



2023/2861

28.12.2023

COUNCIL DECISION (EU) 2023/2861

of 20 July 2023

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, of the other part

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(5) and Article 218(8), second subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 21 June 2018, the Council authorised the 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 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, of the other part.
- (2) The negotiations were successfully concluded on 15 April 2021, with the exception of the definition of the parties.
- (3) 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 ('the Agreement') reflects both the historically close relationship and increasingly strong links developing between the Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States ('OACPS Members'), of the other part, and their desire to further strengthen and extend their relations in an ambitious and innovative way. The Agreement redefines the relationship between the Union and its Member States and the OACPS Members, including the priorities and working methods in the different policy domains which the Agreement covers.
- (4) The Agreement should be signed and the attached EU Declaration on means of cooperation and implementation be approved.
- (5) The Agreement should, in part, be applied on a provisional basis between the Union and the OACPS Members, pending the completion of the procedures necessary for its entry into force.
- (6) The signing and provisional application of the Agreement is without prejudice to the exercise by the Member States of their national competences, in particular in the areas of development cooperation, education and migration, in accordance with the Treaties, and does not affect the responsibilities of the Member States in accordance with the Treaties,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union 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 ('the Agreement') is hereby authorised, subject to the conclusion of the said Agreement ⁽¹⁾.

⁽¹⁾ The text of the Agreement is published in OJ L, 2023/2862, 28.12.2023, ELI: http://data.europa.eu/eli/agree_internation/2023/2862/oj

Article 2

The Declaration attached to this Decision shall be approved on behalf of the Union.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 4

1. Pending the completion of the procedures necessary for the entry into force of the Agreement, and in accordance with Article 98(4) thereof, the Agreement shall be applied on a provisional basis ^(?) between the Union and the OACPS Members, to the extent that its provisions cover matters falling within the Union's competence, including matters falling within the Union's competence to define and implement a common foreign and security policy, and are applicable to the Union.

2. Notwithstanding paragraph 1 of this Article, the following shall not be applied on a provisional basis:

(a) in the General Part:

- Article 12(4) and (6), to the extent that it concerns tax revenue collection;
- Article 17(4), the last sentence, to the extent that it concerns military expenditure;
- Article 22(2), the third sentence;
- Article 29(2);
- Article 32(1), point (b), and Article 32(2), the last sentence;
- Article 64(1), the last sentence;
- Article 67(2);
- Article 85(1), the first sentence, and Article 85(4);

(b) in the Africa Regional Protocol:

- Article 9(1), the last sentence;
- Article 58(5), the first sentence;
- Article 67(2), the last sentence, and Article 67(4), the last sentence;
- Article 68(4), to the extent that it concerns penitentiary systems;
- Article 72(1), to the extent that it concerns public debt management;
- Article 76(2);

(c) in the Caribbean Regional Protocol:

- Article 33(4);
- Article 34(2);
- Article 35, to the extent that it concerns public debt management;
- Article 36(3), the first sentence;
- Article 51(5), the first sentence;

(d) in the Pacific Regional Protocol:

- Article 18;

^(?) The date from which the Agreement will be provisionally applied will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

- Article 26(4), to the extent that it concerns the increase in routes and frequency of air services;
- Article 40(3), to the extent that it concerns penitentiary systems;
- Article 41(1), to the extent that it concerns public debt management.

3. Notwithstanding paragraph 1, provisions related to foreign investment shall not be applied on a provisional basis, to the extent that they concern portfolio investment or any other form of non-direct investment.

4. Notwithstanding paragraph 1, Part V of the General Part of the Agreement shall be applied provisionally to the extent that the provisions of that Part are limited to the purpose of ensuring the provisional application of the Agreement as defined in this Article.

5. The provisional application of parts of the Agreement is without prejudice to the allocation of competences between the Union and its Member States in accordance with the Treaties.

Article 5

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

Done at Brussels, 20 July 2023.

For the Council

The President

J. BORRELL FONTELLES