



Council of the
European Union

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REV 1

LIMITE

ACP 25
COAFR 133
COLAC 36
COASI 76
WTO 49
RELEX 452

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	9752/21 + ADD 1-2
Subject:	Council Decision on the signing, on behalf of the European Union, and provisional application of the Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States (OACPS), of the other part - Adoption - Decision to use the written procedure

1. On 22 June 2018, the Council adopted the Council Decision authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations on, and to negotiate, on behalf of the European Union, the provisions that fall within the competence of the Union, of a Partnership Agreement between the European Union and its Member States, of the one part, and the countries of the African, Caribbean and Pacific Group of States¹. On the same day, the Representatives of the Governments of the Member States adopted the Decision of the Representatives of the Governments of the Member States, meeting within the Council authorising the European Commission to negotiate, on behalf of the Member States, the provisions that fall within the competences of the Member States, of a Partnership Agreement between the European Union

¹ ST 8094/18

and its Member States, of the one part, and the countries of the African, Caribbean and Pacific Group of States, of the other part².

2. The text of the Agreement was initialled on 15 April 2021.
3. On 11 June 2021, the Commission submitted its proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Partnership Agreement between the European Union, of the one part, and the members of the Organisation of African, Caribbean and Pacific (OACPS) States, of the other part³.
4. On 23 June 2021, the ACP Working Party reached an agreement at its level on the modifications of the text of the agreement with a view to changing it into a mixed agreement, and requested the Commission to transmit those changes to the OACPS. The Commission transmitted the modified text to the OACPS on 16 July 2021, but maintained its position that the Agreement should be EU-only.
5. The ACP Working Party introduced various changes in the text of the draft Council Decision in order to reflect the mixed legal nature of the agreement, and on 19 October 2021 reached agreement at its level on a list of provisions and subject-matters to be excluded from provisional application.
6. The ACP Working Party was informed on 3 December 2021 that the OACPS endorsed the proposed changes related to the nature of the Agreement. By 21 December 2021, the technical work on the text of the draft Council Decision and the text of the Agreement had been successfully carried out under the Presidency, but due to the reservation expressed by one Member State the file could not be processed further at that stage.
7. On 18 April 2023, the ACP Working Party discussed whether and how to reflect the change in the OACPS membership in the text of the Agreement, namely that in 2022 South Africa withdrew from and the Maldives joined the OACPS. On the basis of the assessment of and textual suggestions put forward by the Commission, the ACP Working Party at its level reached an agreement to adjust the text of the Agreement by deleting the mention of South Africa and adding the mention of the Maldives.

² ST 8095/18

³ ST 9752/21 + ADD 1 and 2

8. On 19 April 2023, Coreper discussed the last outstanding issues.
9. In these circumstances, COREPER is invited to:
- confirm the agreement on the text of the draft Council Decision (8371/23 DCL 1), as well as on the text of the Agreement (8372/23 DCL 1);
 - decide, given the urgency, and in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure, that the Council use the written procedure to:
 - adopt the Council Decision on the signing, on behalf of the European Union, and provisional application of the Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States (OACPS), of the other part, as set out, after finalisation by the lawyer-linguists, in document 8371/23 DCL 1;
 - approve the Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part, as set out, after finalisation by the lawyer-linguists, in document 8372/23 DCL 1;
10. The European Parliament will be informed in accordance with Article 218(10) TFEU and the Decision will be transmitted to the EP.
11. In this context, it is noted that the signature of the draft Agreement and its provisional application are also supported by Member States in their capacity as Parties to that Agreement alongside the Union.
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