic principles and the rule of law, decided to extend for four additional periods of 12 months until 20 February 2004, 20 February 2005, 20 February 2006 and 20 February 2007, respectively, the appropriate measures against Zimbabwe.
5. Since February 2006 there has been no progress on the five issues identified by the Article 96 consultations and no genuine commitments and concrete positive measures have been taken by the Government of Zimbabwe to remedy to the

¹ Cf. Council Decision 2002/148/EC (OJCE L50/64 of 21.02.2002. Furthermore (see GAC Conclusions of 18 February 2002) the Council adopted as well targeted CFSP sanctions (Council Common Position 2002/145/CFSP and Council Regulation (EC) N°310/2002 concerning certain restrictive measures in respect of Zimbabwe; OJCE L50/1-12).

² Art. 96 consultations were open with a view to agreeing on measures to be taken by the Government of Zimbabwe to remedy the situation, in particular on five issues (end to all official tolerance to political violence; early invitation to international partners to support and observe coming elections and full access to that end; protection of the freedom of mass media; independence of the judiciary and the respect for its decisions and end to illegal occupation of properties).

³ OJEU, L46 of 20.02.2003, page 25.

⁴ OJEU, L50 of 20.02.2004, page 60.

⁵ OJEU, L48/28 of 19.02.2005.

⁶ OJEU, L48/26 of 18.02.2006.

situation. On the contrary, the current situation in Zimbabwe continues to deteriorate as being reported recently by the Heads of Missions⁷ in Harare.

6. Taking into account the current state of affairs in Zimbabwe and the lack of positive evolution concerning the essential elements of the Cotonou Agreement, any lifting or even easing of the appropriate measures does not seem justified. Furthermore such a decision would not gather the necessary agreement of most Member States.
7. Therefore, the Commission might propose to the Council the extension for a further period of 12 months of the current Decision by indicating to the Government of Zimbabwe that it remains open to a more structured dialogue enhanced by the opportunities given within the on-going 10th EDF Programming exercise.
8. The decision is to be kept under constant review and the measures should be revoked once conditions prevail which ensure respect for human rights, democratic principles and the rule of law.

⁷ See HoMs report of 18.09.2006 underlining 'negative trends of both the political and economic situation' and 'no progress towards the EU concerns'. On 4 December 2006 the Council AWG has requested a new EU HoMs report on developments in Zimbabwe for a discussion in the group in January 2007 on the possible extension of EU measures, which would likely confirm the same assessment.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second subparagraph of Article 300(2) thereof,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000⁸ and revised in Luxembourg on 25 August 2005⁹

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 Agreement¹⁰ and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision 2002/148/EC¹¹, the consultations with the Republic of Zimbabwe under Article 96(2)(c) of the ACP-EC Partnership Agreement¹² were concluded and appropriate measures, as specified in the Annex to that Decision, were taken.
- (2) By Decision 2006/114/EC the application of the measures referred to in Article 2 of Decision 2002/148/EC, which had been extended until 20 February 2004 by Article 1 of Decision 2003/112/EC¹³, until 20 February 2005 by Article 1 of Decision 2004/157/EC¹⁴ and until 20 February 2006 by Article 1 of Decision 2005/139/EC¹⁵, were extended for a further period of 12 months until 20 February 2007.

⁸ OJ L 317, 15.12.2000, p. 3

⁹ OJ L 209, 11.08.2005, p. 25

¹⁰ OJ L 317, 15.12.2000, p. 376. Internal Agreement as last amended by Internal Agreement of 10.4.2006 (OJ L 247, 9.9.2006, p. 48).

¹¹ OJ L 50, 21.2.2002, p. 64. Decision as last amended by Decision 2006/114/EC (OJ L 48, 18.2.2006, p. 26).

¹² OJ L 317, 15.12.2000, p. 3. Agreement as last amended by Decision No 1/2006 of the ACP-EC Council of Ministers of 2 June 2006 (OJ L 247, 9.9.2006, p. 22).

¹³ OJ L 46, 20.2.2003, p. 25.

¹⁴ OJ L 50, 20.2.2004, p.60

¹⁵ OJ L 48, 19.2.2005, p. 29

(3) The essential elements cited in Article 9 of the ACP-EC Partnership Agreement continue to be violated by the Government of Zimbabwe and the current conditions in Zimbabwe do not ensure respect for human rights, democratic principles and the rule of law.

(4) The period of application of the measures should therefore be extended.

HAS DECIDED AS FOLLOWS:

Article 1

The period of application of the measures referred to in Article 2 of Decision 2002/148/EC shall be extended until 20 February 2008. The measures shall be kept under constant review.

The letter in the Annex to this Decision shall be addressed to the President of Zimbabwe.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*

ANNEX

Brussels,

LETTER TO THE PRESIDENT OF ZIMBABWE

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

By letter of 19 February 2002, the European Union informed you of its decision to conclude the consultations held under Article 96 of the ACP-EC Partnership Agreement and to take certain 'appropriate measures' within the meaning of Article 96(2) (c) of that Agreement.

By letters of 19 February 2003, 19 February 2004, 18 February 2005 and 15 February 2006, the European Union informed you of its decisions not to revoke the application of the 'appropriate measures' and to extend the period of application until 20 February 2004, 20 February 2005, 20 February 2006 and 20 February 2007 respectively.

Twelve months later, the European Union considers that no significant progress has been made in the five areas referred to in the Council Decision of 18 February 2002.

In the light of the above, the European Union does not consider that the appropriate measures can be revoked and it has decided to extend their period of application until 20 February 2008.

The European Union would once again emphasise that it is not penalising the Zimbabwean people and it will continue its contribution to operations of a humanitarian nature and projects in direct support of the population, in particular projects in social sectors, democratisation, respect for human rights and the rule of law, which are not affected by these measures.

The European Union wishes to recall that the application of appropriate measures within the meaning of Article 96 of the ACP-EC Partnership Agreement is no obstacle to political dialogue as defined in the provisions of Article 8 of that same Agreement.

With this in mind, the European Union wishes to underline once again the importance that it attaches to future EC-Zimbabwe cooperation and wishes to confirm its willingness to continue to make use of the opportunity provided by the on-going 10th EDF programming exercise to carry on the dialogue and make progress in the near future towards a situation where the resumption of full co-operation becomes possible.

Yours faithfully,

For the Commission

For the Council