



Procedure file

Basic information		
AVC - Assent procedure (historic)	1996/0050(AVC)	Procedure completed
ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations		
Subject		
6.10.08 Fundamental freedoms, human rights, democracy in general		
6.40.06 Relations with ACP countries, conventions and generalities		
Geographical area		
ACP countries		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	DEVE Development and Cooperation		30/05/1996
		V AELVOET Magda G.H.	
	Former committee responsible		
	DEVE Development and Cooperation		30/05/1996
		V AELVOET Magda G.H.	
	DEVE Development and Cooperation		30/05/1996
		V AELVOET Magda G.H.	
	Former committee for opinion		
AFET Foreign Affairs, Security and Defense Policy			20/03/1997
		ELDR BERTENS Jan Willem	
RELA External Economic Relations			21/03/1996
		PSE SMITH Alex	
Council of the European Union	Council configuration	Meeting	Date
	Environment	2165	11/03/1999

Key events			
21/02/1996	Initial legislative proposal published	COM(1996)0069	Summary
21/05/1997	Vote in committee		Summary
21/05/1997	Committee interim report tabled for plenary	A4-0175/1997	
13/06/1997	Debate in Parliament		
13/06/1997	Decision by Parliament	T4-0344/1997	Summary

09/02/1998	Legislative proposal published	05644/1998	Summary
19/05/1998	Vote in committee		Summary
19/05/1998	Committee interim report tabled for plenary	A4-0194/1998	
15/06/1998	Debate in Parliament		
17/06/1998	Decision by Parliament	T4-0355/1998	Summary
20/01/1999	Vote in committee		Summary
20/01/1999	Committee report tabled for plenary, 1st reading/single reading	A4-0013/1999	
11/02/1999	Debate in Parliament		
12/02/1999	Decision by Parliament	T4-0121/1999	Summary
11/03/1999	Act adopted by Council after consultation of Parliament		
11/03/1999	End of procedure in Parliament		
20/03/1999	Final act published in Official Journal		

Technical information

Procedure reference	1996/0050(AVC)
Procedure type	AVC - Assent procedure (historic)
Procedure subtype	International agreement
Legal basis	EC before Amsterdam E 238
Stage reached in procedure	Procedure completed
Committee dossier	DEVE/4/09848; DEVE/4/09844; DEVE/4/09845

Documentation gateway

Initial legislative proposal	COM(1996)0069 OJ C 119 24.04.1996, p. 0007	21/02/1996	EC	Summary
Committee interim report tabled for plenary	A4-0175/1997 OJ C 182 16.06.1997, p. 0002	21/05/1997	EP	
Interim resolution adopted by Parliament	T4-0344/1997 OJ C 200 30.06.1997, p. 0245-0256	13/06/1997	EP	Summary
Legislative proposal	05644/1998	09/02/1998	CSL	Summary
Supplementary legislative basic document	05722/1998	10/02/1998	CSL	Summary
Committee interim report tabled for plenary	A4-0194/1998 OJ C 195 22.06.1998, p. 0004	19/05/1998	EP	
Interim resolution adopted by Parliament	T4-0355/1998 OJ C 210 06.07.1998, p. 0103-0125	17/06/1998	EP	Summary
Committee report tabled for plenary, 1st reading/single reading	A4-0013/1999 OJ C 150 28.05.1999, p. 0003	20/01/1999	EP	
Text adopted by Parliament, 1st reading/single	T4-0121/1999	12/02/1999	EP	Summary

Additional information

European Commission

[EUR-Lex](#)

Final act

[Decision 1999/214](#)
[OJ L 075 20.03.1999, p. 0032](#)[Decision 1999/213](#)
[OJ L 075 20.03.1999, p. 0030](#) Summary

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

OBJECTIVE: the purpose of the Decision is to establish a procedure for implementing Article 366a of the Lomé Convention which provides for the application of possible sanctions, after consultations between the parties concerned, against a State which has failed to respect the fundamental rights and human rights endorsed by the Convention. SUBSTANCE: in accordance with the Lomé Convention, respect for human rights and democratic principles constitutes one of the essential elements of the Convention (Article 5 of the Mauritius Agreement amending LOMÉ IV). Article 366a of the Convention provides that a party (namely the Community and its Member States, on the one hand, and each ACP State, on the other) which considers that there has been a failure to fulfil an obligation stemming from those essential elements may invite the State concerned to hold consultations to assess the situation and remedy it. To that end, Article 366a provides for a special procedure, including set deadlines for those consultations. On expiry of the deadlines, if the State refuses to be consulted or immediately in the event of urgency, the party which invoked the failure (in this case, the Community), may decide to take steps or to suspend, partly or in full, the application of the Convention (suspension is a last resort). The purpose of this proposal is precisely to define the procedure to be implemented by the Community in such cases, with a view to applying Article 366a of the Convention. In addition, in fields covered by the Convention and falling within their jurisdiction, the Member States may authorize the Council to cover those fields when it adopts (by a qualified majority) measures concerning consultations or suspension of the Convention. A Council decision providing for simple consultations or for steps to be taken is to be notified to the European Parliament immediately. ?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

Under Article 366a of the Lomé Convention, if a party considers that there has been a failure to fulfil an obligation concerning one of the essential elements of the Convention (e.g. respect for human rights, democratic principles and the rule of law), it may invite the other party to hold consultations and, subject to certain conditions, take appropriate measures including partial or total suspension of application of the Convention with regard to the party concerned. Although the principle of suspension exists, there is still the question of an appropriate procedure. As to putting this into effect, the Committee has approved the introduction of such a procedure by adopting the report by Magda AELVOET (Greens, B). The committee wants the Council to act by qualified majority, after Parliament has given its assent. It also wants Parliament to give its assent before resumption of cooperation with a country that has violated human rights. The report represents an interim stage in which Parliament presents its recommendations with a view to its assent to the Council decision in this connection. ?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

In adopting the interim report by Mrs Magda AELVOET (V, B), the European Parliament adopted, pursuant to Rule 80(3) of its Rules of Procedure, a resolution comprising a number of recommendations to the Commission concerning the implementation of its proposal for a Decision. In addition to its recommendations, Parliament called for a conciliation procedure to be opened with the Council prior to delivering its definitive assent. The recommendations concern the following points: - inclusion in the text of the Decision of respect for human rights, democratic principles and the rule of law as 'essential elements' in development cooperation between the Union and the ACP countries, - a change to the procedure envisaged so that the initiative for consultations taken following a violation by an ACP State may come from Parliament on the same basis as from the Commission or a Member State. The decision as to whether to initiate the procedure or not will have to be taken by the Council after Parliament has given its assent. Similarly, on expiry of the deadline set for consultations, the Council may only take steps after it has sought the assent of Parliament (and possibly at Parliament's request), - the resumption of cooperation with the country concerned may only be decided after an assessment of progress made regarding respect for the rights violated by that country and may only be decided by the Council, acting by a qualified majority, after Parliament has given its assent. ?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

This second basic Council proposal largely corresponds with the Commission's 1996 proposal, comprising the following points: -the establishment of an appropriate procedure to be followed if a party to the Lomé Convention considers that another party has failed to comply with an essential element of the Convention (respect for human rights, democratic principles and the rule of law), -the Council to decide by a qualified majority, on a proposal by the Commission, what measures, if any, should be taken (including partial suspension of the Convention), -the Council to decide unanimously on cases of total suspension of the benefits of the Convention, -the European Parliament to be informed immediately and in full concerning the measures taken vis-à-vis an ACP State under this decision.?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

In a supplementary document addressed to the European Parliament, the Council explains why it did not take account of the recommendations made by Parliament in its interim report of 13.06.1997: -as regards prior consultation of the European Parliament, under the assent procedure, whenever the Council wishes to act under Article 366a of the Convention, the Council explains that after the entry into force of the Amsterdam Treaty, Article 300 (formerly 228) of the future Treaty will require a Council decision on a proposal from the Commission in the event of the suspension of an agreement based on Article 310 (formerly 238), after which Parliament will immediately simply be informed. Consequently, the Council considers that it cannot adopt a decision which would be incompatible with the future provisions of the Treaty. This also implies that in the event of partial suspensions or other more limited measures, the assent of the European Parliament likewise could not be provided for legally; -as regards Parliament's call for the power to act in its own name as part of the procedure laid down, the Council considers that this proposal cannot be accepted, as nowhere does the Treaty provide for such initiatives by Parliament before the Council has acted. However, the Council states that, in accordance with the proposal, Parliament will be immediately and fully informed of all decisions adopted by the Council. In an annex, the Council puts forward a proposal for a decision by the representatives of the Governments of the Member States amending the agreement on the measures to be taken and the procedures to be followed to apply the Fourth Lomé Convention. This decision concerns the procedure to be adhered to for measures concerning fields for which the Member States are competent.?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

Respect for human rights, democratic principles and the rule of law are key requirements of the European Union's development cooperation with the African, Caribbean and Pacific countries. Article 366(a) of the Fourth Lomé Convention (the 1995 version) provides for full or partial suspension of cooperation measures in cases of serious violations of human rights. The procedure implementing this article was discussed at a meeting of the Committee. The committee wanted Parliament to have the right to deliver an opinion on any proposal to suspend or resume cooperation with the ACP countries. A qualified majority is needed in the Council for partial suspension and a unanimous vote for full suspension. On 6th March 1998 the Council announced that there was no legal foundation for the idea of an opinion from Parliament being required. In adopting the report by Magda AELVOET (Greens, B), MEPs have taken up the issue again and called for Parliament to be consulted whenever the Council plans to suspend or resume development cooperation with an ACP country. The committee is calling on Parliament's President to open the conciliation procedure with the Council and to seek active participation from the Commission to advance its case.?

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In adopting the report by Mrs Magda AELVOET (V, B) on the procedure for suspending the Lomé Convention, the European Parliament once again called at least to be consulted when the Council intended to suspend or resume development cooperation with an ACP country (it may be recalled that on 6 March 1998 the Council had informed Parliament that such a consultation procedure was legally impossible). Consequently, Parliament called for a consultation procedure to be initiated with the Council on the subject with the active participation of the Commission. An interim report to this effect was submitted and adopted by Parliament on 13 June 1997, calling, in substance, for Parliament to be duly consulted in such circumstances by means of the assent procedure. In the present resolution, Parliament proposes the same recommendations as in its interim report, except that it asks only to be consulted rather than for its assent to be sought. The substance of the recommendations, it will be recalled, was as follows: -the main agreements and international documents on recognition and safeguarding of human rights were recalled; -respect for human rights, democracy and the rule of law was an essential element in development cooperation between the Union and the ACP countries; -the procedure should be amended so as to allow Parliament - on an equal footing with the Commission and Member States - to propose consultation in the event of a shortcoming on the part of an ACP country. The decision as to whether to initiate the procedure should be taken by the Council after consulting the European Parliament; -decisions on the resumption of cooperation should be taken after consultation of Parliament.?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

Under Article 366a of the Lomé Convention, the convention can be suspended, partly or in whole, when serious human rights violations occur in an ACP country. The question is what procedure to follow in such cases. The Committee initially demanded that any proposal to suspend or resume cooperation with an ACP country should require Parliament's assent. The Commission proposed that Parliament merely be informed of any such proposals. In March 1998, the Council said that under the Amsterdam Treaty there was no legal justification for a demand for Parliament's assent. In June 1998, the Development Committee called for Parliament to at least be informed in advance if cooperation were to

be suspended or resumed. In adopting the report by Magda AELVOET (Greens, B), the committee decided to try and prevent the worst by approving the procedure proposed, which provides for qualified majority voting in Council; otherwise, unanimous voting would have been used. The Commission indicated orally that it was prepared to inform Parliament in advance of any suspension or resumption of cooperation, as it did in the case of Togo. ?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

MEPs voted to adopt without amendment the proposed procedure for implementing Art. 366a of the Fourth Lomé Convention which provides for the suspension of co-operation in cases of serious abuse of human rights. The Resolution was drafted by Ms. Magda AELVOET (Green, B).?

ACP/EU relations, Lome IV Convention: human rights, democratisation, article 366 a for consultations

PURPOSE: to establish a procedure under the Lomé Convention for the partial or full suspension of cooperation in cases of serious abuse of human rights. **COMMUNITY MEASURE:** Council Decision 1999/214/EC regarding the implementation of Article 366a of the Fourth Lomé Convention. **CONTENT:** According to the Lomé Convention, respect for human rights, democratic principles and the rule of law (Article 5 of the Mauritius Agreement amending Lomé IV) constitutes an essential element of the Convention. In Article 366a, the Convention provides that a party (the Community and its Member States or any of the ACP States) which considers that another party has failed to fulfil an obligation in respect of Article 5 of the Mauritius Agreement, may invite that party to hold consultations with a view to examining the situation and resolving it. To this end, Article 366a provides that a specific procedure should be applied containing the precise time limits for consultations. This decision fixes the procedure to be followed in such cases. Hence, it provides that the Council, acting by a qualified majority, will invite the ACP State concerned to hold consultations. On expiry of the time limit provided for by Article 366a of the Convention (or else immediately in case of urgency or refusal to hold consultations), the Council may, acting by a qualified majority, decide to partially suspend cooperation. It should be noted that the European Parliament shall be immediately and fully informed of any decision to suspend or withdraw cooperation. However, it will not be allowed to take the initiative in this area and its assent for the suspension or resumption of cooperation will not be required, as it had wanted. The measures decided upon will remain in force for as long as necessary and cannot be modified except by means of a Council decision. To this end, the Council will review at least every six months the measures taken. In fields covered by the Convention and falling within the competence of Member States, the Member States may authorise the Council to cover these fields in adopting decisions relating to consultation or suspension of the Convention. **ENTRY INTO FORCE:** 12/03/1999.?