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Proposal for a

COUNCIL DECISION

amending the appropriate measures laid down by Decision 2009/618/EC of 27 July 2009 concerning the conclusion of consultations with the Republic of Guinea under Article 96 of the ACP-EC agreement and repealing the aforementioned Decision.

EXPLANATORY MEMORANDUM

On 16 March 2009 the European Union decided to open consultations with the Republic of Guinea under Article 96 of the ACP-EC Agreement because it considered that the military coup d'état of 23 December 2008 in Guinea and the seizure of power by a military junta, which formed a National Council for Democracy and Development (CNDD) under the leadership of Captain Moussa Dadis Camara, constituted a particularly serious and manifest violation of the essential elements of Article 9 of the aforementioned Agreement.

By a letter dated 19 March 2009, the representatives of the military junta in power and of the transitional government were invited to consultations with the European Union, which commenced on 29 April 2009 in Brussels.

During this meeting Guinea presented a roadmap for a return to constitutional rule and the establishment of a democratic government elected through free and transparent parliamentary and presidential elections.

To support this process, on 27 July 2009 the European Union, by Council Decision 2009/618/EC, adopted the following appropriate measures under Article 96(2)(c) of the Cotonou Agreement:

"1. The European Union will continue to finance humanitarian and emergency actions in direct support of the people of Guinea, to assist in the political transition and in finding a way out of the crisis. Note that further support for the preparation of the parliamentary and presidential elections could be provided, in particular through mobilisation of the 10th EDF B envelope and, if an invitation is received in due course from the Guinean authorities, through the sending of an election observation mission.

2. The precautionary measures adopted for ongoing programmes and projects under the 9th and earlier EDFs, excluding projects for the rehabilitation of public buildings and to support decentralisation, will be lifted as soon as a National Council for Transition is effectively in place, with its mandate, powers and composition agreed by the stakeholders of the transition in Guinea.

3. The precautionary measures adopted for ongoing programmes and projects under the 9th and earlier EDFs will be completely lifted on publication of the electoral roll and of the decree setting the dates for the election and for the official opening of the election campaign.

4. The continuation of the International Monetary Fund (IMF) programme and the resumption of the debt relief process under the HIPC (heavily indebted poor countries) initiative could be supported by a contribution of around EUR 8 million from the European Union to clear arrears of EDF loans managed by the European Investment Bank (EIB) through the 10th EDF 'B' envelope. This support can be mobilised once the filing of nominations for the presidential election is officially closed and it is confirmed that the President and members of the CNDD and the Prime Minister of the transitional government are not standing.

5. The Country Strategy Paper and National Indicative Programme (CSP/NIP) for Guinea, for an indicative total of EUR 237 million, may be signed once the parliamentary and presidential elections have been held and the members of the National Assembly appointed. A mid-term review of the 10th EDF, the conclusions of which are scheduled for 2010, will analyse the implementation performance and might agree to a reassessment of Guinea's allocation."

The decision of 27 July 2009 also provides for the European Union to monitor the situation in Guinea for a 24-month period. During that period, to assist in the transition, an enhanced dialogue was pursued with the Guinean Government under Article 8 of the Cotonou Agreement in the areas of political, judicial and economic governance.

Decision 2009/618/EC also provides for regular reviews of the Decision on the basis of the conclusions of the periodic monitoring missions and for the European Union to amend the appropriate measures in the light how the undertakings set out in the roadmap are being implemented, in particular those described in the section on "Human rights, rule of law and governance".

Since the adoption by the Council of Decision 2009/618/EC, Guinea has made significant progress in implementing this roadmap. By letters from Commissioner Piebalgs dated 7 April, 31 May and 10 September 2010, Guinea was informed that the EU considered the first three milestones to have been achieved. The measures concerning the 9th and earlier EDFs were therefore lifted. This progress also opened up the possibility of opening the procedure to clear Guinea's arrears of EIB-managed EDF loans with the continuation of the IMF programme and the resumption of the debt relief process under the HIPC initiative.

Since the adoption of Decision 2009/618/EC, two EU monitoring missions have been sent to Conakry. The first of these, in March 2010, noted some progress in the roadmap (achievement of the first milestone and partial achievement of the second). A second EEAS mission took place on 3-4 March 2011 in the context of recent positive developments in the political situation in Guinea after the election of a legitimate President on 21 December 2010 and the subsequent appointment of a new Government following presidential elections, the first open and competitive elections since the country gained independence, marking a crucial stage in the transition to democratic legitimacy. One of the objectives of this mission was to assess the relevance of the roadmap in the new political context. There is one last milestone to be achieved, which in its current form requires free and transparent elections to be held and the deputies to take office before the 10th EDF CSP/NIP with Guinea can be signed.

The mission noted the following progress in human rights, rule of law and governance:

- Good progress has been made in the return to constitutional rule with the appointment of a president appointed as a result of free and transparent elections and the appointment of a civil government.
- There has been some significant progress in the protection of human rights: the persons arrested during the acts of violence accompanying the 2nd round of the presidential elections have been freed; illegal prisons have been or are being closed; military barricades have been lifted.
- In the field of good financial governance, fiscal consolidation measures have been taken and others are being drawn up.
- Since the beginning of 2011, work has resumed on reforms in the security sector, for example through the organisation by Guinea of a national seminar on security sector reform to be held in Conakry on 28-31 March.

In the light of the findings and recommendations of the monitoring mission, the Commission, in agreement with the High Representative of the EU for foreign affairs and security policy,

proposes to the Council that the attached Decision, revising the appropriate measures, be adopted subject to the following conditions:

- the signing of the programming documents and the mobilisation of funds for direct support to the people of Guinea (basic social services) are conditional upon Guinea providing a detailed timetable (preliminary dates and stages) for the holding of parliamentary elections by the end of 2011, drawn up and validated by the competent authorities.
- financing decisions and the effective implementation of the remaining 10th EDF projects/programmes are conditional upon the holding of free and transparent parliamentary elections.

It is proposed to inform the Guinean authorities of this revision by sending the letter annexed hereto to the President, Alpha Condé, and the Prime Minister, Mohamed Saïd Fofana.

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amending the appropriate measures laid down by Decision 2009/618/EC of 27 July 2009 concerning the conclusion of consultations with the Republic of Guinea under Article 96 of the ACP-EC agreement and repealing the aforementioned Decision.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000¹ and revised in Ouagadougou on 23 June 2010², 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 Agreement³, and in particular Article 3 thereof,

Having regard to a proposal from the Commission, in agreement with the High Representative for Foreign Affairs and Security Policy.

Whereas:

- (1) Guinea has made progress in implementing the undertakings set out in the Annex to the Decision of 27 July 2009⁴ concerning the conclusion of the consultation procedure with the Republic of Guinea under Article 96 of the Cotonou Agreement. Fulfilment of these undertakings is a condition for the lifting of the related measures.
- (2) Guinea has made progress in the transition to the return to constitutional rule and the establishment of democracy with the appointment of a president, following free and transparent elections, and a civil government.
- (3) The holding of presidential elections and the appointment of the new president constitute the partial achievement of the last milestone established in Decision 2009/618/EC.
- (4) The 4th and last milestone marking the end of the transition will not be achieved by 27 July 2011, the date of expiry of Decision 2009/618/EC.

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, as amended, OJ L 247, 9.9.2006, p. 48.

⁴ OJ L 214, 19.8.2009, p.34.

- (5) In the light of the progress made in the return to constitutional rule, the appropriate measures should therefore be updated to take account of the progress achieved, by adopting the present Decision and repealing Decision 2009/618/EC.

HAS DECIDED AS FOLLOWS:

Article 1

The appropriate measures adopted by Decision 2009/618/EC pursuant to Article 96(2)(c) of the Cotonou Agreement are hereby replaced by the new appropriate measures set out in the letter in the Annex.

Article 2

Decision 2009/618/EC of 27 July 2009 concerning the conclusion of consultations with the Republic of Guinea under Article 96 of the ACP-EC Partnership Agreement is hereby repealed.

Article 3

This Decision shall enter into force on the date of its adoption. It shall be published in the Official Journal of the European Union.

It shall remain in force for a period of 12 months. It shall be reviewed, if necessary, after an indicative period of six months in the light of the conclusions of an on-the-spot mission of the European Union.

Done at Brussels,

For the Council
The President

ANNEX

Draft letter

Sir,

The European Union welcomes the progress made by the Republic of Guinea in the return to constitutional rule following the peaceful conclusion of the presidential elections in 2010 and the inauguration of a legitimate President and a civil government. The presidential elections that have just concluded were the first genuinely open and competitive elections since the country gained independence, marking a crucial stage in the return to democratic legitimacy.

You are now facing the huge challenge of putting your country back on the path of stability and economic growth, a challenge that you have taken up by adopting an ambitious programme of reforms. The Council of the European Union is aware of the economic and social difficulties facing Guinea and wishes to assist you in this last but important stage of the political transition. The Council has therefore decided to revise the conditions relating to the last stage of the resumption of cooperation between the European Union and the Republic of Guinea, namely the signing of the Country Strategy Paper and National Indicative Programme for Guinea for the 10th European Development Fund (EDF), which will cover the cooperation with Guinea until 2013.

In accordance with this Decision, the European Union will be able to sign the Country Strategy Paper and National Indicative Programme (CSP/NIP) with Guinea as soon as they are completed and after the Guinean authorities have sent a formal communication to the European Union with a detailed timetable, drawn up and adopted by the competent authorities, specifying the date and stages for holding parliamentary elections by the end of 2011.

Once the CSP/NIP has been signed, the funds for direct support to the people of Guinea, to be assigned to basic social services, can be released. Technical appraisal of the other projects and programmes referred to in these documents may also be carried out, but no funds can be released until free and transparent parliamentary elections have been held.

The European Union considers that, although the presidential elections are fundamental in the transition to democracy, the parliamentary elections and the constitution of a new democratically elected assembly are crucial for achieving the transition and establishing a full democratic framework. The European Union remains confident that the parliamentary elections will be held by the last quarter of 2011 at the latest, as announced by the authorities, and is willing to provide financial support for the organisation of the elections (for an indicative amount of € million).

The European Union undertakes to hold a regular political dialogue with the government under Article 8 of the Cotonou Agreement concerning the essential elements of this agreement, in particular human rights, democratic principles and the rule of law, and also national reconciliation, an end to impunity and reforms in the areas of political, judicial and economic governance and the security sector.

The Government of the Republic of Guinea can continue to count on the support and assistance of the European Union on its ambitious path towards a return to sustainable economic growth and the welfare of its people.

Yours faithfully,

Done at Brussels,

For the European Union:

ANNEX: COMMITMENTS BY PARTNERS

Guinea

EU

1. Detailed timetable (preliminary dates and stages/preparatory operations), drawn up and adopted by the competent authorities, for the holding of parliamentary elections by the end of 2011.

1.1 Signature of the 10th EDF CSP/NIP once programming is completed.

1.2 Technical appraisal of the projects/programmes contained in this CSP/NIP.

1.3 Release of funds in direct support of the people of Guinea.

2. Holding of free and transparent parliamentary elections.

2.1 Financing decisions and effective implementation of the other 10th EDF projects/programmes.