



EUROPEAN PARLIAMENT

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*Plenary sitting*

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**A8-0146/2015**

28.4.2015

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## **RECOMMENDATION**

on the draft Council decision on the conclusion, on behalf of the European Union and its Member States, of the Additional Protocol to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, to take account of the accession of the Republic of Croatia to the European Union  
(07657/2015 – C8-0103/2015 – 2014/0236(NLE))

Committee on Development

Rapporteur: Davor Ivo Stier

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
SHORT JUSTIFICATION .....	6
RESULT OF FINAL VOTE IN COMMITTEE .....	10



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the conclusion, on behalf of the European Union and its Member States, of the Additional Protocol to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, to take account of the accession of the Republic of Croatia to the European Union (07657/2015 – C8-0103/2014 – 2014/0236(NLE))**

### **(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (07657/2015),
  - having regard to the draft Additional Protocol to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, to take account of the accession of the Republic of Croatia to the European Union (13175/2014),
  - having regard to the request for consent submitted by the Council in accordance with Article 217 and Article 218(6), second subparagraph, point (a) (v), of the Treaty on the Functioning of the European Union (C8-0103/2015),
  - having regard to Rule 99(1), first and third subparagraphs, Rule 99(2), and Rule 108(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Development (A8-0146/2015),
1. Gives its consent to the conclusion of the Protocol;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of South Africa.

## SHORT JUSTIFICATION

### **I. The Additional Protocol to the EU-South Africa TDCA taking account of Croatia's accession. Procedure.**

The Trade, Development and Cooperation Agreement (TDCA) between the EU and its Member States, on the one part, and the Republic of South Africa, on the other part, was signed in Pretoria on 11 October 1999 and entered into force on 1 May 2004. It was revised in Kleinmond (South Africa) on 11 September 2009.

On 1 July 2013, the Republic of Croatia acceded to the EU and became its 28th Member State. The proposed Council decision aims to approve the Additional Protocol to the EU-South Africa TDCA taking account of Croatia's accession to the EU, on behalf of the Union and its Member States. (On 24 September 2012, the Council authorised the Commission to open negotiations with South Africa in order to conclude the Additional Protocol. Those negotiations were successfully completed on 19 May 2014).

The Additional Protocol was approved by the Council on 9 October 2014 and by South Africa in late December 2014.

The South African Government is now in the process of deciding which Plenipotentiary to empower for the signature of the Additional Protocol. The Council is waiting for that decision before organising the signature. Once the Protocol will be signed, the Council will officially ask to the Parliament for its consent to the conclusion of the Protocol. In the meantime, nothing prevents the Parliament to go ahead with the first, committee stages of the consent procedure (but the vote, in Plenary at least, cannot take place before the signature of the Protocol and the subsequent official transmission - 'saisine' – of the request for consent from the Council to the Parliament; the provisional application of the Additional Protocol will also be depending on its signature by both Contracting Parties, with the exception of Articles 3 and 4 of the Additional Protocol, which are directly applicable from the date of Croatia's accession, i.e. from 1 July 2013, see next point).

### **II. The Additional Protocol to the EU-South Africa TDCA. Content**

The Additional Protocol only aims to make, into the TDCA, the few technical and linguistic adaptations that Croatia's accession to the EU necessitates. The signature of the Additional Protocol is needed to allow the Republic of Croatia to become Contracting Party to the TDCA. The Additional Protocol (Article 2) adds Croatian language to the list of the authentic languages of the TDCA. It adds the Croatian phrases to be used in the movement certificate, in the duplicate, and in the invoice declaration referred to, respectively, in Articles 16(4), 17(2) and Annex IV of the Protocol 1 of the TDCA (Article 3 of the Additional Protocol, applicable from 1 July 2013). It sets up transitional provisional for goods in route or in temporary storage in Croatia or South Africa, or between both countries (Article 4 of the Additional Protocol, applicable from 1 July 2013). It gives details on the approbation procedure and on the provisional application of the Additional Protocol (Article 6 of the Additional Protocol) and on its entry into force (Article 7 of the Additional Protocol).

### **III. Rapporteur's view**

The Rapporteur's view is that the committee on Development should recommend to the Parliament to give its consent to the conclusion of the Additional Protocol.

### **IV. TDCA: Background and procedure**

The TDCA has had a relatively long gestation period, with quite some degree of procedural complexity.

An initial trade, development and cooperation agreement between the European Community (and its Member States) and the Republic of South Africa was signed in Pretoria on 11 October 1999 and entered into force on 1 May 2004 for an indefinite period.

The Agreement between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, amending the Agreement on Trade, Development and Cooperation was signed in Kleinmond (South Africa) on 11 September 2009.

### **V. TDCA and Additional Protocol: Impact of the Treaty of Lisbon and Parliament's consent**

When the Treaty of Lisbon came into force, the European Union succeeded the European Community as the body required formally to approve the agreement (and its Protocols). Technically, this agreement, and any Protocol to it, is to be regarded as an association agreement within the meaning of Article 217 of the Treaty on the Functioning of the European Union. Under Article 218(6) of that treaty, such an agreement may not be concluded (by Council decision) until after Parliament has given its consent.

It follows both from the Treaty (in particular Article 218 thereof) and from the Rules of Procedure (in particular Rules 99 and 108 thereof) that no Plenary amendments to the text of the agreement or of any Protocol to it are admissible and that only the committee responsible (the Committee on Development in this case) may issue a recommendation to Plenary either to adopt or to reject the agreement, Plenary being required to take a decision, in a single vote, by a majority of the votes cast. In committee, though, amendments are admissible but only if they aim to reverse the rapporteur's recommendation (Rule 99, paragraph 1, subparagraph 1, last sentence, of the Rules of Procedure).

### **VI. TDCA: Content of the agreement**

The purpose of the original agreement, signed in Pretoria in 1999, is to step up bilateral cooperation in a number of areas. It pursues a number of objectives: stepping up bilateral dialogue, supporting South Africa in its process of economic and social transition, promoting regional cooperation and the country's economic integration within Southern Africa and the global economy, and extending and liberalising bilateral trade in goods, services and capital. The agreement also establishes a regular political dialogue on issues of mutual interest at both bilateral and regional level (as part of the EU's dialogue with the countries of Southern Africa

and the ACP group of countries). The agreement contains a good hundred articles - 109, to be precise - of which fewer than 20 (Articles 65-82) specifically relate to development cooperation, plus four articles on the financing of general cooperation.

With regard to development cooperation the bulk of our aid to South Africa is funded by the Union's budget by means of the financing instrument for development cooperation (DCI). The TDCA contains no specific financial allocation. The new DCI for the period 2014-2020 has a budget of EUR 241 million for South Africa (compared to the much higher budget of EUR 980 million for the period 2007-2013).

(The former Development Commissioner Piebalgs said in a meeting of the Development committee on 1st April 2014, devoted to the Strategic Dialogue on the new DCI (which entered into force on 15 March 2014) that, despite its sharp reduction, the DCI-funded allocation to South Africa 'will nevertheless be instrumental to help South African population to help them overcome the remaining challenges: about four in ten South Africans live below the poverty line; the country suffers from inequality, with a Gini coefficient of 0,7; and unemployment stands at around 25 per cent'. The national indicative programme for the current period has three priority areas: firstly, the creation of jobs; secondly, the education, the training and the innovation; and thirdly, the building of a capable, development-oriented State.)

Alongside economic cooperation - an entire title of the agreement, Title IV, is given over to it alone - other provisions of the agreement cover a number of very important development-related areas of cooperation, such as social cooperation, on the basis of an organised dialogue focusing on freedom of association, workers' rights, children's rights, equality between women and men, combating violence against women, environmental cooperation, in particular on climate change, cultural cooperation, cooperation on combating drugs and money laundering, health cooperation and, in particular, the fight against AIDS.

The agreement, as it is a cooperation agreement, also sets up a joint institutional structure by establishing a Cooperation Council, as referred to above.

The revised agreement signed in Kleinmond in 2009 makes a number of interesting changes to the original agreement, in particular- with regard to development - the following: democratic principles, human rights and the rule of law, cooperation on issues relating to disarmament and the non-proliferation of weapons of mass destruction become essential elements of the agreement; the principle of aid effectiveness (as a development cooperation objective) and priority for operations contributing in particular, to the fight against poverty, towards achieving the Millennium Development Goals (MDGs) have been added; a specific article on the MDGs has been inserted, too, in order to restate the parties' commitment to achieving them by 2015; emphasis is placed on the need to lay down our priority areas of development cooperation in multiannual programming documents jointly agreed by the parties, including joint documents accepted by the Union's Member States, in accordance with the Union's cooperation instruments; and non-state actors are recognised as cooperation partners eligible for financial and technical assistance (instead of 'non-governmental development partners and actors').

It should also be noted that seven new articles have been inserted for seven new areas,



relatively well mapped out, for cooperation with South Africa: combating weapons of mass destruction and their means of delivery, by signing and complying with the relevant international instruments, on which a regular political dialogue is also to be established; combating terrorism; combating money laundering, terrorism financing and organised crime; combating the manufacturing of, and trade in, small arms and light weapons and the accumulation of them; the prevention of mercenary activities; unwavering backing for the International Criminal Court and its work to put an end to impunity and to enforce international justice; cooperation on migration is also to be the subject of regular political dialogue - the new, specific article on this is very detailed - as is, in this context, the linkage between cooperation and development (including, but not confined to, strategies aimed at reducing poverty, improving living and working conditions and creating employment, participation of migrants in the development of their home countries, cooperation to strengthen capacities, particularly in the health and education sectors, to offset the negative impact of the South African 'brain drain' on sustainable development in South Africa, and legal, expeditious and cost-effective ways for expatriates to transfer remittances to the country).

From a development perspective, extending cooperation to these many new areas was a point in favour of the Kleinmond revised agreement; and, moreover, extending cooperation in this way, which was provided for in the original 1999 agreement as simply a possibility, was what both sides wanted (since they had reached agreement on the Joint Action Plan implementing the South Africa-European Union Strategic Partnership). Your rapporteur seizes the current opportunity to welcome the new provisions on development which had been inserted in Kleinmond in 2009 into the TDCA, in particular as regards combating poverty, aid effectiveness, the MDGs and the linkage between migration and development.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	20.4.2015
<b>Result of final vote</b>	+: 18 -: 1 0: 0
<b>Members present for the final vote</b>	Beatriz Becerra Basterrechea, Ignazio Corrao, Nirj Deva, Doru-Claudian Frunzuliță, Enrique Guerrero Salom, Hans Jansen, Teresa Jiménez-Becerril Barrio, Stelios Kouloglou, Arne Lietz, Linda McAvan, Norbert Neuser, Maurice Ponga, György Schöpflin, Pedro Silva Pereira, Davor Ivo Stier, Bogdan Brunon Wenta, Anna Záborská
<b>Substitutes present for the final vote</b>	Eleni Theocharous, Joachim Zeller