II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 9 April 2001

concluding consultations with the Republic of the Fiji Islands under Article 96 of the ACP-EC Partnership Agreement

(2001/334/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the ACP-EC Partnership Agreement signed at Cotonou (Benin) on 23 June 2000 as already put into anticipated application by Decision 1/2000 of the ACP-EC Council of Ministers,

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 put into provisional application by Decision of the Representatives of the Governments of the Member States of 18 September 2000, and, in particular, Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The essential elements cited in Article 9 of the ACP-EC Partnership Agreement have been violated by the unconstitutional replacement of the democratically elected Government of Fiji and the repeal of the 1997 Constitution.

(2) Consultations under Article 96 of the ACP-EC Partnership Agreement were held on 19 October 2000, at which the Fijian authorities explained their point of view and made specific commitments particularly as regards the timetable for constitutional revision, the holding of free and fair elections before the end of June 2002 and the bringing to justice of those responsible for the 19 May coup.

(3) Recent positive elements of Fiji's political development towards a return to a democratic system, which complement the above commitments, have also to be taken into consideration.

(4) Democratic government has yet to be fully restored in Fiji,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations with the Republic of the Fiji Islands under Article 96(2)(c) of the ACP-EC Partnership Agreement are hereby concluded.

Article 2

The measures specified in the attached draft letter are hereby adopted as appropriate measures within the meaning of Article 96(2)(c) of the ACP-EC Partnership Agreement.

The Council shall revoke these measures once free and fair elections have taken place and a legitimate government has assumed office in Fiji, in conditions which ensure respect for human rights, democratic principles and the rule of law.

This Decision shall be reviewed within six months.

Article 3

This Decision shall take effect on the date of its publication in the *Official Journal of the European Communities*.

Done at Luxembourg, 9 April 2001.

For the Council

The President

A. LINDH

DRAFT LETTER TO THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS

Brussels, …

H.E. Mr Ratu Josefa ILOILO
President of the Republic of the Fiji Islands
Government House
SUVA/FIJI

Sir,

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.

Thus, the European Union condemned the 19 May 2000 coup and has expressed its deep concern at the ensuing political events in Fiji, deploring the deposing of President Ratu Sir Kamisese Mara, the taking hostage and the unconstitutional replacement of the democratically elected government, and the repeal of the 1997 Constitution.

The Council of the European Union therefore decided, on 4 August 2000, to invite the authorities of Fiji to hold consultations, with a view to assessing the situation in detail and remedying it.

These consultations took place in Brussels on 19 October 2000. A number of key issues were addressed, and the Fijian authorities, represented by Mr. Kaliopate Tavola, Minister of Foreign Affairs, External Trade and Sugar, of the Interim Government of Fiji, presented their point of view and made a series of commitments concerning a timetable for constitutional revision, the holding of free, democratic elections within 18 months and the bringing to justice of those responsible for the coup.

Subsequently, events in Fiji have taken a generally more positive course than the scenario apparent in October 2000.

The European Union welcomes the judgment of the Court of Appeal on 1 March 2001, stating that the 1997 Constitution remains the supreme law of Fiji.

The European Union welcomes the announcement that elections, under the 1997 Constitution, will be held from 25 August to 1 September 2001. These elections, if held in a free and fair manner, should lay the foundations for a full restoration of democracy in Fiji within a specified period of time.

In the light of the above, the European Union has decided to conclude the consultations held under Article 96 of the ACP-EC Partnership Agreement. The Union has decided to take the following appropriate measures, within the meaning of Article 96(2)(c) of the Agreement:

— the notification of the 9th EDF allocation will be made once free and fair elections have taken place and a legitimate Government has assumed office,

— financing and implementation of new programmes and projects under the 6th, 7th and 8th EDF National Indicative Programmes will go ahead once free and fair elections have taken place and a legitimate Government has assumed office.

Ongoing projects will be implemented as planned, with due regard for the principle of neutrality of Community aid during the run-up to the elections.

In addition, contributions to regional projects, operations of a humanitarian nature, trade cooperation and trade related preferences will continue unaffected in order to ensure that the economic interests of the ordinary people of Fiji are not harmed.

The Union is also willing to support Fiji in its return to democracy.

Once free and fair elections have taken place and a legitimate Government has assumed office, in conditions which ensure respect for human rights, democratic principles and the rule of law, the above measures will be revoked. In any case, the Union will review this decision within six months.

The European Union will continue to monitor events in Fiji, particularly with respect to the maintenance of law and order, the election campaign, the formation of a legitimate Government, and the bringing to trial of Mr George Speight and his associates.

The European Union would once again like to emphasise its desire to pursue the political dialogue with Fiji, on the basis of the ACP-EC Partnership Agreement.

Yours faithfully,

For the Commission *For the Council*

… …