

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 17.3.2010
COM(2010)89 final

2010/0053 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union within the ACP-EC Council of Ministers concerning the accession of the Republic of South Africa to the revised ACP-EC Partnership Agreement

(presented by the Commission)

EXPLANATORY MEMORANDUM

The relationship between the EU and South Africa is based on the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, which was signed in Pretoria on 11 October 1999 and entered into force on 1 May 2004.

South Africa is also a State Party 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 (Benin) on 23 June 2000 (hereinafter referred to as the "ACP-EC Partnership Agreement"). South Africa's membership of the agreement is subject to the qualifications set out in its Protocol 3.

Together with other ACP countries, on 25 June 2005 in Luxembourg South Africa signed the ACP-EC Agreement amending the Partnership Agreement (hereinafter referred to as the "revised ACP-EC Partnership Agreement").

In accordance with Article 93, paragraph 3, the revised ACP-EC Partnership Agreement entered into force on 1 July 2008, following ratification of the revision by the EU and its Member States and two thirds of ACP States. Article 93, paragraph 4, of the Agreement stipulates that an ACP signatory State that has not completed ratification procedures by the date of entry into force of the Agreement, may do so only within the 12 months following that date. Subsequently, such a signatory State should follow the course of accession as provided for in Article 94.

Due to administrative delays and the renewal of the South African Parliament following national elections on 22 April 2009, South Africa missed the ratification deadline of 30 June 2009.

In a letter dated 29 July 2009 addressed to the Swedish EU Council Presidency the new South African Foreign Minister, Ms Maite Nkoana-Mashabane, informed the EU that South Africa intended to accede to the revised ACP-EC Partnership Agreement under the terms of Article 94 of the Agreement, and that the constitutionally-required process for doing so had been launched.

Following endorsement of the accession act by both chambers of the South African Parliament in November 2009, South Africa submitted a formal request for accession to the revised ACP-EC Partnership Agreement on 23 November 2009.

It is therefore appropriate to set the favourable position to be adopted by the European Union on this request, to be expressed in the context of a formal Decision of the Joint ACP-EC Council of Ministers approving that accession.

In line with Article 218 (10) TFEU, the European Parliament will be informed of this proposal for a decision of the ACP-EC Council.

The Commission therefore proposes that the Council adopts the attached decision.

Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union within the ACP-EC Council of Ministers concerning the accession of the Republic of South Africa to the revised ACP-EC Partnership Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218 (9) thereof,

Whereas:

- (1) In accordance with its Article 93, paragraph 3, the revised ACP-EC Agreement entered into force on 1 July 2008.
- (2) South Africa, having signed the revised ACP-EC Agreement on 25 June 2005, did not deposit an instrument of ratification under the terms of Article 93, paragraph 4, by the deadline of 30 June 2009.
- (3) Article 94 of the revised ACP-EC Agreement stipulates that any request for accession by a State is to be presented to, and approved by, the ACP-EC Council of Ministers.
- (4) South Africa presented a request for accession to the ACP-EC Agreement on 23 November 2009.
- (5) It is appropriate to establish the position to be adopted on the Union's behalf in the Joint ACP-EC Council of Ministers, concerning this request for accession,

HAS ADOPTED THIS DECISION:

Sole Article

The European Union position within the ACP-EC Council of Ministers regarding the accession of the Republic of South Africa to the revised ACP-EC Partnership Agreement is to approve this accession, pursuant to the terms of the attached draft Decision.

Formal changes to the draft ACP-EC Council of Ministers decision may be agreed without requiring the annex to the present Decision to be amended.

This Decision is addressed to the representative of the European Union in the Joint ACP-EC Council of Ministers.

Done at Brussels, [...]

*For the Council
The President*

ANNEX

Draft

Decision of the ACP-EC Council of Ministers concerning the accession of the Republic of South Africa to the revised ACP-EC Partnership Agreement

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States (hereinafter called the 'ACP') of the one part, and the European Community and its Member States, of the other part, signed in Cotonou (Benin) on 23 June 2000 and revised in Luxembourg (Grand Duchy of Luxembourg) on 25 June 2005 (hereinafter called the 'ACP-EC Agreement'),¹ and in particular Article 94 (1) thereof,

Whereas:

- (6) In accordance with its Article 93, paragraph 3, the revised ACP-EC Agreement entered into force on 1 July 2008.
- (7) South Africa, having signed the revised ACP-EC Agreement on 25 June 2005, did not deposit an instrument of ratification under the terms of Article 93, paragraph 4, by the deadline of 30 June 2009.
- (8) Article 94 of the revised ACP-EC Agreement stipulates that any request for accession by a State is to be presented to, and approved by, the ACP-EC Council of Ministers.
- (9) South Africa presented a request for accession to the ACP-EC Agreement on 23 November 2009.
- (10) In accordance with its Rules of Procedure, the ACP-EC Council of Ministers established under the Agreement may approve a request for accession by written procedure,

¹ OJ L 209, 11.08.2005; OJ L 287, 28.10.2005.

HAS DECIDED AS FOLLOWS:

Article 1
Approval of request for accession

The request of the Republic of South Africa to accede 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 (Benin) on 23 June 2000 and revised in Luxembourg (Grand Duchy of Luxembourg) on 25 June 2005, is herewith approved.

Article 2
Entry into force

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

Done at Brussels, [...]

For the ACP-EC Council of Ministers
The President