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2014/0082 (NLE)

Proposal for a

COUNCIL DECISION

**repealing Decision 2010/371/EU of 7 June 2010
concerning the conclusion of consultations
with the Republic of Madagascar
under Article 96 of the ACP-EU Partnership Agreement**

EXPLANATORY MEMORANDUM

On 7 June 2010 the Council of the European Union decided to take appropriate measures against Madagascar following the conclusion of the consultations held under Article 96 of 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 2000¹, and revised in Ouagadougou, Burkina Faso, on 22 June 2010² (hereinafter referred to as ‘the ACP-EC Partnership Agreement’) (2010/371/EU)³.

That Decision has been extended and amended by Council Decisions 2011/324/EU⁴, 2011/808/EU⁵ and, most recently, by Decision 2012/749/EU⁶. The latter Decision provides that the appropriate measures shall remain in force *‘until the Council decides, on the basis of a proposal made by the Commission, that credible elections have taken place and that constitutional order has returned to Madagascar ...’*.

The proposal to repeal the Council Decision is based, in accordance with Article 96 of the ACP-EU Partnership Agreement⁷, on the fact that the reasons for maintaining the appropriate measures (transitional institutions holding power since the unconstitutional coup in 2009) no longer prevail.

The holding of credible presidential and general elections on 25 October and 20 December 2013, the proclamation of the official results on 17 January and 6 February 2014 and the inauguration of the newly elected institutions confirm Madagascar's return to constitutional rule. The High Representative/Vice-President, Baroness Ashton, also welcomed and expressed satisfaction at the conduct of the elections⁸.

All the conditions are thus met for the EU's commitments on Madagascar, as listed in the annex to Council Decision 2011/808/EU, to be honoured and for the Council to repeal the decision currently in force.

Revoking the provisional measures will send a strong, clear political signal from the EU to Madagascar and to all international partners, particularly those in Africa, regarding its support at the start of this new post-crisis era and will allow the normal cooperation ties between the EU and Madagascar to be resumed.

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 287, 4.11.2010, p. 3.

³ OJ L 169, 3.7.2010, p. 13.

⁴ OJ L 146, 1.6.2011, p. 2.

⁵ OJ L 324, 7.12.2011, p. 1.

⁶ OJ L 333, 5.12.2012, p. 46.

⁷ The second sentence of the fourth indent of Article 96(2)(a) of the Cotonou Agreement states ‘These measures shall be revoked as soon as the reasons for taking them no longer prevail.’.

⁸ See statement by HR/VP Ashton's spokesperson on 7 February 2014.

Proposal for a

COUNCIL DECISION

**repealing Decision 2010/371/EU of 7 June 2010
concerning the conclusion of consultations
with the Republic of Madagascar
under Article 96 of the ACP-EU Partnership Agreement**

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 2000⁹, and revised in Ouagadougou, Burkina Faso, on 22 June 2010¹⁰, hereinafter referred to as ‘the ACP-EU 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 Agreement¹¹, 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/EU of 7 June 2010 concerning the conclusion of consultations with the Republic of Madagascar under Article 96 of the ACP-EU Partnership Agreement¹² 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 2011 by Decision 2011/324/EU¹³ of 30 May 2011, amended and extended until 5 December 2012 by Decision 2011/808/EU of 5 December 2011¹⁴ and, most recently, extended indefinitely by Decision 2012/749/EU¹⁵ of 3 December 2012 ‘*until the Council decides, on the basis of a proposal made by the Commission, that credible elections have taken place and that constitutional order has returned to Madagascar ...*’.

⁹ OJ L 317, 15.12.2000, p. 3.

¹⁰ OJ L 287, 4.11.2010, p. 3.

¹¹ OJ L 317, 15.12.2000, p. 376.

¹² OJ L 169, 3.7.2010, p. 13.

¹³ OJ L 146, 1.6.2011, p. 2.

¹⁴ OJ L 324, 7.12.2011, p. 1.

¹⁵ OJ L 333, 5.12.2012, p. 46.

- (3) Presidential and general elections were held on 25 October and 20 December 2013, the results were officially announced on 17 January and 6 February 2014 and the newly elected institutions have been inaugurated, thus confirming Madagascar's return to constitutional rule. The High Representative/Vice-President, Baroness Ashton, welcomed and expressed satisfaction at the conduct of the elections on 7 February 2014¹⁶.
- (4) As the conditions (holding of credible parliamentary and presidential elections, proclamation of the official results and inauguration of the newly elected institutions, confirming the country's return to constitutional order) for the EU to honour the commitments given to Madagascar in the annex to Council Decision 2011/808/EU (repeal of the Decision under Article 96) have been met, the decision currently in force should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

Council Decision 2010/371/EU of 7 June 2010 concerning the conclusion of consultations with the Republic of Madagascar under Article 96 of the ACP-EU Partnership Agreement is hereby repealed.

Article 2

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

Done at Brussels,

*For the Council
The President*

¹⁶ See statement by HR/VP Ashton's spokesperson on 7 February 2014.