COUNCIL DECISION

of 25 June 2001

concluding consultations with Côte d'Ivoire under Article 96 of the ACP-EC Partnership Agreement

(2001/510/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 ([1]),

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, meeting within the Council, of 18 September 2000, ([2]) 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 lack of openness of the presidential and legislative elections held respectively in October and December 2000, and by the acts of violence carried out against civilians throughout the period of democratic transition. In addition, the Ivorian authorities have failed to fulfil the undertakings they gave as part of the consultations, held under Article 366a of the Agreement amending the fourth ACP-EC Convention of Lomé, signed in Mauritius on 4 November 1995 ([3]), between January and June 2000.

(2) Pursuant to Article 96 of the ACP-EC Partnership Agreement, consultations were held on 15 February 2001 with Côte d'Ivoire, at which the Ivorian authorities gave specific undertakings so as to remedy the problems set out by the European Union.

(3) Since then, an intensive dialogue has been conducted between the European Union and the Government of Côte d'Ivoire and a number of practical measures have been taken in order to implement the above undertakings. Nevertheless, certain measures have still not been adequately implemented in practice,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations with Côte d'Ivoire pursuant to Article 96 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.

Article 3

This Decision shall take effect on the date of its adoption and shall expire on 30 June 2002.

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

Done at Luxembourg, 25 June 2001.

For the Council

The President

A. LINDH

([1]) OJ L 317, 15.12.2000, p. 1.
([2]) OJ L 317, 15.12.2000, p. 375.
([3]) OJ L 156, 29.5.1998, p. 1.

ANNEX

DRAFT LETTER TO THE PRIME MINISTER AND MINISTER FOR PLANNING OF DEVELOPMENT

Brussels, …

H. E. Mr Pascal AFFI N'GUESSAN
Prime Minister and Minister for Planning of Development
Abidjan
Côte d'Ivoire

Dear Prime Minister,

The European Union places great importance on the provisions of Article 9 of the Cotonou Agreement. The ACP-EU partnership is founded on respect for human rights, democratic principles and the rule of law; these are essential elements of the above agreement, and thus form the basis for relations between us.

In this spirit, the European Union has followed closely the democratic transition in Côte d'Ivoire, especially with regard to the undertakings given by the Ivorian authorities as part of the February 2000 consultation process under Article 366a of the Lomé IVa Convention. In this respect, we are particularly concerned by the lack of openness in the Presidential and legislative elections of October and December 2000, as well as by the acts of violence which have been carried out during this period.

In this context, on 22 January 2001 the Council of the European Union decided to invite Côte d'Ivoire to open consultations, with a view to examining in depth both the situation and the ways in which it might be remedied.

These consultations took place in Brussels on 15 February 2001. Several fundamental questions were addressed, and you were able to present the Ivorian authorities' point of view and their analysis of the situation. The European Union took note of your commitment:

— to ensure that the political system is opened to all shades of opinion, in particular by guaranteeing that the local elections are open to all political parties, and by ensuring the independence and neutrality of judicial bodies,

— to make the 'national reconciliation committee' an active and efficient structure for dealing with the country's recent inter-community problems, which has the necessary operational resources, and whose recommendations are systematically followed up by the government,

— to give priority to a full and transparent investigation into the atrocities committed during the transitional period, including under the military regime,

— to guarantee the neutrality of the armed forces and their respect for human rights,

— to guarantee the independence and neutrality of the judiciary, notably in the appointment of the principal judicial authorities,

— to guarantee freedom of expression, and in particular freedom of the press,

— to publicly condemn expressions of xenophobia and adapt administrative procedures relating to citizenship and residence issues, in order to improve the situation of foreign residents of Côte d'Ivoire in this regard,

— to resume talks with all political parties.

It was also agreed that an intensive dialogue would be held in Abidjan over a period of three months on the various points raised, and that the situation would be assessed at the end of this period.

This process of regular and intensive dialogue in Abidjan is now completed. It focused on a series of measures which you yourself proposed could be implemented in order to fulfil the undertakings you had given.

This dialogue made clear that, in general terms, the process of opening up the political process to all shades of opinion and all communities is under way. A number of significant measures have been taken by the Ivorian authorities. In particular, we welcome that:

— local elections were held which were open to all political parties and in which they participated,

— a dialogue was launched including all political parties,

— a national debate was initiated on national reconciliation and on the operating resources to be made available to the National Reconciliation Committee. A national forum on reconciliation is planned for mid-July 2001,

— legal proceedings were launched concerning some major cases of human rights violations in the wake of the presidential election (October 2000) and concerning the persons arbitrarily imprisoned in the wake of the parliamentary elections in December 2000,

— a national identification office was established and began work,

— unauthorised permanent roadblocks set up by the police have been considerably reduced in number,

— all political parties have been granted free access to the State-run media.

These initiatives are a clear indication that a process is under way which should restore social and political stability to the country. However, the following points continue to give cause for concern and require continued monitoring:

— political initiatives to promote national reconciliation are still eagerly awaited, in particular from the national forum,

— the dialogue including all political parties which has been launched needs to be maintained,

— the appointment, in compliance with the principles of independence and neutrality, of the judges who will sit in the Ivorian high courts when they are set up, is still awaited,

— investigations and legal proceedings concerning the acts of violence carried out during the year 2000 and in particular around the October and December 2000 polls must be launched and/or accelerated in a systematic manner, taking account of the recommendations of the reports of the international investigations, *inter alia* the UN enquiry, which have been assisted by the government of Côte d'Ivoire,

— the commitment to publicly condemn expressions of xenophobia and to adapt administrative procedures relating to citizenship and residence issues, in order to improve the situation of foreign residents of Côte d'Ivoire and the public commitment of President Gbagbo in this regard still need to be backed up by additional practical measures and confirmed by an official policy statement, in particular regarding intolerance of xenophobic actions and new administrative procedures.

The undertakings given on 15 February should lead in due course to greater political stability, in particular by opening up the political process to all shades of opinion and all resident communities. While it would appear that this process has begun in certain areas, practical measures are still needed to ensure that it becomes an integral part of Ivorian political, economic and social life.

In the light of these undertakings, and the present assessment of their implementation, the Council of the European Union is prepared to conclude the consultations under Article 96 of the ACP-EC Partnership Agreement. Given that significant measures have already been taken, although some are still to be implemented, the Council has decided to resume cooperation gradually, by adopting the following measures as appropriate steps within the meaning of Article 96(2)(c) of the ACP-EC Partnership Agreement.

(i) With the conclusion of the consultations, cooperation may resume. The initial disbursements will focus on social themes, institutional support and the private sector. Support for measures implemented by the authorities in fulfilment of their undertakings may be considered. You will be notified of the allocation of resources under the ninth EDF, and preparations for the use of resources covered by the Commission Decisions of 24 July and 27 December 2000 concerning Stabex transfers for the 1998 and 1999 years of application will be launched.

(ii) The situation will be reviewed in September 2001. Once new and substantial progress has been made towards fulfilling undertakings, over and above that already achieved, aid will be rolled out progressively and new measures may be adopted under Stabex 1999.

(iii) Following a further review of the situation in January 2002, establishing that the undertakings have been fulfilled, full cooperation will be resumed. Among other things, this will include an agreement on cooperation strategy within the framework of the 9th EDF, together with a structural adjustment facility connected to a poverty reduction strategy paper (PRSP).

A total sum of up to EUR 400 million of EDF funds could be committed over the coming three to four years.

Progress towards improving public management systems, in particular to bring them into line with the Memorandum of Understanding signed with Côte d'Ivoire on 7 September 1999, must go hand in hand with the implementation of cooperation policy.

The European Union will continue to follow the situation closely and monitor progress made with the process of national reconciliation. We are eager that focused and intensive dialogue with the Ivorian authorities should continue.

Yours faithfully,

For the Commission *For the Council*

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