



Council of the  
European Union

Brussels, 19 July 2023  
(OR. en)

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**Interinstitutional File:  
2021/0145(NLE)**

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**8280/3/23  
REV 3**

**LIMITE**

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

**'I/A' ITEM NOTE**

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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

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 States<sup>1</sup>.

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<sup>1</sup> ST 8094/18

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 and its Member States, of the one part, and the countries of the African, Caribbean and Pacific Group of States, of the other part<sup>2</sup>.

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 part<sup>3</sup>.
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.

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<sup>2</sup> ST 8095/18

<sup>3</sup> ST 9752/21 + ADD 1 and 2

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.
8. On 19 April 2023, Coreper discussed the last outstanding issues.
9. In light of the above, Coreper is invited to:
- confirm its agreement on the text of 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, as well as on the text 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, of the other part, as set out, after finalisation by the lawyer-linguists, in document 8372/1/23 REV 1;
  - recommend that the Council, in part "A" of the agenda of a forthcoming meeting, adopts the Council Decision as set out in document 8371/23 DCL 1 so as to permit the signing of the Partnership Agreement as set out in document 8372/1/23 REV 1;
  - take note of the statements contained in the addendum to this note.
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.