II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 November 2003

concluding the consultation procedure opened with the Central African Republic and adopting appropriate measures under Article 96 of the Cotonou Agreement

(2003/837/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 in Cotonou (Benin) on 23 June 2000 [1], hereafter referred to as the 'Cotonou Agreement',

Having regard to Council Decision 2003/159/EC of 19 December 2002 concerning the conclusion of the Partnership Agreement between the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 [2], and in particular Article 3 thereof,

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 Agreement [3], and in particular Article 3 thereof,

Having regard to the Commission proposal,

Whereas:

(1) The essential elements of Article 9 of the Cotonou Agreement, namely respect for democratic principles and the rule of law on which the ACP-EU partnership is based, were violated by the military coup of 15 March 2003, which was condemned by the European Union in its statement of 21 March 2003.

(2) In accordance with Article 96 of the Cotonou Agreement, consultations took place on 12 June 2003 with the ACP countries and the Central African Republic, during which the Central African Authorities made specific commitments to remedy the problems identified by the European Union, to be implemented over a three-month period of in-depth dialogue.

(3) At the end of this period the European Union considers overall that a process of transition towards the return to constitutional rule has begun. However, considerable uncertainties persist as to the firmness and clarity of the Central African Authorities' policy guidelines and the Central African Administration's ability to implement them.

(4) Appropriate measures should accordingly be adopted under Article 96 of the Cotonou Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The consultations with the Central African Republic under Article 96 of the Cotonou Agreement are hereby concluded.

Article 2

The measures set out in the draft letter in the Annex are hereby adopted as appropriate measures under Article 96(2)(c) of the Cotonou Agreement.

[1] OJ L 317, 15.12.2000, p. 3.
[2] OJ L 65, 8.3.2003, p. 27.
[3] OJ L 317, 15.12.2000, p. 376.

Article 3

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

It shall apply until 30 June 2005.

Done at Brussels, 24 November 2003.

For the Council

The President

G. MAGRI

ANNEX

To the Prime Minister, Head of the National Transitional Government of the Central African Republic

Sir,

The European Union attaches great importance to the provisions of Article 9 of the Cotonou Agreement. The observance of democratic principles and human rights, including respect for fundamental social rights and the rule of law, on which the ACP-EU Partnership is based constitute essential elements of that Agreement and consequently the basis of our relations.

In this spirit, in its statement of 21 March 2003 the European Union firmly condemned the military coup of 15 March.

In this context, the Council of the European Union accordingly decided on 22 May 2003 to invite the Authorities of the Central African Republic and the ACP countries to consultations in order to examine the situation in depth and the means of remedying it.

These consultations took place in Brussels on 12 June 2003. Several fundamental issues were addressed, at that time, and you were able to present the Central African Authorities' viewpoint and analysis of the situation. The European Union was pleased to note that the Central African Authorities made certain commitments, in particular to ensure the return to constitutional rule, to maintain a multi-party political system and to launch a national dialogue; to restructure the defence and security forces; to improve the management of public finances and to fight against corruption so as to properly meet its sovereign obligations on expenditure, first and foremost the regular payment of salaries.

It was also agreed that an in-depth dialogue would take place in Bangui over a three-month period on the various issues raised and that the situation would be reviewed at the end of that period.

This regular in-depth dialogue took place in Bangui. It was based on a 'scoreboard' and monthly monitoring reports which were presented to the members of the Monitoring Committee. Implementation of the commitments was systematically evaluated by Presidency and Commission representatives on the ground in cooperation with the UNDP representative and ACP Ambassadors. The ACP Group also sent an information mission to the Central African Republic from 17 to 20 August, the conclusions of which were incorporated into the reports of the Committee monitoring the consultations.

Monitoring showed that certain commitments gave rise to encouraging initiatives by the Central African Authorities. In particular, it is noted that:

— the national dialogue concluded with the adoption of 126 recommendations, divided into 10 groups,

— the National Transitional Council (NTC) functions normally, its opinions are made public and the main thrust of its recommendations are taken on board,

— salaries were paid from March to August 2003, despite certain delays,

— on 11 September 2003 the Council of Ministers approved the action plan to improve public finances,

— the recommendations made to the Central African Republic by a Kimberley mission have been applied.

However, the following concerns remain:

— while activities of varying political parties are continuing normally, the status of the opposition still has not been presented to the NTC,

— the electoral timetable announced when the consultations began has not been translated into new actions or measures,

— the human rights situation deteriorated in the first half of the year, as noted by the UN Secretary-General in his report to the June 2003 Security Council. Although this deterioration during the political/military crisis seems to have slowed down, causes of concern persist. The press, the National Transitional Council, the Office of the High Commissioner for Human Rights and other sources report frequent cases of human rights violations, in particular by military forces or 'liberators',

— salaries were paid more or less on time throughout the main part of the period, constituting considerable progress. However, whether this practice (which has been made possible up to now thanks largely to external contributions) can continue is dependent on the fact that income from tax and customs is extremely meagre,

— in this context of financial stringency, certain efforts have been made to pay off public debt, increase tax and customs income, audit public-sector companies and reduce expenditure. A plan to improve public finances was adopted on 11 September 2003 but the methods and timetable for its introduction remain to be established,

— ad hoc measures to fight corruption have taken place, including arrests. However they do not seem to form part of an overall action plan and the anti-corruption law does not seem to be applied systematically. While arrests of persons responsible for the former regime continue, corrupt practices seem to persist,

— measures to strengthen the armed forces (appointments, reinstatements, creation of new units, regional deployment, training, etc.) have been taken with major assistance from France. However the intentions behind these measures are not clear, as there is no explicit programme. A revised disarmament, demobilisation and reintegration policy letter is also awaited.

It seems that, overall, a process of transition towards a return to constitutional rule has begun. However, considerable uncertainties remain as to the firmness and clarity of the authorities' policy guidelines and the administration's ability to implement them.

In the light of the commitments made and this assessment of their implementation, the European Community and its Member States are ready to conclude the consultations carried out in accordance with Article 96 of the Cotonou Agreement. Since important measures have yet to be implemented under the commitments of 12 June 2003, the Council of the European Union has decided to introduce as appropriate measures under Article 96(2)(c) of the Cotonou Agreement:

a partial suspension of cooperation and the progressive continuation of other areas of cooperation in order to support the efforts of the Central African Authorities on the basis of the actual implementation of the commitments made at the meeting on 12 June 2003 and the progress noted in the transition towards democracy. This partial suspension will apply to the operations concerning the Bouar-Garoua Boulai roads, the upgrading of Bangui's roads and macroeconomic support. Resumption of the suspended cooperation will be governed by the above criteria.

This approach could be as follows.

A. **The pursuit of existing cooperation**

(i) At the end of the consultations, existing cooperation will remain centred on the social fields, in particular health, and on direct support for the population. Ad hoc support for measures will be taken by the authorities to fulfil their commitments, in particular regarding preparation of the elections, good governance, institutional support and technical assistance for the adoption of an action plan to improve public finance.

(ii) Once the Government has drawn up a clear policy letter for the DDR programme (disarmament, demobilisation, reintegration) and established the broad outline of the restructuring of the army and the security forces, support for peace-keeping and consolidation of security operations in the Central African Republic will be examined under the Multidonor Rehabilitation and Reinsertion Programme (MDRP) of the World Bank through the UNDP.

B. **Resumption of suspended cooperation**

(i) The resumption of macroeconomic support alongside a programme with the IMF, once an electoral plan has been adopted laying down the steps and procedures for the organisation of the various elections and provided respect for human rights is ensured. This support will be on the basis that the public finance improvement programme has been established. In this connection, the Commission and the Member States will encourage multilateral donors to resume their relations as soon as possible with the Central African Authorities on the ground.

(ii) The full and complete resumption of cooperation when democracy and the rule of law have been re-established following the elections, which should take place by early 2005 at the latest. However, this might require a revision of programming in the light of requirements and constraints. Discussion of this issue will be launched immediately between the Central African Authorities and the Commission.

In the event of non-fulfilment of the commitments made by the Central African Authorities, the European Community reserves the right to reduce the ninth EDF allocation to the Central African Republic by 20 % a year as of the end of the consultations.

The European Union will continue to follow the situation closely and to monitor the continuation of the transition process. It sincerely hopes that a strengthened and close political dialogue with the Central African Authorities will continue with a view to accompanying the return to the rule of law and achieving social and economic stability in the Central African Republic.

Please accept, Mr Prime Minister, the expression of our highest consideration,

Done at Brussels

For the Council

For the Commission