II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 April 2005

concluding consultations with the Republic of Guinea under Article 96 of the Cotonou Agreement

(2005/321/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 on 23 June 2000 [1], 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 [2] and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The essential elements referred to in Article 9 of the Cotonou Agreement have been violated.

(2) On 20 July 2004, pursuant to Article 96 of the Cotonou Agreement, consultations started with the ACP countries and the Republic of Guinea. On that occasion the Guinean authorities gave specific undertakings designed to remedy problems identified by the European Union and to implement them during a period of intensive dialogue lasting three months.

(3) At the end of this period some substantive initiatives had been taken in respect of some of the undertakings referred to above and some undertakings had been met; nevertheless several important measures concerning essential elements of the Cotonou Agreement have not yet been taken,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations with the Republic of Guinea pursuant to Article 96 of the Cotonou Agreement are hereby concluded.

Article 2

The measures specified in the annexed letter are hereby adopted as appropriate measures within the meaning of Article 96(2)(c) of the Cotonou Agreement.

Article 3

This Decision shall enter into force on the day it is adopted. It shall be published in the *Official Journal of the European Union*.

This Decision shall expire on 14 April 2008. It shall be reviewed regularly at least every six months.

Done at Luxembourg, 14 April 2005.

For the Council
The President
L. FRIEDEN

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

ANNEX

Sir,

The European Union attaches great importance to 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 being essential elements of the Agreement and thus forming the basis for relations between us.

In this spirit, the European Union has been concerned by the deterioration of democracy and the rule of law, particularly after the constitutional referendum in 2001 and the parliamentary elections (2002) and presidential elections (2003). The European Union has also been concerned at the lack of respect for human rights and fundamental freedoms and the lack of good administrative, political, economic and financial governance.

It considered that the political situation in Guinea constituted a violation of the essential elements set out in Article 9 of the Cotonou Agreement. In view of this Article and the political deadlock in Guinea, it decided on 31 March 2004 to open consultations under Article 96 of the Agreement in order to thoroughly review the situation and find a remedy if possible.

These consultations began in Brussels on 20 July 2004. On that occasion several fundamental issues were addressed, and you were able to present your point of view and your analysis of the situation in your country. You also presented a memorandum containing an action plan for consolidating democracy, respect for human rights, the rule of law and good governance.

Following the submission of that report a joint follow-up mission (EU Presidency and the Commission) went to Conakry and, in collaboration with EU Member States' representatives on the spot, evaluated implementation of the undertakings.

The European Union notes that the Guinean authorities showed great willingness both to continue and step up talks and to facilitate the EU follow-up mission. It also finds that you have taken promising initiatives in relation to some undertakings. In particular:

Your government has shown willingness to resume political dialogue with political representatives with a view to revising electoral arrangements. The official ceremony marking the resumption of dialogue took place on 31 August 2004 and an inter-party coordination office was set up to facilitate dialogue.

The Government confirmed its decision to organise local elections in June 2005 and to step up decentralisation. A number of draft legislative texts are being drawn up.

The Government has confirmed its decision to organise parliamentary elections within the time limits set by the Constitution, i.e. in June 2007. However, the Government is willing to consider the possibility of bringing forward the election date.

The Government also confirmed a timetable for liberalisation of the airwaves, which will take effect in June 2005.

Finally, the Government confirmed sectoral reforms in the field of macroeconomic management together with a timetable for implementation.

These initiatives will undoubtedly improve respect for human rights and fundamental freedoms in your country. However, most of the undertakings are to be implemented over an extended period and it will be necessary to monitor the implementation of some of them over time, in particular in order to ensure the consolidation of democracy. In this connection, the European Union is anxious for the measures listed in your progress report on implementation of the memorandum of 30 September 2004 to be taken, in particular:

1. Continuing national dialogue in order to review electoral arrangements and operational requirements in accordance with the Declaration on the Principles Governing Democratic Elections in Africa adopted by the African Union in Durban in 2002 [1], with a view to guaranteeing transparent and democratic electoral procedures.

2. Continuing and consolidating the undertaking to comply with the laws on human rights and fundamental freedoms, in particular to allow political parties to exercise their rights and prerogatives to hold meetings, to demonstrate and to obtain access to State radio and television broadcasting.

3. Liberalising the electronic media according to the timetable presented to the EU follow-up mission in October 2004 to allow private electronic media to be set up before the local elections.

4. Organising local and parliamentary elections in line with the amended electoral arrangements.

5. Continuing decentralisation.

6. Continuing measures to enhance macroeconomic management and sectoral reforms.

Following the consultations, and in the light of the undertakings given thus far and the measures still to be implemented, it has been decided that the following appropriate measures under Article 96(2)(c) of the Cotonou Agreement will be adopted.

1. Cooperation financed from the unexpended balances of the sixth, seventh and eighth European Development Funds will continue for implementation of the undertakings given by Guinea in the context of these consultations, in particular decentralisation, liberalisation of the media and good economic governance.

2. Cooperation financed from Envelope B of the ninth European Development Fund will also continue for implementation of the programmes directly aimed at improving the living conditions of the most disadvantaged sections of the population or victims of the subregional political crisis.

3. Programmes to strengthen civil society (including non-organised forms), respect for and reinforcement of democracy, human rights and good governance and the emergence or consolidation of free media may also be supported.

4. Contributions to regional projects will be considered on a case-by-case basis.

5. Humanitarian operations, trade cooperation and trade-linked preferences will be continued.

6. Support will be provided for preparation of the elections, either from the unexpended balances of the sixth, seventh and eighth European Development Funds or from Envelope B of the ninth European Development Fund once electoral arrangements guaranteeing a transparent and democratic electoral process based on the Declaration on the Principles Governing Democratic Elections in Africa have been established.

[1] OAU/AU Declaration on the Principles Governing Democratic Elections in Africa, AHG Declaration 1 (XXXVIII).

7. Envelope A of the ninth EDF, has been reduced by EUR 65 million in line with the decision taken by the European Commission in the context of the mid-term reviews. The Cooperation Strategy and National Indicative Programme will be finalised with due regard for the situation in the country and these new financial perspectives. These documents will be signed and implemented once sufficient progress has been noted in the implementation of the undertakings given by Guinea, in particular as regards the preparation and holding of free and transparent local and parliamentary elections. The European Union will base its assessment on the following criteria in particular:

   (a) whether free and transparent local elections have been held and duly elected local authority executives have taken office;

   (b) whether electoral arrangements and operational requirements for parliamentary elections (including the date of the elections), based on the Declaration on the Principles Governing Democratic Elections in Africa have been established within the framework of political dialogue with the opposition forces.

Regular reviews will have to be conducted by the Presidency of the European Union and the European Commission, the first to be held within the next six months.

The European Union will continue monitoring the situation in Guinea closely for a period of 36 months. An enhanced political dialogue within the framework of Article 8 of the Cotonou Agreement will be conducted with your government with a view to consolidating democracy and the rule of law in particular through the holding of parliamentary elections as well as respect for human rights and fundamental freedoms.

The European Union reserves the right to amend the appropriate measures should the undertakings given by the Guinean authorities increase in pace or, alternatively, break down.

I have the honour to be, Sir, yours faithfully,

For the Council *For the Commission*