

**DECISIONS AND RESOLUTION
OF THE SPECIAL SESSION OF THE ACP COUNCIL OF MINISTERS
HELD IN BRUSSELS ON 1st OCTOBER 2003**

SUMMARY

DECISIONS

No. 1 ON THE CONTINUATION OF PHASE I OF THE NEGOTIATIONS OF ACP-EU ECONOMIC PARTNERSHIP AGREEMENTS (EPAs)

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No.3 ON THE FOLLOW-UP TO THE 5TH WTO MINISTERIAL CONFERENCE BY THE ACP GROUP OF STATES

RESOLUTION

REVISION OF THE BAN, RESTRICTIONS AND MARKET RECALLS OF KAVA-CONTAINING PRODUCTS

DECISION No.1/03

OF THE SPECIAL SESSION OF THE ACP COUNCIL OF MINISTERS
HELD IN BRUSSELS ON THE 1st OCTOBER 2003

ON THE CONTINUATION OF PHASE I OF THE NEGOTIATIONS OF ACP-EU
ECONOMIC PARTNERSHIP AGREEMENTS (EPAs)

The ACP Council of Ministers,

Having regard to the Georgetown Agreement;

Recalling Decision No.1/LXXV/02 of the Council of Ministers, dated 26 June 2002, relating to the launching of EPA negotiations adopting, *inter alia*, the ACP Guidelines for the EPA negotiations;

Having regard to Decision No.1/02 of the Special session of the Council of Ministers, on 26 September 2002, on the structure of the EPA negotiations for the All-ACP phase;

Having examined the Committee of Ambassadors' report on the negotiations of the 1st phase of the EPA negotiations;

Having examined the recommendations of the 9th meeting of the ACP Ministerial Trade Committee held in Brussels on 30 September 2003;

Considering both the state of progress of the 1st phase of negotiations and the impending start of the 2nd phase;

Anxious to preserve the unity and solidarity of the ACP Group and ensure transparency and coherence throughout the EPA negotiating process;

HEREBY DECIDES:

1. Negotiations at the All-ACP level will be conducted on issues of common interest including:
 - Compatibility with the WTO
 - Dispute settlement
 - Non-execution clause
 - Definition of the parties to the EPA
 - Procedures for the entry into force of the EPAs
 - Trade-related areas
 - Rules of origin
 - Safeguard measures
 - Commodity protocols
 - All-ACP/EU framework agreement on fishing
 - Implications of the EPAs on budgetary, economic and social planning and balance of payments
 - Additional resources
 - Treatment for non-LDCs not in a position to conclude EPAs
 - Treatment for LDCs not in a position to conclude EPAs
 - SPS issues
 - Regular, formal and comprehensive reviews of EPA preparations and negotiations, and
 - Mechanism for the implementation of the EPAs.
2. Negotiations on issues of common interest at the All-ACP level will be conducted by the ACP negotiating structures as specified in Decision No.1/02 of 26 September 2002 adopted by the Special session of the ACP Council of Ministers on the structure of the EPA negotiations.
3. The negotiations referred to in points 1 and 2 above must be concluded no later than the end of the first quarter of 2004.
4. Any region or configuration which intends to negotiate any of the issues listed under paragraph 1 before the deadline specified in paragraph 3, must duly inform the ACP Group.

5. In conformity with the provisions of Article 37.4 of the Cotonou Agreement, a formal, comprehensive review of the envisaged agreements will be conducted at the All-ACP level in 2006 prior to the conclusion of the EPAs.

Done at Brussels, 1st October 2003

**Lt. Gen. Mompoti MERAFFE
Minister of Foreign Affairs and
International Cooperation of the
Republic of Botswana
President of the ACP Council of Ministers**

DECISION No. 2/03

**OF THE SPECIAL SESSION OF THE ACP COUNCIL OF MINISTERS
HELD IN BRUSSELS ON THE 1st OCTOBER 2003**

**ON THE ACP FOLLOW-UP MECHANISM FOR PHASE II OF THE
NEGOTIATIONS FOR THE ECONOMIC PARTNERSHIP AGREEMENTS (EPAs)**

The ACP Council of Ministers,

Having regard to the Georgetown Agreement;

Considering Decision No.1/LXXV/02 of 26 June 2002, of the Council of Ministers on the launching of the EPA Negotiations;

After considering the Committee of Ambassadors' report on the negotiation of Phase I of the EPA Negotiations, especially the part relating to Phase II of the negotiations;

Having considered the recommendations of the 9^h meeting of the ACP Ministerial Trade Committee, held on 30 September 2003 in Brussels, especially those relating to the proposal of the Committee of Ambassadors regarding a follow-up mechanism for phase II of the EPA negotiations ;

Having regard to Decision No.1/03 of the 1st October 2003 of the Special session of the ACP Council of Ministers on the continuation of Phase I of the negotiations of EPAs;

Desirous of safeguarding the unity and solidarity within the ACP Group while ensuring transparency and coherence throughout the process of negotiations of the Economic Partnership Agreements;

HEREBY DECIDES THAT:

An ACP Follow-up mechanism for Phase II of the Negotiations is hereby established as follows:

A. Mandate :

1. Ensure circulation of information among the regions;
2. Ensure transparency and coherence in the various negotiating processes;
3. Facilitate dialogue and consultation;
4. Give advice and make recommendations – on its own initiative or on request - on any issue related to the negotiations (difficulties, deadlock, etc.);
5. Conduct an analysis of the state of advancement of the negotiating processes and make recommendations where necessary;
6. Identify, on the basis of “All-ACP” issues and areas of interest determined by the Group, the effect that any position or agreement adopted by any region with the EC might have on the other regions or the Group;
7. Make recommendations for enhancing the effectiveness of approaches and strategies that might help in the smooth conduct of Phase II of the negotiations.

B. Structure :

1. Technical level: A Follow-up Group comprising:
 - The Chief technical negotiator for each region or any other configuration;
 - a representative from each of the 6 ACP regions;
 - a representative of the regional organization, in the case where the regional organization is not conducting the negotiations;
 - Secretary-General of the ACP Group;
 - *Troika* of the Committee of Ambassadors;
 - a representative of the High Level Group of Experts.

The Technical Follow-up Group may have recourse to any expertise it considers necessary for the smooth conduct of its work.

2. Political level :

- The Committee of Ambassadors
- The Council of Ministers

The Ministerial Trade Committee will be kept informed by the Committee of Ambassadors and may make any recommendation it deems appropriate to the Council of Ministers.

C. Operating modalities

1. Negotiators will periodically submit progress reports on the negotiations to the ACP Secretariat;
2. The Technical Follow-up Group will meet at least twice per year to examine the negotiators' reports;
3. The ACP Secretariat will report to the Committee of Ambassadors which will make recommendations to the Council of Ministers;
4. The Council of Ministers, with due regard to the Committee of Ambassadors' report and possible recommendations from the Ministerial Trade Committee, will review the state of advancement of the negotiations to ensure coherence between the various processes, in conformity with the ACP Group's principles of unity and solidarity and with due consideration of the situation in each ACP region.
5. At the request of one or more regions, the Council may examine any issue relating to the EPA negotiations.

Done at Brussels, 1st October 2003

**Lt. Gen. Mompoti MERAFFE
Minister of Foreign Affairs and
International Cooperation of the
Republic of Botswana
President of the ACP Council of Ministers**

DECISION No. 3/03

OF THE SPECIAL SESSION OF THE ACP COUNCIL OF MINISTERS
HELD IN BRUSSELS ON THE 1st OCTOBER 2003

**ON THE FOLLOW-UP TO THE 5TH WTO MINISTERIAL
CONFERENCE BY THE ACP GROUP OF STATES**

The ACP Council of Ministers,

Recalling the outcome of the 5th WTO Ministerial Conference which was held in Cancun, Mexico, from 10-14 September 2003;

Recalling also the Report of Hon. Jacob NKATE, ACP Spokesman for this Conference, which referred inter alia, to the fruitful cooperation between the alliance of the member states of the African Union, the ACP Group of States, and the LDCs;

Bearing in mind that the Ministerial Statement of this Conference envisages the convening of a meeting of the WTO General Council at the level of Senior Officials no later than 15 December 2003;

HEREBY DECIDES:

1. That a meeting of ACP Ministers of Trade should be convened beforehand in order to:
 - carry out a review of the 5^h WTO Ministerial Conference and draw appropriate lessons therefrom; and
 - plan a strategy for advancing the interests of the ACP Group in implementing the Doha Work Programme.

2. To mandate the Committee of Ambassadors to:

- explore, in collaboration with the ACP missions in Geneva, ways and means to consolidate the collaboration among the alliance of the WTO member States of the African Union, the ACP Group of States and the LDCs ;
- to work closely with ACP States' representatives in Geneva to actively put across the position of the ACP Group on the issues contained in the Declaration on the 5th WTO Ministerial Conference adopted by the ACP Ministers of Trade the 1st August 2003.

Done at Brussels, 1st October 2003

**Lt. Gen. Mompoti MERAFFE
Minister of Foreign Affairs and
International Cooperation of the
Republic of Botswana
President of the ACP Council of Ministers**

**RESOLUTION
OF THE SPECIAL SESSION OF THE ACP COUNCIL OF MINISTERS
HELD IN BRUSSELS ON 1ST OCTOBER 2003**

**REVISION OF THE BAN, RESTRICTIONS AND MARKET
RECALLS OF KAVA CONTAINING PRODUCTS**

The ACP Council of Ministers,

Meeting at a Special Session in Brussels on 1st October 2003,

- A. Recalling** the principles and objectives of the Georgetown Agreement as amended, the Libreville, Santa Domingo and Nadi Declarations of the ACP Heads of State and Government at their Summits in 1997, 1999, and 2002;
- B. Having regard to** the ACP-EC Partnership Agreement signed in Cotonou, Benin on 23 June 2000;
- C. Recalling** the Joint Declaration (Annex XXIII) on market access of the Cotonou Partnership Agreement by which the parties agree to examine all measures in order to maintain the competitive positions of the ACP States on the Community market, and wherein the Council of the European Union underlines its obligation to take into account the effect of any Agreement or other measures to be taken by the EC on ACP-EC Trade.
- D. Underlining** that the parties to the Marrakesh Agreement establishing the World Trade Organization (WTO) recognized that their relations in the field of trade and economic endeavour should be conducted with a view to, inter alia, ensuring full employment and sustainable development while seeking to protect and preserve the environment and recognizing the need for positive efforts to ensure that developing countries secure a fair share in the growth of international trade;

- E. Noting** that the kava producing ACP States are either least developed, developing, net food importing, vulnerable, landlocked or island States with specific economic and social difficulties and needs that rely, inter alia, on kava export earnings for their sustainable socio-economic development;
- F. Recognizing** that the inherent natural, physical and structural constraints of the ACP States concerned, do not generally allow for expansive horizontal diversification of their agriculture;
- G. Acknowledging** that kava is a traditional beverage that plays an important role in the social life of these communities and also has positive effects in the treatment of patients world-wide suffering from anxiety disorders and stress;
- H. Emphasizing** that kava producing ACP States have been utilizing the vital foreign exchange earnings from exports to the EU in their rationalization programmes to improve efficiency, increase productivity and generally help maintain their level of competitiveness;
- I. Regretting strongly** that the German Health Authorities, followed by most of the EU member states and non-EU countries, banned, restricted and recalled kava-containing products as a result of unscientific and insufficient evidence that associated kava intake to the occurrence of some cases of liver damage;
- J. Welcoming** the conclusions of the report, *In-depth investigation into EU member states' restrictions on kava products* by Phytopharm Consulting (Berlin, Germany), which categorically state that kava can be regarded as a safe and effective herbal medicinal product, and that the measures taken by European Health Authorities are inappropriate and unjustified;
- K. Endorsing** the findings of the European-Pacific Kava Stakeholders' meeting, held in Brussels, Belgium during the period 25 – 26 August 2003, and attended by a cross section of stakeholders, namely European manufacturers, regulatory agencies, kava exporters, scientists and experts, and organizations such as CDE, Pro-Invest, the Pacific Islands Forum Secretariat, Commonwealth Secretariat, EU, WHO and CTA; and

- L. Endorsing also** the establishment of a ‘Kava Executive Committee’ to coordinate future activities, and in particular to develop a strategy to have the ban, restrictions and market recall of kava-containing products reversed.

Hereby calls on the European Union to:

1. **Recognize** the significant and vital contribution that predictable and stable earnings derived from kava exports have made to sustainable economic development, poverty alleviation, the fight against social exclusion resulting from globalization in ACP States, the promotion and sustenance of democracy, and the respect for human rights and fundamental freedom;
2. **Recognize also** that the ban, restrictions and recall of kava-containing products from international markets resulted in economic disaster for the kava producing ACP States, destroyed the export market that in turn lead to bankruptcies and the threatening of the livelihood of thousand of people of the poor rural communities;
3. **Acknowledge** the multifunctional nature of the kava sector, particularly its role in environmental protection and rural development in kava producing ACP States as well as the contribution of ACP kava industries to the EU herbal industry;
4. **Endorse** the findings of the scientific report ‘*In-depth investigation into EU member states’ restrictions on kava products*’ by Phytopharm Consulting, and further assure its widest distribution;
5. **Support** through CDE/Pro-Invest the activities and strategies of the Kava Executive Committee;
6. **Support also** the efforts and initiatives of the kava producing ACP States at the World Trade Organization (WTO) to amicably resolve the matter in the interest of all concerned parties;

7. **Initiate**, as a matter of urgency, the reversal, based on scientific evidential information, of the ban, restrictions and market recalls of kava-based products in EU member states; and
8. **Assist**, where possible and by what-ever measures, the reversal of the ban, restrictions and market recalls of kava-based products in other international markets.

Further requests the President of Council to forward this Resolution to the Council of the European Union, EU member states, ACP-EU Joint Parliamentary Assembly (JPA), European Parliament, and the European Commission.
