



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.1.2003
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2003/0014 (ACC)

Proposal for a

COUNCIL DECISION

**Extending the duration of Decision 2002/148/EC concluding consultations with
Zimbabwe under Article 96 of the ACP-EC Partnership Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 18 February 2002, the Council of the European Union decided to take "appropriate measures" following the conclusions of the consultations held under Art. 96 of the ACP-EC Partnership Agreement¹. These measures included the suspension of financing of budgetary support and support for projects, as well as the suspension of the signature of the 9th EDF National Indicative Programme, but explicitly did not affect the contributions to operations of humanitarian nature². They also included the suspension of Article 12 of Annex 2 to the Partnership Agreement, concerning current payments and capital movements, in so far as required for the application of further restrictive measures, and in particular the freezing of funds.
2. The stated reason for introducing these measures was the serious violations of human rights and of the freedom of opinion, of association and of peaceful assembly. A more immediate reason was the attempts by the Government of Zimbabwe to prevent free and fair elections, notably by refusing access for international election observers and for the media.
3. According to Article 2 (3) of the Decision of 18 February 2002, the measures shall apply for a period of twelve months. According to the same provision, the measures were to be reviewed after a period of six months. According to the letter to the President of Zimbabwe contained in annex to the decision, the measures will be revoked once conditions prevail which ensure respect for human rights, democratic principles and the rule of law.
4. The period since the introduction of the appropriate measures has not seen any progress in the five issues earmarked by the Art. 96 consultations³. On the contrary, the situation has deteriorated as illustrated by the following developments:
 - The March general elections, September district elections and recent by-elections have taken place under circumstances which did not allow them to be considered free nor fair.
 - Last August Government, which signals a general reassertion of the hard-line approach as the main objective seemed to be the removal (Finance Minister Makoni) and sidelining (Home Affairs Minister Nkomo) of the most reformist and liberal minded Cabinet members.
 - The political conflict between the ruling ZANU (PF) and the opposition MDC and the end of any kind of the inter-party dialogue.

¹ Council Decision 2002/148/EC (OJCE L50/64 of 21.02.2002). Simultaneously, the Council adopted also Council Common Position 2002/145/CFSP and Council Regulation (EC) N°310/2002 concerning certain restrictive measures in respect of Zimbabwe(OJCE L50/1-12of 21.02.2002). With these acts, it imposed certain restrictive measures such as a prohibition of arms supply, a travel ban and a freezing of assets against members of the Government and other persons "engaged in activities that seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe".

² A restructuring of EC portfolio exercise is being implemented.

³ Art. 96 consultations were open with a view to agreeing on measures to be taken by the Government of Zimbabwe to remedy the situation, in particular on five issues (end to all official tolerance to political violence; early invitation to international partners to support and observe coming elections and full access to that end; protection of the freedom of mass media; independence of the judiciary and the respect for its decisions and end to illegal occupation of properties).

- The Government's determination to finalise the fast track land reform and the continued eviction of farmers instead of putting an end to illegal occupations.
 - The recent legislation restricting the freedom of speech, assembly and association (affecting negatively some targeted groups as political opposition, independent media and NGO's).
 - The continued violence and intimidation mainly linked to by-elections, distribution of food aid and implementation of the fast track land reform.
5. Moreover, no significant progress has taken place either on the ground, or through subsequent contacts (EU troika demarche in SADC capitals on May 2002 and numerous diplomatic contacts), or through other initiatives seeking to influence events (Commonwealth and SADC).
 6. The Council Decision, applying for one-year period since its publication at OJCE, was reviewed in July 2002. The Council, at its meeting of 22.07.2002, concluded that "current conditions in Zimbabwe do not ensure respect for human rights, democratic principles and the rule of law". Therefore, these measures continued unchanged.
 7. Given the deterioration of the situation⁴ and that there are no signals and/or commitments from the Government of Zimbabwe that significant progress has been achieved and/or measures are going to be taken to remedy the situation in the five main areas of concern, a lifting or easing of the appropriate measures does not seem justified.
 8. For this reason, the Commission considers that the decision should be extended for a further period of 12 months. Given that the proposed decision concerns only an extension of the existing appropriate measures without any modifications, it is not necessary to reopen consultations with Zimbabwe under Article 96 of the Cotonou Agreement
 9. The decision is to be kept under constant review and the measures should be revoked once conditions prevail which ensure respect for human rights, democratic principles and the rule of law. The European Union should reserve the right to take additional measures.

Conclusion

10. In the light of the above, the Commission proposes to the Council to adopt the attached decision.

⁴ A report from HoM in Harare, expected by January 2003, will further provide an updated detailed assessment of the situation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 300(2), second subparagraph 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 signed in Cotonou on 23 June 2000⁵, as put into provisional application by Decision of the Representatives of the Governments of the Member States of 18 September 2000, and, in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) With Council Decision 2002/148/EC⁶, the consultations with the Republic of Zimbabwe under Article 96(2)(c) of the ACP-EC Partnership Agreement⁷ were closed and appropriate measures, as specified in the annex to the decision were taken
- (2) According to its Article 2 (3), the decision will cease to apply on 21 February 2003.
- (3) The essential elements cited in Article 9 of the ACP-EC Partnership Agreement continue to be violated by the Government of Zimbabwe and the current conditions in Zimbabwe do not ensure respect for human rights, democratic principles and the rule of law.
- (4) The period during which the decision is applicable should therefore be extended.

HAS DECIDED AS FOLLOWS:

Article 1

Paragraph 3 of Article 2 of Decision 2002/148/EC shall be replaced by the following:

“These measures shall apply for a period of twenty-four months. They shall be kept under constant review”.

⁵ OJ L 317, 15.12.2000, p. 376.

⁶ OJ L 50, 21.2.2002, p. 64.

⁷ OJ L 317, 15.12.2000, p. 3.

The letter appearing in annex to this Decision shall be addressed to the President of Zimbabwe.

Article 2

This Decision shall enter into force on the day of its publication in the Official Journal of the European Communities.

Done at Brussels,

For the Council
The President

ANNEX

Brussels,

LETTER TO THE PRESIDENT OF ZIMBABWE

The European Union attaches the utmost importance to the provisions of Article 9 of the ACP-EC Partnership Agreement. As essential elements of the Partnership Agreement, respect for human rights, democratic institutions and the rule of law are the basis of our relations.

By letter of 19 February 2002, the Union informed you of its decision to conclude the consultations held under Article 96 of the ACP-EC Partnership Agreement and to take certain 'appropriate measures' within the meaning of Article 96(2)(c) of that Agreement.

Today, after more than 12 months and various mediation attempts, the European Union considers that democratic principles are still not upheld in Zimbabwe and that no significant progress has been achieved by the Government of Zimbabwe in the five fields addressed by the February Council Decision (end of politically motivated violence, free and fair elections, freedom of the media, independence of the judiciary, end of illegal occupations).

In the light of the above, the European Union does not consider that the appropriate measures can be revoked.

The measures will only be revoked once conditions prevail which ensure respect for human rights, democratic principles and the rule of law. Moreover, the European Union reserves the right to take additional restrictive measures.

The European Union will closely follow developments in Zimbabwe and would once again like to emphasise that does not wish to penalise the Zimbabwean people and will continue with its contribution to operations of a humanitarian nature and projects in direct support to the population, in particular those in social sectors, which are not affected by these measures.

The European Union desires to pursue the dialogue with Zimbabwe, on the basis of the ACP-EC Partnership Agreement, and hopes that you will do everything you can to restore respect for the essential principles of the Partnership Agreement, thereby enabling all co-operation instruments to be resumed in the near future.

Yours faithfully,

For the Commission

For the Council