COUNCIL DECISION

of 18 July 2011

concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part

(2011/492/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Partnership Agreement between the members of 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 [1] and revised at Ouagadougou, Burkina Faso on 22 June 2010 [2] (the ACP-EU Partnership Agreement), 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 [3], and in particular Article 3 thereof,

Having regard to the proposal from the European Commission,

In conjunction with the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) The essential elements referred to in Article 9 of the ACP-EU Partnership Agreement have been violated.

(2) On 29 March 2011, pursuant to Article 96 of the ACP-EU Partnership Agreement, consultations started with Guinea-Bissau in the presence of representatives of the African, Caribbean and Pacific Group of States, including the African Union, Economic Community of West African States (Ecowas) and the Community of Portuguese Language Countries (CPLP) during which representatives of the Guinea-Bissau government presented satisfactory proposals and undertakings.

(3) Consequently, the consultations opened under Article 96 of the ACP-EU Partnership Agreement should be closed and appropriate measures adopted for the performance of these undertakings,

HAS ADOPTED THIS DECISION:

Article 1

Consultations with Guinea-Bissau under Article 96 of the ACP-EU Partnership Agreement are hereby concluded.

Article 2

The measures set out in the annexed letter are hereby adopted as appropriate measures under Article 96(2)(c) of the ACP-EU Partnership Agreement.

Article 3

This Decision shall enter into force on the date of its adoption.

It shall expire on 19 July 2012.

It shall be reviewed regularly at least once every six months, preferably in the light of joint monitoring missions by the European External Action Service and the Commission.

Done at Brussels, 18 July 2011.

For the Council
The President
C. ASHTON

[1] OJ L 317, 15.12.2000, p. 3.
[2] OJ L 287, 4.11.2010, p. 3.
[3] OJ L 317, 15.12.2000, p. 376.

ANNEX

DRAFT LETTER

President of the Republic of Guinea-Bissau,

Prime Minister of the Republic of Guinea-Bissau,

Sirs,

The European Union regards the mutiny of 1 April 2010 and the subsequent appointment of its main instigators to high-ranking posts in the military hierarchy as a serious and evident breach of essential elements set out in Article 9 of the partnership agreement between the members of 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 (the ACP-EU Partnership Agreement). It has on several occasions expressed concern about the failure to ensure the primacy of civilian authority and to abide by the principles of good democratic governance in Guinea-Bissau.

In application of Article 96 of the the ACP-EU Partnership Agreement, the European Union has therefore engaged in a political dialogue with the government in order to study the situation and possible solutions. Following the agreement of the Guinea-Bissau government, the consultations opened in Brussels on 29 March 2011.

During the meeting the participants discussed the necessary measures for ensuring the primacy of civilian authority, improving democratic governance, guaranteeing the safeguarding of constitutional order and the rule of law and tackling impunity and organised crime. Prior to the consultations, the Guinea-Bissau authorities submitted a memorandum with proposals designed to assuage the concerns raised in the European Union's letter.

The European Union noted these undertakings in the course of the consultations, particularly as regards:

— the conduct and conclusion of judicial investigations and proceedings that are fully independent and carried out under appropriate logistic and security conditions, relating to the assassinations in March and June 2009,

— the effective implementation of the security sector reform based on the strategy adopted by the national parliament and the legislative package drawn up with the support of the EU's CSDP mission,

— the renewal of the military hierarchy to ensure the appointment to senior command of persons not involved in unconstitutional or illegal conduct or acts of violence, in conformity with the conclusions and recommendations of the Ecowas roadmap for security sector reform,

— the approval of and assistance to an experts' mission to support security sector reform and the protection of political figures, to be carried out with the support of Ecowas, the CPLP and/or other partners,

— the preparation, adoption and effective implementation of national operational plans to implement security sector reform and to combat drug trafficking,

— the improvement of the administrative and financial management of civilian and military employees, and measures to combat money laundering.

In its conclusions following the consultations the European Union urged the representatives of Guinea-Bissau to undertake judicial investigations and proceedings into the events of 1 April 2010 to reinforce efforts to tackle the problem of impunity and to specify a more detailed timetable for implementation of these undertakings in compliance with the time-frame set out in the Ecowas roadmap.

The European Union found the undertakings made by Guinea-Bissau broadly encouraging. Accordingly, it was decided to close the consultations and to adopt appropriate measures under Article 96(2)(c) of the ACP-EU Partnership Agreement.

The gradual resumption of cooperation with a view to safeguarding the essential elements referred to in the the ACP-EU Partnership Agreement will take place in the following stages as set out in Annex I (schedule of commitments):

1. The European Union is continuing to finance ongoing contracts, humanitarian and emergency operations, measures in direct support of the people of Guinea-Bissau and projects to combat transnational crime and support the consolidation of democracy. Guinea-Bissau is eligible for the EDF MDG initiative. The allocation of funding under regional projects covering Guinea-Bissau and from other EDF facilities (water, energy, etc.) and the launch of preparatory measures for the implementation of future projects, including the preparation and implementation of future operations by the European Investment Bank, will be examined on a case-by-case basis.

2. The suspension of projects and programmes in the 'Conflict Prevention' focal sector (with the exception of Projust, Paracem and disbursement of contributions to the RSS pension fund under the PARSS programme to support reform of the security sector), the 'Water and Energy' focal sector (Bissau Electrification Project) and outside the focal sectors (the Sustainable Management of Road Transport Project and Private Sector Support Programme) will be lifted as soon as the following take place:

   (i) submission of a detailed timetable for implementation of security sector reform undertakings in compliance with the Ecowas roadmap;

   (ii) the finalisation, adoption, enactment and publication of the security sector reform legislative package drawn up with the support of the EU's CSDP mission;

   (iii) the approval of and assistance to an experts' mission to support security sector reform and the protection of political figures, to be carried out with the support of Ecowas, the CPLP and/or other partners; and

   (iv) the preparation, adoption and a start to effective implementation of national operational plans to implement security sector reform and to combat drug trafficking and money laundering.

3. Disbursement of the EDF's first contribution to the retirement pension fund for elderly surplus staff in the security sector (PARSS programme, 9th EDF), conditional on payment of the government's and Ecowas's contributions, will be subject to:

   (i) the conduct and conclusion of judicial investigations and proceedings that are fully independent and carried out under appropriate logistic and security conditions, relating to the assassinations in March and June 2009; and

   (ii) improvements in the administrative and financial management of public, civilian and military employees in Guinea-Bissau.

4. The European Union will envisage resuming budget support, resumption of the new support programme for the justice sector (Projust, 'Conflict Prevention' focal sector), and preparing a new support programme for civil and military reforms (Paracem, 'Conflict Prevention' focal sector), after:

   (i) continued effective implementation of national operational plans to implement security sector reform and to combat drug trafficking and money laundering;

   (ii) the commencement of judicial investigations and proceedings into the events of 1 April 2010;

   (iii) renewal of the military hierarchy to ensure the appointment to senior command of persons not involved in unconstitutional or illegal conduct or acts of violence, in conformity with the conclusions and recommendations of the Ecowas roadmap for security sector reform.

The European Union reserves the right to amend these measures in the light of the changing political situation and progress in the implementation of commitments.

As part of the procedure under Article 96 of the ACP-EU Partnership Agreement, the European Union will continue to monitor the situation in Guinea-Bissau closely over a period of 12 months. During this period an enhanced dialogue will be pursued with the government under Article 8 of the ACP-EU Partnership Agreement with a view to safeguarding the essential elements referred to in that Agreement. Regular reviews will be conducted by the European Union; the first monitoring mission should in principle take place within six months.

The two parties undertake to hold a regular political dialogue under Article 8 of the ACP-EU Partnership Agreement on reforms in the area of political, judicial and economic governance, paying particular attention to the reform of the security sector, measures to tackle impunity and organised crime, particularly drug trafficking.

We have the honour to be, Sirs, yours faithfully,

For the Council
The President
C. ASHTON

For the Commission
Commissioner
A. PIEBALGS

ANNEX I: SCHEDULE OF COMMITMENTS

Commitments by partners	
Commitment by Guinea-Bissau	Commitment by the European Union
STATE OF PLAY	Financing continues for ongoing contracts, humanitarian and emergency operations, measures in direct support of the people of Guinea-Bissau and projects to combat transnational crime and support the consolidation of democracy. Programmes and actions covered by appropriate measures have been frozen. The country is eligible for the MDG initiative. The allocation of funding under regional projects covering Guinea-Bissau and from other EDF facilities (water, energy, etc.) and the launch of preparatory measures for the implementation of future projects, including the preparation and implementation of possible operations by the European Investment Bank, to be examined on a case-by-case basis by the competent departments of the European Union.
Implementation of the following undertakings: — Submission of a detailed timetable for implementation of security sector reform undertakings in compliance with the Ecowas roadmap — Finalisation, adoption, enactment and publication of the security sector reform legislative package [1] drawn up with the support of the EU's CSDP mission — Approval of and assistance to an experts' mission to support security sector reform and the protection of political figures, to be carried out with the support of Ecowas, the CPLP and/or other partners — Preparation, adoption and start to effective implementation of national operational plans to implement security sector reform and to combat drug trafficking and money laundering	Resumption of projects and programmes: — in the 'Conflict Prevention' focal sector (with the exception of Projust, Paracem and disbursement of contributions to the RSS pension fund under the PARSS programme) — the 'Water and Energy' focal sector (Bissau Electrification Project) — outside the focal sectors (the Sustainable Management of Road Transport Project and Private Sector Support Programme) *(current financial reference amount: EUR 23,2 million)*
Implementation of the following undertakings: — Conduct and conclusion of judicial investigations and proceedings that are fully independent and carried out under appropriate logistic and security conditions relating to the assassinations in March and June 2009 — Improvements in the administrative and financial management of public, civilian and military employees in Guinea-Bissau	— Disbursement of the contribution to the retirement pension fund for elderly surplus staff in the security sector (PARSS programme, 'Conflict Prevention' sector), in so far as the government and Ecowas provide the necessary funding *(current financial reference amount: EUR 3 million)*
Implementation of the following undertakings: — Effective implementation of national operational plans to implement security sector reform and to combat drug trafficking and money laundering	Resumption of programmes: — support programme for the justice sector (Projust, 'Conflict Prevention' focal sector) — to support reform of the civil and military administration – Paracem ('Conflict Prevention' focal sector)

Commitments by partners	
Commitment by Guinea-Bissau	Commitment by the European Union
— Commencement of judicial investigations and proceedings into the events of 1 April 2010 — Renewal of the military hierarchy to ensure the appointment to senior command of persons not involved in unconstitutional or illegal conduct or acts of violence, in conformity with the conclusions and recommendations of the Ecowas roadmap for security sector reform	— for budgetary support *(current financial reference amount: EUR 46 million)*

([1]) Framework legislation for the reform of the security sector (indicative list [translation]): National Strategic Defence Concept, National Defence Act, Armed Forces Organisation Act, Armed Forces General Staff Act, Army Act, Navy Act, Air Force Act, Defence Ministry Act, Military Readiness Act (revision of Act No 3/99), Military Service Act (revision of Act No 4/99), Interior Ministry Act.