



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.12.2001
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Proposal for a

COUNCIL DECISION

amending Council Decision 2001/131/EC of 29 January 2001 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, the Organisation of American States (OAS), mandated as observers by the international community, noted various irregularities and instances of fraud 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 this year, in accordance with Article 96(2)(c) of the Cotonou Agreement, to take the following appropriate measures with regard to cooperation with Haiti:

1. Non-provision of the second tranche under the 8th EDF, totalling EUR 44.4 million.
2. Suspension of the direct budget aid provided for under the 8th EDF and under the budget heading for food security.
3. 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.
4. 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, acting on a Commission proposal, no allocation of resources will be notified while this decision is valid.

These measures constitute a partial suspension of cooperation and their objective is not to penalise the poorest Haitians.

They expire on 31 December 2001. The Decision therefore provides for a joint review of the situation by the Commission and the Council, on the basis of which the measures referred to above may be reviewed by the Council on the basis of a proposal made by the Commission.

Since the implementation of the appropriate measures on 29 January 2001, various attempts have been made to resolve the political crisis and mediate between Lafamni Lavallas (President Aristide's party) and Democratic Convergence, a coalition of the main opposition parties. These include multiple missions by the Secretary-General of the OAS and his assistant, a Resolution passed at the Summit of the American Heads of State in San José and the formation of a group of friends of Haiti, plus the formation of the "Initiative de la Société Civile" by representatives of civil society.

Nevertheless, to date, no formal agreement has been signed by the parties, though some progress has been made on certain points such as the membership of the provisional electoral council (CEP), the principle of organising new elections and no challenge to the presidential

elections. The effective signing of such an agreement should constitute the starting point of any crisis exit strategy.

It is therefore proposed that the following decisions be taken, while continuing to support the mediation efforts of the OAS, as underlined in the EU statement of 26 October 2001:

- The appropriate measures taken by the Council on 29 January 2001 will be maintained until a basic agreement between the two protagonists in the political crisis has been signed or, in the absence of such an agreement, until 31 December 2002. As soon as an agreement between the two sides is signed, all the cooperation instruments affected by the measures decided on 29 January 2001 will gradually be reactivated on the basis of crisis exit indicators, according to the steps set out in the following table.

	Indicators of Agreement implementation	APPROPRIATE MEASURES
1	Constitution of the provisional electoral Council (CEP)	Release of first tranche under the 8th EDF for programmes in partnership with the state to combat poverty and support democracy
2	Setting-up of the electoral guarantee committee, both at central level and devolved to the proposed authorities.	Provision of the second tranche under the 8th EDF for programmes to support the electoral process, provide roads, combat poverty and support democracy. Resumption of EIB operations.
3	Holding of a general election judged to be satisfactory by official observers	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	Holding of local and regional elections judged satisfactory by official observers.	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.

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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-EC 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 2001/131/EC of 29 January 2001 concluding the consultation procedure with Haiti under Article 96 of the ACP-EC Partnership Agreement, 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 2001.
- (3) The Decision requires a review of the measures before 31 December 2001.
- (4) Democratic principles are still not upheld in Haiti. However, there are encouraging developments which shall be reinforced by a conditional and gradual reactivation of the co-operation.

HAS DECIDED AS FOLLOWS:

Article 1

Council Decision 2001/131/EC is amended as follows:

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

Article 2

This Decision shall take effect from 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 2 February 2001, the Union expressed its regret that no satisfactory solution to remedy the violation of the Haitian electoral law had been found. Today, after nearly twelve months of political crisis and various conciliation and mediation attempts, the Union notes certain encouraging developments. However, democratic principles are still not upheld in Haiti. To reinforce the positive momentum, the Council of the European Union has reviewed its Decision of 29 January 2001 to allow a gradual reactivation of all co-operation instruments on our side subject to the achievement of democratic objectives as regards the electoral process, on your part. These measures were discussed with you at the time of the demarches undertaken by the EU on *[to be specified]*

The Council of the European Union has therefore decided, to review the measures notified to you as “appropriate measures” referred to in Article 96(2)(c) by our letter of 2 February 2001 in the following way:

- The appropriate measures taken by the Council on 29 January 2001 will be maintained until a basic agreement between the two protagonists in the political crisis has been signed or, in the absence of such an agreement, until 31 December 2002.
- As soon as an agreement between the two sides is signed, all the cooperation instruments affected by the measures decided on 29 January 2001 will gradually be reactivated on the basis of crisis exit indicators, according to the steps set out in the following table.

	Indicators of Agreement implementation	APPROPRIATE MEASURES
1	Constitution of the provisional electoral Council (CEP)	Release of first tranche under the 8th EDF for programmes in partnership with the state to combat poverty and support democracy
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3	Holding of a general election judged to be satisfactory by official observers	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).
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- These measures expire on 31 December 2002.

The Union does not wish to penalise the Haitian people and will continue with cooperation programmes which are not affected by these measures. It hopes that you will do everything you can to achieve these crisis exit steps, thereby enabling all cooperation instruments to be progressively resumed.

The Union will therefore follow further developments in the democratisation process closely, particularly the achievement of an agreement between the two parties to the crisis, and its implementation via the holding of general and local elections. It reiterates its readiness to engage in enhanced political dialogue and contribute to the process of democratisation. To this end, it is ready to review its Decision if there are encouraging developments but reserves the right to take further measures if there is no improvement.

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

For the Commission,

For the Council