



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 November 2012

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PROPOSAL

from: European Commission
dated: 13 November 2012

No Cion doc.: COM(2012) 653 final

Subject: Proposal for a Council Decision extending the application period of Decision 2010/371/EU of 7 June 2010 concerning the conclusion of the consultation procedure with the Republic of Madagascar under Article 96 of the ACP-EC Partnership Agreement

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 653 final



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Proposal for a

COUNCIL DECISION

extending the application period of Decision 2010/371/EU of 7 June 2010 concerning the conclusion of the consultation procedure with the Republic of Madagascar under Article 96 of the ACP-EC Partnership Agreement

EXPLANATORY MEMORANDUM

On 7 June 2010 the Council of the European Union decided to take appropriate measures against Madagascar for a period of 12 months following the conclusion of the consultations held under Article 96 of the ACP-EU Partnership Agreement (Decision 2010/371/EU).¹ The period of application of that Decision was extended until 6 December 2011 by Council Decision No 2011/324/EU of 30 May 2011² and amended and extended until 5 December 2012 by Council Decision 2011/808/EU of 5 December 2011.³

The appropriate measures adopted by Decision 2010/371/EU and amended by Decision 2011/808/EC include the suspension of budgetary support and making implementation of the 10th EDF NIP conditional on the Malagasy party's fulfilment of the commitments set out in the schedule of commitments contained in the letter to the interim President and annexed to Council Decision 2011/808/EU.

The appropriate measures also involved the Commission's taking over the functions of EDF National Authorising Officer. The measures did not affect contributions to humanitarian operations or projects directly benefiting the local population.

The present review focuses in particular on the political developments that have taken place in Madagascar during implementation of the roadmap over the past year.

There have been varying degrees of progress in implementation of the roadmap, with:

(a) significant progress as regards the electoral process (establishment of an independent Electoral Commission (CENIT), endorsement of the UN electoral evaluation report by the Malagasy authorities and the international community (electoral timetable and budget), and election dates announced (first presidential round on 8 May 2013 and second presidential round plus parliamentary elections on 3 July 2013);

(b) deadlock in the search for a political agreement between President Rajoelina and former President Ravalomanana on the issue of their participation in the elections and the return of the former President. These unresolved issues, together with others linked to the implementation of amnesty measures and national reconciliation are considered crucial for the creation of a political environment in which credible elections can be organised and held.

During this period the European Union, in line with the statement of 20 September 2011 by Baroness Ashton's spokesperson and the Council decision of 5 December, has continued to support the transition process subject to certain conditions and, on the basis of its progress, has taken measures to assist the local population and the electoral process, as provided for in the schedule of commitments.

As the roadmap has not been fully implemented, the appropriate measures in force should continue to be applied without changing the reciprocal EU-Madagascar commitments and conditions, which remain fully in force until credible elections have taken place.

¹ OJ L 169, 3.7.2010, p. 13.

² OJ L 146, 01.6.2011, p. 2.

³ OJ L 324, 7.12.2012, p.1.

As the parliamentary elections and the second round of presidential elections are scheduled for 3 July 2012 (almost 7 months after the expiry of the decision in force), the period of application of the appropriate measures should be extended until the Council decides that credible elections have taken place and constitutional order has returned to Madagascar.

In order to send a clear signal from the Union that will encourage the Malagasy authorities and all stakeholders in the roadmap to redouble their efforts to implement it and overcome rapidly the political obstacles jeopardising the transition process, it is proposed that another letter be sent to the interim President informing him of this decision.

The Decision to be adopted can be reviewed at any time, which will enable it to be amended in the light of political developments and progress or otherwise in implementation of the roadmap.

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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 2000⁴, and revised in Ouagadougou, Burkina Faso, on 22 June 2010⁵, hereinafter referred to as ‘the ACP-EC Partnership Agreement’, and in particular Article 96 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-EU Partnership Agreement⁶, and in particular Article 3 thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) Decision 2010/371/EU⁷ of 7 June 2010 concerning the conclusion of consultations with the Republic of Madagascar under Article 96 of the ACP-EU Partnership Agreement was adopted in order to implement appropriate measures in response to the violation of the essential elements referred to in Article 9 of the Agreement.
- (2) These measures were extended until 6 December 2011⁸ by Council Decision 2011/324/EU of 30 May 2011 and amended and extended until 5 December 2012 by Council Decision 2011/808/EC of 5 December 2011.⁹

⁴ OJ L 317, 15.12.2000, p. 3.

⁵ OJ L 287, 4.11.2010, p. 3.

⁶ JO L 317 du 15.12.2000, p. 376.

⁷ OJ L 169, 3.7.2010, p. 13.

⁸ OJ L 146, 1.6.2011, p. 2.

⁹ OJ L 324, 7.12.2012, p.1.

- (3) Despite significant progress, in particular in the establishment of the transition institutions and in the electoral process, the roadmap for the transition has not been implemented fully.
- (4) The current period of application of Decision 2010/371/EU expires on 5 December 2012. Given that the parliamentary elections and the second round of presidential elections are scheduled for 3 July 2013, the appropriate measures in force should be extended until the Council decides that credible elections have taken place and that constitutional order has returned to Madagascar, subject to regular review during this period.

HAS ADOPTED THIS DECISION

Article 1

Decision 2010/371/EU, as extended by Decisions 2011/324/EU and 2011/808/EU, is hereby amended as follows:

In Article 3 the second sentence is replaced by the following: 'It shall remain in force until the Council decides that credible elections have taken place and that constitutional order has returned to Madagascar, subject to regular review during this period.'

Article 2

The draft letter at annex is addressed to the interim President of Madagascar.

Article 3

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

Done at Brussels,

*For the Council
The President*

ANNEX

Brussels,

DRAFT LETTER TO THE INTERIM PRESIDENT

Sir,

Welcoming the progress made towards resolving the political crisis with the signing in September 2011 by the Malagasy political stakeholders of the roadmap to help Madagascar emerge from the crisis, on 5 December 2010 the European Union eased the appropriate measures laid down for Madagascar by a Council decision of 7 June 2010.

You were informed of the new decision by letter of 8 December 2011 specifying the preconditions for any measure by the EU to assist the transition. To that end, over the past year the EU has taken measures to assist the population and support the electoral process, as provided for in the schedule of commitments set out in the aforementioned letter.

Given that the roadmap has not been implemented in full and that the parliamentary elections and second round of the presidential elections are scheduled for 3 July 2013, the appropriate measures should continue in force, without any change in the reciprocal EU-Madagascar commitments and conditions, which remain fully valid until the EU decides that credible elections have taken place and that constitutional order has returned to Madagascar.

The European Union, which attaches the greatest importance to the essential elements concerning respect for human rights, democratic institutions and the rule of law as established by Article 9 of the ACP-EU Partnership Agreement, urges you and all the stakeholders in the roadmap to redouble your efforts with a view to rapidly overcoming the political obstacles currently jeopardising its implementation.

The EU also encourages you and all Malagasy political stakeholders to persevere in your efforts to ensure a peaceful political environment conducive to the holding of credible elections in May and July 2013 and the completion of the transition process, as agreed by the Malagasy authorities and endorsed by the international community.

The EU confirms its continued commitment to assisting the transition process and to rapidly introducing post-transition support measures, the details of which will be decided upon in the political dialogue with your Government.

The appropriate measures can be reviewed at any time in the light of developments – positive or negative – in the political situation in Madagascar.

Yours sincerely,

For the European Union

Catherine ASHTON

Andris PIEBALGS