

INTERNAL AGREEMENT
BETWEEN THE REPRESENTATIVES OF
THE GOVERNMENTS OF THE MEMBER STATES,
MEETING WITHIN THE COUNCIL,
AMENDING THE INTERNAL AGREEMENT
OF 18 SEPTEMBER 2000
ON MEASURES TO BE TAKEN AND
PROCEDURES TO BE FOLLOWED FOR
THE IMPLEMENTATION OF THE
ACP-EC PARTNERSHIP AGREEMENT

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY, MEETING WITHIN THE COUNCIL,

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, hereinafter referred to as "the ACP-EC Agreement",

HAVING REGARD to the draft from the Commission,

WHEREAS:

- (1) By virtue of its Decision of 27 April 2004, the Council mandated the Commission to open negotiations with the ACP States with a view to amending the ACP-EC Agreement. These negotiations were concluded in Brussels on 23 February 2005. The Agreement amending the ACP-EC Agreement was signed in Luxembourg on 25 June 2005.
- (2) As a result, the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, of 18 September 2000 on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement¹, hereinafter referred to as "the Internal Agreement", should be amended.
- (3) The procedure established by the Internal Agreement needs to be amended to take into account the changes made to Articles 96 and 97 as set out in the Agreement amending the ACP-EC Agreement. This procedure should also be amended to take into account the new Article 11b, whose paragraph (1) constitutes an essential element of the Agreement amending the ACP-EC Agreement,

HAVE AGREED AS FOLLOWS:

¹ OJ L 317, 15.12.2000, p. 376.

ARTICLE 1

The Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, of 18 September 2000 on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement shall be amended as follows:

- 1) Article 3 shall be replaced by the following:

"Article 3

The position of the Member States for the implementation of Articles 11b, 96 and 97 of the ACP-EC Agreement shall, when that position concerns matters within their competence, be adopted by the Council, acting in accordance with the procedure set out in the Annex.

If the planned measures concern matters falling within the competence of the Member States, the Council may also act on the initiative of a Member State."

2) Article 9 shall be replaced by the following:

"Article 9

This Agreement, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, all twenty texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council, which shall transmit a certified copy to each of the governments of the Signatory States."

3) The Annex shall be replaced by the following:

"ANNEX

1. The Community and its Member States shall exhaust all possible options for political dialogue with an ACP State under Article 8 of the ACP-EC Agreement, except in cases of special urgency, prior to commencement of the consultation process set out in Article 96 of the ACP-EC Agreement. Dialogue under Article 8 shall be systematic and formalised in accordance with the modalities laid down in Article 2 of Annex VII to the ACP-EC Agreement. Regarding the dialogue conducted at national, regional and subregional level, when the Joint Parliamentary Assembly is involved, it shall be represented by the co-presidents in office or a designated nominee.

2. Where, having exhausted all possible options for dialogue under Article 8 of the ACP-EC Agreement, and on the initiative of the Commission or a Member State, the Council considers that an ACP State has failed to fulfil an obligation concerning one of the essential elements referred to in Articles 9 or 11b of the ACP-EC Agreement, or in serious cases of corruption, the ACP State concerned shall be invited, unless there is special urgency, to hold consultations in accordance with Articles 11b, 96 or 97 of the ACP-EC Agreement.

The Council shall act by a qualified majority.

In the consultations, the Community shall be represented by the Presidency of the Council and the Commission and shall strive to ensure equality in the level of representation. The consultations shall focus on the measures to be taken by the party concerned and shall take place in accordance with the modalities set out in Annex VII of the ACP-EC Agreement.

3. If, on expiry of the deadlines set in Articles 11b, 96 or 97 of the ACP-EC Agreement for the consultations and despite all efforts, no solution has been found, or immediately in a case of urgency or refusal to hold consultations, the Council may, pursuant to those Articles, decide, on a proposal from the Commission, to take appropriate measures including partial suspension acting by a qualified majority. The Council shall act unanimously in case of a full suspension of application of the ACP-EC Agreement in relation to the ACP State concerned.

These measures shall remain in force until such time as the Council has used the applicable procedure as set out in the first subparagraph to take a decision amending or revoking the measures adopted previously, or where applicable, for the period indicated in the Decision.

For that purpose the Council shall review the abovementioned measures regularly and at least every six months.

The President of the Council shall notify the ACP State concerned and the ACP-EC Council of Ministers of the measures thus adopted before they enter into force.

The Council's Decision shall be published in the Official Journal of the European Union. Where the measures are adopted immediately, notification thereof shall be addressed to the ACP State and to the ACP-EC Council of Ministers at the same time as an invitation to hold consultations.

4. The European Parliament shall be immediately and fully informed of any decision taken under points 2 and 3."

ARTICLE 2

This Agreement shall be approved by each Member State in accordance with its own constitutional requirements. The government of each Member State shall notify the General Secretariat of the Council of the completion of the procedures required for the entry into force of this Agreement.

Provided that the provisions of the first paragraph have been complied with, this Agreement shall enter into force at the same time as the Agreement amending the ACP-EC Agreement ¹. It shall remain in force for the duration of that Agreement.

¹ The date of entry into force of this Agreement will be published in the Official Journal of the European Union by the General Secretariat of the Council.