PARTNERSHIP AGREEMENT BETWEEN THE MEMBERS OF THE AFRICAN, CARIBBEAN AND PACIFIC GROUP OF STATES OF THE ONE PART, AND THE EUROPEAN COMMUNITY AND ITS MEMBER STATES OF THE OTHER PART

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF ROMANIA,

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

THE PRESIDENT OF THE SLOVAK REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union, hereinafter

referred to as "the Member States",

and

THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the EU", of the one part, and

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

THE HEAD OF STATE OF BARBADOS,

HER MAJESTY THE QUEEN OF BELIZE,

THE PRESIDENT OF THE REPUBLIC OF BENIN,

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,

THE PRESIDENT OF BURKINA FASO,

THE PRESIDENT OF THE REPUBLIC OF BURUNDI,

THE PRESIDENT OF THE REPUBLIC OF CAMEROON,

THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,

THE PRESIDENT OF THE UNION OF THE COMOROS,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,

THE PRESIDENT OF THE REPUBLIC OF CONGO,

THE GOVERNMENT OF THE COOK ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF COTE D'IVOIRE,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,

THE PRESIDENT OF THE DOMINICAN REPUBLIC,

THE PRESIDENT OF THE STATE OF ERITREA,

THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,

THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,

THE PRESIDENT OF THE GABONESE REPUBLIC,

THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,

THE PRESIDENT OF THE REPUBLIC OF GHANA,

HER MAJESTY THE QUEEN OF GRENADA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,

THE PRESIDENT OF THE REPUBLIC OF HAITI,

THE HEAD OF STATE OF JAMAICA,

THE PRESIDENT OF THE REPUBLIC OF KENYA,

THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,

HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,

THE PRESIDENT OF THE REPUBLIC OF LIBERIA,

THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,

THE PRESIDENT OF THE REPUBLIC OF MALAWI,

THE PRESIDENT OF THE REPUBLIC OF MALI,

THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,

THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,

THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,

THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,

THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,

THE GOVERNMENT OF THE REPUBLIC OF NAURU,

THE PRESIDENT OF THE REPUBLIC OF NIGER,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,

THE GOVERNMENT OF NIUE,

THE GOVERNMENT OF THE REPUBLIC OF PALAU,

HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA,

THE PRESIDENT OF THE REPUBLIC OF RWANDA,

HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

HER MAJESTY THE QUEEN OF SAINT LUCIA,

HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,

THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE,

THE PRESIDENT OF THE REPUBLIC OF SENEGAL,

THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,

THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,

HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,

THE PRESIDENT OF THE REPUBLIC OF SURINAME,

HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,

THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,

THE PRESIDENT OF THE REPUBLIC OF CHAD,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,

THE PRESIDENT OF THE TOGOLESE REPUBLIC,

HIS MAJESTY THE KING OF TONGA,

THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,

HER MAJESTY THE QUEEN OF TUVALU,

THE PRESIDENT OF THE REPUBLIC OF UGANDA,

THE GOVERNMENT OF THE REPUBLIC OF VANUATU,

THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

which states are hereinafter referred to as "ACP States",

of the other part,

HAVING REGARD to the Treaty on the Functioning of the European Union, on the one hand, and the Georgetown Agreement establishing the Group of African, Caribbean and Pacific States (ACP), on the other;

HAVING REGARD to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005 (hereinafter referred to as "the Cotonou Agreement");

CONSIDERING that Article 95(1) of the Cotonou Agreement lays down that the duration of the Agreement shall be 20 years, commencing on 1 March 2000;

CONSIDERING that the Agreement amending the Cotonou Agreement for the first time was signed in Luxembourg on 25 June 2005 and entered into force on 1 July 2008;

HAVE DECIDED to sign this Agreement amending the Cotonou Agreement for the second time and to this end have designated as their Plenipotentiaries:

FOR HIS MAJESTY THE KING OF THE BELGIANS,

FOR THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

FOR THE PRESIDENT OF THE CZECH REPUBLIC,

FOR HER MAJESTY THE QUEEN OF DENMARK,

FOR THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

FOR THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

FOR THE PRESIDENT OF IRELAND,

FOR THE PRESIDENT OF THE HELLENIC REPUBLIC,

FOR HIS MAJESTY THE KING OF SPAIN,

FOR THE PRESIDENT OF THE FRENCH REPUBLIC,

FOR THE PRESIDENT OF THE ITALIAN REPUBLIC,

FOR THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

FOR THE PRESIDENT OF THE REPUBLIC OF LATVIA,

FOR THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

FOR HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

FOR THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

FOR THE PRESIDENT OF MALTA,

FOR HER MAJESTY THE QUEEN OF THE NETHERLANDS,

FOR THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

FOR THE PRESIDENT OF THE REPUBLIC OF POLAND,

FOR THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

FOR THE PRESIDENT OF ROMANIA,

FOR THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

FOR THE PRESIDENT OF THE SLOVAK REPUBLIC,

FOR THE PRESIDENT OF THE REPUBLIC OF FINLAND,

FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

FOR HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

FOR THE EUROPEAN UNION,

FOR THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

FOR HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

FOR THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

FOR THE HEAD OF STATE OF BARBADOS,

FOR HER MAJESTY THE QUEEN OF BELIZE,

FOR THE PRESIDENT OF THE REPUBLIC OF BENIN,

FOR HER MAJESTY THE QUEEN OF GRENADA,

FOR THE PRESIDENT OF THE REPUBLIC OF GUINEA,

FOR THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

FOR THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,

FOR THE PRESIDENT OF THE REPUBLIC OF HAITI,

FOR THE HEAD OF STATE OF JAMAICA,

FOR THE PRESIDENT OF THE REPUBLIC OF KENYA,

FOR THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,

FOR HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,

FOR THE PRESIDENT OF THE REPUBLIC OF LIBERIA,

FOR THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,

FOR THE PRESIDENT OF THE REPUBLIC OF MALAWI,

FOR THE PRESIDENT OF THE REPUBLIC OF MALI,

FOR THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,

FOR THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

FOR THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,

FOR THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,

FOR THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,

FOR THE GOVERNMENT OF THE REPUBLIC OF NAURU,

FOR THE PRESIDENT OF THE REPUBLIC OF NIGER,

FOR THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,

FOR THE GOVERNMENT OF NIUE,

FOR THE GOVERNMENT OF THE REPUBLIC OF PALAU,

FOR HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA,

FOR THE PRESIDENT OF THE REPUBLIC OF RWANDA,

FOR HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

FOR HER MAJESTY THE QUEEN OF SAINT LUCIA,

FOR HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,

FOR THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,

FOR THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE,

FOR THE PRESIDENT OF THE REPUBLIC OF SENEGAL,

FOR THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,

FOR THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,

FOR HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,

FOR THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,

FOR THE PRESIDENT OF THE REPUBLIC OF SURINAME,

FOR HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,

FOR THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,

FOR THE PRESIDENT OF THE REPUBLIC OF CHAD,

FOR THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,

FOR THE PRESIDENT OF THE TOGOLESE REPUBLIC,

FOR HIS MAJESTY THE KING OF TONGA,

FOR THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,

FOR HER MAJESTY THE QUEEN OF TUVALU,

FOR THE PRESIDENT OF THE REPUBLIC OF UGANDA,

FOR THE GOVERNMENT OF THE REPUBLIC OF VANUATU,

FOR THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

FOR THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

HAVING REGARD TO the Treaty establishing the European Community, on the one hand, and the Georgetown Agreement establishing the Group of African, Caribbean and Pacific States (ACP), on the other;

AFFIRMING their commitment to work together towards the achievement of the objectives of poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy;

ASSERTING their resolve to make, through their cooperation, a significant contribution to the economic, social and cultural development of the ACP States and to the greater well-being of their population, helping them facing the challenges of globalisation and strengthening the ACP-EU Partnership in the effort to give the process of globalisation a stronger social dimension;

REAFFIRMING their willingness to revitalise their special relationship and to implement a comprehensive and integrated approach for a strengthened partnership based on political dialogue, development cooperation and economic and trade relations;

ACKNOWLEDGING that a political environment guaranteeing peace, security and stability, respect for human rights, democratic principles and the rule of law, and good governance is part and parcel of long-term development; acknowledging that responsibility for establishing such an environment rests primarily with the countries concerned;

ACKNOWLEDGING that sound and sustainable economic policies are prerequisites for development;

REFERRING to the principles of the Charter of the United Nations, and recalling the Universal Declaration of Human Rights, the conclusions of the 1993 Vienna Conference on Human Rights, the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all forms of Discrimination against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the 1949 Geneva Conventions and the other instruments of international humanitarian law, the 1954 Convention relating to the status of stateless persons, the 1951 Geneva Convention relating to the Status of Refugees and the 1967 New York Protocol relating to the Status of Refugees;

CONSIDERING the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the African Charter on Human and Peoples' Rights and the American Convention on Human Rights as positive regional contributions to the respect of human rights in the European Union and in the ACP States;

REAFFIRMING that the most serious crimes of concern to the international community must not go unpunished and that their effective prosecution must be ensured by taking measures at national level and by enhancing global collaboration;

CONSIDERING that the establishment and effective functioning of the International Criminal Court constitute an important development for peace and international justice;

RECALLING the declarations of the successive Summits of the Heads of State and Government of ACP States;

CONSIDERING that the Millennium Development Goals emanating from the Millennium Declaration adopted by the United Nations General Assembly in 2000, in particular the eradication of extreme poverty and hunger, as well as the development targets and principles agreed in the United Nations Conferences, provide a clear vision and must underpin ACP-EC cooperation within this Agreement; ac- knowledging that the EU and the ACP States need to make a concerted effort to accelerate progress towards attaining the Millennium Development Goals;

SUBSCRIBING to the aid effectiveness agenda started in Rome, pursued in Paris and further developed in the Accra Agenda for Action;

PAYING particular attention to the pledges made and objectives agreed at major UN and other international conferences and acknowledging the need for further action to be taken in order to achieve the goals and implement the action programmes which have been drawn up in those fora;

AWARE of the serious global environmental challenge posed by climate change, and deeply concerned that the most vulnerable populations live in developing countries, in particular in Least Developed Countries and Small Island ACP States, where climate-related phenomena such as sea level rise, coastal erosion, flooding, droughts and desertification are threatening their livelihoods and sustainable development;

ANXIOUS to respect basic labour rights, taking account of the principles laid down in the relevant conventions of the International Labour Organisation;

RECALLING the commitments within the framework of the World Trade Organisation,

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

Part 1. General Provisions

Title 1. Objectives, Principles and Actors

Chapter 1. Objectives and Principles

Article 1. Objectives of the Partnership

The Community and its Member States, of the one part, and the ACP States, of the other part, hereinafter referred to as the "Parties" hereby conclude this Agreement in order to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment.

The partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.

These objectives and the Parties' international commitments, including the Millennium Development Goals, shall inform all development strategies and shall be tackled through an integrated approach taking account at the same time of the political, economic, social, cultural and environmental aspects of development. The partnership shall provide a coherent support framework for the development strategies adopted by each ACP State.

Sustained economic growth, developing the private sector, increasing employment and improving access to productive resources shall all be part of this framework. Support shall be given to the respect of the rights of the individual and meeting basic needs, the promotion of social development and the conditions for an equitable distribution of the fruits of growth. Regional and sub-regional integration processes which foster the integration of the ACP countries into the world economy in terms of trade and private investment shall be encouraged and supported. Building the capacity of the actors in development and improving the institutional framework necessary for social cohesion, for the functioning of a democratic society and market economy, and for the emergence of an active and organised civil society shall be integral to the approach. Systematic account shall be taken of the situation of women and gender issues in all areas: political, economic and social. The principles of sustainable management of natural resources and the environment, including climate change, shall be applied and integrated at every level of the partnership.

Article 2. Fundamental Principles

ACP-EC cooperation, underpinned by a legally binding system and the existence of joint institutions, shall be guided by the internationally agreed aid effectiveness agenda regarding ownership, alignment, harmonisation, results-oriented aid management and mutual accountability, exercised on the basis of the following fundamental principles:

- equality of the partners and ownership of the development strategies: for the purposes of implementing the objectives of the partnership, the ACP States shall determine the development strategies for their economies and societies in all sovereignty and with due regard for the essential and fundamental elements described in Article 9; the partnership shall encourage ownership of the development strategies by the countries and populations concerned; EU development partners shall align their programmes with these strategies;

- participation: apart from central government as the main partner, the partnership shall be open to ACP parliaments, and local authorities in ACP States and different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life;

- the pivotal role of dialogue and the fulfilment of mutual obligations and accountability: the obligations assumed by the Parties in the framework of their dialogue shall be central to their partnership and cooperation relations; the Parties shall work closely together in determining and implementing the necessary processes of donor alignment and harmonisation, with a view to securing a key role for ACP States in these processes;

- differentiation and regionalisation: cooperation arrangements and priorities shall vary according to a partner's level of development, its needs, its performance and its long-term development strategy. Special treatment shall be given to the least developed countries. The vulnerability of landlocked and island countries shall be taken into account. Particular emphasis shall be put on regional integration, including at continental level.

Article 3. Achievement of this Agreement's Objectives

The Parties shall, each as far as it is concerned in the framework of this Agreement, take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising from this Agreement and to facilitate the attainment of the objectives thereof. They shall refrain from any measures liable to jeopardise these objectives.

Chapter 2. The Actors of the Partnership

Article 4. General Approach

The ACP States shall determine the development principles, strategies and models of their economies and societies in all sovereignty. They shall establish, with the Community, the cooperation programmes provided for under this Agreement. However, the parties recognise the complementary role of and potential for contributions by non-state actors, ACP national parliaments and local decentralised authorities to the development process, particularly at the national and regional levels. To this end, under the conditions laid down in this Agreement, non-state actors, ACP national parliaments and local decentralised authorities, shall, where appropriate:

- be informed and involved in consultation on cooperation policies and strategies, on priorities for cooperation especially in areas that concern or directly affect them, and on the political dialogue;

- be provided with capacity-building support in critical areas in order to reinforce the capabilities of these actors, particularly as regards organisation and representation, and the establishment of consultation mechanisms including channels of communication and dialogue, and to promote strategic alliances.

Non-state actors and local decentralised authorities shall, where appropriate:

- be provided with financial resources, under the conditions laid down in this Agreement in order to support local development processes;

- be involved in the implementation of cooperation projects and programmes in areas that concern them or where these actors have a comparative advantage;

Article 5. Information

Cooperation will support operation to provide more information and create greater awareness of the basic features of the ACP-EU Partnership.

Cooperation will also:

- encourage partnership and build links between ACP and EU actors;

- strengthen networking and exchange of expertise and experience among the actors.

Article 6. Definitions

1. The actors of cooperation will include:

(a) State (local, regional and national), including ACP national parliaments;

(b) ACP regional organisations and the African Union. For the purpose of this Agreement the notion of regional organisations or levels shall also include sub-regional organisations or levels;

(c) Non-state:

- private sector;

- economic and social partners, including trade union organisations;

- civil society in all its forms according to national characteristics.

2. Recognition by the parties of non-state actors shall depend on the extent to which they address the needs of the population, on their specific competencies and whether they are organised and managed democratically and transparently.

Article 7. Capacity Building

The contribution of civil society to development can be enhanced by strengthening community organisations and non-profit non-governmental organisations in all spheres of cooperation. This will require:

- encouraging and supporting the creation and development of such organisations;

- establishing arrangements for involving such organisations in the design, implementation and evaluation of development strategies and programmes.

Title II. The Political Dimension

Article 8. Political Dialogue

1. The Parties shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides.

2. The objective of this dialogue shall be to exchange information, to foster mutual understanding, and to facilitate the establishment of agreed priorities and shared agendas, in particular by recognising existing links between the different aspects of the relations between the Parties and the various areas of cooperation as laid down in this Agreement. The dialogue shall facilitate consultations and strengthen cooperation between the Parties within international fora as well as promote and sustain a system of effective multilateralism. The objectives of the dialogue shall also include preventing situations arising in which one Party might deem it necessary to have recourse to the consultation procedures envisaged in Articles 96 and 97.

3. The dialogue shall cover all the aims and objectives laid down in this Agreement as well as all questions of common, general or regional interest, including issues pertaining to regional and continental integration. Through dialogue, the Parties shall contribute to peace, security and stability and promote a stable and democratic political environment. It shall encompass cooperation strategies, including the aid effectiveness agenda, as well as global and sectoral policies, including environment, climate change, gender, migration and questions related to the cultural heritage. It shall also address global and sectoral policies of both Parties that might affect the achievement of the objectives of development cooperation.

4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs, organised crime or child labour, or discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The dialogue shall also encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance.

5. Broadly based policies to promote peace and to prevent, manage and resolve violent conflicts shall play a prominent role in this dialogue, as shall the need to take full account of the objective of peace and democratic stability in the definition of priority areas of cooperation. The dialogue in this context shall fully involve the relevant ACP regional organisations and the African Union, where appropriate.

6. The dialogue shall be conducted in a flexible manner. Dialogue shall be formal or informal according to the need, and conducted within and outside the institutional framework, including the ACP Group, the Joint parliamentary Assembly, in the appropriate format, and at the appropriate level including national, regional, continental or all-ACP level.

7. Regional organisations as well as representatives of civil society organisations shall be associated with this dialogue, as well as ACP national parliaments, where appropriate.

8. Where appropriate, and in order to prevent situations arising in which one Party might deem it necessary to have recourse to the consultation procedure foreseen in Article 96, dialogue covering the essential elements shall be systematic and formalised in accordance with the modalities set out in Annex VII.

Article 9. Essential Elements Regarding Human Rights, Democratic Principles and the Rule of Law, and Fundamental Element Regarding Good Governance

1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.

Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

2. The Parties refer to their international obligations and commitments concerning respect for human rights. They reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. Human rights are universal, indivisible and interrelated. The Parties undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In this context, the Parties reaffirm the equality of men and women.

The Parties reaffirm that democratisation, development and the protection of fundamental freedoms and human rights are interrelated and mutually reinforcing. Democratic principles are universally recognised principles underpinning the organisation of the state to ensure the legitimacy of its authority, the legality of its actions reflected in its constitutional, legislative and regulatory system, and the existence of participatory mechanisms. On the basis of universally recognised principles, each country develops its democratic culture.

The structure of government and the prerogatives of the different powers shall be founded on rule of law, which shall entail in particular effective and accessible means of legal redress, an independent legal system guaranteeing equality before the law and an executive that is fully subject to the law.

Respect for human rights, democratic principles and the rule of law, which underpin the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of this Agreement.

3. In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.

Good governance, which underpins the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute a fundamental element of this Agreement. The Parties agree that serious cases of corruption, including acts of bribery leading to such corruption, as referred to in Article 97 constitute a violation of that element.

4. The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.

These areas will be an important subject for the political dialogue. In the context of this dialogue, the Parties shall attach particular importance to the changes underway and to the continuity of the progress achieved. This regular assessment shall take into account each country's economic, social, cultural and historical context,

These areas will also be a focus of support for development strategies. The Community shall provide support for political, institutional and legal reforms and for building the capacity of public and private actors and civil society in the framework of strategies agreed jointly between the state concerned and the Community.

The principles underlying the essential and fundamental elements as defined in this Article shall apply equally to the ACP States on the one hand, and to the European Union and its Member States, on the other hand.

Article 10. Other Elements of the Political Environment

1. The Parties consider the following elements as contributing to the maintenance and consolidation of a stable and democratic political environment:

- sustainable and equitable development involving, inter alia, access to productive resources, essential services and justice;

- greater involvement of ACP national parliaments, local decentralised authorities, where appropriate, and of an active and organised civil society and the private sector.

2. The Parties recognise that the principles of the social market economy, supported by transparent competition rules and sound economic and social policies, contribute to achieving the objectives of the partnership.

Article 11. Peace Building Policies, Conflict Prevention and Resolution, Response to Situations of Fragility

1. The Parties acknowledge that without development and poverty reduction there will be no sustainable peace and security, and that without peace and security there can be no sustainable development. The Parties shall pursue an active, comprehensive and integrated policy of peace building and conflict prevention and resolution, and human security, and shall address situations of fragility within the framework of the Partnership. This policy shall be based on the principle of ownership and shall in particular focus on building national, regional and continental capacities, and on preventing violent conflicts at an early stage by addressing their root-causes, including poverty, in a targeted manner, and with an adequate combination of all available instruments.

The Parties acknowledge that new or expanding security threats need to be addressed, such as organised crime, piracy and

trafficking of, notably, people, drugs and weapons. The impacts of global challenges like international financial market shocks, climate change and pandemics also need to be taken into account.

The Parties emphasise the important role of regional organisations in peace building and conflict prevention and resolution and in tackling new or expand- ing security threats with, in Africa, a key responsibility for the African Union.

2. The interdependence between security and development shall inform the activities in the field of peace building, conflict prevention and resolution which shall combine short and long-term approaches, which encompass and go beyond crisis management. Activities to tackle new or expanding security threats shall, inter alia, support law enforcement, including cooperating on border controls, enhancing the security of the international supply chain, and improving air, maritime and road transport safeguards.

Activities in the field of peace building, conflict prevention and resolution shall in particular include support for balancing political, economic, social and cultural opportunities among all segments of society, for strengthening the democratic legitimacy and effectiveness of governance, for establishing effective mechanisms for the peaceful conciliation of group interests, for active involvement of women, for bridging dividing lines among different segments of society as well as support for an active and organised civil society. In this respect, particular attention shall be paid to developing early warning systems and peace-building mechanisms that would contribute to the prevention of conflicts.

3. Relevant activities shall also include, inter alia, support for mediation, negotiation and reconciliation efforts, for effective regional management of shared, scarce natural resources, for demobilisation and reintegration of former combatants into the society, for addressing the problems of child soldiers and of violence against women and children. Suitable action shall be taken to set responsible limits to military expenditure and arms trade, including through support for the promotion and application of agreed standards and codes of conduct, as well as to combat activities that fuel conflict.

3a. Particular emphasis shall be given to the fight against antipersonnel landmines and explosive remnants of war as well as to addressing the illicit manufacture, transfer, circulation and accumulation of small arms and light weapons and their ammunition, including inadequately secured and poorly managed stocks and stockpiles and their uncontrolled spread.

The Parties agree to coordinate, observe and fully implement their respective obligations under all relevant international conventions and instruments, and, to this end, they undertake to cooperate at the national, regional and continental levels.

3b. The Parties also undertake to cooperate in the prevention of mercenary activi- ties in accordance with their obligations under all relevant international conven- tions and instruments, and their respective legislations and regulations.

These areas will be an important subject for the political dialogue. In the context of this dialogue, the Parties shall attach particular importance to the changes underway and to the continuity of the progress achieved. This regular assessment shall take into account each country's economic, social, cultural and historical context,

These areas will also be a focus of support for development strategies. The Community shall provide support for political, institutional and legal reforms and for building the capacity of public and private actors and civil society in the framework of strategies agreed jointly between the state concerned and the Community.

The principles underlying the essential and fundamental elements as defined in this Article shall apply equally to the ACP States on the one hand, and to the European Union and its Member States, on the other hand.

Article 10. Other Elements of the Political Environment

1. The Parties consider the following elements as contributing to the maintenance and consolidation of a stable and democratic political environment:

- sustainable and equitable development involving, inter alia, access to productive resources, essential services and justice;

- greater involvement of ACP national parliaments, local decentralised authorities, where appropriate, and of an active and organised civil society and the private sector.

2. The Parties recognise that the principles of the social market economy, supported by transparent competition rules and sound economic and social policies, contribute to achieving the objectives of the partnership.

Article 11. Peace Building Policies, Conflict Prevention and Resolution, Response to Situations of Fragility

1. The Parties acknowledge that without development and poverty reduction there will be no sustainable peace and

security, and that without peace and security there can be no sustainable development. The Parties shall pursue an active, comprehensive and integrated policy of peace building and conflict prevention and resolution, and human security, and shall address situations of fragility within the framework of the Partnership. This policy shall be based on the principle of ownership and shall in particular focus on building national, regional and continental capacities, and on preventing violent conflicts at an early stage by addressing their root-causes, including poverty, in a targeted manner, and with an adequate combination of all available instruments.

The Parties acknowledge that new or expanding security threats need to be addressed, such as organised crime, piracy and trafficking of, notably, people, drugs and weapons. The impacts of global challenges like international financial market shocks, climate change and pandemics also need to be taken into account.

The Parties emphasise the important role of regional organisations in peace building and conflict prevention and resolution and in tackling new or expand- ing security threats with, in Africa, a key responsibility for the African Union.

2. The interdependence between security and development shall inform the activities in the field of peace building, conflict prevention and resolution which shall combine short and long-term approaches, which encompass and go beyond crisis management. Activities to tackle new or expanding security threats shall, inter alia, support law enforcement, including cooperating on border controls, enhancing the security of the international supply chain, and improving air, maritime and road transport safeguards.

Activities in the field of peace building, conflict prevention and resolution shall in particular include support for balancing political, economic, social and cultural opportunities among all segments of society, for strengthening the democratic legitimacy and effectiveness of governance, for establishing effective mechanisms for the peaceful conciliation of group interests, for active involvement of women, for bridging dividing lines among different segments of society as well as support for an active and organised civil society. In this respect, particular attention shall be paid to developing early warning systems and peace-building mechanisms that would contribute to the prevention of conflicts.

3. Relevant activities shall also include, inter alia, support for mediation, negotiation and reconciliation efforts, for effective regional management of shared, scarce natural resources, for demobilisation and reintegration of former combatants into the society, for addressing the problems of child soldiers and of violence against women and children. Suitable action shall be taken to set responsible limits to military expenditure and arms trade, including through support for the promotion and application of agreed standards and codes of conduct, as well as to combat activities that fuel conflict.

3a. Particular emphasis shall be given to the fight against antipersonnel landmines and explosive remnants of war as well as to addressing the illicit manufacture, transfer, circulation and accumulation of small arms and light weapons and their ammunition, including inadequately secured and poorly managed stocks and stockpiles and their uncontrolled spread.

The Parties agree to coordinate, observe and fully implement their respective obligations under all relevant international conventions and instruments, and, to this end, they undertake to cooperate at the national, regional and continental levels.

3b. The Parties also undertake to cooperate in the prevention of mercenary activities in accordance with their obligations under all relevant international conventions and instruments, and their respective legislations and regulations.

4. In order to address situations of fragility in a strategic and effective manner, the parties shall share information and facilitate preventive responses combining diplomatic, security and development cooperation tools in a coherent way. They shall agree on the best way to strengthen capabilities of states to fulfil their core functions and to stimulate political will for reform while respecting the principle of ownership. In situations of fragility, political dialogue is especially important and shall be further developed and reinforced.

5. In situations of violent conflict the Parties shall take all suitable action to prevent an intensification of violence, to limit its territorial spread, and to facilitate a peaceful settlement of the existing disputes. Particular attention shall be paid to ensuring that financial resources for cooperation are used in accordance with the principles and objectives of the Partnership, and to preventing a diversion of funds for belligerent purposes.

6. In post-conflict situations, the Parties shall take all suitable action to stabilise the situation during the transition in order to facilitate the return to a non-violent, stable and democratic situation. The Parties shall ensure the creation of the necessary links between emergency measures, rehabilitation and development cooperation.

7. In promoting the strengthening of peace and international justice, the Parties reaffirm their determination to:

- share experience in the adoption of legal adjustments required to allow for the ratification and implementation of the Rome Statute of the International Criminal Court; and

- fight against international crime in accordance with international law, giving due regard to the Rome Statute.

The Parties shall seek to take steps towards ratifying and implementing the Rome Statute and related instruments.

Article 11A. Fight Against Terrorism

The Parties reiterate their firm condemnation of all acts of terrorism and undertake to combat terrorism through international cooperation, in accordance with the Charter of the United Nations and international law, relevant conventions and instruments and in particular full implementation of UN Security Council Resolutions 1373 (2001) and 1456 (2003) and other relevant UN resolutions. To this end, the Parties agree to exchange:

- information on terrorist groups and their support networks; and

- views on means and methods to counter terrorist acts, including in technical fields and training, and experiences in relation to the prevention of terrorism.

Article 11B. Cooperation In Countering the Proliferation of Weapons of Mass Destruction

1. The Parties consider that the proliferation of weapons of mass destruction and their means of delivery, both to state and non-state actors, represents one of the most serious threats to international stability and security.

The Parties therefore agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation treaties and agreements and other relevant international obligations.

The Parties agree that this provision constitutes an essential element of this Agreement.

2. The Parties furthermore agree to cooperate and to contribute to the objective of non-proliferation by:

- taking steps to sign, ratify or accede to, as appropriate, and fully implement all other relevant international instruments;

- the establishment of an effective system of national export controls, controlling the export as well as transit of weapons of mass destruction related goods, including weapons of mass destruction end-use control on dual use technologies and containing effective sanctions for breaches of export controls.

Financial and technical assistance in the area of cooperation to counter the proliferation of weapons of mass destruction will be financed by specific instruments other than those intended for the financing of ACP-EC cooperation.

3. The Parties agree to establish a regular political dialogue that will accompany and consolidate their cooperation in this area.

4. If, after having conducted a strengthened political dialogue, a Party, informed in particular by reports by the International Atomic Energy Agency (IAEA), the Organisation for the Prohibition of Chemical Weapons (OPCW) and other relevant multilateral institutions, considers that the other Party has failed to fulfil an ob- ligation stemming from paragraph 1, it shall, except in cases of special urgency, supply the other Party and both the ACP and the EC Councils of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation.

5. The consultations shall be conducted at the level and in the form considered most appropriate for finding a solution.

The consultations shall begin no later than 30 days after the invitation and shall continue for a period established by mutual agreement, depending on the nature and gravity of the violation. In no case shall the dialogue under the consultation procedure last longer than 120 days.

6. If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them no longer prevail.

Article 12. Coherence of Community Policies and Their Impact on the Implementation of this Agreement

The Parties are committed to addressing policy coherence for development in a targeted, strategic and partnership-oriented way, including strengthening dialogue on issues of policy coherence for development. The Union acknowledges that Union

policies, other than development policy, can support the development priorities of ACP States in line with the objectives of this Agreement. On this basis the Union will enhance the coherence of those policies with a view to attaining the objectives of this Agreement.

Without prejudice to Article 96, where the Community intends, in the exercise of its powers, to take a measure which might affect the interests of the ACP States, as far as this Agreement's objectives are concerned, it shall inform in good time the ACP Group of its intentions. Towards this end, the Commission shall regularly inform the Secretariat of the ACP Group of planned proposals and communicate simultaneously its proposal for such measures. Where necessary, a request for information may also take place on the initiative of the ACP States.

At their request, consultations shall be held promptly so that account may be taken of their concerns as to the impact of those measures before any final decision is made.

After such consultations have taken place, the ACP States and the ACP Group may, in addition, transmit their concerns in writing to the Community as soon as possible and submit suggestions for amendments indicating the way their concerns should be met.

If the Community does not accede to the ACP States' submissions, it shall advise them as soon as possible giving its reasons.

The ACP Group shall also be provided with adequate information on the entry into force of such decisions, in advance whenever possible.

Article 13. Migration

1. The issue of migration shall be the subject of in depth dialogue in the framework of the ACP-EU Partnership.

The Parties reaffirm their existing obligations and commitments in international law to ensure respect for human rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.

2. The Parties agree to consider that a partnership implies, with relation to migration, fair treatment of third country nationals who reside legally on their territories, integration policy aiming at granting them rights and obligations comparable to those of their citizens, enhancing non-discrimination in economic, social and cultural life and developing measures against racism and xenophobia.

3. The treatment accorded by each Member State to workers of ACP countries legally employed in its territory, shall be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals. Further in this regard, each ACP State shall accord comparable non-discriminatory treatment to workers who are nationals of a Member State.

4. The Parties consider that strategies aiming at reducing poverty, improving living and working conditions, creating employment and developing training contribute in the long term to normalising migratory flows.

The Parties will take account, in the framework of development strategies and national and regional programming, of structural constraints associated with migratory flows with the purpose of supporting the economic and social development of the regions from which migrants originate and of reducing poverty.

The Community shall support, through national and regional Cooperation pro- grammes, the training of ACP nationals in their country of origin, in another ACP country or in a Member State of the European Union. As regards training in a Member State, the Parties shall ensure that such action is geared towards the vocational integration of ACP nationals in their countries of origin.

The Parties shall develop cooperation programmes to facilitate the access of students from ACP States to education, in particular through the use of new communication technologies.

5. (a) In the framework of the political dialogue the Council of Ministers shall examine issues arising from illegal immigration with a view to establishing, where appropriate, the means for a prevention policy.

(b) In this context the Parties agree in particular to ensure that the rights and dignity of individuals are respected in any procedure initiated to return illegal immigrants to their countries of origin. In this connection the authorities concerned shall extend to them the administrative facilities necessary for their return.

(c) The Parties further agree that:

(i) - each Member State of the European Union shall accept the return of and readmission of any of its nationals who are

illegally present on the territory of an ACP State, at that state's request and without further formalities;

- each of the ACP States shall accept the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without further formalities.

The Member States and the ACP States will provide their nationals with appropriate identity documents for such purposes.

In respect of the Member States of the European Union, the obligations in this paragraph apply only in respect of those persons who are to be considered their nationals for the Community purposes in accordance with Declaration No 2 to the Treaty establishing the European Community. In respect of ACP States, the obligations in this paragraph apply only in respect of those persons who are considered as their nationals in accordance with their respective legal system.

(ii) at the request of a Party, negotiations shall be initiated with ACP States aiming at concluding in good faith and with due regard for the relevant rules of international law, bilateral agreements governing specific obligations for the readmission and return of their nationals. These agreements shall also cover, if deemed necessary by any of the Parties, arrangements for the readmission of third country nationals and stateless persons. Such agreements will lay down the details about the categories of persons covered by these arrangements as well as the modalities of their readmission and return.

Adequate assistance to implement these agreements will be provided to the ACP States.

(iii) for the purposes of this point (c), the term "Parties" shall refer to the Community, any of its Member States and any ACP State.

Part 2. Institutional Provisions

Article 14. The Joint Institutions

1. The joint institutions of this Agreement are the Council of Ministers, the Committee of Ambassadors and the Joint Parliamentary Assembly.

2. The joint institutions and the institutions set up under the Economic Partnership Agreements, without prejudice to the relevant provisions of existing or future Economic Partnership Agreements, shall endeavour to ensure coordination, coherence and complementarity, as well as an effective and reciprocal flow of information.

Article 14A. Meetings of Heads of State or Government

The Parties shall meet at the level of Heads of State or Government, upon joint agreement, in an appropriate format.

Article 15. The Council of Ministers

1, The Council of Ministers shall comprise, on the one hand, the members of the Council of the European Union and members of the Commission of the European Communities and, on the other, a member of the government of each ACP State,

The office of the President of the Council of Ministers shall be held alternately by a member of the Council of the European Union and a member of the government of an ACP State.

The Council shall meet as a rule once a year on the initiative of the President and whenever it seems necessary, in a form and a geographical composition appropriate to the issues to be addressed. Such meetings will provide for high-level consultations on matters which are of specific concern to the Parties, complementing the work that is being done in the Joint Ministerial Trade Committee, as set out in Article 38, and in the ACP-EC Development Finance Cooperation Committee, as set out in Article 83, which feed into the annual regular Council of Ministers meetings.

2. The functions of the Council of Ministers shall be to:

(a) conduct the political dialogue;

(b) adopt the policy guidelines and take the decisions necessary for the implementation of the provisions of this Agreement, in particular as regards development strategies in the specific areas provided for by this Agreement or any other area that should prove relevant, and as regards procedures;

(c) examine and resolve any issue liable to impede the effective and efficient implementation of this Agreement or present an obstacle to achieving its objectives;

(d) ensure the smooth functioning of the consultation mechanisms.

3. The Council of Ministers shall take its decisions by common agreement of the Parties. The proceedings of the Council of Ministers shall be valid only if half the members of the Council of the European Union, one member of the Commission and two thirds of the members representing the governments of the ACP States are present. Any member of the Council of Ministers unable to attend may be represented. The representative shall exercise all the rights of that member.

It may take decisions that are binding on the Parties and frame resolutions, recommendations and opinions, during the annual regular meeting, or by written procedure. It shall report annually to the Joint Parliamentary Assembly on the implementation of this Agreement. It shall examine and take into consideration resolutions and recommendations adopted by the Joint Parliamentary Assembly.

The Council of Ministers shall conduct an ongoing dialogue with the representatives of the social and economic partners and other actors of civil society in the ACP and the EU. To that end, consultations may be held alongside its meetings.

4. The Council of Ministers may delegate powers to the Committee of Ambassadors.

5. The Council of Ministers shall adopt its rules of procedure within six months of the entry into force of this Agreement.

Article 16. The Committee of Ambassadors

1. The Committee of Ambassadors shall comprise, on the one hand, the permanent representative of each Member State to the European Union and a representative of the Commission and, on the other, the head of mission of each ACP State to the European Union.

The office of Chairman of the Committee of Ambassadors shall be held alternately by a Permanent Representative of a Member State designated by the Community, and a head of mission representing an ACP State, designated by the ACP States.

2. The Committee shall assist the Council of Ministers in the fulfilment of its tasks and carry out any mandate entrusted to it by the Council. In this context, it shall monitor implementation of this Agreement and progress towards achieving the objectives set therein.

The Committee of Ambassadors shall meet regularly, in particular to prepare the Council sessions and whenever it proves necessary.

3. The Committee shall adopt its rules of procedure within six months of the entry into force of this Agreement.

Article 17. The Joint Parliamentary Assembly

1. The Joint Parliamentary Assembly shall be composed of equal numbers of EU and ACP representatives. The members of the Joint Parliamentary Assembly shall be, on the one hand, members of the European Parliament and, on the other, members of parliament or, failing this, representatives designated by the parliament of each ACP State. In the absence of a parliament, the attendance of a representative from the ACP State concerned shall be subject to the prior approval of the Joint Parliamentary Assembly.

2. The role of the Joint Parliamentary Assembly, as a consultative body, shall be to:

- promote democratic processes through dialogue and consultation;

- facilitate greater understanding between the peoples of the European Union and those of the ACP States and raise public awareness of development issues;

- discuss issues pertaining to development and the ACP-EU Partnership, including the Economic Partnership Agreements, other trading arrangements, the European Development Fund and Country and Regional Strategy Papers. To this end, the Commission shall transmit such Strategy Papers for information to the Joint Parliamentary Assembly;

- discuss the annual report of the Council of Ministers on the implementation of this Agreement, and adopt resolutions and make recommendations to the Council of Ministers with a view to achieving the objectives of this Agreement;

- advocate for institutional development and capacity building of national parliaments in accordance with Article 33(1) of this Agreement.

3. The Joint Parliamentary Assembly shall meet twice a year in plenary session, alternately in the European Union and in an

ACP State. With a view to strengthening regional integration and fostering cooperation between national parliaments, meetings between EU and ACP members of parliament shall be arranged at regional level.

Such meetings at regional level will be organised in pursuance of the objec- tives laid down in Article 14(2) of this Agreement.

4. The Joint Parliamentary Assembly shall adopt its rules of procedure within six months of the entry into force of this agreement.

Part 3. Cooperation Strategies

Article 18.

The cooperation strategies shall be based on development strategies and eco- nomic and trade cooperation which are interlinked and complementary. The Par- ties shall ensure that the efforts undertaken in both aforementioned areas are mutually reinforcing.

Title I. Development Strategies

Chapter 1. General Framework

Article 19. Principles and Objectives

1. The central objective of ACP-EC cooperation is poverty reduction and ultimately its eradication; sustainable development; and progressive integration of the ACP countries into the world economy. In this context, cooperation framework and orientations shall be tailored to the individual circumstances of each ACP country, shall promote local ownership of economic and social reforms and the integration of the private sector and civil society actors into the development process.

2. Cooperation shall refer to the conclusions of United Nations Conferences and to the objectives, targets and action programmes agreed at international level and to their follow up as a basis for development principles. Cooperation shall also refer to the international development cooperation targets and shall pay particular attention to putting in place qualitative and quantitative indicators of progress. The Parties will make concerted efforts to accelerate progress towards the attainment of the Millennium Development Goals.

3. Governments and non-State actors in each ACP country shall initiate consultations on country development strategies and community support thereto.

Article 20. The Approach

1. The objectives of ACP-EC development cooperation shall be pursued through integrated strategies that incorporate economic, social, cultural, environmental and institutional elements that must be locally owned. Cooperation shall thus provide a coherent enabling framework of support to the ACP's own development strategies, ensuring complementarity and interaction between the various elements, in particular at, and between, the national and regional levels. In this context and within the framework of development policies and reforms pursued by the ACP States, ACP-EC cooperation strategies at national and, where appropriate, at regional levels shall aim at:

(a) achieving rapid and sustained job-creating economic growth, developing the private sector, increasing employment, improving access to productive economic activities and resources;

(aa) fostering regional cooperation and integration;

(b) promoting human and social development helping to ensure that the fruits of growth are widely and equitably shared and promoting gender equality;

(cc) promoting cultural values of communities and specific interactions with economic, political and social elements;

(d) promoting institutional reforms and development, strengthening the institutions necessary for the consolidation of democracy, good governance and for efficient and competitive market economies; and building capacity for development and partnership; and

(e) promoting environmental sustainability, regeneration and best practices, and the preservation of natural resource base.

2. Systematic account shall be taken in mainstreaming into all areas of cooperation the following thematic or cross-cutting themes: human rights, gender issues, democracy, good governance, environmental sustainability, climate change, communicable and non-communicable diseases and institutional development and capacity building. These areas shall also be eligible for Community support.

3. The detailed texts as regards development cooperation objectives and strategies, in particular sectoral policies and strategies shall be incorporated in a compendium providing operational guidelines in specific areas or sectors of cooperation. These texts may be revised, reviewed and/or amended by the Council of Ministers on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee.

Chapter 2. Areas of Support

Section 1. Economic Development

Article 21. Investment and Private Sector Development

1. Cooperation shall support the necessary economic and institutional reforms and policies at national and/or regional level, aiming at creating a favourable environment for investment, and the development of a dynamic, viable and competitive private sector. Cooperation shall further support:

(a) the promotion of public private sector dialogue and cooperation;

(b) the development of entrepreneurial skills and business culture;

(c) privatisation and enterprise reform; and

(d) development and modernisation of mediation and arbitration systems.

2. Cooperation shall also support improving the quality, availability and accessibility of financial and non-financial services to private enterprises, both formal and informal; by:

(a) catalysing and leveraging flows of private savings, both domestic and foreign, into the financing of private enterprises by supporting policies for developing a modern financial sector including a capital market, financial institutions and sustainable microfinance operations;

(b) development and strengthening of business institutions and intermediary organisations, associations, chambers of commerce and local providers from the private sector supporting and providing non-financial services to enterprises such as professional, technical, management, training and commercial support services; and

(c) supporting institutions, programmes, activities and initiatives that contribute to the development and transfer of technologies and know-how and best practices on all aspects of business management.

3. Cooperation shall promote business development through the provision of finance, guarantee facilities and technical support aimed at encouraging and supporting the creation, establishment, expansion, diversification, rehabilitation, restructuring, modernisation or privatisation of dynamic, viable and competitive enterprises in all economic sectors as well as financial intermediaries such as development finance and venture capital institutions, and leasing companies by:

(a) creating and/or strengthening financial instruments in the form of investment capital;

(b) improving access to essential inputs such as business information and advisory, consultancy or technical assistance services;

(c) enhancing export activities, in particular through capacity building in all trade-related areas; and

(d) encouraging inter-firm linkages, networks and cooperation including those involving the transfer of technology and know-how at national, regional and ACP-EC levels, and partnerships with private foreign investors which are consistent with the objectives and guidelines of ACP-EC development cooperation.

4. Cooperation shall support microenterprise development through better access to financial and non-financial services; an appropriate policy and regulatory framework for their development; and provide training and information services on best practices in microfinance.

5. Support for investment and private sector development shall integrate actions and initiatives at macro, meso and micro economic levels and promote the search for innovative financing mechanisms, including the blending and leveraging of

private and public sources for development funding.

6. Cooperation shall support investments in basic infrastructure by the public sector aimed at private sector development, economic growth and poverty eradication.

Article 22. Macroeconomic and Structural Reforms and Policies

1. Cooperation shall support ACP efforts to implement:

(a) macroeconomic growth and stabilisation through disciplined fiscal and monetary policies that result in the reduction of inflation, and improve external and fiscal balances, by strengthening fiscal discipline, enhancing budgetary transparency and efficiency, improving the quality, the equity and composition of fiscal policy; and

(b) structural policies designed to reinforce the role of the different actors, especially the private sector and improve the environment for enhanced domestic resource mobilisation and increases in business, investment and employment, as well as:

(i) liberalise trade and foreign exchange regimes and current account convertibility, having regard to the particular circumstances of each country;

(ii) strengthen labour and product-market reforms;

(i) liberalise trade and foreign exchange regimes and current account convertibility, having regard to the particular circumstances of each country;

(ii) strengthen labour and product-market reforms;

(iii) encourage financial systems reforms which help to develop viable banking and non-banking systems, capital markets and financial services, including micro finance;

(iv) improve the quality of private and public services; and

(v) encourage regional cooperation and progressive integration of macro- economic and monetary policies.

2. The design of macroeconomic policies and structural adjustment programmes shall reflect the socio political background and institutional capacity of the countries concerned, ensure a positive impact on poverty reduction and social services access and shall be based on the following principles:

(a) the ACP States shall bear primary responsibility for the analysis of the problems to be solved, the design and the implementation of the reforms;

(b) support programmes shall be adapted to the different situation in each ACP State and be sensitive to the social conditions, culture and environment of these States;

(c) the right of the ACP States to determine the direction and the sequencing of their development strategies and priorities shall be recognised and respected;

(d) the pace of reforms shall be realistic and compatible with each ACP State's Capacities and resources; and

(e) strengthening the communication and the information of populations on economic and social reforms and policies.

Article 23. Economic Sector Development

Cooperation shall support sustainable policy and institutional reforms and the investments necessary for equitable access to economic activities and productive resources, particularly:

(a) the development of training systems that help increase productivity in both the formal and the informal sectors;

(b) capital, credit, land, especially as regards property rights and use;

(c) development of rural strategies aimed at establishing a framework for participatory decentralised planning, resource allocation and management;

(d) the development of strategies with a view to enhancing agricultural production and productivity in ACP States by providing, in particular, the necessary financing for agricultural research, agricultural inputs and services, supportive rural

infrastructure, and risk reduction and management. Support shall include public and private investments in agriculture, encouragement to develop agricultural policies and strategies, strengthening of farmer and private sector organisations, management of natural resources, and development and functioning of agricultural markets. The agricultural production strategies shall reinforce national and regional food-security policies and regional integration. In this con- text, cooperation shall support ACP efforts to enhance the competitive- ness of their commodity exports and to adapt their commodity export strategies in the light of evolving trade conditions;

(e) sustainable development of water resources, based on integrated water resources management principles, ensuring equitable and sustainable distribution of shared water resources between their different uses;

(f) sustainable development of aquaculture and fisheries which include both inland fisheries and marine resources within the economic exclusive zones of the ACP States;

(g) economic and technological infrastructure and services, including transport, telecommunication systems, communication services and the development of information society;

(h) development of competitive industrial, mining and energy sectors, while en- couraging private sector involvement and development;

(i) trade development, including the promotion of fair trade;

(j) development of business, finance and banking; and other service sectors;

(k) tourism development;

(l) development of scientific, technological and research infrastructure and services; including the enhancement, transfer and absorption of new technologies;

(m) the strengthening of capacities in productive areas, especially in public and private sectors;

(n) the promotion of traditional knowledge; and (90) development and implementation of specific adaptation strategies addressing the impact of preference erosion, possibly including activities mentioned in points (a) to (n) above.

Article 23A. Fisheries

Recognising the key role that fisheries and aquaculture play in ACP countries through their positive contribution to employment creation, revenue generation, food security, and livelihoods of rural and coastal communities, and hence to poverty reduction, cooperation shall aim at further developing the aquaculture and fisheries sectors of ACP countries in order to increase the associated social and economic benefits in a sustainable manner.

Cooperation programmes and activities shall support, inter alia, the development and implementation of sustainable aquaculture and fisheries development strategies and management plans in ACP countries and regions; the mainstreaming of aquaculture and fisheries into national and regional development strategies; the development of the infrastructure and technical know-how necessary to enable ACP countries to yield maximum sustainable value from their fisheries and aquaculture; capacity building of ACP countries to overcome external challenges that hinder them from taking full ad- vantage of their fisheries resources; and the promotion and development of joint ventures for investment in the fisheries and aquaculture sectors of ACP countries. Any fishery agreement that may be negotiated between the Community and the ACP States shall give due consideration to consistency with the development strategies in this area.

High-level consultations, including at ministerial level, may be held upon joint agreement with a view to developing, improving and/or strengthening ACP- EU development cooperation in sustainable aquaculture and fisheries.

Article 24. Tourism

Cooperation will aim at the sustainable development of the tourism industry in ACP countries and sub regions, recognising its increasing importance to the growth of the services sector in ACP countries and to the expansion of their global trade, its ability to stimulate other sectors of economic activity, and the role it can play in poverty eradication.

Cooperation programmes and projects will support the efforts of ACP countries to establish and improve the countries' legal and institutional framework and resources for the development and implementation of sustainable tourism policies and programmes, as well as inter alia, improving the competitive position of the sector, especially small and medium-sized enterprises (SMEs), investment support and promotion, product development including the development of indigenous cultures in ACP countries, and strengthening linkages between tourism and other sectors of economic activity.

Section 2. Social and Human Development

Article 25. Social Sector Development

1. Cooperation shall support ACP States' efforts at developing general and sectoral policies and reforms which improve the coverage, quality of and access to basic social infrastructure and services and take account of local needs and specific demands of the most vulnerable and disadvantaged, thus reducing the inequalities of access to these services. Special attention shall be paid to ensuring adequate levels of public spending in the social sectors. In this context, cooperation shall aim at:

(a) improving education and training at all levels, working towards recognition of tertiary education qualifications, establishment of quality assurance systems for education, including education and training delivered online or through other non-conventional means, and building technical capacity and skills;

(b) improving health systems, in particular equitable access to comprehensive and quality health care services, and nutrition, eliminating hunger and malnutrition, and ensuring adequate food supply and security, including through supporting safety nets;

(c) integrating population issues into development strategies in order to im- prove reproductive health, primary health care, family planning; and prevention of female genital mutilation;

(d) promoting the fight against:

- HIV/AIDS, ensuring the protection of sexual and reproductive health and rights of women;

- other poverty-related diseases, particularly malaria and tuberculosis;

(e) increasing the security of household water and improving access to safe water and adequate sanitation;

(f) improving the availability of affordable and adequate shelter for all through supporting low cost and low income housing programmes and improving urban development; and

(g) encouraging the promotion of participatory methods of social dialogue as well as respect for basic social rights.

2. Cooperation shall also support capacity-building in social areas such as programmes for training in the design of social policies and modem methods for managing social projects and programmes; policies conducive to technological innovation and research; building local expertise and promoting partnerships; and round-table discussions at national and/or regional level.

3. Cooperation shall promote and support the development and implementation of policies and of systems of social protection and security in order to enhance social cohesion and to promote self-help and community solidarity. The focus of the support shall, inter alia, be on developing initiatives based on economic solidarity, particularly by setting up social development funds adapted to local needs and actors.

Article 26. Youth Issues

Cooperation shall also support the establishment of a coherent and comprehen- sive policy for realising the potential of youth so that they are better integrated into society to achieve their full potential. In this context, cooperation shall sup- port policies, measures and operations aimed at:

(a) protecting the rights of children and youth, especially those of girl children;

(b) promoting the skills, energy, innovation and potential of youth in order to enhance their economic, social and cultural opportunities and enlarge their employment opportunities in the productive sector;

(c) helping community-based institutions to give children the opportunity to develop their physical, psychological, social and economic potential;

(d) reintegrating into society children in post conflict situations through rehabili- tation programmes; and

(e) promoting the active participation of young citizens in public life and fostering student exchanges and interaction of ACP and EU youth organisations.

Article 27. Culture and Development

Cooperation in the area of culture shall aim at:

(a) integrating the cultural dimension at all levels of development cooperation;

(b) recognising, preserving and promoting cultural values and identities to enable inter cultural dialogue;

(c) recognising, preserving and promoting the value of cultural heritage; supporting the development of capacity in this sector;

(d) developing cultural industries and enhancing market access opportunities for cultural goods and services;

(e) recognising and supporting the role of cultural actors and cultural networks, and their contribution to sustainable development; and

(f) promoting the cultural dimension in education and the participation of youth in cultural activities.

Section 3. Regional Cooperation and Integration

Article 28. General Approach

1. ACP-EU cooperation shall provide effective assistance to achieve the objectives and priorities which the ACP States have set themselves in the context of regional cooperation and integration.

2. In conformity with the general objectives set out in Articles 1 and 20, ACP- EU cooperation shall aim to:

(a) promote peace and stability, as well as conflict prevention and resolution;

(b) enhance economic development and economic cooperation through the build-up of larger markets, the free movement of persons, goods, services, capital, labour and technology among ACP countries, the accelerated diversification of the economies of the ACP States, the promotion and expansion of trade among ACP countries and with third countries and the gradual integration of the ACP States into the world economy;

(c) promote the management of sustainable development challenges with a transnational dimension through, inter alia, coordination and harmoni- sation of regional cooperation policies.

3. Under the conditions set out in Article 58, cooperation shall also support inter-regional and intra-ACP cooperation such as that involving:

(a) one or several ACP regional organisations, including at continental level;

(b) European Overseas Countries and Territories (OCTs) and outermost regions;

(c) non-ACP developing countries.

Article 29. ACP-EU Cooperation In Support of Regional Cooperation and Integration

1. In the areas of stability, peace and conflict prevention, cooperation shall support:

(a) the promotion and development of a regional political dialogue in areas of conflict prevention and resolution; human rights and democratisation; ex- change, networking, and promotion of mobility between the different actors of development, in particular in civil society;

(b) the promotion of regional initiatives and policies on security-related issues, including arms control, action against drugs, organised crimes, money laundering, bribery and corruption.

2. In the area of regional economic integration, cooperation shall support:

(a) the participation of Least Developed Countries (LDC) ACP States in the establishment of regional markets and sharing the benefits therefrom;

(b) the implementation of sectoral economic reform policies at regional level;

(c) the liberalisation of trade and payments;

(d) the promotion of cross border investments both foreign and domestic, and other regional economic integration initiatives;

(e) the mitigation of the effects of net transitional costs of regional integration on budget revenue and balance of payments; and

(f) infrastructure, particularly transport and communications and safety thereof, and services, including the development of regional opportunities in the area of Information and Communication Technologies (ICT).

3. In the area of regional policies for sustainable development, cooperation shall support the priorities of ACP regions and, in particular:

(a) the environment and the sustainable management of natural resources, including water and energy, and addressing climate change;

(b) food security and agriculture;

(c) health, education and training;

(d) research and technological development; and

(e) regional initiatives for disaster preparedness and mitigation as well as post-disaster reconstruction.

Article 30. Capacity Building In Support of ACP Regional Cooperation and Integration

With a view to realising the effectiveness and efficiency of regional policies, cooperation shall develop and strengthen the capacities of:

(a) regional integration institutions and organisations set up by the ACP States and those with ACP State participation that promote regional cooperation and integration;

(b) national governments and parliaments in matters of regional integration; and

(c) non-State actors, including the private sector.

Section 4. Thematic and Cross-cutting Issues

Article 31. Gender Issues

Cooperation shall help strengthen policies and programmes that improve, ensure and broaden the equal participation of men and women in all spheres of political, economic, social and cultural life. Cooperation shall help improve the access of women to all resources required for the full exercise of their fundamental rights. More specifically, cooperation shall create the appropriate framework to:

(a) integrate a gender-sensitive approach and concerns at every level of development cooperation including macroeconomic policies, strategies and operations; and

(b) encourage the adoption of specific positive measures in favour of women such as:

(i) participation in national and local politics;

(ii) support for women's organisations;

(iii) access to basic social services, especially to education and training, health care and family planning;

(iv) access to productive resources, especially to land and credit and to labour market; and

(v) taking specific account of women in emergency aid and rehabilitation operations,

Article 31A. HIV/AIDS

Cooperation shall support the efforts of ACP States to develop and strengthen across all sectors policies and programmes aimed at addressing the HIV/ AIDS pandemic and preventing it from hampering development. It shall support ACP States in scaling up towards and sustaining universal access to HIV/ AIDS prevention, treatment, care and support and shall in

particular aim at:

(a) supporting the development and implementation of comprehensive multi-sectoral strategies and plans for HIV/AIDS as a priority in national and regional development plans;

(b) involving, in national responses to HIV/AIDS, all appropriate development sectors and ensuring a broad mobilisation of stakeholders at all levels;

(c) strengthening national health systems and addressing shortages in human resources for health as the basis for ensuring universal access to, and the effective integration of, HIV/AIDS prevention, treatment and care and other health services;

(d) addressing gender inequality, gender-based violence and abuse, as drivers of the HIV/AIDS pandemic and intensifying efforts to safeguard women's and girls' rights, develop effective gender sensitive HIV/AIDS programmes and services for women and girls, including those related to sexual and reproductive health and rights, and to support the full involvement of women in planning and decision making related to HIV/ AIDS strategies and programmes;

(e) developing supportive legal and policy frameworks and removing punitive laws, policies, practices, stigma and discrimination that undermine human rights, increase vulnerability to HIV/AIDS and inhibit access to effective HIV/AIDS prevention, treatment, care and support, including medicines, commodities and services for people living with HIV/AIDS and for the populations most at risk;

(f) scaling up access to evidence-based, comprehensive HIV/AIDS prevention, which address the local drivers of the epidemic and the specific needs of women, young people and the populations most at risk; and

(g) ensuring universal and reliable access to safe, high-quality and affordable medicines, and to health commodities, including sexual and reproductive health commodities.

Article 32. Environment and Natural Resources

1. Cooperation on environmental protection and sustainable utilisation and management of natural resources shall aim at:

(a) mainstreaming environmental sustainability into all aspects of development cooperation and support programmes and projects implemented by the various actors;

(b) building and/or strengthening the scientific and technical human and institutional capacity for environmental management for all environmental stakeholders;

(c) supporting specific measures and schemes aimed at addressing critical sustainable management issues and also relating to current and future regional and international commitments concerning mineral and natural resources such as:

(i) tropical forests, water resources, coastal, marine and fisheries resources, wildlife, soils, biodiversity;

(ii) protection of fragile ecosystems (e.g. coral reef);

(iii) renewable energy sources notably solar energy and energy efficiency;

(iv) sustainable rural and urban development;

(v) desertification, drought and deforestation;

(vi) developing innovative solutions to urban environmental problems; and

(vii) promotion of sustainable tourism.

(d) Taking into account issues relating to the transport and disposal of hazardous waste.

2. Cooperation shall also take account of:

(a) the vulnerability of small island ACP countries, especially to the threat posed by climate change;

(b) the worsening drought and desertification problems especially of least developed and landlocked countries; and

(c) Institutional development and capacity building

Article 32A. Climate Change

The Parties acknowledge that climate change is a serious global environmen- tal challenge and a threat to the achievement of the Millennium Development Goals requiring adequate, predictable and timely financial support. For these reasons, and in accordance with the provisions of Article 32, and particularly of point (a) of paragraph 2 thereof, cooperation shall:

(a) recognise the vulnerability of ACP States and in particular of small is- lands and low-lying ACP States to climate-related phenomena such as coastal erosion, cyclones, flooding and environmentally induced dis- placements, and in particular of least developed and landlocked ACP States to increasing floods, drought, deforestation and desertification;

(b) strengthen and support policies and programmes to mitigate and adapt to the consequences of, and threat posed by, climate change including through institutional development and capacity building;

(c) enhance the capacity of ACP States in the development of, and the par- ticipation in, the global carbon market; and

(d) focus on the following activities:

(i) integrating climate change into development strategies and poverty reduction efforts;

(ii) raising the political profile of climate change in development cooperation, including through appropriate policy dialogue;

(iii) assisting ACP states to adapt to climate change in relevant sectors such as agriculture, water management and infrastructure, including through transfer and adoption of relevant and environmentally sound technologies;

(iv) promoting disaster risk reduction, reflecting that an increasing proportion of disasters are related to climate change;

(v) providing financial and technical support for mitigation action of ACP states in line with their poverty reduction and sustainable development objectives, including reducing emissions from deforestation and forest degradation and reducing emissions in the agricultural sector;

(vi) improving weather and climate information and forecasting and early warning systems; and

(vii) promoting renewable energy sources, and low-carbon technologies that enhance sustainable development.

(vii) promoting renewable energy sources, and low-carbon technologies that enhance sustainable development.

Article 33. Institutional Development and Capacity Building

1. Cooperation shall pay systematic attention to institutional aspects and in this context, shall support the efforts of the ACP States to develop and strengthen structures, institutions and procedures that help to:

(a) promote and sustain democracy, human dignity, social justice and pluralism, with full respect for diversity within and among societies;

(b) promote and sustain universal and full respect for and observance and protection of all human rights and fundamental freedoms;

(c) develop and strengthen the rule of law; and improve access to justice, while guaranteeing the professionalism and independence of the judicial systems; and

(d) ensure transparent and accountable governance and administration in all public institutions.

2. The Parties shall work together in the fight against bribery and corruption in all their societies.

3. Cooperation shall support ACP States' efforts to develop their public institutions into a positive force for growth and development and to achieve major improvements in the efficiency of government services as they affect the lives of ordinary people. In this context, cooperation shall assist the reform, rationalisation and the modernisation of the public sector. Specifically, cooperation support shall focus on:

(a) the reform and modernisation of the civil service;

(b) legal and judicial reforms and modernisation of justice systems;

(c) improvement and strengthening of public finance and fiscal management with a view to developing economic activities in ACP countries and increasing their tax revenues, whilst fully respecting the sovereignty of the ACP States in this area.

Measures may include:

(i) enhancing capacities for domestic revenue management, including the building of effective, efficient and sustainable tax systems;

(ii) promoting the participation in international tax cooperation structures and processes with a view to facilitating the further development of and effective compliance with international standards;

(iii) supporting implementation of international best practices in tax matters, including the principle of transparency and exchange of information, in those ACP countries that have committed to them;

(d) accelerating reforms of the banking and financial sector;

(e) improvement of the management of public assets and reform of public pro- curement procedures; and

(f) political, administrative, economic and financial decentralisation.

4. Cooperation shall also assist to restore and/or enhance critical public sector Capacity and to support institutions needed to underpin a market economy, especially support for:

(a) developing legal and regulatory capabilities needed to cope with the operation of a market economy, including competition policy and consumer policy;

(b) improving capacity to analyse, plan, formulate and implement policies, in particular in the economic, social, environmental, research, science and technology and innovation fields;

(c) modernising, strengthening and reforming financial and monetary institutions and improving procedures;

(d) building the capacity at the local and municipal levels which is required to implement decentralisation policy and to increase the participation of the population in the development process; and

(e) developing capacity in other critical areas such as:

(i) international negotiations; and

(ii) management and coordination of external aid.

5. Cooperation shall span all areas and sectors of cooperation to foster the emergence of non-state actors and the development of their capacities; and to strengthen structures for information, dialogue and consultation between them and the national authorities, including at regional level.

Title II. ECONOMIC AND TRADE COOPERATION

Chapter 1. Objectives and Principles

Article 34. Objectives

1. Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.

2. The ultimate objective of economic and trade cooperation is to enable the ACP States to play a full part in international trade. In this context, particular regard shall be had to the need for the ACP States to participate actively in multilateral trade negotiations. Given the current level of development of the ACP countries, economic and trade cooperation shall be directed at enabling the ACP States to manage the challenges of globalisation and to adapt progressively to new conditions of international trade thereby facilitating their transition to the liberalised global economy. In this context, close attention should be paid to many ACP countries' vulnerability resulting from their dependency on commodities or a few key products, including value-added agro-industry products, and the risk of preference erosion.

3. To this end, economic and trade cooperation shall aim, through national and regional development strategies as defined in Title I, at enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment. It shall further aim at creating a new trading dynamic between the Parties, at strengthening the ACP countries trade and investment policies, at reducing their dependency on commodities, at promoting more diversified economies and at improving the ACP countriesâ capacity to handle all issues related to trade.

4, Economic and trade cooperation shall be implemented in full conformity with the provisions of the World Trade Organisation (WTO), including special and differential treatment, taking account of the Parties' mutual interests and their

respective levels of development. It shall also address the effects of preference erosion in full conformity with multilateral commitments.

Article 35. Principles

1, Economic and trade cooperation shall be based on a true, strengthened and strategic partnership. It shall further be based on a comprehensive approach which builds on the strengths and achievements of the previous ACP-EC Conventions.

2. Economic and trade cooperation shall build on regional integration initiatives of ACP States. Cooperation in support of regional cooperation and integration as defined in Title I and economic and trade cooperation shall be mutually reinforcing. Economic and trade cooperation shall address, in particular, supply and demand side constraints, notably interconnectivity of infrastructure, economic diversification and trade development measures as a means of enhancing ACP States' competitiveness. Appropriate weight shall therefore be given to the corresponding measures in the ACP States' and regions' development strategies, which the Community shall support, in particular through the provision of aid for trade.

3. Economic and trade cooperation shall take account of the different needs and levels of development of the ACP countries and regions. In this context, the Parties reaffirm their attachment to ensuring special and differential treatment for all ACP countries and to maintaining special treatment for ACP LDCs and to taking due account of the vulnerability of small, landlocked and island countries.

Chapter 2. New Trading Arrangements

Article 36. Modalities

1. In view of the objectives and principles set out above, the Parties agree to take all the necessary measures to ensure the conclusion of new WTO-compatible Economic Partnership Agreements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.

2. The Economic Partnership Agreements, as development instruments, aim to foster smooth and gradual integration of the ACP States into the world economy, especially by making full use of the potential of regional integration and South-South trade.

3. The Parties agree that these new trading arrangements shall be introduced gradually.

Article 37. Procedures

1, During the negotiations of the Economic Partnership Agreements, capacity building shall be provided in accordance with the provisions of Title I and Article 35 to the public and private sectors of ACP countries, including measures to enhance competitiveness, for strengthening of regional organisations and for support to regional trade integration initiatives, where appropriate with assistance to budgetary adjustment and fiscal reform, as well as for infrastructure upgrading and development, and for investment promotion.

2. The Parties will regularly review the progress of negotiations as foreseen in Article 38.

3. Negotiations of the Economic Partnership Agreements will be pursued with ACP countries which consider themselves in a position to do so, at the level they consider appropriate and in accordance with the procedures agreed by the ACP Group and with a view to supporting regional integration process within the ACP.

4, Negotiations of the Economic Partnership Agreements shall aim notably at establishing the timetable for the progressive removal of barriers to trade between the Parties, in accordance with the relevant WTO rules. On the Community side trade liberalisation shall build on the acquis and shall aim at improving current market access for the ACP countries through inter alia, a review of the rules of origin. Negotiations shall take account of the level of development and the so- Geoeconomic impact of trade measures on ACP countries, and their capacity to adapt and adjust their economies to the liberalisation process. Negotiations will therefore be as flexible as possible in establishing the duration of a sufficient transitional period, the final product coverage, taking into account sensitive sectors, and the degree of asymmetry in terms of timetable for tariff dismantlement, while remaining in conformity with WTO rules then prevailing.

5, The Parties shall closely cooperate and collaborate in the WTO with a view to explaining and justifying the arrangements reached, in particular with regard to the degree of flexibility available.

6, The Parties shall discuss further how to simplify and review the rules of ori- gin, including cumulation provisions, that apply to their exports.

7. Once ACP States have concluded an Economic Partnership Agreement, those ACP States which are not Parties to such Agreement can seek accession at any time.

8. In the context of ACP-EU cooperation in support of ACP regional cooperation and integration as outlined in Title I, and in accordance with Article 35, the Parties shall pay particular attention to the needs arising from the imple- mentation of the Economic Partnership Agreements. The principles outlined in Article 1 of Annex IV to this agreement shall apply. to that effect, the parties agree on the use of existing or new regional financing mechanisms through which resources from the multi-annual financial framework of cooperation and other additional resources could be channelled.

Article 37A. Other Trading Arrangements

1. In the context of the current trade policy trends aiming at greater liberalisation of trade the EU and the ACP States may take part in negotiations and implementation of agreements leading to further multilateral and bilateral trade liberalisation. Such liberalisation may lead to the erosion of the preferences granted to the ACP States and affect their competitive position in the EU market, as well as their development efforts, which the EU is concerned to support.

2. In accordance with the objectives of economic and trade cooperation, the EU shall endeavour to pursue measures to overcome possible negative im- pacts of liberalisation, with a view to maintaining significant preferential access within the multilateral trading system for ACP States for as long as is feasible and to ensure that any unavoidable reduction in preference is phased in over as long a period as possible.

Article 38. Joint Ministerial Trade Committee

1. A Joint ACP-EC Ministerial Trade Committee shall be established.

2. The Ministerial Trade Committee shall discuss any trade-related issue of concern to all ACP States and, in particular, regularly monitor the negotiations and implementation of Economic Partnership Agreements. It shall pay special attention to current multilateral trade negotiations and shall examine the impact of the wider liberalisation initiatives on ACP-EC trade and the development of ACP economies. It shall report and make appropriate recommendations to the Council of Ministers, including on any supportive measures, with a view to enhancing the benefits of the ACP-EC trading arrangements.

3. The Ministerial Trade Committee shall meet at least once a year. Its rules of procedure shall be laid down by the Council of Ministers. It shall be composed of representatives of the ACP States and of the Community.

Article 38A. Consultations

1. Where new measures or measures stipulated in programmes adopted by the Community for the approximation of laws and regulations in order to facilitate trade are likely to affect the interests of one or more ACP States, the Community shall, prior to adopting such measures, inform the Secretariat of the ACP Group and the ACP States concerned.

2. In order to enable the Community to take into consideration the interests of the ACP Group, consultations shall be held at the request of the latter in accordance with the provisions of Article 12 of this Agreement, with a view to reaching a satisfactory solution.

3. Where existing Community rules or regulations adopted in order to facilitate trade affect the interests of one or more ACP States or where these interests are affected by the interpretation, application or administration of such rules or regulations, consultations shall be held at the request of the ACP States concerned in accordance with the provisions of Article 12 with a view to reaching a satisfactory solution.

4. With a view to finding a satisfactory solution, the Parties may also bring up within the Joint Ministerial Trade Committee any other problems relating to trade which might result from measures taken or envisaged by the Member States.

5. The Parties shall inform each other of such measures in order to ensure effective consultations.

6. The Parties agree that holding consultations within, and providing information through, the institutions of an Economic Partnership Agreement on matters within the scope of such agreements shall be deemed to also satisfy the provisions of this Article and of Article 12 of this Agreement, provided that the ACP States likely to be affected are all signatories to the Economic Partnership Agreement within which the consultations were held or information was provided.

Chapter 3. Cooperation In the International Fora

Article 39. General Provisions

1. The Parties underline the importance of their active participation in the WTO as well as in other relevant international organisations by becoming members of these organisations and closely following their agenda and activities.

2. They agree to cooperate closely in identifying and furthering their common interests in international economic and trade cooperation in particular in the WTO, including participation in setting and conducting the agenda in future multilateral trade negotiations. In this context, particular attention shall be paid to improve access to the Community and other markets for products and services originating in the ACP countries.

3. They also agree on the importance of flexibility in WTO rules to take account of the ACP's level of development as well of the difficulties faced in meeting their obligations. They further agree on the need for technical assistance to enable the ACP countries to implement their commitments.

4. The Community agrees to assist the ACP States in their efforts, in accordance with the provisions set out in this Agreement, to become active members of these organisations, by developing the necessary capacity to negotiate, participate effectively, monitor and implement these agreements.

Article 40. Commodities

1. The Parties recognise the need to ensure a better operation of international commodity markets and to increase market transparency.

2. They confirm their willingness to step up consultations between them in the international fora and organisations dealing with commodities.

3. To this end, exchange of views shall take place at the request of either Party:

- regarding the operation of existing international agreements or specialised intergovernmental working parties with the aim of improving them and making them more effective, consistent with market trends;

- when it is proposed to conclude or renew an international agreement or set up a specialised intergovernmental working party.

The aim of such exchanges of views shall be to take account of the respective interest of each party. They may take place, where necessary, in the framework of the Ministerial Trade Committee.

Chapter 4. Trade In Services

Article 41. General Provisions

1. The Parties underline the growing importance of services in international trade and their major contribution to economic and social development.

2. They reaffirm their respective commitments under the General Agreement on Trade in Services (GATS), and underline the need for special and differential treatment to ACP suppliers of services.

3. In the framework of the negotiations for progressive liberalisation in trade and services, as provided for in Article XIX of GATS, the Community undertakes to give sympathetic consideration to the ACP States' priorities for improvement in the EC schedule, with a view to meeting their specific interests.

4. The Parties further agree on the objective of extending under the economic partnership agreements, and after they have acquired some experience in applying the Most Favoured Nation (MFN) treatment under GATS, their partnership to encompass the liberalisation of services in accordance with the provisions of GATS and particularly those relating to the participation of developing countries in liberalisation agreements.

5. The Community shall support, through national and regional development strategies as defined in Title | and in conformity with Article 35, the ACP States' efforts to strengthen their capacity in the supply of services. Particular attention shall be paid to services related to labour, business, distribution, finance, tourism, culture and construction and related engineering services with a view to enhancing their competitiveness and thereby increasing the value and the volume of their trade in goods and services.

Article 42. Maritime Transport

1. The Parties acknowledge the importance of cost-effective and efficient maritime transport services in a safe and clean marine environment as the main mode of transportation facilitating international trade and thereby constituting one of the forces behind economic development and the development of trade.

2. They undertake to promote the liberalisation of maritime transport and to this end apply effectively the principle of unrestricted access to the international maritime transport market on a non-discriminatory and commercial basis.

3. Each Party shall grant, inter alia, a treatment no less favourable than that ac- corded to its own ships, for ships operated by nationals or companies of the other Party, and for ships registered in the territory of either party, with respect to access to ports, the use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

4. The Community shall support, through national and regional development strategies as defined in Title I and in conformity with Article 35, the ACP States' efforts to develop and promote cost effective and efficient maritime transport services in the ACP States with a view to increasing the participation of ACP operators in international shipping services.

Article 43. Information and Communication Technologies, and Information Society

1. The Parties recognise the important role of information and communication technologies, as well as the active participation in the Information Society, as a prerequisite for the successful integration of the ACP countries into the world economy.

2. They therefore reconfirm their respective commitments under existing multilateral agreements, in particular the protocol on Basic Telecommunications attached to the GATS, and invite those ACP countries, which are not yet members of these agreements, to accede to them.

3. They furthermore agree to participate fully and actively in any future international negotiation, which might be conducted in this area.

4. The Parties will therefore take measures that will enable inhabitants of ACP countries easy access to information and communication technologies, through, amongst others, the following measures:

- the development and encouragement of the use of affordable renewable energy resources;

- the development and deployment of more extensive low-cost wireless networks; and

- the development and encouragement of the use of local content for Information and Communication Technologies.

5. The Parties also agree to step up cooperation between them in the area of information and communication technologies, and the Information Society. This cooperation shall, through national and regional development strategies as defined in Title I and in conformity with Article 35, in particular be directed towards greater complementarity and harmonisation of communication systems, at national, regional and international level and their adaptation to new technologies.

Chapter 5. Trade Related Areas

Article 44. General Provisions

1. The Parties acknowledge the growing importance of new areas related to trade in facilitating progressive integration of the ACP States into the world economy. They therefore agree to strengthen their cooperation in these areas by estab- lishing full and coordinated participation in the relevant international fora and agreements.

2. The Community shall support the ACP States' efforts, through national and regional development strategies as defined in Title I and in conformity with Article 35 to strengthen their capacity to handle all areas related to trade, including, where necessary, improving and supporting the institutional framework.

Article 45. Competition Policy

1. The Parties agree that the introduction and implementation of effective and sound competition policies and rules are of crucial importance in order to improve and secure an investment friendly climate, a sustainable industrialisation process and transparency in the access to markets.

2. To ensure the elimination of distortions to sound competition and with due consideration to the different levels of development and economic needs of each ACP country, they undertake to implement national or regional rules and policies including the control and under certain conditions the prohibition of agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition. The Parties further agree to prohibit the abuse by one or more undertakings of a dominant position in the common market of the Community or in the territory of ACP States.

3. The Parties also agree to reinforce cooperation in this area with a view to formulating and supporting effective competition policies with the appropriate national competition agencies that progressively ensure the efficient enforcement of the competition rules by both private and state enterprises. Cooperation in this area shall, in particular, through national and regional development strategies as defined in Title | and in conformity with Article 35, include assistance in the drafting of an appropriate legal framework and its administrative enforcement with particular reference to the special situation of the Least Developed Countries.

Article 46. Protection of Intellectual Property Rights

1. Without prejudice to the positions of the Parties in multilateral negotiations, the Parties recognise the need to ensure an adequate and effective level of protection of intellectual, industrial and commercial property rights, and other rights covered by TRIPS including protection of geographical indications, in line with the international standards with a view to reducing distortions and impediments to bilateral trade.

2. They underline the importance, in this context, of adherence to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to the WTO Agreement and the Convention on Biological Diversity (CBD).

3. They also agree on the need to accede to all relevant international conventions on intellectual, industrial and commercial property as referred to in Part I of the TRIPS Agreement, in line with their level of development.

4. The Community, its Member States and the ACP States may consider the conclusion of agreements aimed at protecting trademarks and geographical indications for products of particular interest of either Party.

5. For the purpose of this Agreement, intellectual property includes in particular copyright, including the copyright on computer programmes, and neighbouring rights, including artistic designs, and industrial property which includes utility models, patents including patents for biotechnological inventions and plant varieties or other effective sui generis systems, industrial designs, geographical indications including appellations of origin, trademarks for goods or services, topographies of integrated circuits as well as the legal protection of databases and the protection against unfair competition as referred to in Article 10a of the Paris Convention for the Protection of Industrial Property and protection of undisclosed confidential information on know-how.

6. The Parties further agree to strengthen their cooperation in this field. Upon request, on mutually agreed terms and conditions, and through national and regional development strategies as defined in Title I and in conformity with Article 35, cooperation shall, inter alia, extend to the following areas: the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by right holders and the infringement of such rights by competitors, the establishment and reinforcement of domestic and regional offices and other agencies including support for regional intellectual property organisations involved in enforcement and protection, including the training of personnel.

Article 47. Standardisation and Certification

1. The Parties agree to cooperate more closely in the field of standardisation, cer- tification and quality assurance to remove unnecessary technical barriers and to reduce differences between them in those areas, so as to facilitate trade.

2. Cooperation in standardisation and certification, through national and regional development strategies as defined in Title I and in conformity with Article 35, shall aim at promoting compatible systems between the Parties and in particular include:

— measures, in accordance with the TBT Agreement, to promote greater use of international technical regulations, standards and conformity assessment procedures, including sector specific measures, in accordance with the level of economic development of ACP countries,

— cooperation in the area of quality management and assurance in selected sectors of importance to the ACP States,

— support for capacity building initiatives in the ACP countries in the fields of conformity assessment, metrology and standardisation,

— developing functioning links between ACP and European standardisation, conformity assessment and certification institutions.

3. The Parties undertake to consider, in due course, negotiating mutual recognition agreements in sectors of mutual economic interest.

Article 48. Sanitary and Phytosanitary Measures

1. The Parties recognise the right of each Party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade, generally. To this end, they reaffirm their commitments under the Agreement on the Application of Sanitary and Phytosanitary Measures, annexed to the WTO Agreement (SPS Agreement), taking account of their respective level of development.

2. They further undertake to reinforce coordination, consultation and information as regards notification and application of proposed sanitary and phytosanitary measures, in accordance with the SPS Agreement whenever these measures might affect the interests of either Party. They also agree on prior consultation and coordination within the CODEX ALIMENTARIUS, the International Office of Epizootics and the International Plant Protection Convention, with a view to furthering their common interests.

3. The Parties agree to strengthen their cooperation, through national and regional development strategies as defined in Title I and in conformity with Article 35, with a view to reinforcing the capacity of the public and the private sector of the ACP countries in this field.

Article 49. Trade and Environment

1. The Parties reaffirm their commitment to promoting the development of international trade in such a way as to ensure sustainable and sound management of the environment, in accordance with the international conventions and undertakings in this area and with due regard to their respective level of development. They agree that the special needs and requirements of ACP States should be taken into account in the design and implementation of environmental measures, including in relation to the provisions of Article 32a.

2. Bearing in mind the Rio Principles and with a view to reinforcing the mutual supportiveness of trade and environment, the Parties agree to enhance their co-operation in this field. Cooperation shall in particular aim at the establishment of coherent national, regional and international policies, reinforcement of quality controls of goods and services related to the environment, the improvement of environment friendly production methods in relevant sectors.

3. The Parties agree that environmental measures should not be used for protectionist purposes.

Article 50. Trade and Labour Standards

1. The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant International Labour Organisation (ILO) Conventions, and in particular the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination in respect to employment.

2. They agree to enhance cooperation in this area, in particular in the following fields:

- exchange of information on the respective legislation and work regulation;

- the formulation of national labour legislation and strengthening of existing legislation;

- educational and awareness raising programmes;

- enforcement of adherence to national legislation and work regulation;

3. The Parties agree that labour standards should not be used for protection- ist purposes.

Article 51. Consumer Policy and Protection of Consumer Health

1. The Parties agree to step up their cooperation in the area of consumer policy and consumer health protection, having due regard to domestic legislation to avoid barriers to trade.

2. Cooperation shall, in particular, aim, through national and regional development strategies as defined in Title I and in conformity with Article 35, at improving the institutional and technical capacity in this area, establishing rapid alert systems of mutual information on dangerous products, exchanging information and experiences on the establishment and operation of post market surveillance of products and product safety, improving information provided to consumers on prices, characteristics of products and services offered, encouraging the development of independent consumer associations and contacts between consumer interest representatives, improving compatibility of consumer policies and systems, notifying enforcement of the legislation and promoting cooperation in investigating harmful or unfair business practices and implementing exports prohibitions in the trade between the Parties of goods and services the marketing of which has been prohibited in their country of production.

Article 52. Tax Carve-out Clause

1. Without prejudice to the provisions of Article 31 of Annex IV, the Most Favoured Nation treatment granted in accordance with the provisions of this Agreement, or any arrangement adopted under this Agreement, does not apply to tax advantages which the Parties are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

2. Nothing in this Agreement, or in any arrangements adopted under this Agreement, may be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

3. Nothing in this Agreement, or in any arrangements adopted under this Agreement, shall be construed to prevent the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

Chapter 6. Cooperation In other Areas

Article 53. Fishery Agreements

1. The Parties declare their willingness to negotiate fishery agreements aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP States.

Article 54. Food Security

1. With regard to available agricultural products, the Community undertakes to ensure that export refunds can be fixed further in advance for all ACP States in respect of a range of products drawn up in the light of the food requirements expressed by those states.

2. Advance fixing shall be for one year and shall be applied each year throughout the life of this Agreement, it being understood that the level of the refund will be determined in accordance with the methods normally followed by the Commission.

3. Specific agreements may be concluded with those ACP States which so request in the context of their food security policies.

4, The specific agreements referred to in paragraph 3 shall not place in jeopardy production and trade flows in ACP regions.

Part 4. DEVELOPMENT FINANCE COOPERATION

Title I. GENERAL PROVISIONS

Chapter 1. Objectives, Principles, Guidelines and Eligibility

Article 55. Objectives

The objectives of development finance cooperation shall be, through the provision of adequate financial resources and appropriate technical assistance, to support and promote the efforts of ACP States to achieve the objectives set out in this Agreement on the basis of mutual interest and in a spirit of interdependence.

Article 56. Principles

1. Development finance cooperation shall be implemented on the basis of and be consistent with the development objectives, strategies and priorities established by the ACP States, at national, regional and intra-ACP levels, Their respective geographical, social and cultural characteristics, as well as their specific potential, shall be taken into account. Guided by the internationally agreed aid effectiveness agenda, cooperation shall be based on ownership, alignment, donor co-ordination and harmonisation, managing for development results and mutual accountability. In particular, cooperation shall:

(a) promote local ownership at all levels of the development process;

(b) reflect a partnership based on mutual rights and obligations;

(c) emphasise the importance of predictability and security in resource flows, granted on highly concessional terms and on a continuous basis;

(d) be flexible and appropriate to the situation in each ACP State as well as adapted to the specific nature of the project or programme concerned; and

(e) ensure efficiency, coordination and consistency.

2. Cooperation shall ensure special treatment for LDC ACP countries and duly take into account the vulnerability of landlocked and island ACP countries. In addition, the specific needs of post-conflict countries shall also be addressed.

Article 57. Guidelines

1. Operations financed within the framework of this Agreement shall be implemented by the ACP States and the Community in close cooperation, the concept of equality between the partners being recognised.

2. The ACP States shall be responsible for:

(a) defining the objectives and priorities on which the indicative programmes are based;

(b) choosing projects and programmes;

(c) preparing and presenting the dossiers of projects and programmes;

(d) preparing, negotiating and concluding contracts;

(e) implementing and managing projects and programmes; and

(f) maintaining projects and programmes.

3. Without prejudice to the provisions above, eligible non-state actors may also be responsible for proposing and implementing programmes and projects in areas concerning them.

4. The ACP States and the Community shall be jointly responsible for:

(a) establishing, within the joint institutions, the guidelines for development finance cooperation;

(b) adopting the indicative programmes;

(c) appraising projects and programmes;

(d) ensuring equality of conditions for participation in invitations to tender and contracts;

(e) monitoring and evaluating the effects and results of projects and programmes; and

(f) ensuring the proper, prompt and efficient execution of projects and programmes.

5. The Community shall be responsible for taking financing decisions on projects and programmes.

6. Unless otherwise provided for in this Agreement, all decisions requiring the approval of either Party shall be approved, or be deemed approved, within 60 days of notification by the other Party.

Article 58. Eligibility for Financing

1. The following entities or bodies shall be eligible for financial support provided under the Agreement:

(a) ACP States;

(b) regional or inter-state bodies to which one or more ACP States belong, including the African Union or other bodies with non-ACP State members, which are authorised by those ACP States; and

(c) joint bodies set up by the ACP States and the Community to pursue certain specific objectives.

2. Subject to the agreement of the ACP State or ACP States concerned, the following shall also be eligible for financial support:

(a) national and/or regional public or semi-public agencies and departments of ACP States, including Parliaments, and, in particular, their financial institutions and development banks;

(b) companies, firms and other private organisations and private operators of ACP States;

(c) enterprises of a Community Member State to enable them, in addition to their own contribution, to undertake productive projects in the territory of an ACP State;

(d) ACP or Community financial intermediaries providing, promoting and financing private or public investments in ACP States;

(e) local decentralised authorities from ACP States and the Community; and

(f) developing countries that are not part of the ACP Group where they partici- pate in a joint initiative or regional organisation with ACP States in conform- ity with Article 6 of Annex IV to this Agreement.

3. Non-state actors from ACP States and the Community which have a local char- acter shall be eligible for financial support provided under this Agreement, accord- ing to the modalities agreed in the national and regional indicative programmes.

Chapter 2. Scope and Nature of Financing

Article 59.

Within the framework of the priorities established by the ACP state or states concerned at both national and regional levels, support may be given to projects, programmes and other forms of operations contributing to the objectives set outin this agreement.

Article 60. Scope of Financing

The scope of financing may include, inter alia, depending on the needs and the types of operation considered most appropriate, support to:

(a) measures which contribute to attenuate the debt burden and balance of payments problems of the ACP countries;

(b) macroeconomic and structural reforms and policies;

(c) mitigation of adverse short-term effects of exogenous shocks, including instability in export earnings on socioeconomic reforms and policies;

(d) sectoral policies and reforms;

(e) institutional development and capacity building;

(f) technical cooperation programmes; and

(g) humanitarian and emergency assistance including assistance to refugees and displaced persons, interventions linking short-term relief and rehabilitation with long-term development in crisis or post-crisis situations,

and disaster preparedness.

Article 61. Nature of Financing

1. The nature of financing shall, inter alia, include:

(a) projects and programmes;

(b) credit lines, guarantee schemes and equity participation;

(c) budgetary support, either directly, for the ACP States whose currencies are convertible and freely transferable, or indirectly, from counterparts funds generated by the various Community instruments;

(d) the human and material resources necessary for effective administration and supervision of projects and programmes;

(e) sectoral and general import support programmes which may take the form of:

(i) sectoral import programmes through direct procurement including financing of inputs in the productive system and supplies to improve social services;

(ii) sectoral import programmes in the form of foreign exchange released in instalments for financing sectoral imports; and

(iii) general import programmes in the form of foreign exchange released in instalments for financing general imports covering a wide range of products.

2. Direct budgetary assistance in support of macroeconomic or sectoral reforms shall be granted where:

(a) well-defined poverty-focused national or sector development strategies are in place or under implementation;

(b) well-defined stability-oriented macroeconomic policy established by the country itself and positively assessed by its main donors, including where relevant the international financial institutions, is in place or under implementation; and

(c) public financial management is sufficiently transparent, accountable and effective.

The Community shall align on the systems and procedures specific to each ACP country, monitor its budget support with the partner country and support efforts of partner countries to strengthen domestic accountability, parliamentary oversight, audit capacities and public access to information.

3. Similar direct budgetary assistance shall be granted gradually to sectoral policies in substitution for individual projects.

4. The instruments of import programmes or budgetary support defined above can also be used to support eligible ACP States implementing reforms aimed at intra-regional economic liberalisation which generate net transitional costs.

5. In the framework of the Agreement, the funds earmarked under the multi-annual financial framework of cooperation under this Agreement, own resources of the European Investment Bank (hereinafter referred to as the Bank) and where appropriate other resources drawn from the European Community's budget, shall be used to finance projects, programmes and other forms of operations contributing to the achievement of the objectives of this Agreement.

6. The funds provided under the Agreement may be used to cover the total costs of both the local and foreign expenditure of projects and programmes, including recurrent cost financing.

Title II. FINANCIAL COOPERATION

Chapter 1. Financial Resources

Article 62. Overall Amount

1. For the purposes set out in this Agreement, the overall amount of the Community's financial assistance and the detailed terms and conditions of financing are provided for in the Annexes to this Agreement.

2. Should an ACP State fail to ratify this Agreement or denounce it, the Parties shall adjust the amounts of the resources provided for in the Financial Protocol set out in Annex I. Adjustment of the financial resources shall also apply upon:

(a) the accession to the Agreement of new ACP States which did not take part in its negotiation; and

(b) the enlargement of the Community.

Article 63. Methods of Financing

The methods of financing for each project or programme shall be determined jointly by the ACP State or States concerned and the Community by reference to:

(a) the level of development, the geographical situation and economic and fi- nancial circumstances of these states;

(b) the nature of the project or programme, its economic and financial return as well as its social and cultural impact; and

(c) in the case of loans, factors guaranteeing their servicing.

Article 64. On Lending Operations

1, Financial assistance may be made available to or through the ACP States concerned or, subject to the provisions of this Agreement through eligible financial institutions or directly to any other eligible beneficiary. Where financial assistance is granted to the final recipient through an intermediary or directly to the final beneficiary in the private sector:

(a) the terms and conditions on which the assistance may be made available by the intermediary to the final recipient or directly to the final beneficiary in the private sector shall be laid down in the financing agreement or loan contract; and

(b) any financial benefit accruing to the intermediary from the on lending transaction or resulting from direct lending operations to the final beneficiary in the private sector, shall be used for development purposes on the conditions laid down in the financing agreement or the loan contract, after taking into account administrative costs, exchange and financial risks and the cost of technical assistance given to the final recipient.

2. Where the financing is undertaken through an on-lending body based and/or operating in the ACP States, it shall be the responsibility of that body to select and appraise individual projects and to administer the funds placed at its disposal under the conditions provided for in this Agreement and by mutual agreement between the Parties.

Article 65. Co-financing

1. The financial resources provided for in this Agreement may be applied, at the request of the ACP States, to co-financing undertaken in particular with development agencies and institutions, Community Member States, ACP States, third countries or international or private financial institutions, firms or export credit agencies.

2. Special consideration shall be given to the possibility of co-financing in cases where Community participation will encourage the participation of other sources of finance and where such financing may lead to an advantageous financial package for the ACP State concerned.

3. Co-financing may be in the form of joint or parallel financing. Preference shall be given in each case to the solution, which is more suitable from the point of view of cost effectiveness. In addition, measures shall be taken to coordinate and harmonise operations of the Community and those of other co-financing bodies in order to minimise the number of procedures to be undertaken by the ACP States and to render those procedures more flexible.

4. The process of consultation and coordination with other donors and co-financiers should be strengthened and developed, where possible, through the establishment of co-financing framework agreements and co-financing policies and procedures should be reviewed to ensure effectiveness and the best terms and conditions possible.

Chapter 2. Debt and Structural Adjustment Support

Article 66. Support for Debt Relief

1. In order to attenuate the debt burden of the ACP States and their balance-of-payment problems, the Parties agree to use the resources provided for under the multi-annual financial framework of cooperation under this Agreement to contribute to debt relief initiatives approved at international level for the benefit of ACP countries. The Community furthermore commits itself to examine how in the longer term other Community resources can be mobilised in support of internationally agreed debt relief initiatives.

2. At the request of an ACP State, the Community may grant:

(a) assistance in studying and finding practical solutions to indebtedness including domestic debt, debt-servicing difficulties and balance of payments problems;

(b) training in debt management and international financial negotiations as well as support for training workshops, courses and seminars in these fields; and

(c) assistance to develop flexible techniques and instruments of debt management.

3. In order to contribute to the servicing of the debt resulting from loans from the Bank's own resources, special loans and risk capital, the ACP States may, in accordance with arrangements to be made on a case by case basis with the Commission, use the available foreign currency referred to in this Agreement for such servicing, as and when debt repayment falls due and up to the amount required for payments in national currency.

4. Given the seriousness of the international debt problem and its impact on economic growth, the Parties declare their readiness to continue to exchange views, within the context of international discussions, on the general problem of debt, and without prejudice to specific discussions taking place in the relevant fora.

Article 67. Structural Adjustment Support

1. The multi-annual financial framework of cooperation under this Agreement shall provide support for macroeconomic and sectoral reforms implemented by the ACP States. In this framework, the Parties shall ensure that adjustment is economically viable and socially and politically bearable. Support shall be given in the context of a joint assessment between the Community and the ACP State concerned on the reform measures being undertaken or contemplated either at macroeconomic or sectoral level, and permit an overall evaluation of the reform efforts. To the extent possible the joint assessment shall be aligned on country specific arrangements and the support monitored on the basis of results achieved. Quick disbursement shall be an important feature of support programmes.

2. The ACP States and the Community recognise the necessity to encourage reform programmes at regional level ensuring that, in the preparation and execution of national programmes, due consideration is given to regional activities which have an influence on national development. To this end, support for structural adjustment shall also seek to:

(a) incorporate, from the beginning of the diagnosis, measures to encourage regional integration and take account of the consequences of trans border adjustment;

(b) support the harmonisation and coordination of macroeconomic and sectoral policies, including fiscal and customs areas, so as to fulfil the dual aim of regional integration and of structural reform at national level; and

(c) take account of the effects of net transitional costs of regional integration on budget revenue and balance of payments, either through general import programmes or budgetary support.

3. ACP States undertaking or contemplating reform at the macroeconomic or sectoral level shall be eligible for structural adjustment assistance, giving consideration to the regional context, their effectiveness and the likely impact on the economic, social and political dimension of development and on economic and social hardships being experienced.

4. The ACP States undertaking reform programmes that are acknowledged and supported at least by the principal multilateral donors, or that are agreed with such donors but not necessarily financially supported by them, shall be treated as having automatically satisfied the requirements for adjustment assistance.

5. Structural adjustment support shall be mobilised in a flexible manner and in the form of sectoral and general import programmes or budgetary support.

6. The preparation, appraisal and financing decision for structural adjustment programmes shall be carried out according to the provisions on implementation procedures of this Agreement with due regard to the quick disbursing feature of structural adjustment programmes. On a case-by-case basis, retroactive financing of a limited part of imports of ACP-EC origin may be permissible.

7. The implementation of each support programme shall ensure that the eligibility of ACP economic operators for access to the resources of the programme is as wide and transparent as possible and that the procurement procedures accord with the administrative and commercial practices in the state concerned, while ensuring the best possible price/quality ratio on imported goods and the necessary consistency with the progress achieved internationally for harmonising the procedures for supporting structural adjustment.

Chapter 3. Support In Case of Exogenous Shocks

Article 68.

1. The Parties recognise that macroeconomic instability resulting from exogenous shocks may adversely affect the development of the ACP States and jeopardise the attainment of their development requirements. A system of additional support in order to mitigate the short-term adverse effects resulting from exogenous shocks, including the effects on export earnings, is therefore set up within the multi-annual financial framework of cooperation under this Agreement.

2. The purpose of this support is to safeguard socioeconomic reforms and policies that could be affected negatively as a result of a drop in revenue and to remedy the short-term adverse effects of such shocks.

3. The extreme dependence of the ACP States' economies on exports, in particular from the agricultural and mining sectors, shall be taken into account in the allocation of resources, In this context, the least developed, landlocked and island, post-conflict and post-natural disaster ACP States shall receive more favourable treatment.

4. The additional resources shall be provided in accordance with the specific modalities of the support mechanism as set out in Annex II on Terms and Conditions of Financing.

5. The Community shall also provide support for market-based insurance schemes designed for ACP States seeking to protect themselves against short-term effects of exogenous shocks.

Chapter 4. Support for Sectoral Policies

Article 69.

1. Cooperation shall support, through the various instruments and modalities provided for in the Agreement:

(a) social and economic sectoral policies and reforms;

(b) measures to enhance productive sector activity and export competitiveness;

(c) measures to expand social sector services; and

(d) thematic and cross cutting issues.

2. This support shall be provided as appropriate through:

(a) sectoral programmes;

(b) budgetary support;

(c) investments;

(d) rehabilitation;

(e) training;

(f) technical assistance; and

(g) institutional support.

Chapter 5. Microprojects and Decentralised Cooperation

Article 70.

In order to respond to the needs of local communities with regard to development, and to encourage all agents of decentralised cooperation which are in a position to contribute to the autonomous development of the ACP States to put forward and implement initiatives, cooperation shall support, within the framework laid down in the rules and national legislation of the ACP States concerned and the provisions of the indicative programme, such development operations. In this context, cooperation shall support:

(a) micro projects at local level which have an economic and social impact on the life of the people, meet a demonstrated and observed priority need, and shall be undertaken at the initiative and with the active participation of the local community which shall benefit therefrom; and

(b) decentralised cooperation, in particular where such operations combine ef- forts and resources of decentralised agents from the ACP States and their counterparts from the Community. This form of cooperation shall enable the mobilisation of capabilities, innovative operating methods and resources of decentralised agents for the development of the ACP State.

Article 71.

1. Microprojects and decentralised cooperation operations may be supported from the financial resources of the

Agreement. Projects or programmes under this form of cooperation may or may not be linked to programmes in the sectors of concentration of the indicative programmes, but may be a way of achieving the specific objectives of the indicative programme or the results of initiatives by local communities or decentralised agents.

2. Contributions for the financing of micro-projects and decentralised cooperation shall be made by the Fund, in which case the contribution shall not normally exceed three quarters of the total cost of each project and may not exceed the limit set in the indicative programme. The remaining balance shall be provided:

(a) by the local community concerned in case of micro-projects (either in kind or in the form of services or cash and adapted to its capacity to contribute);

(b) by the agents of decentralised cooperation, provided that the financial, technical, material and other resources brought in by such agents shall not normally be less than 25 % of the estimated cost of the project/programme; and

(c) exceptionally by the ACP State concerned, either in the form of a financial contribution or through the use of public equipment or the supply of services.

3. The procedures applicable to projects and programmes financed within the framework of microprojects or decentralised cooperation shall be those laid down in the Agreement, in particular those referred to in multi-annual programmes.

Chapter 6. Humanitarian, Emergency and Post-emergency Assistance

Article 72. General Principle

1. Humanitarian, emergency and post-emergency assistance shall be provided in situations of crisis. Humanitarian and emergency assistance shall aim to save and preserve life and to prevent and relieve human suffering wherever the needs arise. Post-emergency assistance shall aim at rehabilitation and linking the short-term relief with longer term development programmes,

2. Situations of crisis, including long-term structural instability or fragility are situations posing a threat to law and order or to the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country. Situations of crisis may also result from natural disasters, man-made crises such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, environmental degradation, access to energy and natural resources, or extreme poverty.

3. The humanitarian, emergency and post-emergency assistance shall be maintained for as long as necessary to deal with the needs resulting from these situations for the victims, thereby linking relief, rehabilitation and development.

4. The humanitarian assistance shall be granted exclusively according to the needs and interests of the victims of the crisis situation and in line with the principles of international humanitarian law and with respect to humanity, neutrality, impartiality and independence. In particular, there shall be no discrimination between victims on grounds of race, ethnic origin, religion, gender, age, nationality or political affiliation and free access to and protection of victims shall be guaranteed as well as the security of humanitarian personnel and equipment.

5. The humanitarian, emergency and post-emergency assistance shall be financed under the multi-annual financial framework of cooperation under this Agreement, where such assistance cannot be financed from the Union's Budget. Humanitarian, emergency and post-emergency assistance shall be implemented in complementarity and coordination with the Member States' efforts and in accordance with best practice in aid effectiveness.

Article 72A. Objective

1. Humanitarian and emergency assistance shall aim to:

(a) safeguard human lives in crises and immediate post-crisis situations;

(b) contribute to the financing and delivery of humanitarian aid and to the direct access to it of its intended beneficiaries by all logistical means available;

(c) carry out short-term rehabilitation and reconstruction to enable the victims to benefit from a minimum of socioeconomic integration and, as soon as possible, create the conditions for a resumption of development on the basis of long-term objectives set by the ACP countries and regions concerned;

(d) address the needs arising from the displacement of people (refugees, dis- placed persons and returnees) following natural or man-made disasters so as to meet, for as long as necessary, all the needs of refugees and displaced persons (wherever they may be) and facilitate action for their voluntary re- patriation and reintegration in their country of origin; and

(e) assist the ACP State or region in setting up short-term disaster prevention and preparedness mechanisms, including for prediction and early warning, with a view to reducing the consequences of disasters.

2. Assistance may be granted to ACP States or regions taking in refugees or returnees to meet acute needs not covered by emergency assistance.

3. Post-emergency action shall aim at physical and social rehabilitation consequent to the results of the crisis concerned and may be undertaken to link the short-term relief and rehabilitation with the relevant longer term development programmes funded from the national, regional indicative programmes or the intra-ACP programme. Such actions must be necessary for the transition from the emergency phase to the development phase, promoting the socioeconomic reintegration of the parts of the population affected, removing as far as possible the causes of the crisis and strengthening institutions and the ownership by local and national actors of their role in formulating a sustainable development policy for the ACP country concerned.

4. Where appropriate, short-term disaster prevention and preparedness mechanisms as referred to in paragraph 1(e) will be coordinated with other disaster prevention and preparedness mechanisms in place.

The development and strengthening of national, regional and all-ACP disaster risk reduction and management mechanisms shall assist ACP States to build their resilience to the impact of disasters. All related activities may be pursued in cooperation with regional and international organisations and programmes that have a proven track record in disaster risk reduction.

Article 73. Implementation

1. Assistance operations shall be undertaken either at the request of the ACP country or region affected by the crisis situation, or at the initiative of the Commission, or on the advice of international organisations or local or international non-state organisations.

2. The Community shall take adequate steps to facilitate speedy action, which is required to meet the immediate needs for which the assistance is needed. The assistance shall be administered and implemented under procedures permitting operations that are rapid, flexible and effective.

3. Underlining the developmental nature of the assistance granted in accordance with this Chapter, assistance may be used exceptionally together with the indicative programme at the request of the state or region concerned.

Chapter 7. Investment and Private Sector Development Support

Article 74.

Cooperation shall, through financial and technical assistance, support the policies and strategies for investment and private sector development as set out in this Agreement.

Article 75. Investment Promotion

The ACP States, the Community and its Member States, within the scope of their respective competencies, recognising the importance of private investment in the promotion of their development cooperation and acknowledging the need to take steps to promote such investment, shall:

(a) implement measures to encourage participation in their development efforts by private investors who comply with the objectives and priorities of ACP-EC development cooperation and with the appropriate laws and regulations of their respective states;

(b) take measures and actions which help to create and maintain a predictable and secure investment climate as well as enter into negotiations on agreements which will improve such climate;

(c) encourage the EU private sector to invest and to provide specific assistance to its counterparts in the ACP countries under mutual business cooperation and partnerships;

(d) facilitate partnerships and joint ventures by encouraging co-financing;

(e) sponsor sectoral investment fora to promote partnerships and external investment;

(f) support efforts of the ACP States to attract financing, with particular emphasis on private financing, for infrastructure investments and revenue generating infrastructure critical for the private sector;

(g) support capacity building for domestic investment promotion agencies and institutions involved in promoting and facilitating foreign investment;

(h) disseminate information on investment opportunities and business operat- ing conditions in the ACP States; and

(i) promote national, regional and ACP-EU private sector business dialogue, co-operation and partnerships, in particular through an ACP-EU private sector business forum. Support for operations of an ACP-EU private sector business forum shall be provided in pursuit of the following objectives:

(i) to facilitate dialogue within the ACP/EU private sector and between the ACP/EU private sector and the bodies established under the Agreement;

(ii) to analyse and periodically provide the relevant bodies with information on the whole range of issues concerning relations between the ACP and EU private sectors in the context of the Agreement or, more generally, of economic relations between the Community and the ACP countries; and

(iii) to analyse and provide the relevant bodies with information on specific problems of a sectoral nature relating to, inter alia, branches of production or types of products at regional or sub-regional level.

Article 76. Investment Finance and Support

1. Cooperation shall provide long-term financial resources, including risk capital, to assist in promoting growth in the private sector and help to mobilise domestic and foreign capital for this purpose. To this end, cooperation shall provide, in particular:

(a) grants for financial and technical assistance to support policy reforms, human resource development, institutional capacity-building or other forms of institutional support related to a specific investment, measures to increase the competitiveness of enterprises and to strengthen the capacities of the private financial and non-financial intermediaries, investment facilitation and promotion and competitiveness enhancement activities;

(b) advisory and consultative services to assist in creating a responsive invest- ment climate and information base to guide and encourage the flow of capital;

(c) risk capital for equity or quasi-equity investments, guarantees in support of domestic and foreign private investment and loans or lines of credit on the conditions laid down in Annex II "Terms and Conditions of Financing" to this Agreement; and

(d) loans from the Bank's own resources and the Investment Facility, the terms and conditions of which are set out in Annex II to this Agreement. Such loans may also be used to finance public investment in basic infrastructure.

2. Loans from the Bank's own resources shall be granted in accordance with its statute and with the terms and conditions laid down in Annex II to this Agreement.

Article 77. Investment Guarantees

1. Investment guarantees are an increasingly important tool for development finance as they contribute to reducing project risks and inducing private capital flows. Cooperation shall therefore ensure the increasing availability and use of risk insurance as a risk mitigating mechanism in order to boost investor confidence in the ACP States.

2. Cooperation shall offer guarantees and assist with guarantees funds covering risks for qualified investment. Specifically, cooperation shall provide support to:

(a) reinsurance schemes to cover foreign direct investment by eligible investors; against legal uncertainties and the major risks of expropriation, currency transfer restriction, war and civil disturbance, and breach of contract. Investors may insure projects for any combination of the four types of coverage;

(b) guarantee programmes to cover risk in the form of partial guarantees for debt financing. Both partial risk and partial credit guarantee shall be available; and

(c) national and regional guarantee funds, involving, in particular, domestic financial institutions or investors for encouraging

the development of the financial sector.

3. Cooperation shall also provide support to capacity-building, institutional support and participation in the core funding of national and/or regional initiatives to reduce the commercial risks for investors (inter alia guarantee funds, regulatory bodies, arbitration mechanisms and judiciary systems to enhance the protection of investments improving the export credit systems).

4. Cooperation shall provide such support on the basis of complementary and added value with respect to private and/or public initiatives and, whenever feasible, in partnership with private and other public organisations. The ACP and the EC will within the framework of the ACP-EC Development Finance Cooperation Committee undertake a joint study on the proposal to set up an ACP-EC Guarantee Agency to provide and manage investment guarantee programmes.

Article 78. Investment Protection

1. The ACP States and the Community and its Member States, within the scope of their respective competencies, affirm the need to promote and protect either Party's investments on their respective territories, and in this context affirm the importance of concluding, in their mutual interest, investment promotion and protection agreements which could also provide the basis for insurance and guarantee schemes.

2. In order to encourage European investment in development projects of special importance to, and promoted by the ACP States, the Community and the Member States, on the one hand and the ACP States on the other, may also conclude agreements relating to specific projects of mutual interest where the Community and European enterprises contribute towards their financing.

3. The Parties also agree to introduce, within the economic partnership agreements, and while respecting the respective competencies of the Community and its Member States, general principles on protection and promotion of investments, which will endorse the best results agreed in the competent international fora or bilaterally.

Title III. Technical Cooperation

Article 79.

1. Technical cooperation shall assist the ACP States in the development of na- tional and regional manpower resources, the sustained development of the in- stitutions critical for development success, including inter alia strengthening ACP consulting firms and organisations, as well as exchange arrangements involving consultants from both ACP and EU firms.

2. Furthermore, technical cooperation, shall be cost-effective and relevant to the need for which it is intended, and shall also favour the transfer of know-how and increase national and regional capabilities. Technical cooperation shall contribute to the achievement of project and programme goals, including efforts to strengthen management capacity of the National and Regional Authorising Officers. Technical assistance shall:

(a) be demand driven and thus made available only at the request of the ACP State or States concerned, and adapted to recipient needs;

(b) complement and support ACP efforts to identify their own requirements;

(c) be monitored and followed up to guarantee effectiveness;

(d) encourage the participation of ACP experts, consultancy firms and educational and research institutions in contracts financed from the Fund and identify ways of employing qualified national and regional personnel on Fund projects;

(e) encourage the secondment of ACP national cadres as consultants to an institution in their own country, or a neighbouring country, or to a regional organisation;

(f) aim at developing knowledge of national and regional manpower constraints and potential and establish a register of ACP experts, consultants and consultancy firms suitable for employment on projects and programmes financed from the Fund;

(g) support intra ACP technical assistance in order to promote the exchange between the ACP States of technical assistance, management and professional expertise;

(h) develop action programmes for long term institution building and staff development as an integral part of project and programme planning, account being taken of the necessary financial requirements;

(i) support arrangements to enhance the capacity of the ACP States to build up their own expertise; and

(j) give special attention to the development of the ACP States' capacities in project planning, implementation and evaluation, as well budget management.

3. Technical assistance may be provided in all areas of cooperation and within the limits of the mandate of this Agreement. The activities covered would be diverse in scope and nature, and would be tailored to meet the needs of the ACP States.

4. Technical cooperation may be either of a specific or a general nature. The ACP– EC Development Finance Cooperation Committee shall establish the guidelines for the implementation of technical cooperation.

Article 80.

With a view to reversing the brain drain from the ACP States, the Community shall assist ACP States which so request to facilitate the return of qualified ACP nationals resident in developed countries through appropriate re-installation incentives.

Title IV. Procedures and Management Systems

Article 81. Procedures

Management procedures shall be transparent, easy to apply and shall enable the decentralisation of tasks and responsibilities to the field. The implementation of ACP–EU development cooperation shall be open to non-State actors in areas that concern them. The detailed procedural provisions for programming, preparation, implementation and the management of financial and technical cooperation are laid down in Annex IV on Implementation and Management Procedures. The Council of Ministers may review, revise and amend these provisions on the basis of a recommendation from the ACP–EC Development Finance Cooperation Committee.

Article 82. Executing Agents

For the implementation of financial and technical cooperation under this Agreement, executing agents are designated. Detailed provisions for the responsibilities of the executing agents are laid down in Annex IV on Implementation and Management Procedures.

Article 83. ACP-EC Development Finance Cooperation Committee

1. The Council of Ministers shall at least once a year examine whether the objectives of development finance cooperation are being attained and shall examine the general and specific problems resulting from the implementation of that cooperation. To this end, an ACP–EC Development Finance Cooperation Committee, hereinafter referred to as 'the ACP–EC Committee', shall be set up within the Council of Ministers.

2. The ACP–EC Committee shall, inter alia:

(a) ensure the overall achievement of the objectives and principles of development finance cooperation and establish general guidelines for their effective and timely implementation;

(b) examine the problems arising from the implementation of development cooperation activities and propose appropriate measures;

(c) review the annexes to the Agreement to ensure their continued relevance and recommend any appropriate amendments to the Council of Ministers for approval; and

(d) examine the operations deployed within the framework of the Agreement to attain the objectives of promoting private sector development and investment and the operations of the Investment Facility.

3. The ACP–EC Committee, which shall meet every quarter, shall be composed, on a basis of parity, of representatives of the ACP States and of the Community, or their authorised representatives. It shall meet at ministerial level whenever one of the parties so requests and at least once a year.

4. The Council of Ministers shall lay down the ACP-EC Committee's rules of procedure, in particular the conditions for representation and the number of members of the Committee, the detailed arrangements for their deliberations and the conditions for holding the chair.

5. The ACP-EC Committee may convene meetings of experts to study the cause of any difficulties and bottlenecks, which may impede the efficient implementation of development cooperation. These experts shall make recommendations to the

Committee on possible ways of removing such difficulties and bottlenecks.

Part 5. General Provisions for the Least Developed, Landlocked and Island ACP States (LDLICS)

Chapter 1. General Provisions

Article 84.

1. To enable LDLICs to take full advantage of the opportunities offered by the Agreement so as to step up their respective rates of development, cooperation shall ensure special treatment for the least developed ACP countries and take due account of the vulnerability of landlocked and island ACP countries. It shall also take into consideration the needs of countries in post conflict situations.

2. Independently of the specific measures and provisions for the least-developed, landlocked and island countries in the different chapters of the Agreement, special attention shall be paid in respect of these groups as well as countries in post-conflict situations to:

(a) the strengthening of regional cooperation;

(b) transport and communications' infrastructure;

(c) the efficient exploitation of marine resources and the marketing of products so produced and, in the case of landlocked countries, inland fisheries;

(d) structural adjustment where account shall be taken of the level of development of these countries and equally, at the implementation stage, of the social dimension of adjustment; and

(e) the implementation of food strategies and integrated development programmes.

Chapter 2. Least Developed ACP States

Article 85.

1. The least-developed ACP States shall be accorded a special treatment in order to enable them to overcome the serious economic and social difficulties hindering their development so as to step up their respective rates of development.

2. The list of least-developed countries is given in Annex VI. It may be amended by a decision of the Council of Ministers where:

(a) athird state in a comparable situation accedes to this Agreement; and

(b) the economic situation of an ACP State changes considerably and durably to the extent that it needs to be included in the least developed category or its inclusion in that category is no longer justified.

Article 86.

The provisions adopted in respect of the least-developed ACP States are contained in the following Articles: 2, 29, 32, 35, 37, 56, 68, 84, 85.

Chapter 3. Landlocked ACP States

Article 87.

1. Specific provisions and measures shall be established to support landlocked ACP States in their efforts to overcome the geographical difficulties and other obstacles hampering their development so as to enable them to step up their respective rates of development.

2. The list of landlocked ACP States is given in Annex VI. It may be amended by decision of the Council of Ministers when a third state in a comparable situation accedes to the Agreement.

Article 88.

The provisions adopted in respect of the landlocked ACP States are contained in the following Articles: 2, 32, 35, 56, 68, 84, 87.

Chapter 4. Island Acp States

Article 89.

1. Specific actions shall be pursued to support island ACP States in their efforts to halt and reverse their increasing vulnerability caused by new and severe economic, social and ecological challenges. These actions shall seek to advance the implementation of the small island developing states' priorities for sustainable development, while promoting a harmonised approach to their economic growth and human development.

2. The list of island ACP states is given in Annex VI. It may be amended by decision of the Council of Ministers when a third state in a comparable situation accedes to the Agreement.

Article 90.

The provisions adopted in respect of the island ACP States are contained in the following Articles: 2, 32, 35, 56, 68, 84, 89.

Part 6. FINAL PROVISIONS

Article 91. Conflict between this Agreement and other Treaties

No treaty, convention, agreement or arrangement of any kind between one or more Member States of the Community and one or more ACP States may impede the implementation of this Agreement.

Article 92. Scope of Territorial Application

Subject to the special provisions regarding the relations between the ACP States and the French overseas departments provided for therein, this Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territories of the ACP States.

Article 93. Ratification and Entry Into Force

1. This Agreement shall be ratified or approved by the signatory Parties in accord- ance with their respective constitutional rules and procedures.

2. The instruments of ratification or approval of this Agreement shall be deposited in the case of the ACP States, with the General Secretariat of the Council of the European Union and in the case of the Community and the Member States, with the General Secretariat of the ACP States. The Secretariats shall promptly notify the signatory states and the Community.

3. This Agreement shall enter into force on the first day of the second month following the date of deposit of the instruments of ratification of the Member States and of at least two thirds of the ACP States, and of the instrument of approval of this Agreement by the Community.

4. An ACP signatory state that has not completed the procedures set out in paragraphs 1 and 2 by the date on which this Agreement enters into force as provided for in paragraph 3 may do so only within the 12 months following that date, without prejudice to the provisions of paragraph 6.

For such states this Agreement shall become applicable on the first day of the second month following the completion of these procedures. These states shall recognise the validity of any measure taken to implement the Agreement after the date of its entry into force.

5. The rules of procedure of the joint institutions set up under this Agreement shall lay down the conditions under which the representatives of signatory states referred to in paragraph 4 may attend those institutions as observers.

6. The Council of Ministers may decide to accord special support to ACP States party to previous ACP-EC Conventions which,

in the absence of normally established government institutions, have not been able to sign or ratify this Agreement. This support may concern institution building and economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. In this context, such countries will be able to draw on the funds provided for in Part 4 of this Agreement for financial and technical cooperation.

By way of derogation from paragraph 4, the countries concerned which are signatories to the Agreement may complete the ratification procedures within twelve months of the restoration of government institutions.

The countries concerned which have neither signed nor ratified the Agreement may accede to it by means of the accession procedure provided for in Article 94.

Article 94. Accession

1. Any request for accession to this Agreement made by an independent state whose structural characteristics and economic and social situation are comparable to those of the ACP States shall be presented to the Council of Ministers.

If the request is approved by the Council of Ministers, the state concerned shall accede to this Agreement by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send a certified copy to the ACP Secretariat and notify the Member States. The Council of Ministers may lay down any amending measures that might be necessary.

The state concerned shall enjoy the same rights and be subject to the same obligations as the ACP States. Its accession may not infringe on the benefits enjoyed by the ACP States signatory to this Agreement under the provisions on development cooperation financing. The Council of Ministers may lay down the conditions and specific arrangements for the accession of an individual state in a special protocol that shall form an integral part of the Agreement.

2. The Council of Ministers shall be advised of any request made by a third state to become a member of an economic grouping of ACP States.

3. The Council of Ministers shall be advised of any request made by a third state to become a member of the European Union. During the negotiations between the Union and the applicant state, the Community shall provide the ACP States with any relevant information and they in turn shall convey their concerns to the Community so that it can take them fully into account. The ACP Secretariat shall be notified by the Community of any accession to the European Union.

Any new Member State of the European Union shall become a Party to this Agree- ment from the date of its accession by means of a clause to that effect in the act of accession. If the act of accession to the Union does not provide for such automatic accession of the Member State to this Agreement, the Member State concerned shall accede by depositing an act of accession with the General Sec- retariat of the Council of the European Union, which shall send a certified copy to the ACP Secretariat and notify the Member States.

The Parties shall review the effects of the accession of new Member States on this Agreement. The Council of Ministers may decide on any transitional or amending measures that might be necessary.

Article 95. Duration of the Agreement and Revision Clause

1. This Agreement is hereby concluded for a period of twenty years, commencing on 1 March 2000.

2. Financial protocols are defined for each five-year period.

3. The Community and the Member States, on the one hand, and the ACP States, on the other, shall notify the other Party not later than 12 months before the expiry of each five-year period of any review of the provisions they desire to make with a view to a possible amendment of the Agreement. Notwithstanding this time limit, if one Party requests the review of any provisions of the Agreement, the other Party shall have a period of two months in which to request the extension of the review to other provisions related to those which were the subject of the initial request.

Ten months before the expiry of this five-year period, the Parties shall enter into negotiations with a view to examining any possible amendments to the provisions that were the subject of the notification.

Article 93 shall also apply to the amendments made.

The Council of Ministers shall adopt any transitional measures that may be required in respect of the amended provisions until they come into force.

4. Eighteen months before the end of the total period of the Agreement, the Parties shall enter into negotiations in order to examine what provisions shall subsequently govern their relations.

The Council of Ministers shall adopt any transitional measures that may be re- quired until the new Agreement comes into force.

Article 96. Essential Elements: Consultation Procedure and Appropriate Measures as Regards Human Rights, Democratic Principles and the Rule of Law

1. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

1a) Both Parties agree to exhaust all possible options for dialogue under Article 8, except in cases of special urgency, prior to commencement of the consultations referred to in paragraph 2(a) of this Article.

2.(a) If, despite the political dialogue on the essential elements as provided for un- der Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annex VII.

The consultations shall be conducted at the level and in the form considered most appropriate for finding a solution.

The consultations shall begin no later than 30 days after the invitation and shall continue for a period established by mutual agreement, depending on the nature and gravity of the violation. In no case shall the dialogue under the consultations procedure last longer than 120 days.

If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them no longer prevail.

(b) The term "cases of special urgency" shall refer to exceptional cases of particularly serious and flagrant violation of one of the essential elements re- ferred to in paragraph 2 of Article 9, that require an immediate reaction.

(c) The Party resorting to the special urgency procedure shall inform the other Party and the Council of Ministers separately of the fact unless it does not have time to do so.

The "appropriate measures" referred to in this Article are measures taken in accordance with international law, and proportional to the violation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement.

It is understood that suspension would be a measure of last resort.

If measures are taken in cases of special urgency, they shall be immediately notified to the other Party and the Council of Ministers, At the request of the Party concerned, consultations may then be called in order to examine the situation thoroughly and, if possible, find solutions. These consultations shall be conducted according to the arrangements set out in the second and third subparagraphs of paragraph (a).

Article 97. Consultation Procedure and Appropriate Measures as Regards Corruption

1. The Parties consider that when the Community is a significant partner in terms of financial support to economic and sectoral policies and programmes, serious cases of corruption should give rise to consultations between the Parties.

2. In such cases either Party may invite the other to enter into consultations. Such consultations shall begin no later than 30 days after the invitation and dialogue under the consultation procedure shall last no longer than 120 days.

3. If the consultations do not lead to a solution acceptable to both Parties or if consultation is refused, the Parties shall take the appropriate measures. In all cases, it is above all incumbent on the Party where the serious cases of corruption have occurred to take the measures necessary to remedy the situation immediately. The measures taken by either Party must be proportional to the seriousness of the situation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. It is understood that suspension would be a measure of last resort.

4. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

Article 98. Dispute Settlement

1. Any dispute arising from the interpretation or application of this Agreement between one or more Member States or the Community, on the one hand, and one or more ACP States on the other, shall be submitted to the Council of Ministers.

Between meetings of the Council of Ministers, such disputes shall be submitted to the Committee of Ambassadors.

2.(a) If the Council of Ministers does not succeed in settling the dispute, either Party may request settlement of the dispute by arbitration. To this end, each Party shall appoint an arbitrator within thirty days of the request for arbitration. In the event of failure to do so, either Party may ask the Secretary General of the Permanent Court of Arbitration to appoint the second arbitrator.

(b) The two arbitrators shall in turn appoint a third arbitrator within thirty days. In the event of failure to do so, either Party may ask the Secretary General of the Permanent Court of Arbitration to appoint the third arbitrator.

(c) Unless the arbitrators decide otherwise, the procedure applied shall be that laid down in the optional arbitration regulation of the Permanent Court of Arbitration for International Organisations and States. The arbitrators' decisions shall be taken by majority vote within three months.

(d) Each Party to the dispute shall be bound to take the measures necessary to carry out the decision of the arbitrators.

(e) For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

Article 99. Denunciation Clause

This Agreement may be denounced by the Community and its Member States in respect of each ACP State and by each ACP State in respect of the Community and its Member States, upon six months' notice.

Article 100. Status of the Texts

The Protocols and Annexes attached to this Agreement shall form an integral part thereof. Annexes la, Ib, Il, Ill, IV and VI may be revised, reviewed and/or amended by the Council of Ministers on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee.

This Agreement, drawn up in two copies in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, all texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union and the Secretariat of the ACP States, which shall both transmit a certified copy to the government of each of the signatory states.

ANNEX I. FINANCIAL PROTOCOL

1. For the purposes set out in this Agreement and for a period of five years com- mencing 1 March 2000, the overall amount of the Community's financial assistance to the ACP States shall be EUR 15 200 million.

2. The Community's financial assistance shall comprise an amount up to EUR 13 500 million from the 9th European Development Fund (EDF).

3. The 9th EDF shall be allocated between the instruments of cooperation as follows:

(a) EUR 10 000 million in the form of grants shall be reserved for an envelope for support for long-term development. This envelope shall be used to finance national indicative programmes in accordance with Articles 1 to 5 of Annex IV "Implementation and management procedures" to this Agreement. From the envelope for support for long-term development:

(i) EUR 90 million shall be reserved for the financing of the budget of the Centre for the Development of Enterprise (CDE);

(ii) EUR 70 million shall be reserved for the financing of the budget of the Centre for the Development of Agriculture (CTA); and

(iii) an amount not exceeding EUR 4 million shall be reserved for the purposes referred to in Article 17 of this Agreement (Joint Parliamentary Assembly).

(b) EUR 1 300 million in the form of grants shall be reserved for the financing of support for regional cooperation and integration of the ACP States in accordance with Articles 6 to 14 of Annex IV "Implementation and management procedures" to this Agreement.

(c) EUR 2 200 million shall be allocated to finance the Investment Facility according to the terms and conditions set out in Annex II "Terms and conditions of financing" to this Agreement without prejudice to the financing of the interest rate subsidies provided for in Articles 2 and 4 of Annex II to this Agreement funded from the resources mentioned in paragraph 3(a) of this Annex.

4. An amount of up to EUR 1 700 million shall be provided from the European Investment Bank in the form of loans made from its own resources. These re- sources shall be granted for the purposes set out in Annex II "Terms and conditions of financing" to this Agreement in accordance with the conditions provided for by its statutes and the relevant provisions of the terms and conditions for investment financing as laid down in the aforementioned Annex. The Bank may, from the resources it manages, contribute to the financing of regional projects and programmes.

5. Any balances remaining from previous EDFs on the date of entry into force of this Financial Protocol, as well as any amounts that shall be decommitted at a later date from ongoing projects under these Funds, shall be transferred to the 9th EDF and shall be used in accordance with the conditions laid down in this Agreement. Any resources thus transferred to the 9th EDF that previously had been allocated to the indicative programme of an ACP State or region shall remain allocated to that state or region. The overall amount of this Financial Protocol, supplemented by the transferred balances from previous EDFs, will cover the period of 2000-07.

6. The Bank shall administer the loans made from its own resources, as well as the operations financed under the Investment Facility. All other financial resources of this Agreement shall be administered by the Commission.

7. Before the expiry of this Financial Protocol, the Parties shall assess the degree of realisation of commitments and disbursements. This assessment shall constitute the basis for re-evaluating the overall amount of resources as well for evaluating the need for new resources to support financial cooperation under this Agreement.

8. In the event of the funds provided for in any of the instruments of the Agreement being exhausted before the expiry of this Financial Protocol, the joint ACP- EC Council of Ministers shall take the appropriate measures.

9. By derogation from Article 58 of this Agreement, an amount of EUR 90 million shall be transferred to the intra ACP envelope under the 9th EDF. This amount may be allocated to finance devolution for the period 2006-07, and shall be managed directly by the Commission.

ANNEX I-A. MULTI-ANNUAL FINANCIAL FRAMEWORK OF COOPERATION UNDER THIS AGREEMENT

1. For the purposes set out in this Agreement and for a period beginning on 1 March 2005, a multi-annual financial framework of cooperation shall cover commitments beginning on 1 January 2008 for a period of five or six years.

2. For this new period, the European Union shall maintain its aid effort to ACP States at least at the same level as that of the 9th EDF, not including balances; to this shall be added, based on Community estimates, the effects of inflation, growth within the European Union and enlargement to 10 new Member States in 2004.

3. Any required amendments to the multi-annual financial framework or relative parts of the Agreement shall be decided by the Council of Ministers by derogation from Article 95 of this Agreement.

ANNEX IB. MULTIANNUAL FINANCIAL FRAMEWORK FOR THE PERIOD 2008 TO 2013

1. For the purposes set out in this Agreement and for a period starting on 1 January 2008, the overall amount of the financial assistance for the ACP Group of States within this multiannual financial framework shall be EUR 23 966 million, as specified in points 2 and 3.

2. The sum of EUR 21 966 million under the 10th European Development Fund (EDF), shall be made available on entry into force of the multiannual financial framework. It shall be allocated between the instruments of cooperation as follows:

(a) EUR 17 766 million to finance national and regional indicative programmes.

This allocation will be used to finance:

(i) the national indicative programmes of the ACP Group of States in accordance with Articles 1 to 5 of Annex IV to this Agreement concerning implementation and management procedures;

(ii) the regional indicative programmes of support for regional and interregional cooperation and integration of ACP Group of States in accordance with Articles 6 to 11, 13(1) and 14 of Annex IV to this Agreement concerning implementation and management procedures;

(b) EUR 2 700 million to finance intra-ACP and interregional cooperation with many or all of the ACP Group of States, in accordance with Articles 12, 13(2) and 14 of Annex IV to this Agreement concerning implementation and management procedures. This envelope shall include structural support to the joint institutions: the CDE and the CTA referred to and supervised in accordance with the rules and procedures set out in Annex III to this Agreement, and the Joint Parliamentary Assembly referred to in Article 17 of this Agreement. This envelope shall also cover assistance for the operating expenditures of the ACP Secretariat referred to in points 1 and 2 of Protocol 1 attached to this Agreement;

(c) EUR 1 500 million to finance the Investment Facility in accordance with the terms and conditions set out in Annex II (Terms and conditions of financing) to this Agreement, comprising an additional contribution of EUR 1100 million to the resources of the Investment Facility, managed as a revolving fund, and EUR 400 million under the form of grants for the financing of the interest rate subsidies provided for in Articles 2 and 4 of that Annex over the period of the 10th EDF.

3. The operations financed under the Investment Facility, including the corresponding interest rate subsidies, shall be managed by the European Investment Bank (EIB). An amount of up to EUR 2 000 million in addition to the 10th EDF shall be made available by the EIB in the form of loans from own resources. These resources shall be granted for the purposes set out in Annex II to this Agreement, in accordance with the conditions laid down in the statutes of the EIB and the relevant provisions of the terms and conditions for investment financing in that Annex. All other financial resources under this multiannual financial framework shall be administered by the Commission.

4. At 31 December 2007 or at the date of entry into force of this multiannual financial framework, whichever is the later, balances from the Ninth EDF or from previous EDFs and funds decommitted from projects under these EDFs shall no longer be committed, unless the Council of the European Union decides otherwise by unanimity, with the exception of the balances and funds decommitted at the date of entry into force resulting from the system guaranteeing the stabilisation of export earnings from primary agricultural products (STABEX) under the EDFs prior to the Ninth EDF, and the remaining balances and reimbursements of the amounts allocated for the financing of the Investment Facility, excluding the related interest rate subsidies. The funds possibly committed aer 31 December 2007 until the entry into force of this Agreement, as referred to above, will be used exclusively to ensure the working ability of the EU administration and to cover the ongoing costs to sustain running projects until the 10th EDF comes into force.

5. The overall amount of this multiannual financial framework shall cover the period from 1 January 2008 to 31 December 2013. The funds of the 10th EDF, apart from amounts allocated to the Investment Facility, excluding the related interest rate subsidies, shall no longer be committed beyond 31 December 2013, unless the Council of the European Union decides otherwise by unanimity, on a proposal from the Commission.

6. The Committee of Ambassadors, acting on behalf of the ACP–EC Council of Ministers, may, within the overall amount of the multiannual financial framework, take appropriate measures in order to meet programming requirements under one of the allocations provided for in point 2, including the reassignment of funds between these allocations.

7. The Parties will conduct a performance review, assessing the degree of realisation of commitments and disbursements, as well as the results and impact of the aid provided. This review will be undertaken on the basis of a proposal prepared by the Commission in 2010. It shall contribute to a decision on the amount of the financial cooperation after 2013.

8. Any Member State may provide the Commission or the EIB with voluntary contributions to support the objectives of the ACP-EC Partnership Agreement. Member States may also co-finance projects or programmes, for example in the framework of specific initiatives to be managed by the Commission or the EIB. ACP ownership at the national level of such initiatives must be guaranteed.

ANNEX IC. MULTI-ANNUAL FINANCIAL FRAMEWORK FOR THE PERIOD 2014 TO 2020

1. For the purposes set out in this Agreement and for a period starting on 1 January 2014, the overall amount of financial assistance available to the ACP States within this multiannual financial framework shall be EUR 31 589 million, as specified in points 2 and 3.

2. The sum of EUR 29 089 million under the 11th European Development Fund (EDF), shall be made available from the date of entry into force of the multi-annual financial framework. It shall be allocated between the cooperation instruments as follows:

(a) EUR 24 365 million to finance national and regional indicative programmes. This allocation will be used to finance:

(i) the national indicative programmes of individual ACP States in accordance with Articles 1 to 5 of Annex IV to this Agreement concerning implementation and management procedures;

(ii) the regional indicative programmes of support for regional and interregional cooperation and regional integration of ACP States in accordance with Articles 6 to 11 of Annex IV to this Agreement concerning implementation and management procedures;

(b) EUR 3.590 million to finance intra-ACP and interregional cooperation with many or all of the ACP States in accordance with Articles 12 to 14 of Annex IV to this Agreement concerning implementation and management procedures, This envelope shall include support to joint institutions and bodies created under this Agreement. It shall also cover assistance with the operating expenditure of the ACP Secretariat referred to in points 1 and 2 of Protocol No 1 on the operating expenditure of the joint institutions;

(c) EUR 1 134 million to finance the Investment Facility in accordance with the terms and conditions set out in Annex II (Terms and conditions of financing) to this Agreement, comprising an additional contribution to EUR 500 million to the resources of the Investment Facility, managed as a revolving fund, and EUR 634 million under the form of grants for the financing of the interest rate subsidies and project-related technical assistance provided for in Articles 1, 2 and 4 of that Annex over the period of the 11th EDF.

3. The operations financed under the Investment Facility, including the corresponding interest rate subsidies, shall be managed by the European Investment Bank (EIB). An amount of up to EUR 2 500 million in addition to the funds available from the 11th EDF shall be made available by the EIB in the form of loans from own resources. These resources shall be granted for the purposes set out in Annex II to this Agreement, in accordance with the conditions laid down in the statutes of the EIB and the relevant provisions of the terms and conditions for investment financing in that Annex. All other financial resources under this multiannual financial framework shall be administered by the Commission.

4. After 31 December 2013 or after the date of entry into force of this multi-annual financial framework, whichever is the later, balances from the LOth EDF or from previous EDFs and funds decommitted from projects under these EDFs shall no longer be committed, unless the Council of the European Union decides otherwise by unanimity, with the exception of the remaining balances and reimbursements of the amounts allocated for the financing of the Investment Facility, excluding the related interest rate subsidies, and the remaining balances of the primary agricultural export receipt stabilisation guarantee system (STABEX) under the EDFs prior to the 9th EDF.

5. The overall amount of this multiannual financial framework shall cover the period from 1 January 2014 to 31 December 2020. The funds of the 11th EDF, and, in the case of the Investment Facility, the funds stemming from reflows, shall no longer be committed beyond 31 December 2020, unless the Council of the European Union decides otherwise by unanimity, on a proposal from the Commission. However, the funds subscribed by Member States under the 9th, 10th and 11th EDF to finance the Investment Facilities shall remain available after 31 December 2020 for disbursement.

6. The Committee of Ambassadors, acting on behalf of the ACP-EU Council of Ministers, may, within the overall amount of the multiannual financial framework, take appropriate measures in order to meet programming requirements under one of the allocations provided for in point 2, including the reassignment of funds between these allocations.

7. At the request of either Side, the Parties may decide to conduct a performance review, at a mutually agreeable time, assessing the degree of realisation of commitments and disbursements, as well as the results and impact of the aid provided. This review would be undertaken on the basis of a proposal prepared by the Commission. It could contribute to the negotiations provided for in Article 95(4) of this Agreement.

8. Any Member State may provide the Commission or the EIB with voluntary contributions to support the objectives of the ACP-EU Partnership Agreement. Member States may also co-finance projects or programmes, for example in the framework of specific initiatives to be managed by the Commission or the EIB. ACP ownership of such initiatives at the national level must be guaranteed,

ANNEX II. TERMS AND CONDITIONS OF FINANCING

Chapter 1. Investment Financing

Article 1.

1. The terms and conditions of financing in relation to the operations of the Investment Facility (Facility), the loans from own resources of the European Investment Bank (Bank) and special operations shall be as laid down in this Chapter. These resources may be channelled to eligible enterprises, either directly or indirectly, through eligible investment funds and/or financial intermediaries.

2. Funds for interest rate subsidies, as provided for under this Annex, will be made available from the interest subsidy allocation specified in Annex Ib, paragraph 2(c), to this Agreement.

3. Interest subsidies may be capitalised or may be used in the form of grants. The amount of the interest rate subsidy, calculated in terms of its value at the times of disbursement of the loan, shall be charged against the interest subsidy allocation specified in Annex Ib, paragraph 2(c), and paid directly to the Bank. Up to 15 % of this allocation for interest rate subsidies may also be used to support project related technical assistance in ACP countries (3).

4. These terms and conditions are without prejudice to terms and conditions that may be imposed upon ACP countries subject to restrictive borrowing conditions under the Heavily Indebted Poor Countries ("HIP") or other internationally agreed debt sustainability frameworks. Accordingly, where such frameworks require a reduction in the interest rate of a loan by more than 3 %, as permitted under Articles 2 and 4 of this Chapter, the Bank shall seek to reduce the average cost of funds through appropriate co-financing with other donors. Should this not be deemed possible, the interest rate of the Bank loan may be reduced by such amount as required to comply with the level arising from the HIPC initiative or any internationally agreed debt sustainability framework.

Article 2. Resources of the Investment Facility

1. The resources of the Facility may be used, inter alia, to:

(a) provide risk capital in the form of:

(i) equity participation in ACP enterprises, including financial institutions;

(ii) quasi-capital assistance to ACP enterprises, including financial institutions; and

(iii) guarantees and other credit enhancements which may be used to cover political and other investment-related risks, both for foreign and local investors or lenders.

(b) provide ordinary loans.

2. Equity participation shall normally be for non-controlling minority holdings and shall be remunerated on the basis of the performance of the project concerned.

3. Quasi-capital assistance may consist of shareholders' advances, convertible bonds, conditional, subordinated and participating loans or any other similar form of assistance. Such assistance may consist in particular of:

(a) conditional loans, the servicing and/or the duration of which shall be linked to the fulfilment of certain conditions with regard to the performance of the project; in the specific case of conditional loans for pre-investment studies or other project-related technical assistance, servicing may be waived if the investment is not carried out;

(b) participating loans, the servicing and/or the duration of which shall be linked to the financial return of the project; and

(c) subordinated loans, which shall be repaid only after other claims have been settled.

4. The remuneration of each operation shall be specified when the loan is made. However:

(a) in the case of conditional or participating loans, the remuneration shall normally comprise a fixed interest rate of not more than 3 % and a variable component related to the performance of the project; and

(b) in the case of subordinated loans, the interest rate shall be market related.

5. Guarantees shall be priced so as to reflect the risks insured and the particular characteristics of the operation.

6. The interest rate of ordinary loans shall comprise a reference rate applied by the Bank for comparable loans with the same terms and conditions as to grace and repayment periods and a mark up determined by the Bank.

7. Ordinary loans in countries not subject to restrictive borrowing conditions under the HIPC or other internationally agreed

debt sustainability frameworks may be extended on concessional terms and conditions in the following cases:

(a) for infrastructure projects, that are a prerequisite for private sector development in the Least Developed Countries, in post-conflict countries and in post-natural disaster countries. In such cases, the interest rate of the loan will be reduced by up to 3%;

(b) for projects which involve restructuring operations in the framework of privatisation or for projects with substantial and clearly demonstrable social or environmental benefits. In such cases, loans may be extended with an interest rate subsidy, the amount and form of which will be decided with respect to the particular characteristics of the project. However, the interest rate subsidy shall not be higher than 3 %,

The final rate of loans falling under (a) or (b) shall, in any case, never be less than 50 % of the reference rate.

8. The funds to be provided for these concessional purposes will be made available from the interest subsidy allocation referred to in Annex I b, paragraph 2(c), to this Agreement.

9. Interest subsidies may be capitalised or used in the form of grants. Up to 15 % of the budget for interest rate subsidies may be used to support project-related technical assistance in ACP countries.

Article 3. Operations of the Investment Facility

1. The Investment Facility shall operate in all economic sectors and support in- vestments of private and commercially run public sector entities, including revenue generating economic and technological infrastructure critical for the private sector. The Facility shall:

(a) be managed as a revolving fund and aim at being financially sustainable. Its operations shall be on market-related terms and conditions and shall avoid creating distortions on local markets and displacing private sources of finances; and

(b) support the ACP financial sector and have a catalytic effect by encouraging the mobilisation of long-term local resources and attracting foreign private investors and lenders to projects in the ACP States;

(c) bear part of the risk of the projects it funds, its financial sustainability being ensured through the portfolio as a whole and not from individual interventions; and

(d) seek to channel funds through ACP national and regional institutions and programmes that promote the development of small-and medium-sized enterprises (SMEs).

1a. The Bank shall be remunerated for the cost incurred in managing the Investment Facility. For the first two years after the entry into force of the second financial protocol, this remuneration shall be up to an amount of 2 % p.a. of the total initial endowment of the Investment Facility. Thereafter, the remuneration of the Bank shall include a fixed component of 0.5 % p.a. of the initial endowment and a variable component of an amount of up to 1.5 % p.a. of the portfolio of the Investment Facility that is invested in projects in ACP countries, The remuneration shall be financed out of the Investment Facility.

2. On expiry of the Financial Protocol, and in the absence of a specific decision by the Council of Ministers, the cumulative net reflows to the Investment Facility shall be carried over to the next Protocol.

Article 4. Bank Own Resource Loans

1. The bank shall:

(a) contribute, through the resources it manages, to the economic and industrial development of the ACP States on a national and regional basis; and to this end, finance as a priority productive projects and programmes or other in- vestments aimed at promoting the private sector in all economic sectors;

(b) establish close cooperation links with national and regional development banks and with banking and financial institutions of the ACP States and of the EU; and

(c) in consultation with the ACP State concerned, adapt the arrangements and procedures for implementing development finance cooperation, as set out in this Agreement, if necessary, to take account of the nature of the projects and programmes and to act in accordance with the objectives of this Agreement, within the framework of the procedures laid down by its statute.

2. Loans from the Bank's own resources shall be granted under the following terms and conditions:

(a) the reference rate of interest shall be the rate applied by the Bank for a loan with the same conditions as to currency and the repayment period on the day of signature of the contract or on the date of disbursement;

(b) however, for countries which are not subject to restrictive borrowing conditions under the HIPC or other internationally agreed debt sustainability frameworks:

(i) in principle, public sector projects shall be eligible for an interest rate subsidy of up to 3 %;

(ii) private sector projects falling into the categories specified in Arti- cle 2(7)(b) shall be eligible for interest rate subsidies on the terms specified in that provision.

The final interest rate shall, in any such case, never be less than 50 % of the reference rate.

(c) the repayment period of loans made by the Bank from its own resources shall be determined on the basis of the economic and financial characteristics of the project. These loans shall normally comprise a grace period fixed by reference to the construction period of the project.

3. For investments financed by the Bank from its own resources in public sector companies, specific project-related guarantees or undertakings may be required from the ACP State concerned.

Article 5. Conditions for Foreign Exchange Rate Risk

In order to minimise the effects of exchange rate fluctuations, the problems of exchange rate risk shall be dealt with in the following way:

(a) in the case of equity participation designed to strengthen an enterprise's own funds, the exchange rate risk shall, as a general rule, be borne by the Investment Facility;

(b) in the case of ordinary loans and risk capital financing for small- and medium-sized enterprises (SMEs), the exchange rate risk shall, as a general rule, be shared by the Community, on the one hand, and by the other Parties involved, on the other. On average, the foreign exchange rate risk should be shared equally and;

(c) where feasible and appropriate, particularly in countries characterised by macroeconomic and financial stability, the Facility will endeavour to extend loans in local ACP currencies, thus de facto taking the foreign exchange risk.

Article 6. Conditions for Foreign Exchange Transfer

The ACP States concerned shall, in respect of operations under the Agreement, and in respect of which they have given their written approval within the framework of this Agreement:

(a) grant exemption from all national or local duties, fiscal charges on interest, commission and amortisation of loans due in accordance with the law or laws of the ACP State or States concerned;

(b) place at the disposal of the beneficiaries the currency necessary for the payment of interest, commission and the amortisation of loans due in terms of financing contracts granted for the implementation of projects and pro- grammes on their territories; and

(c) make available to the Bank the foreign currency necessary for the transfer of all sums received by it in national currency at the exchange rate applicable between the Euro or other currencies of transfer and the national currency at the date of the transfer. These include all forms of remuneration, such as, inter alia, interest, dividends, commissions and fees, as well as the amortisation of loans and the proceeds from the sale of shares due in terms of financing contracts granted for the implementation of projects and pro- grammes on their territories.

Article 6A. Annual Reporting on the Investment Facility

Representatives of the EU Member States responsible for the Investment Facility, Representatives of the ACP States, as well as the European Investment Bank, the European Commission, the EU Council Secretariat and the ACP Secretariat shall meet annually to discuss the operations, performance and policy questions con- cerning the Investment Facility.

Article 6B. Review of Performance of the Investment Facility

The overall performance of the Investment Facility shall be subject to a joint review at the mid-term and end-term of a

financial protocol. Such an exercise may include a recommendation on how to improve the implementation of the Facility.

Chapter 2. Special Operations

Article 7. Cooperation

Shall support from the grant allocation:

(a) low-income housing to promote long-term development of the housing sec- tor, including secondary mortgage facilities;

(b) micro-finance to promote SMEs and micro-enterprises; and

(c) capacity building to strengthen and facilitate the effective participation of the private sector in social and economic development.

2. The ACP-EC Council of Ministers shall, after the signature of this Agreement and on a proposal by the ACP-EC Development Finance Cooperation Committee, decide on the modalities and the amount of resources allocated from the long- term development envelope to attain these objectives.

Chapter 3. Financing for Short-term Fluctuations In Export Earnings (FLEX)

Article 8.

1. The Parties recognise that losses of export earnings as a result of short-term fluctuations may jeopardise the development financing requirements and the implementation of macroeconomic and sectoral policies. The degree of dependence of an ACP State's economy on the export of goods, and in particular from agricultural and mining products shall, therefore, be a criterion for determining the allocation of long-term development.

2. In order to mitigate the adverse effects of instability of export earnings and safeguard the development programme jeopardised by the drop in revenue, additional financial support may be mobilised from the programmable resources for the country's long-term development on the basis of Articles 9 and 10.

Article 9. Eligibility Criteria

1. Eligibility for additional resources shall be established by:

- 10 % (2 % in the case of least-developed, landlocked, island, post-conflict and post-natural disaster states) loss of export earnings from goods compared with the arithmetic mean of the earnings in the four years preceding the application year, excluding the most extreme value, or

- 10 % (2 % in the case of least-developed, landlocked, island, post-conflict and post-natural disaster states) loss of export earnings from the total of agricultural or mineral products compared with the arithmetic mean of the earnings in the four years preceding the application year, excluding the most extreme value for countries where the agricultural or mineral export earnings represent more than 40 % of total export earnings from goods, or

- 10 % (2 % in the case of least-developed, landlocked, island, post-conflict and post-natural disaster states) loss of export earnings from the total of agricultural or mineral products compared with the arithmetic mean of the earnings in the four years preceding the application year, excluding the most extreme value for countries where the agricultural or mineral export earnings represent between 20% and 40 % of total export earnings from goods, provided that total earnings do not increase more than proportionally with respect to the impact of the loss of export earnings from agricultural or mineral products as a proportion of total exports.

2. The loss of export earnings defined in paragraph 1 must be 0.5 % of gross domestic product (GDP) or more for there to be entitlement to additional support. Entitlement to additional support shall be limited to three successive years.

3. The additional resources shall be reflected in the public accounts of the country concerned, They shall be utilised in accordance with programming rules and methods including the specific provisions in Annex IV "Implementation and management procedures", on the basis of agreements drawn up in advance between the Community and the ACP State concerned in the year following the application. By agreement of both Parties the resources may be used to finance programmes included in national budget. However a part of the additional resources may be set aside for specific sectors, in

particular to develop market-based insurance schemes offering protection against the risk of fluctuations in export earnings.

Article 9A.

1. The amount of additional financial support shall be equal to the loss of export earnings multiplied by the arithmetic mean of the "government revenue/ gross domestic product" ratio of the four years preceding the application year, excluding the most extreme value and capping that ratio at 25 %.

2. The Commission shall analyse the data provided by the ACP States for the purpose of establishing eligibility and additional financial support as defined in Article 9 in the local currency corrected for inflation. The Commission will then convert the potential amount of additional financial support into euro in accordance with its procedures.

3. Each year, within the total financial allocation for national indicative pro- grammes, the Commission shall establish an envelope covering all ACP countries to provide support in the event of short-term fluctuations in export earnings. If the amount of financial support calculated on the basis of the criteria defined in Article 9 exceeds the amount of that envelope, each ACP Stateâs share will be established in proportion to the potential amount of its additional financial support expressed in euro.

Article 10. Advances

The system for allocating additional resources shall provide for advances to cover any delays in obtaining consolidated trade statistics and to ensure that the resources in question can be included in the budget of the second year following the application year at the latest. Advances shall be reserved for states where Flex financial support can be implemented by means of general budgetary support. They shall be mobilised on the basis of provisional export statistics drawn up by the government and submitted to the Commission. The maximum advance shall be 100 % of the amount of additional financial support for the application year. The amounts thus mobilised shall be adjusted in the light of the final consolidated export statistics. Those statistics shall be submitted no later than 31 December of the second year following the application year.

Article 11.

The provisions in this Chapter shall be subject to review at the latest after two years of operation and subsequently at the request of either Party.

Chapter 4. Other Provisions

Article 12. Current Payments and Capital Movements

1. Without prejudice to paragraph 3 hereafter, the Parties undertake to impose no restrictions on any payments, in freely convertible currency, on the current account of balance of payments between residents of the Community and of the ACP States.

2. With regard to transactions on the capital account of balance of payments, the Parties undertake to impose no restrictions on the free movement of capital relating to direct investments made in companies formed in accordance with the law of the host country and investments made in accordance with this Agree- ment, and the liquidation or repatriation of these investments and of any profit stemming therefrom.

3. Where one or more ACP State or one or more Member State of the Community is in serious balance of payments difficulties, or under threat thereof, the ACP State, the Member State or the Community may, in accordance with the conditions established under the GATT, GATS and Article VIII and XIV of the Articles of Agreement of the International Monetary Fund, adopt restrictions on current transactions which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Party taking the measures shall inform the other Parties forthwith and shall submit to them as soon as possible a timetable for the elimination of the measures concerned.

Article 13. Qualification and Treatment of Business Entities

As regards arrangements that may be applied in matters of establishment and provision of services, the ACP States, on the one hand, and the Member States, on the other, shall treat nationals and companies or firms of the ACP States and nationals and companies or firms of the Member States respectively on a non-discriminatory basis. However, if, for a given activity, an ACP State or a Member State is unable to provide such treatment, the ACP State or the Member State, as the

case may be, shall not be bound to accord such treatment for that activity to the nationals and companies or firms of the state concerned.

Article 14. Definition of "companies and Firms"

1. For the purpose of this Agreement, "companies or firms of a Member State or an ACP State" mean companies or firms constituted under civil or commercial law, including corporations, whether public or otherwise, cooperative societies and other legal persons and partnerships governed by public or private law, save for those which are non-profit-making, formed in accordance with the law of a Member State or an ACP State and whose statutory office, central administration or principal place of business is a Member State or an ACP State.

2. However, a company or firm having only its statutory office in a Member State or an ACP State must be engaged in an activity which has an effective and continuous link with the economy of that Member State or ACP State.

Chapter 5. Investment Protection Agreements

Article 15.

1. When implementing the provisions of Article 78 of this Agreement, the Parties shall take into account the following principles:

(a) a contracting state may request where appropriate, the negotiation of an investment promotion and protection agreement with another contracting state;

(b) the states party to such agreements shall practise no discrimination between contracting states party to this Agreement or against each other in relation to third countries when opening negotiations for concluding, applying and interpreting bilateral or multilateral investment promotion and protection agreements;

(c) the contracting states shall have the right to request a modification or adaptation of the non-discriminatory treatment referred to above when international obligations or changed circumstances so necessitate;

(d) the application of the principles referred to above does not purport to and cannot in practice infringe the sovereignty of any Contracting Party to the Agreement; and

(e) the relation between the date of entry into force of any agreement negotiated, provisions for the settlement of disputes and the date of the investments concerned will be set out in the said agreement, account being taken of the provisions set out above. The Contracting Parties confirm that retroactivity shall not apply as a general principle unless contracting states stipulate otherwise.

2. With a view to facilitating the negotiation of bilateral agreements on investment promotion and protection, the Contracting Parties agree to study the main clauses of a model protection agreement. The study, drawing on the provisions of the existing bilateral agreements between the states' parties, will give particular attention to the following issues:

(a) legal guarantees to ensure fair and equitable treatment and protection of foreign investors;

(b) the most-favoured-investor clause;

(c) protection in the event of expropriation and nationalisation;

(d) the transfer of capital and profits, and

(e) international arbitration in the event of disputes between investor and host state.

3. The Parties agree to study the capacity of the guarantee systems to give a positive answer to the specific needs of small and medium sized enterprises of insuring their investments in ACP States. The studies referred to above shall be started as soon as possible after the signing of the Agreement. The result of these studies shall be submitted, upon completion to the ACP-EC Development Finance Cooperation Committee for consideration and appropriate action.

ANNEX III. INSTITUTIONAL SUPPORT, CDE AND CTA

Article 1.

Cooperation shall support the institutional mechanisms that provide assistance for businesses and enterprises and promote

agriculture and rural development. In this context, cooperation shall help to:

(a) strengthen and enhance the role of the Centre for the Development of Enterprise (CDE) so as to provide the private sector with the necessary support in the promotion of private sector development activities in ACP countries and regions; and

(b) strengthen and reinforce the role of the Technical Centre for Agricultural and Rural Cooperation (CTA) in ACP institutional capacity development, particularly information management, in order to improve access to technologies for increasing agricultural productivity, commercialisation, food security and rural development.

Article 2. CDE

1. The CDE shall promote a business environment which is conducive to private sector development and support the implementation of private-sector development strategies in the ACP countries by providing non-financial services including consultancy services, to ACP companies and businesses and support to joint initiatives set up by economic operators of the Community and of the ACP States. In this regard, due account shall be taken of the needs arising from the implementation of the Economic Partnership Agreements.

2. The CDE shall aim to assist private ACP enterprises to become more competitive in all sectors of the economy. It shall in particular:

(a) facilitate and promote business cooperation and partnerships between ACP and EU enterprises;

(b) assist with the development of business support services through support for capacity building in private sector owned organisations or support for providers of technical, professional, management, commercial and training support services;

(c) provide assistance for investment promotion activities, such as investment promotion organisations, organisation of investment conferences, training programmes, strategy workshops and follow-up investment promotion missions;

(d) support initiatives that contribute to fostering innovation and transfer of technologies and know-how and best practices on all aspects of business management;

(e) inform the ACP private sector about the provisions of the Agreement; and

(f) provide information to European companies and private sector organisations on business opportunities and modalities in ACP countries.

3. The CDE shall also contribute to the improvement of business environment at national and regional levels so as to support enterprises to take advantage of the progress in regional integration processes and trade opening. This shall include:

(a) assisting enterprises in meeting existing and new quality and other standards introduced by progress in regional integration and the implementation of the Economic Partnership Agreements;

(b) diffusing information within the local ACP private sector about the product quality and standards required in external markets;

(c) promoting regional and national business environment reforms, including by facilitating the dialogue between private sector and public institutions; and

(d) enhancing the role and function of national and/or regional service-pro- viding intermediaries.

4. The activities of the CDE shall be based on the concept of coordination, complementarity and added value in respect of any private sector development initiatives taken by public or private entities. In particular, its activities shall be consistent with the national and regional development strategies as defined in Part 3 of this Agreement. The CDE shall exercise selectivity and ensure financial sustainability in undertaking its tasks. It shall ensure an appropriate division of tasks between its Headquarters and regional offices.

5. Periodic evaluations of the activities undertaken by the CDE shall be carried out.

6. The Committee of Ambassadors shall be the supervisory authority of the Centre. It shall, after the signature of this Agreement:

(a) lay down the statutes of the Centre;

(b) appoint the members of the Executive Board;

(c) appoint the management of the Centre on a proposal from the Executive Board; and

(d) monitor the overall strategy of the Centre and supervise the work of the Executive Board.

7. The Executive Board shall, according to the statutes of the Centre:

(a) lay down the financial and staff regulations and the rules of operation;

(b) supervise its work;

(c) adopt the programme and the budget of the Centre;

(d) submit periodic reporting and evaluations to the Supervisory Authority; and

(e) perform any other tasks allocated to it by the statutes of the Centre.

8. The budget of the Centre shall be financed in accordance with the rules laid down in this Agreement in respect of development finance cooperation.

Article 3. CTA

1. The mission of the CTA shall be to strengthen policy and institutional capacity development and information and communication management capacities of ACP agricultural and rural development organisations. It shall assist such organisa- tions in formulating and implementing policies and programmes to reduce pov- erty, promote sustainable food security, preserve the natural resource base, and thus contribute to building self-reliance in ACP rural and agricultural development.

2. The CTA shall:

(a) develop and provide information services and ensure better access to research, training and innovations in the spheres of agricultural and rural development and extension, in order to promote agriculture and rural development; and

(b) develop and reinforce ACP capacities in order to:

(i) improve the formulation and management of agricultural and rural development policies and strategies at national and regional levels including improved capacity for data collection, policy research, analysis and formulation;

(ii) improve the information and communication management, in particular within the National Agricultural Strategy;

(iii) promote effective intra-institutional Information and Communication Management (ICM) for performance monitoring, as well as consortia with regional and international partners;

(iv) promote decentralised ICM at local and national levels;

(v) strengthen initiatives via regional cooperation; and

(vi) develop approaches for assessing the impact of policy on agricultural and rural development.

3. The Centre shall support regional initiatives and networks and shall progressively share capacity development programmes with appropriate ACP organisations.

To this end, the Centre shall support decentralised regional information networks, Such networks shall be built up gradually and efficiently.

4. Periodic evaluations of the activities undertaken by the CTA shall be car- ried out.

5. The Committee of Ambassadors shall be the supervisory authority of the Cen- tre. It shall, after the signature of this Agreement:

(a) lay down the statutes of the Centre;

(b) appoint the members of the Executive Board;

(c) appoint the management of the Centre on a proposal from the Executive Board; and

(d) monitor the overall strategy of the Centre and supervise the work of the Executive Board.

6. The Executive Board shall, according to the statutes of the Centre:

(a) lay down the financial and staff regulations and the rules of operation;

(b) supervise its work;

(c) adopt the programme and the budget of the Centre;

(d) submit periodic reporting and evaluations to the Supervisory Authority; and

(e) perform any other tasks allocated to it by the statutes of the Centre.

7. The budget of the Centre shall be financed in accordance with the rules laid down in this Agreement in respect of development finance cooperation.

ANNEX IV. IMPLEMENTATION AND MANAGEMENT PROCEDURES

Chapter 1. Programming (National)

Article 1.

Operations financed by grants within the framework of this Agreement shall be programmed at the beginning of the period covered by the multi-annual financial framework of cooperation.

Programming will be based on the principles of ownership, alignment, donor coordination and harmonisation, managing for development results and mutual accountability.

Programming for this purpose shall mean:

(a) the preparation and development of country, regional or intra-ACP strategy papers (SP) based on their own medium-term development objectives and strategies, and taking into account the principles of joint programming and division of labour among donors, which shall, to the extent possible, be a partner country or region-led process;

(b) a clear indication from the Community of the indicative programmable financial allocation from which the country, region or intra-ACP cooperation may benefit during the period covered by the multi-annual financial framework of cooperation under this Agreement as well as any other relevant information, including a possible reserve for unforeseen needs;

(c) the preparation and adoption of an indicative programme for implementing the SP, taking into account commitments of other donors, and in particular of the EU Member States; and

(d) a review process covering the SP, the indicative programme and the volume of resources allocated to it.

Article 2. Country Strategy Paper

The country strategy paper (CSP) shall be prepared by the ACP State concerned and the EU. It shall draw from prior consultation with a wide range of actors including non-state actors, local authorities and, where relevant, ACP Parliaments, and shall draw on lessons learned and best practices. Each CSP shall be adapted to the needs and respond to the specific circumstances of each ACP State. The CSP shall be an instrument to prioritise activities and to build local ownership of cooperation programmes. Any divergences between the country's own analysis and that of the Community shall be noted. The CSP shall include the following standard elements:

(a) an analysis of the political, economic, social, and environmental country context, constraints, capacities and prospects including an assessment of basic needs, such as income per capita, population size and social indicators, and vulnerability;

(b) a detailed outline of the country's medium-term development strategy, clearly defined priorities and expected financing requirements;

(c) an outline of relevant plans and actions of other donors present in the country, in particular including those of the EU Member States in their capacity as bilateral donors;

(d) response strategies, detailing the specific contribution the EU can provide. These shall, to the extent possible, enable

complementarity with operations financed by the ACP State itself and by other donors present in the country; and

(e) an indication of the most appropriate support and implementation mechanisms to be applied in implementing the above strategies.

Article 3. Resource Allocation

1. The indicative resource allocation among ACP countries shall be based on standard, objective and transparent needs and performance criteria. In this context:

(a) needs shall be assessed on the basis of criteria pertaining to per capita income, population size, social indicators and level of indebtedness and vulnerability to exogenous shocks. Special treatment shall be accorded to the least developed ACP States, and the vulnerability of island and landlocked states shall duly be taken into account. In addition, account shall be taken of the particular difficulties of countries dealing with the aftermath of conflict or natural disaster; and

(b) performance shall be assessed on the basis of criteria pertaining to governance, progress in implementing institutional reforms, country performance in the use of resources, effective implementation of current operations, poverty alleviation or reduction, progress towards achieving the Millennium Development Goals, sustainable development measures and macroeconomic and sectoral policy performance.

2. The allocated resources shall comprise:

(a) a programmable allocation to cover macroeconomic support, sectoral policies, programmes and projects in support of the focal or non-focal areas of Community assistance. The programmable allocation shall facilitate the long-term programming of Community aid for the country concerned. Together with other possible Community resources, these allocations shall be the basis for the preparation of the indicative programme for the country concerned; and

(b) an allocation to cover unforeseen needs such as those defined in Articles 66 and 68 and Articles 72, 72a and 73 of this Agreement, accessible under the conditions set out in those Articles, where such support cannot be financed from the Union's budget.

3. Provision will be made on the basis of the reserve for unforeseen needs for those countries which, due to exceptional circumstances, cannot access normal programmable resources.

4. Without prejudice to Article 5(7) of this Annex concerning reviews, the Community may, in order to take account of new needs or exceptional performance, increase a country's programmable allocation or its allocation for unforeseen needs:

(a) new needs may result from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);

(b) exceptional performance is a situation in which, outside the mid-term and end-of-term reviews, a country's programmable allocation is totally committed and additional funding from the national indicative programme can be absorbed against a background of effective poverty-reduction policies and sound financial management.

Article 4. Preparation and Adoption of the Indicative Programme

1. Upon receipt of the information referred to above, each ACP State shall draw up and submit to the Community a draft indicative programme on the basis of and consistent with its development objectives and priorities as expressed in the CSP. The draft indicative programme shall contain:

(a) general budget support and/or a limited number of focal sectors or areas on which support should be concentrated;

(b) the most appropriate measures and operations for attaining the objectives and targets in the focal sector(s) or area(s);

(c) the resources possibly reserved for a limited number of programmes and projects outside the focal sector(s) or area(s) and/or the broad outlines of such activities, as well as an indication of the resources to be deployed for each of these elements;

(d) the types of non-state actors eligible for funding, in accordance with the criteria laid down by the Council of Ministers, the resources allocated for non-state actors and the type of activities to be supported, which must be not-for-profit;

(e) proposals for a possible participation in regional programmes and projects; and

(f) a possible reserve for insurance against possible claims and to cover cost increases and contingencies.

2. The draft indicative programme shall, as appropriate, contain the resources reserved to reinforce human, material and institutional ACP capacity for preparing and implementing national indicative programmes and possible participations in programmes and projects funded from the regional indicative programmes and for improving the management of the ACP States' public investment projects cycle.

3. The draft indicative programme shall be the subject of an exchange of views between the ACP State concerned and the Community. The indicative programme shall be adopted by common agreement between the Commission on behalf of the Community and the ACP State concerned. It shall, when adopted, be binding on both the Community and that state. This indicative programme shall be annexed to the CSP and shall in addition contain:

(a) an indication of specific and clearly identified operations, especially those that can be committed before the next review;

(b) an indicative timetable for implementation and review of the indicative programme, including commitments and disbursements of resources; and

(c) results-oriented criteria for the reviews.

4. The Community and the ACP State concerned shall take all necessary measures to ensure that the programming process is completed within the shortest possible time and, save in exceptional circumstances, within twelve months of the adoption of the multi-annual financial framework of cooperation. In this context, the preparation of the CSP and the indicative programme must be part of a continuous process leading to the adoption of a single document.

5. When an ACP State faces a crisis situation as the result of a war or other conflict, or exceptional circumstances with a comparable effect, preventing the National Authorising Officer from carrying out his duty, the Commission may it- self manage the resources allocated to the State in question in accordance with Article 3 and use it for special support. Special support may concern peace building policies, conflict management and resolution, post-conflict support, including institution-building, economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. The Commission and the ACP State concerned shall revert to normal implementation and normal management procedures as soon as the authorities responsible for managing cooperation are able to do so once more.

Article 5. Review Process

1. Financial cooperation between the ACP State and the Community shall be sufficiently flexible to ensure that operations are kept constantly in line with the objectives of this Agreement and to take account of any changes occurring in the economic situation, priorities and objectives of the ACP State concerned. In this context, the National Authorising Officer and the Commission shall:

(a) annually undertake an operational review of the indicative programme; and

(b) undertake a mid-term and end-of-term review of the CSS and the indicative programme in the light of current needs and performance.

2. In exceptional circumstances as referred to in Article 3(4), in order to take into account new needs or exceptional performance, an ad hoc review can be carried out on the demand of either Party.

3. The National Authorising Officer and the Commission shall:

(a) take all necessary measures to ensure adherence to the provisions of the indicative programme, including ensuring that the timetable of commitments and disbursements agreed at the time of programming is adhered to; and

(b) determine any causes of delay in implementation and propose suitable measures to remedy the situation.

4. The annual operational, mid-term and end-of-term reviews of the indicative programme shall consist of a joint assessment of the implementation of the programme and take into account the results of relevant activities of monitoring and evaluation. These reviews shall be conducted locally and shall be finalised between the National Authorising Officer and the Commission, in consultation with the appropriate stakeholders, including non-state actors, local authorities and, where relevant, ACP parliaments. They shall in particular cover an assessment of:

(a) the results achieved in the focal sector(s) measured against the identified targets and impact indicators and sectoral policy commitments;

(b) programmes and projects outside the focal sector(s);

(c) the use of resources set aside for non-state actors;

(d) the effectiveness in implementation of current operations and the extent to which the timetable for commitments and payments have been respected; and

(e) an extension of the programming perspective for the following years.

5. The Commission shall submit once a year a synthesis report on the conclusion of the annual operational review to the ACP-EU Development Finance Cooperation Committee. The Committee shall examine the report in accordance with its responsibilities and powers under the Agreement.

6. In the light of the annual operational reviews, the National Authorising Officer and the Commission may at the mid-term and end-of-term reviews, review and adapt the CSP:

(a) where operational reviews indicate specific problems; and/or

(b) in the light of changed circumstances of an ACP State.

A change in the CSP may also be decided as a result of the ad hoc review process foreseen under paragraph 2.

The end-of-term review may also include adaptation for the new multi-annual financial framework of cooperation in terms of both resource allocation and preparation for the next programme.

7. Following the completion of the mid-term and end-of-term reviews, the Commission may, on behalf of the Community, increase or decrease the resource allocation of a country in the light of current needs and performance of the ACP State concerned.

Following an ad hoc review as foreseen under paragraph 2, the Commission may, on behalf of the Community, also increase the resource allocation in the light of new needs or exceptional performance of the ACP State concerned, as defined in Article 3(4).

Chapter 2. Programming and Preparation (Regional)

Article 6. Scope

1. Regional cooperation shall cover operations benefiting and involving:

(a) two or more or all ACP States as well as any non-ACP developing countries participating in these operations, and/or

(b) a regional body of which at least two ACP States are members, including those with members which are non-ACP countries.

2. Regional cooperation can also involve Overseas Countries and Territories and outermost regions. The funding to enable participation of these territories shall be additional to funds allocated to the ACP States under the Agreement.

3. Requests for financing of regional programmes shall be submitted by:

(a) a duly mandated regional body or organisation; or

(b) a duly mandated sub-regional body, organisation or an ACP State in the region concerned at the programming stage, provided that the operation has been identified in the regional indicative programme (RIP).

4. The participation of non-ACP developing countries to regional programmes shall be envisaged only to the extent that:

(a) the centre of gravity of the projects and programmes funded under the multi-annual financial framework of cooperation remains in an ACP country;

(b) equivalent provisions exist in the framework of the Community's financial instruments; and

(c) the principle of proportionality is respected.

Article 7. Regional Programmes

The ACP States concerned shall decide on the definition of geographical regions. To the maximum extent possible, regional integration programmes should correspond to programmes of existing regional organisations. In principle, in case the

membership of several relevant regional organisations overlaps, the regional integration programme should correspond to the combined membership of these organisations.

Article 8. Regional Programming

1. Programming shall take place at the level of each region. The programming shall be a result of an exchange of views between the Commission and the duly mandated regional organisation(s) concerned, and in the absence of such a mandate, the National Authorising Officers of the countries in that region. Where appropriate, programming may include a consultation with non-state actors represented at regional level and, where relevant, regional parliaments.

2. The regional strategy paper (RSP) shall be prepared by the Commission and the duly mandated regional organisation(s) in collaboration with the ACP States in the region concerned, on the basis of the principle of subsidiarity and complementarity, taking into account the programming of the CSP.

3. The RSP will be an instrument to prioritise activities and to build local ownership of supported programmes. The RSP shall include the following standard elements:

(a) an analysis of the political, economic and social and environmental context of the region;

(b) an assessment of the process and prospects of regional economic integration and integration into the world economy;

(c) an outline of the regional strategies and priorities pursued and the expected financing requirements;

(d) an outline of relevant activities of other external partners in regional cooperation;

(e) an outline of the specific EU contribution towards achievement of the goals for regional integration, complementary insofar as possible to operations financed by the ACP States themselves and by other external partners, particularly the EU Member States; and

(f) an indication of the most appropriate support and implementation mechanisms to be applied in implementing the above strategies.

Article 9. Resource Allocation

1. The indicative resource allocation among ACP regions shall be based on standard, objective and transparent estimates of needs and the progress and prospects in the process of regional cooperation and integration.

2. The allocated resources shall comprise:

(a) a programmable allocation to cover support to regional integration, sector policies, programmes and projects in support of the focal or non-focal areas of Community assistance; and

(b) an allocation for each ACP region to cover unforeseen needs such as those defined in Articles 72, 72a and 73 of this Agreement where, given the cross-border nature and/or scope of the unforeseen need, such support can more effectively be provided at regional level. These funds shall be accessible under the conditions set out in Articles 72, 72a and 73 of this Agreement, where such support cannot be financed from the Union's budget. Complementarity between interventions provided for under this allocation and possible interventions at country level shall be ensured.

3. The programmable allocation shall facilitate the long-term programming of Community aid for the region concerned. In order to achieve an adequate scale and to increase efficiency, regional and national funds may be mixed for financing regional operations with a distinct national component.

A regional allocation for unforeseen needs may be mobilised to the benefit of the region concerned and of ACP countries outside the region where the nature of the unforeseen need requires their involvement and the centre of gravity of the projects and programmes envisaged remains on the region.

4. Without prejudice to Article 11 concerning reviews, the Community may, in order to take account of new needs or exceptional performance, increase a region's programmable allocation or its allocation for unforeseen needs:

(a) new needs are needs resulting from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);

(b) exceptional performance is a situation in which, outside the mid-term and end-of-term reviews, a region's allocation is totally committed and additional funding from the regional indicative programme can be absorbed against a background of

effective regional integration and sound financial management.

Article 10. Regional Indicative Programme

1. On the basis of the resource allocation indicated above, the duly mandated regional organisation(s), and in the absence of such a mandate, the National Authorising Officers of the countries in the region, shall draw up a draft Regional Indicative Programme. In particular, the draft programme shall specify:

(a) the focal sectors and themes of Community aid;

(b) the most appropriate measures and operations to achieve the objectives set for those sectors and themes; and

(c) the programmes and projects enabling those objectives to be attained, in- sofar as they have been clearly identified as well as an indication of the resources to be deployed for each of these elements and a timetable for their implementation

2. The Regional Indicative Programmes shall be adopted by common agreement between the Community and the duly mandated regional organisation(s) or, in the absence of such a mandate, the ACP States concerned.

Article 11. Review Process

1. Financial cooperation between each ACP region and the Community shall be sufficiently flexible to ensure that operations are kept constantly in line with the objectives of this Agreement and to take account of any changes occurring in the economic situation, priorities and objectives of the region concerned. A mid-term and end-of-term review of the regional indicative programmes shall be undertaken to adapt the indicative programme to evolving circumstances and to ensure that they are correctly implemented. Following the completion of mid-term and end-of-term reviews, the Community may revise the resource allocation in the light of current needs and performance.

2. In exceptional circumstances as referred to in Article 9(4), in order to take into account new needs or exceptional performance, the review can be carried out on the demand of either Party. As a result of an ad hoc review, a change in the RSP may be decided by both Parties and/or the resource allocation increased by the Commission on behalf of the Community.

The end-of-term review may also include adaptation for the new multi-annual financial framework of cooperation in terms of both resource allocation and preparation for the next regional indicative programme.

Article 12. Intra-ACP Cooperation

1. Intra-ACP cooperation shall, as an instrument of development, contribute to the objective of the ACP-EC Partnership. The Intra-ACP cooperation is a supra-regional cooperation. It aims to address the shared challenges facing ACP States through operations that transcend the concept of geographic location and benefit many or all ACP States.

2. In keeping with the principles of subsidiarity and complementarity, an intra-ACP intervention is envisaged when national and/or regional action proves impossible or less effective, so as to provide added value in comparison to the operations carried out with other cooperation instruments.

3. When the ACP Group decides to contribute to international or inter-regional initiatives from the intra-ACP fund, appropriate visibility shall be ensured.

Article 12. A Intra-ACP Strategy Paper

1. The programming of the Intra-ACP cooperation shall be the result of an exchange of views between the Commission and the ACP Committee of Ambassadors, and shall be jointly prepared by the Commission services and the ACP Secretariat, following consultations with relevant actors and stakeholders.

2. The Intra-ACP strategy paper defines the priority actions of the Intra-ACP cooperation and actions necessary to build ownership of supported programmes. It shall include the following standard elements:

(a) an analysis of the political, economic, social and environmental context of the ACP Group of States;

(b) an assessment of Intra-ACP cooperation as to its contribution to achieving the objectives of this Agreement and lessons learnt;

(c) an outline of the Intra-ACP strategy and objectives pursued and the expected financing requirements;

(d) an outline of relevant activities of other external partners in the cooperation; and

(e) an indication of the EU contribution towards achievement of the objectives of the Intra-ACP cooperation and its complementarity to operations financed at the national and regional levels and by other external partners, particularly the EU Member States.

Article 12B. Requests for Financing

Requests for financing of intra-ACP programmes shall be submitted:

(a) directly by the ACP Council of Ministers or the ACP Committee of Ambassadors; or

(b) indirectly by:

(i) at least three duly mandated regional bodies or organisations belonging to different geographic regions, or at least two ACP States from each of the three regions;

(ii) international organisations, such as the African Union, carrying out operations that contribute to the objectives of regional cooperation and integration, subject to prior approval by the ACP Committee of Ambassadors; or

(iii) the Caribbean or Pacific regions, in view of their particular geographic situation, subject to prior approval by the ACP Council of Ministers or the ACP Committee of Ambassadors.

Article 12. Resource Allocation

The indicative resource allocation shall be based on the estimates of needs and the progress and prospects in the process of Intra-ACP cooperation. It shall comprise a reserve of non-programmed funds.

Article 13. Intra-acp Indicative Programme

1. The Intra-ACP indicative programme comprises the following main standard elements:

(a) focal sectors and themes of Community aid;

(b) the most appropriate measures and actions for achieving the objectives set for the focal sectors and themes; and

(c) the programmes and projects necessary to achieve the objectives identified, insofar as they have been clearly identified, as well as an indication of the resources to be allocated to each of them and an implementation timetable.

2. The Commission and the ACP Secretariat shall identify and appraise the corresponding actions. On this basis, the intra-ACP indicative programme shall be jointly prepared by the services of the Commission and the ACP Secretariat and presented to the ACP-EC Committee of Ambassadors. It shall be adopted by the Commission, on behalf of the Community and by the ACP Committee of Ambassadors.

3. Without prejudice to point (iii) of Article 12b(b), the ACP Committee of Ambassadors shall present each year a consolidated list of requests for financing of the priority actions foreseen in the Intra-ACP indicative programme, The Commission shall identify and prepare the corresponding actions with the ACP Secretariat as well as an annual action programme. To the extent possible and in consideration of the allocated resources, requests for financing of actions not foreseen in the Intra-ACP indicative programme shall be included in the annual action programme. In exceptional cases, these requests are adopted through a special financing decision of the Commission.

Article 14. Review Process

1. Intra-ACP cooperation should be sufficiently flexible and reactive to ensure that its actions remain consistent with the objectives of this Agreement and to take account of any changes in the priorities and objectives of the ACP Group of States.

2. The ACP Committee of Ambassadors and the Commission shall undertake a mid-term and end-of-term review of the intra-ACP cooperation strategy and indicative programme to adapt it to current circumstances and ensure its correct implementation. If circumstances so require, ad hoc reviews may also be conducted to take account of new needs which may arise from exceptional or unforeseen circumstances, such as those arising from new challenges which are common to ACP countries.

3. The ACP Committee of Ambassadors and the Commission may, at the mid-term and end-of-term reviews, or after an ad hoc review, review and adapt the Intra-ACP cooperation strategy paper.

4. Following the mid-term and end-of-term review exercises, or ad hoc re- views, the ACP Committee of Ambassadors and the Commission may adjust the allocations within the intra-ACP indicative programme and mobilise the non-programmed Intra-ACP reserve.

Chapter 3. Appraisal and Financing

Article 15. Identification, Preparation and Appraisal of Programmes and Projects

1. Programmes and projects that have been presented by the ACP State concerned or the relevant organisation or body at regional or intra-ACP level shall be subject to joint appraisal. The ACP-EC Development Finance Cooperation Committee shall develop the general guidelines and criteria for appraisal of programmes and projects. These programmes and projects are generally multi-annual and may incorporate a whole range of actions of a limited size in a particular area.

2. Programme and project dossiers prepared and submitted for financing must contain all information necessary for the appraisal of the programmes and pro- jects or, where programmes and projects have not been completely defined, provide the broad outlines necessary for their appraisal.

3. Programme and project appraisal shall take due account of national human resource constraints and ensure a strategy favourable to the promotion of such resources, It shall also take into account the specific characteristics and constraints of each ACP State or region.

4. Programmes and projects to be implemented by non-state actors which are eligible in accordance with this Agreement may be appraised by the Commission alone and give rise to the establishment, between the Commission and non-state actors, of grant contracts as defined in Article 19a. This appraisal shall comply with Article 4(1)(d) regarding the types of actors, their eligibility and the type of activity to be supported. The Commission, through the Head of Delegation, shall inform the relevant Authorising Officer of such allocated grants.

Article 16. Financing Proposal and Decision

1. The conclusions of the appraisal shall be summarised in a financing proposal, the final version of which shall be drawn up by the Commission in close collaboration with the ACP State concerned or the relevant organisation or body at regional or intra-ACP level.

2. [deleted]

3. [deleted]

4. The Commission, acting on behalf of the Community, shall communicate its financing decision to the ACP State concerned or the relevant organisation or body at regional or intra-ACP level within 90 days from the date on which the final version of the financial proposal is drawn up.

5. Where the financing proposal is not adopted by the Commission on behalf of the Community, the ACP State concerned or the relevant organisation or body at regional or intra-ACP level shall be informed immediately of the reasons for that decision. In such a case, the representatives of the ACP State concerned or the relevant organisation or body at regional or intra-ACP level may, within 60 days thereafter, request either:

(a) that the matter be referred to the ACP-EC Development Finance Cooperation Committee set up under this Agreement; or

(b) that they be given a hearing by the Community's representatives.

6. Following such a hearing, a definitive decision to adopt or reject the financing proposal shall be taken by the Commission on behalf of the Community. Before any decision is taken, the ACP State concerned or the relevant organisation or body at regional or intra-ACP level may forward to the Commission any facts which may appear necessary to supplement the information available to it.

Article 17. Financing Agreement

1. As a rule, programmes and projects financed by the multi-annual financial framework of cooperation are subject to a financing agreement drawn up by the Commission and the ACP State or the relevant organisation or body at regional or

intra-ACP level.

2. The financing agreement shall be drawn up within 60 days following the communication of the financing decision taken by the Commission. The financing agreement shall:

(a) specify, in particular, the details of the Community's financial contribution, the financing arrangements and terms and the general and specific provisions relating to the programme or project concerned, including expected outcomes and results; and

(b) make adequate provision for appropriations to cover cost increases, contingencies, audits and evaluations.

3. Any unexpended balance left upon closure of the accounts of programmes and projects within the timeframe for commitments of the multi-annual financial framework of cooperation from which the programmes and projects have been funded shall accrue to the ACP State or the relevant organisation or body at regional or intra-ACP level.

Article 18. Overrun

1, Once it appears that there is a risk of cost over-runs over and above the financing available under the financing agreement, the relevant Authorising Officer shall notify the Commission and request its prior approval on the measures which the relevant Authorising Officer intends to take in order to cover such cost overruns, either by reducing the scale of the programme or project or by calling on national or other non-Community resources.

2. If it is not possible to reduce the scale of the programme or project or to cover the overruns with other resources, the Commission, acting on behalf of the Community, may, on the basis of a reasoned request from the relevant Authorising Officer, take an additional financing decision on resources from the indicative programme.

Article 19. Retroactive Financing

1. In order to ensure early project start-up, avoid gaps between sequential pro- jects and prevent delays, the ACP States or the relevant organisation or body at regional or intra-ACP level may, on completion of project appraisal and before the financing decision is taken, pre-finance activities linked to the start-up of pro- grammes, preliminary and seasonal work, orders for equipment with long delivery lead times as well as some ongoing operations. Such expenditure shall satisfy the procedures provided for in this Agreement.

2. Any expenditure referred to in paragraph 1 shall be mentioned in the financing proposal and shall be without prejudice to the financing decision taken by the Commission on behalf of the Community.

3. Expenditure made by the ACP State or the relevant organisation or body at regional or intra-ACP level under this Article shall be retroactively financed un- der the programme or project, once the financing agreement is signed.

Chapter 4. Implementation

Article 19A. Implementation Measures

1. Implementation of programmes and projects financed from the multi-annual financial framework of cooperation under this Agreement shall consist chiefly of the following:

(a) awarding of procurement contracts;

(b) awarding of grants;

(c) performance by direct labour;

(d) direct payments as budgetary support, support for sectoral programmes, debt relief and support to mitigate the adverse effects resulting from short-term exogenous shocks including fluctuations of exports earnings.

2. In the context of this Annex, procurement contracts are contracts for pecuniary interest concluded in writing in order to obtain, against payment of a price, the supply of movable assets, the execution of works or the provision of services.

3. In the context of this Annex, grants are direct financial contributions awarded by way of a donation in order to finance:

(a) either an action designed to help achieve an objective of this Agreement or of a programme or project adopted in accordance with this Agreement, or

(b) the functioning of a body which pursues such an objective.

Grants shall be covered by a written contract.

Article 19B. Tender Procedure with Suspension Clause

In order to ensure early project start-up, the ACP States or the relevant organisation or body at regional or intra-ACP level may, in all duly substantiated cases and in agreement with the Commission, issue invitations to tender for all types of contracts with a suspension clause, once project appraisal is completed but before the financing decision is taken. Such a provision must be mentioned in the financing proposal.

Article 19C. Awarding Contracts, Awarding Grants and Performing Contracts

1. Except as provided for in Article 26, contracts and grants shall be attributed and implemented according to Community rules and, except in the specific cases provided for by these rules, according to the standard procedures and documentation set and published by the Commission for the purposes of implementing cooperation actions with third countries and in force at the time the procedure in question is launched.

2. In decentralised management, where a joint assessment shows that the procedures for awarding contracts and grants in the ACP State or the recipient region or the procedures approved by the fund providers are in accordance with the principles of transparency, proportionality, equal treatment and non-discrimination and preclude any kind of conflict of interest, the Commission shall use these procedures, in accordance with the Paris Declaration and without prejudice to Article 26, in full respect of the rules governing the exercise of its powers in this field.

3. The ACP State or the relevant organisation or body at regional or intra-ACP level shall undertake to check regularly that the operations financed from the multi-annual financial framework of cooperation under this Agreement have been properly implemented, to take appropriate measures to prevent irregularities and fraud, and, if necessary, to take legal action to recover unduly paid funds.

4. In decentralised management, contracts are negotiated, established, signed and performed by the ACP States or the relevant organisation or body at regional or intra-ACP level. These states or the relevant organisation or body at regional or intra-ACP level may, however, call upon the Commission to negotiate, establish, sign and perform contracts on their behalf.

5. Pursuant to the commitment referred to in Article 50 of this Agreement, contracts and grants financed from resources from the multi-annual financial framework of cooperation with the ACP shall be performed in accordance with internationally recognised basic standards in the field of labour law.

6. An expert group of representatives of the Secretariat of the ACP Group of States and the Commission shall be set up to identify, at the request of one or other of the parties, any appropriate alterations and to suggest amendments and improvements to the rules and procedures referred to in paragraphs 1 and 2.

This expert group shall also submit a periodic report to the ACP-EC Development Finance Cooperation Committee to assist it in its task of examining the problems surrounding the implementation of development cooperation activities and proposing appropriate measures.

Article 20. Eligibility

Save where a derogation is granted in accordance with Article 22, and without prejudice to Article 26:

1. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to:

(a) all natural persons who are nationals of, or legal persons who are established in, an ACP State, a Member State of the European Community, an official candidate country of the European Community or a Member State of the European Economic Area;

(b) all natural persons who are nationals of, or legal persons who are established in, a Least Developed Country as defined by the United Nations.

1a. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to all natural persons who are nationals of, or legal persons established in, any country other than those referred to in paragraph 1, where reciprocal access to external

assistance has been established. Reciprocal access in the Least Developed Countries as defined by the United Nations shall be automatically granted to the OECD/DAC members.

Reciprocal access shall be established by means of a specific Commission decision concerning a given country or a given regional group of countries. The decision shall be adopted by the Commission in agreement with the ACP States and shall be in force for a minimum period of one year.

2. Services under a contract financed from the multi-annual financial framework of cooperation under this Agreement may be provided by experts of any nationality, without prejudice to the qualitative and financial requirements set out in the Community's procurement rules.

3. Supplies and materials purchased under a contract financed from the multi-annual financial framework of cooperation under this Agreement must originate in a state that is eligible under paragraphs 1 or 1a. In this context, the definition of the concept of "originating products" shall be assessed by reference to the relevant international agreements, and supplies originating in the Community shall include supplies originating in the Overseas Countries and Territories.

4. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to international organisations.

5. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation implemented through an international organisation, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraphs 1 or 1a, and to all natural and legal persons who are eligible according to the rules of the organisation, care being taken to ensure equal treatment of all donors. The same rules apply for supplies and materials.

6. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation implemented as part of a regional initiative, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraphs 1 or 1a, and to all natural and legal persons from a country participating in the relevant initiative. The same rules apply for supplies and materials,

7. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation co-financed with a third state, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons eligible under paragraphs 1 or 1a, and to all persons eligible under the rules of the above mentioned third state. The same rules apply for supplies and materials.

Article 21. Participation on Equal Terms

[Deleted]

Article 22. Derogations

1. In exceptional duly substantiated circumstances, natural or legal persons from third countries not eligible under Article 20 may be authorised to participate in procedures for the awarding of procurement contracts or grants financed by the Community from the multi-annual financial framework of cooperation under this Agreement at the justified request of the ACP State or the relevant organisation or body at regional or intra-ACP level. The ACP State or the relevant organisation or body at regional or intra-ACP level shall, on each occasion, provide the Commission with the information needed to decide on such derogation, with particular attention being given to:

(a) the geographical location of the ACP State or region concerned;

(b) the competitiveness of contractors, suppliers and consultants from the Member States and the ACP States;

(c) the need to avoid excessive increases in the cost of performance of the contract;

(d) transport difficulties or delays due to delivery times or other similar problems;

(e) technology that is the most appropriate and best suited to local conditions;

(f) cases of extreme urgency; (g) the availability of products and services in the relevant markets.

2. In the case of projects financed from the Investment Facility, the procurement rules of the Bank shall apply.

Article 23. Competition

[Deleted]

Article 24. Implementation by Direct Labour

1. In the case of direct labour operations, programmes and projects shall be implemented through public or semi-public agencies or departments of the ACP State or States concerned or by the legal person responsible for executing the operation.

2. The Community shall contribute to the costs of the department involved by providing the equipment and/or materials that it lacks and/or resources to allow it to acquire additional staff required in the form of experts from within the ACP States concerned or other ACP States. The Community's participation shall cover only costs incurred by supplementary measures and temporary expenditure relating to execution that are strictly confined to the requirements of the programmes and projects in question.

3. Programme estimates implementing direct-labour operations must comply with the Community rules, procedures and standard documents laid down by the Commission, as applicable at the time of approval of the programme estimates.

Article 25. Emergency Assistance Contracts

[Deleted]

Article 26. Preferences

1. Measures shall be taken to encourage the widest participation of the natural and legal persons of ACP States in the performance of contracts financed by the multi-annual financial framework of cooperation under this Agreement in order to permit the optimisation of the physical and human resources of those States. To this end:

(a) for works contracts of a value of less than EUR 5 000 000, tenderers of the ACP States, provided that at least one quarter of the capital stock and management staff originates from one or more ACP States, shall be accorded a 10 % price preference where tenders of an equivalent economic, technical and administrative quality are compared;

(b) for supply contracts, irrespective of the value of the supplies, tenderers of the ACP States who offer supplies of at least 50 % in contract value of ACP origin, shall be accorded a 15 % price preference where tenders of equivalent economic, technical and administrative quality are compared;

(c) in respect of service contracts, where tenders of equivalent economic and technical quality are compared, preference shall be given to:

(i) experts, institutions or consultancy companies or firms from ACP States with the required competence;

(ii) offers submitted by ACP firms, either individually or in a consortium with European partners; and

(iii) offers presented by European tenderers with ACP sub-contractors or experts;

(d) where subcontracting is envisaged, preference shall be given by the successful tenderer to natural persons, companies and firms of ACP States capable of performing the contract required on similar terms; and

(e) the ACP State may, in the invitation to tender, propose to the prospective tenderers the assistance of other ACP States' companies or firms or national experts or consultants selected by mutual agreement. This cooperation may take the form either of a joint venture, or of a subcontract or of on-the-job training of trainees.

2. Where two tenders are acknowledged to be equivalent on the basis of the cri- teria stated above, preference shall be given:

(a) to the tenderer of an ACP State; or

(b) if no such tender is forthcoming, to the tenderer who:

(i) allows for the best possible use of the physical and human resources of the ACP States;

(ii) offers the greatest subcontracting possibilities for ACP companies, firms or natural persons; or

(iii) is a consortium of natural persons, companies and firms from ACP States and the Community.

Article 27. Award of Contracts

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Article 28. General Regulations for Contracts

[Deleted]

Article 29. General Conditions for Contracts

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Article 30. Settlement of Disputes

Any dispute arising between the authorities of an ACP State or the relevant organisation or body at regional or intra-ACP level and a contractor, supplier or provider of services during the performance of a contract financed by the multi-annual financial framework of cooperation under this Agreement shall:

(a) in the case of a national contract, be settled in accordance with the national legislation of the ACP State concerned; and

(b) in the case of a transnational contract be settled either:

(i) if the Parties to the contract so agree, in accordance with the national legislation of the ACP State concerned or its established international practices; or

(ii) by arbitration in accordance with the procedural rules which will be adopted by decision of the Council of Ministers at the first meeting following the signing of this Agreement, upon the recommendation of the ACP-EC Development Finance Cooperation Committee.

Article 31. Tax and Customs Arrangements

1. The ACP States shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied by them to the most favoured states or international development organisations with which they have relations. For the purpose of determining the most-favoured-nation (MFN) treatment, account shall not be taken of arrangements applied by the ACP State concerned to other ACP States, or to other developing countries.

2. Subject to the above provisions the following shall apply to contracts financed by the Community:

(a) the contract shall not be subject in the beneficiary ACP State to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the ACP State and a fee corresponding to the service rendered may be charged for it;

(b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the ACP State concerned, provided that the natural or legal persons who realise such profit and/or income have a permanent place of business in that state, or that the performance of the contract takes longer than six months;

(c) enterprises which must import professional equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the national legislation of the beneficiary ACP State in respect of the said equipment;

(d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary ACP State or States in accordance with its national legislation free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;

(e) imports under supply contracts shall be admitted into the beneficiary ACP State without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the ACP State concerned shall be concluded on the basis of the ex-works price of the supplies to which may be added such internal fiscal charges as may be applicable to those supplies in the ACP State;

(f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall

be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the national legislation in force in the beneficiary ACP State; and

(g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limit of the national legislation in force in the beneficiary ACP State.

3. Any matter not covered by the above provisions on tax and customs arrangements shall remain subject to the national legislation of the ACP State concerned.

Chapter 5. Monitoring and Evaluation

Article 32. Objectives

The objective of monitoring and evaluation shall consist in the regular assessment of development operations (preparation, implementation and subsequent operation) with a view to improving the development effectiveness of ongoing and future operations.

Article 33. Modalities

1. Without prejudice to evaluations carried out by the ACP State or the relevant organisation or body at regional or intra-ACP level or the Commission, this work will be done jointly by the ACP State(s) or the relevant organisation or body at regional or intra-ACP level and the Community. The ACP-EC Development Finance Cooperation Committee shall ensure the joint character of the joint monitoring and evaluation operations. In order to assist the ACP-EC Development Finance Cooperation Committee, the Commission and the ACP General Secretariat shall prepare and implement the joint monitoring and evaluations and report to the Committee. The Committee shall, at its first meeting after the signature of the Agreement, fix the operational modalities aimed at ensuring the joint character of the operations and shall, on a yearly basis, approve the work programme.

2. Monitoring and evaluation activities shall notably:

(a) provide regular and independent assessments of the operations and ac- tivities funded from the multi-annual financial framework of cooperation under this agreement by comparing results with objectives; and thereby

(b) enable the ACP States or the relevant organisation or body at regional or intra-ACP level and the Commission and the joint institutions, to feed the lessons of experience back into the design and execution of future policies and operations.

Chapter 6. Fund-resource Management and Executing Agents

Article 34. The Commission

1. The Commission shall undertake the financial execution of operations carried out with resources from the multi-annual financial framework of cooperation under this Agreement, with the exception of the Investment Facility and interest- rate subsidies, using the following main methods of management:

(a) centralised management;

(b) decentralised management.

2. As a general rule, the financial execution of the resources from the multi-annual financial framework of cooperation under this Agreement by the Commission shall be decentralised.

In this instance, the execution duties shall be carried out by the ACP States in accordance with Article 35.

3. In order to carry out the financial execution of the resources from the multi-annual financial framework of cooperation under this Agreement, the Commission shall delegate its executive powers within its own departments. The Commission shall inform the ACP States and the ACP-EC Development Finance Cooperation Committee of this delegation of tasks.

Article 35. National Authorising Officer

1. The Government of each ACP State shall appoint a National Authorising Officer to represent it in all operations financed

from the resources from the multi-annual financial framework of cooperation under this Agreement managed by the Commission and the Bank. The National Authorising Officer shall appoint one or more deputy National Authorising Officers to replace him when he is unable to carry out his duties and shall inform the Commission of this appointment. Wher- ever the conditions regarding institutional capacity and sound financial management are met, the National Authorising Officer may delegate his functions for implementation of the programmes and projects concerned to the body responsible within the national administration. The National Authorising Officer shall inform the Commission of any such delegation.

In the case of regional programmes and projects, the relevant organisation or body shall designate a Regional Authorising Officer whose duties correspond, mutatis mutandis, to those of the National Authorising Officer.

In the case of Intra-ACP programmes and projects, the ACP Committee of Ambassadors shall designate an Intra-ACP Authorising Officer, whose duties correspond, mutatis mutandis, to those of the National Authorising Officer. In the event that the ACP Secretariat is not the Authorising Officer, the Committee of Ambassadors shall be informed in conformity with the financing agreement of the implementation of programmes and projects.

When the Commission becomes aware of problems in carrying out procedures relating to management of resources from the multi-annual financial framework of cooperation under this Agreement, it shall, in conjunction with the relevant Authorising Officer, make all contacts necessary to remedy the situation and take any appropriate steps.

The relevant Authorising Officer shall assume financial responsibility only for the executive tasks entrusted to him.

Where resources from the multi-annual financial framework of cooperation under this Agreement are managed in a decentralised way and subject to any additional powers that might be granted by the Commission, the relevant Authorising Officer shall:

(a) be responsible for the coordination, programming, regular monitoring and annual, mid-term and end-of-term reviews of implementation of cooperation, and for coordination with donors;

(b) in close cooperation with the Commission, be responsible for the preparation, submission and appraisal of programmes and projects;

(c) prepare tender dossiers and, where appropriate, the documents for calls for proposals;

(d) submit tender dossiers and, where appropriate, documents for calls for proposals, to the Commission for approval before launching invitations to tender and, where appropriate, calls for proposals;

(e) in close cooperation with the Commission, launch invitations to tender and, where appropriate, calls for proposals;

(f) receive tenders and, if applicable, proposals, and transmit copies of tenders to the Commission; preside over the opening of tenders and decide on the results of their examination within the period of validity of the tenders, taking account of the time required for approval of contracts;

(g) invite the Commission to the opening of tenders and, if applicable, proposals and notify the Commission of the results of the examination of tenders and proposals for approval of the proposals for the award of contracts and grants;

(h) submit contracts and programme estimates and any addenda thereto to the Commission for approval;

(i) sign the contracts and addenda thereto approved by the Commission;

(j) clear and authorise expenditure within the limits of the funds assigned to him; and

(k) during the execution operations, make any adaptation arrangements necessary to ensure the proper execution of approved programmes or projects from the economic and technical viewpoint.

2. The relevant Authorising Officer shall, during the execution of operations and subject to the requirement to inform the Commission, decide on:

(a) technical adjustments and alterations to programmes and projects in matters of detail so long as they do not affect the technical solution adopted and remain within the limits of the reserve for adjustments provided for in the financing agreement;

(b) changes of site for multiple-unit programmes or projects where justified on technical, economic or social grounds;

(c) imposition or remission of penalties for delay;

(d) acts discharging guarantors;

(e) purchase of goods, irrespective of their origin, on the local market;

(f) use of construction equipment and machinery not originating in the Member States or ACP States provided there is no production of comparable equipment and machinery in the Member States or ACP States;

(g) subcontracting;

(h) final acceptance, provided that the Commission is present at provisional acceptance, endorses the corresponding minutes and, where appropriate, is present at the final acceptance, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work; and

(i) hiring of consultants and other technical assistance experts.

Article 36. Head of Delegation

1. The Commission shall be represented in each ACP State or in each regional grouping which expressly so requests, by a delegation under the authority of a Head of Delegation, with the approval of the ACP State or States concerned. Appropriate measures shall be taken in any case in which a Head of Delegation is appointed to a group of ACP States. The Head of Delegation shall represent the Commission in all spheres of its competence and in all its activities.

2. The Head of Delegation shall be the main contact for ACP States and bodies or organisations eligible for financial support under the Agreement. He shall cooperate and work in close cooperation with the National Authorising Officer.

3. The Head of Delegation shall have the necessary instructions and delegated powers to facilitate and expedite all operations under the Agreement.

4. On a regular basis, the Head of Delegation shall inform the national authorities of Community activities which may directly concern cooperation between the Community and the ACP States.

Article 37. Payments

1. For the purpose of effecting payments in the national currencies of the ACP States, accounts denominated in the currencies of the Members States or in euro may be opened in the ACP States by and in the name of the Commission with a national public or semi-public financial institution chosen by agreement be-tween the ACP State and the Commission. This institution shall exercise the functions of National Paying Agent.

2. The National Paying Agent shall receive no remuneration for its services and no interest shall be payable by it on deposited funds. The local accounts shall be replenished by the Commission in the currency of one of the Member States or in euro, based on estimates of future cash requirements, which shall be made sufficiently in advance to avoid the need for pre-financing by ACP States or the relevant organisation or body at regional or intra-ACP level and to prevent delayed disbursements.

3. [deleted]

4. Payments shall be made by the Commission in accordance with the rules laid down by the Community and the Commission, where appropriate after the ex- penditure has been cleared and authorised by the relevant Authorising Officer.

5. [deleted]

6. The procedures for clearance, authorisation and payment of expenditure must be completed within a period of 90 days from the date on which the payment becomes due. The relevant Authorising Officer shall process and deliver the pay- ment authorisation to the Head of Delegation not later than 45 days before the due date.

7. Claims for delayed payments shall be borne by the ACP State concerned or the relevant organisation or body at regional or intra-ACP level and by the Com- mission from its own resources, for that part of the delay for which each Party is responsible in accordance with the above procedures.

TRADE REGIME APPLICABLE DURING THE

PREPARATORY PERIOD REFERRED TO IN ARTICLE 37(1)

[Deleted]

THE COTONOU AGREEMENT

ANNEX VI

LIST OF THE LEAST DEVELOPED, LANDLOCKED AND ISLAND ACP STATES (LDLICS)

The lists comprise ACP least-developed, landlocked and Island States

Article 1. Least-developed Acp States

Under this Agreement, the following countries shall be considered least-devel-

oped ACP States:

Angola

Benin

Burkina Faso

Burundi

Central African Republic Chad

Comoro Islands Democratic Republic of Congo Djibouti

Eritrea

Ethiopia

Gambia

Guinea

Guinea (Bissau)

Guinea (Equatorial) Haiti

Kiribati

Lesotho

Liberia

Madagascar

Malawi

Mali

Mauritania Mozambique

Niger

Republic of Cape Verde Rwanda

Samoa

S&o TomÃ© and Principe Sierra Leone

Solomon Islands Somalia

Sudan

Tanzania

Timor-Leste

Togo

Tuvalu

Uganda

Vanuatu

Zambia

Article 2. Landlocked Acp States

Specific measures and provisions have been made to support landlocked ACP States in their efforts to overcome the geographical difficulties and the other obstacles hampering their development so as to enable them to speed up their

respective rates of growth.

The landlocked ACP States are:

Botswana

Burkina Faso

Burundi

Central African Republic Chad

Ethiopia

Lesotho

Malawi

Article 3. Mali

Niger Rwanda Swaziland Uganda Zambia Zimbabwe

Article 4. Island Acp States

Specific measures and provisions have been made to support island ACP States in their efforts to overcome the natural and geographical difficulties and the other obstacles hampering their development so as to enable them to speed up their

respective rates of growth.

List of island ACP States:

Antigua and Barbuda Bahamas

Barbados

Cape Verde Comoros

Cook Islands Dominica Dominican Republic Fiji

Grenada

Haiti

Jamaica

Kiribati Madagascar Marshall Islands Mauritius Micronesia

Article 5. Nauru

Niue

Palau

Papua New Guinea Saint Kitts and Nevis Saint Lucia

Saint Vincent and the Grenadines Samoa

S&o TomÃ© and Principe Seychelles

Solomon Islands Timor-Leste

Tonga

Trinidad and Tobago Tuvalu

Vanuatu

THE COTONOU AGREEMENT

ANNEX VII POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS, DEMOCRATIC PRINCIPLES AND THE RULE OF LAW

Article 1. Objectives

1, The consultations envisaged in Article 96(2)(a) will take place, except in cases of special urgency, after exhaustive political dialogue as envisaged in Article 8 and Article 9(4) of the Agreement.

2. Both Parties should conduct such political dialogue in the spirit of the Agree- ment and bearing in mind the Guidelines for ACP-EC Political Dialogue estab- lished by the Council of Ministers.

3. Political Dialogue is a process which should foster the strengthening of ACP-EC relations and contribute towards achieving the objectives of the Partnership.

Article 2. Intensified Political Dialogue Preceding Consultations Under Article 96 of the Agreement

1, Political dialogue concerning respect for human rights, democratic principles and the rule of law shall be conducted pursuant to Article 8 and Article 9(4) of the Agreement and within the parameters of internationally recognised stand- ards and norms. In the framework of this dialogue the Parties may agree on joint agendas and priorities.

2. The Parties may jointly develop and agree specific benchmarks or targets with regard to human rights, democratic principles and the rule of law within the pa- rameters of internationally agreed standards and norms, taking into account spe- cial circumstances of the ACP State concerned, Benchmarks are mechanisms for reaching targets through the setting of intermediate objectives and timeframes for compliance.

3. The political dialogue set out in paragraphs 1 and 2 shall be systematic and for- mal and shall exhaust all possible options prior to consultations under Article 96 of the Agreement.

4. Except for cases of special urgency as defined in Article 96(2)(b) of the Agree- ment, consultations under Article 96 may also go ahead without preceding inten- sified political dialogue, when there is persistent lack of compliance with commit- ments taken by one of the Parties during an earlier dialogue, or by a failure to engage in dialogue in good faith.

5. Political dialogue under Article 8 of the Agreement shall also be utilised be- tween the Parties to assist countries subject to appropriate measures under Arti- cle 96 of the Agreement, to normalise the relationship.

Article 3. Additional Rules on Consultation Under Article 96 of the Agreement

1, The Parties shall strive to promote equality in the level of representation during consultations under Article 96 of the Agreement.

2. The Parties are committed to transparent interaction before, during and after the formal consultations, bearing in mind the specific benchmarks and targets referred to in Article 2(2) of this Annex.

3. The Parties shall use the 30-day notification period as provided for in Arti- cle 96(2) of the Agreement for effective preparation by the Parties, as well as for deeper consultations within the ACP Group and among the Community and its Member States. During the consultation process, the Parties should agree flexible timeframes, whilst acknowledging that cases of special urgency, as defined in Article 96(2)(b) of the Agreement and Article 2(4) of this Annex, may require an immediate reaction.

4. The Parties acknowledge the role of the ACP Group in political dialogue based on modalities to be determined by the ACP Group and communicated to the Euro- pean Community and its Member States. The ACP Secretariat and the European Commission shall exchange all required information on the process of po- litical dialogue carried out before, during and after consultations undertaken under Articles 96 and 97 of this Agreement.

5. The Parties acknowledge the need for structured and continuous consultations under Article 96 of the Agreement. The Council of Ministers may develop further modalities to this end.

Protocols

PROTOCOL 1 ON THE OPERATING EXPENDITURE OF THE JOINT INSTITUTIONS

1, The Member States and the Community, on the one hand, and the ACP States, on the other, shall be responsible for such expenditure as they shall incur by reason of their participation in the meetings of the Council of Ministers and its dependent bodies, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenses.

Expenditure in connection with interpreting at meetings, translation and repro- duction of documents, and the practical arrangements for meetings (such as premises, equipment and messengers) of the joint institutions of the present Agreement shall be borne by the Community or by one of the ACP States, accord- ing to whether the meetings take place in the territory of a Member State or in that of an ACP State.

2. The arbitrators appointed in accordance with Article 98 of the Agreement shall be entitled to a refund of their travel and subsistence expenditure. The latter shall be determined by the Council of Ministers.

One half of travel and subsistence expenditure incurred by the arbitrators shall be borne by the Community and the other half by the ACP States. Expenditure relat- ing to any registry set up by the arbitrators, to preparatory inquiries into disputes, and to the organisation of hearings (such as premises, personnel and interpreting) shall be borne by the Community. Expenditure relating to special inquiries shall be settled together with the other costs and the Parties shall deposit advances as determined by an order of the arbitrators.

3. The ACP States shall set up a Fund, which will be managed by their General Secretariat, for the purpose of contributing to the financing of the expenses in- curred by ACP participants at meetings of the Joint Parliamentary Assembly and the Council of Ministers.

The ACP States shall contribute to this Fund. With the aim of encouraging the active participation of all ACP States in the dialogue conducted within the ACPEC institutions, the Community shall make a contribution to this Fund as provided for in the Financial Protocol (EUR 4 million according to the First Financial Protocol).

To be eligible for the Fund expenses must comply with the following conditions as well as those laid down in paragraph 1:

â They must be incurred by parliamentarians or, in their absence, other such ACP representatives travelling from the country they represent in order to take part in sessions of the Joint Parliamentary Assembly, meetings of work- ing parties or missions under their aegis, or as a result of the participation of these same representatives and representatives of ACP civil society and economic and social operators in consultation meetings held under Arti- cles 15 and 17 of the Agreement.

â Decisions on the nature, organisation, frequency and location of meetings, missions and working groups must be taken in accordance with the rules of procedure of the Council of Ministers and the Joint Parliamentary Assembly.

4. Consultation meetings and meetings of ACP-EC economic and social operators shall be organised by the Economic and Social Committee of the European Union. In this specific instance, the Communityâs contribution to cover the participation of ACP economic and social operators shall be paid directly to the Economic and Social Committee.

The ACP Secretariat, the Council of Ministers and the Joint Parliamentary Assem- bly may, in agreement with the Commission, delegate the organisation of consul- tation meetings of ACP civil society to representative organisations approved by the Parties.

PROTOCOL 2 ON PRIVILEGES AND IMMUNITIES

THE PARTIES,

DESIRING, by the conclusion of a Protocol on privileges and immunities, to facili- tate the smooth functioning of the Agreement, the preparation of its work and implementation of the measures adopted for its application;

WHEREAS it is therefore necessary to specify the privileges and immunities which may be claimed by persons participating in work relating to the application of the Agreement and to the arrangements applicable to official communications connect- ed with such work, without prejudice to the provisions of the Protocol on the privileg- es and immunities of the European Communities, signed in Brussels on 8 April 1965;

WHEREAS it is also necessary to lay down the treatment to be accorded to the property, funds and assets of the Council of ACP Ministers, and its staff;

WHEREAS the Georgetown Agreement of 6 June 1975 constituted the ACP Group of States and instituted a Council of ACP Ministers, and a Committee of Ambas- sadors; whereas the organs of the ACP Group of States are to be serviced by the Secretariat of the ACP States;

HAVE AGREED upon the following provisions, which shall be annexed to the Agreement

Chapter 1. Persons Taking Part In the Work of the Agreement

Article 1.

The representatives of the Governments of the Member States and of the ACP States and the Representatives of the Institutions of the European Communities, and also their advisers and experts and the members of the staff of the Secre- tariat of the ACP States taking part, in the territory of the Member States or of the ACP States, in the work either of the institutions of the Agreement or of the coordinating bodies, or in work connected with the application of the Agreement, shall enjoy the customary privileges, immunities and facilities while carrying out their duties and while travelling to or from the place at which they are required to Carry out such duties.

The preceding paragraph shall also apply to members of the Joint Parliamentary Assembly of the Agreement, to the arbitrators who may be appointed under the Agreement, to members of the consultative bodies of the economic and social sectors which may be set up, to the officials and employees of these institutions, and also to the members of the agencies of the European Investment Bank and its staff, and to the staff of the Centre for the Development of Enterprise and the Centre for the Development of Agriculture.

Chapter 2. Property, Funds and Assets of the Council of Acp Ministers

Article 2.

The premises and buildings occupied by the Council of ACP Ministers for official purposes shall be inviolable. They shall be exempt from search, requisition, con- fiscation or expropriation.

Except when required for the purposes of investigating an accident caused by a motor vehicle belonging to the said Council or being used on its account, or in the event of an infringement of road traffic regulations or of an accident caused by such a vehicle, the property and assets of the Council of ACP Ministers shall not be the subject of any administrative or legal measures of constraints without the authorisation of the Council of Ministers set up under the Agreement.

Article 3.

The archives of the council of acp ministers shall be inviolable.

Article 4.

The Council of ACP Ministers, its assets, income and other property shall be ex- empt from all direct taxes.

The host State shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Council of ACP Ministers makes, strictly for its official use, substantial purchases, the price of which includes taxes of this kind.

No exemption shall be granted in respect of taxes, charges, duties or fees which represent charges for services rendered.

Article 5.

The Council of ACP Ministers shall be exempt from all customs duties, prohibi- tions and restrictions on imports in respect of articles intended for its official use; articles so imported may not be sold or otherwise disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government or that country.

Chapter 3. Official Communications

Article 6.

For their official communications and the transmission of all their documents, the European Community, the institutions of the Agreement and the coordinating bodies shall enjoy in the territory of the States party to the Agreement the treat- ment accorded to intemational organisations.

Official correspondence and other official communications of the European Com- munity, the joint institutions of the Agreement and the coordinating bodies shall not be subject to censorship.

Chapter 4. Staff of the Secretariat of the Acp States

Article 7.

1. The Secretary or Secretaries and Deputy Secretary or Deputy Secretaries of the Council of ACP Ministers and the other permanent members of the staff of senior rank as designated by the ACP States, of the Council of ACP Ministers shall enjoy, in the state in which the Council of ACP Ministers is established, under the re- sponsibility of the Chairman-in-Office of the Committee of ACP Ambassadors, the advantages accorded to the diplomatic staff of diplomatic missions. Their spouses and their children under age living in their household shall be entitled, under the same conditions, to the advantages accorded to the spouses and children under age of such diplomatic staff.

2. Permanent ACP staff members not referred to in paragraph 1 shall be exempt- ed by their host country from any taxes on salaries, emoluments or allowances paid to them by the ACP States from the day on which such income becomes subject to tax levied for the benefit of the ACP States.

The above provision shall not apply either to pensions paid the ACP Secretariat to its former staff members or their dependants, or to salaries, emoluments or allowances paid to its local staff.

Article 8.

The state in which the Council of ACP Ministers is established shall grant immu- nity from legal proceedings to permanent members of the staff of the Secretariat of the ACP States, apart from those referred to in paragraph 1 of Article 7, only in respect of acts done by them in the performance of their official duties. Such immunity shall not, however, apply to infringements of road traffic regulations by a permanent member of the staff of the Secretariat of the ACP States or to dam- age caused by a motor vehicle belonging to, or driven by, him or her.

Article 9.

The names, positions and addresses of the Chairman-in-Office of the Committee of ACP Ambassadors, the Secretary or Secretaries and Deputy Secretary or Dep- uty Secretaries of the Council of ACP Ministers and of the permanent members of the staff of the Secretariat of the ACP States shall be communicated periodically by the President of the Council of ACP Ministers to the Government of the state in whose territory the Council of ACP Ministers is established.

Chapter 5. Commission Delegations In the Acp States

Article 10.

The commission head of delegation and staff appointed to the delegation, the delegations, to the exception of locally recruited staff, shall be exempted fromany direct taxes in the acp state where they are in post.

2. Article 31(2)(g) of Annex IV, chapter 4 shall also apply to the staff referred to in paragraph 1.

Chapter 6. General Provisions

Article 11.

The privileges, immunities and facilities provided for in this protocol shall be ac- corded to those concerned solely in the interests of the proper execution of their official duties. each institution or body referred to in this protocol shall be required to waive im- munity wherever its consider that the waiver of such immunity is not contrary to its own interests.

Article 12.

Article 98 of the Agreement shall apply to disputes relating to this protocol. The Council of ACP Ministers and the European Investment Bank may be party to proceedings during an arbitration procedure.

Protocol 3: On South Africa

Article 1. Qualified Status

1, The participation of South Africa in this Agreement is subject to the qualifica- tions set out in this Protocol.

2. The provisions of the bilateral Agreement on Trade, Development and Coop- eration between the European Community, its Member States and South Africa as amended by the Agreement signed on 11 September 2009, hereinafter re- ferred as the âTDCA, shall take precedence over the provisions of this Agreement.

Article 2. General Provisions, Political Dialogue and Joint Institutions

1. The general, institutional and final provisions of this Agreement shall apply to South Africa.

2. South Africa shall be fully associated in the overall political dialogue and par- ticipate in the joint institutions and bodies set out under this Agreement. However, in respect of decisions to be taken in relation to provisions that do not apply to South Africa under this Protocol, South Africa shall not take part in the decision- making process.

Article 3. Cooperation Strategies

The provisions on cooperation strategies of this Agreement shall apply to coop- eration between the Community and South Africa.

Article 4. Financial Resources

1, The provisions of this Agreement on development finance cooperation shall not apply to South Africa.

2. However, in derogation from this principle, South Africa shall have the right to participate in ACP-EC development finance cooperation listed in Article 8 of this Procotol, on the basis of the principles of reciprocity and proportionality, un- derstanding that South Africaâs participation will be financed from the resources provided for under Title VII of the TDCA. Where resources from the TDCA are deployed for participation in operations in the framework of ACP-EC financial cooperation, South Africa will enjoy the right to participate fully in the decision- making procedures governing implementation of such aid.

3. South African natural or legal persons shall be eligible for award of contracts financed from the financial resources provided for under this Agreement. In this respect, South African natural or legal persons shall, however, not enjoy the pref- erences accorded to natural and legal persons from ACP States.

4, For the purpose of the investment financing provided for in Annex II, Chap- ter 1, to this Agreement, investment funds and financial and non-financial intermediaries established in South Africa can be eligible.

Article 5. Trade Cooperation

1. The provisions of this Agreement on economic and trade cooperation shall not apply to South Africa.

2. Nonetheless, South Africa shall be associated as an observer in the dialogue between the Parties pursuant to Articles 34 to 40 of this Agreement.

3. This Protocol shall not prevent South Africa from negotiating and signing one of the Economic Partnership Agreements (EPA) provided for in Part 3, Title II of this Agreement if the other parties to that EPA so agree.

Article 6. Applicability of Protocols and Declarations

The protocols and declarations annexed to this Agreement that relate to parts of the Agreement that are not applicable to South Africa, shall not apply to South Africa, all other declarations and protocols shall apply.

Article 7.

Revision clausethis protocol may be revised by decision of the council of ministers.

Article 8. Applicability

Without prejudice to the previous Articles, the table hereunder sets out those Articles of the Agreement and its Annexes which shall apply to South Africa and those which shall not apply.

Applicable	Remarks	Not applicable
Preamble		
Part I, Title I, Chapter 1: 'Objectives, principles and actors' (Articles 1 to 7)		
Part I, Title II, 'The political dimension'; Articles 8 to 13		
Part 2, 'Institutional provisions'; Articles 14 to 17	In accordance with Article 1 of this protocol, South Africa shall not have voting rights in any of the joint institutions or bodies in areas of the Agreement which are not applicable to South Africa	
Part 3, Title I, 'Development strategies'.		
	In accordance with Article 5 above, South Africa shall be associated as an observer in the dialogue between the Parties pursuant to Articles 34 to 40	Part 3, Title II, Economic and Trade Cooperation.
Article 75(i) (Investment promotion, support for the ACP–EU private sector dialogue	In accordance with Article 4 above, South Africa shall have the right to participate in certain areas of development finance cooperation on the understanding that such participation will be fully financed from the resources provided for under Title VII of the TDCA. In accordance with Article 2 above, South Africa may	Part 4, Development Finance

on regional level), Article 78 (Investment protection)	participate in the ACP–EC Development Finance Cooperation Committee provided for in Article 83, without enjoying voting rights in relation to provisions that do not apply to South Africa	Cooperation
Part 5, General Provisions for the Least Developed, Landlocked and Island ACP States, Articles 84 to 90		
Part 6, Final Provisions, Articles 91 to 100		
		Annex I (Financial Protocol)
Annex II, Terms and conditions of Financing, Chapter 5 (link to Article 78/investment protection)	In accordance with Article 4 above, South Africa shall have the right to participate in certain areas of development finance cooperation on the understanding that South Africa's participation will be fully financed from the resources provided for under Title VII of the TDCA.	Annex II, Terms and conditions of Financing, Chapters 1, 2, 3 and 4
Annex III, Institutional Support (CDE and CTA)	In accordance with Article 4 above, South Africa shall have the right to participate in certain areas of development finance cooperation on the understanding that South Africa's participation will be fully financed from the resources provided for under Title VII of the TDCA.	
Annex IV, Implementation and Management Procedures: Articles 6 to 14 (Regional cooperation) Articles 20 to 32 (Competition and preference)	In accordance with Article 4 above, where resources from the TDCA are deployed for participation activities in the framework of ACP–EC financial cooperation, South Africa will enjoy the right to fully participate in the decision-making procedures governing implementation of such aid. South African natural and legal persons will moreover be eligible for participation in tenders for contracts financed from the financial resources of the Agreement. In this context, South African tenderers will not enjoy the preferences provided for tenderers from the ACP States	Annex IV, Articles 1 to 5 (national programming); 15 to 19 (provisions relating to the project cycle), 27 (preference to ACP contractors) and 34 to 38 (Executing agents)
		Annex V/trade regime during the preparatory period

		prescribed in Article 37(1).
Annex VI; List of Least Developed, island and landlocked ACP States		

Final Act

The Plenipotentiaries of:

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF ROMANIA,

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

THE PRESIDENT OF THE SLOVAK REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union, hereinaer referred to as 'the Member States', and of THE EUROPEAN UNION, hereinaer referred to as 'the Union' or 'the EU',of the one part, and

the Plenipotentiaries of:

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

THE HEAD OF STATE OF BARBADOS,

HER MAJESTY THE QUEEN OF BELIZE,

THE PRESIDENT OF THE REPUBLIC OF BENIN,

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,

THE PRESIDENT OF BURKINA FASO,

THE PRESIDENT OF THE REPUBLIC OF BURUNDI,

THE PRESIDENT OF THE REPUBLIC OF CAMEROON,

THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,

THE PRESIDENT OF THE UNION OF THE COMOROS,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO, THE PRESIDENT OF THE REPUBLIC OF CONGO,

THE GOVERNMENT OF THE COOK ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF COTE D'IVOIRE,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA, THE PRESIDENT OF THE DOMINICAN REPUBLIC,

THE PRESIDENT OF THE STATE OF ERITREA,

THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,

THE PRESIDENT OF THE GABONESE REPUBLIC,

THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA, THE PRESIDENT OF THE REPUBLIC OF GHANA,

HER MAJESTY THE QUEEN OF GRENADA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA, THE PRESIDENT OF THE REPUBLIC OF HAITI,

THE HEAD OF STATE OF JAMAICA,

THE PRESIDENT OF THE REPUBLIC OF KENYA,

THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,

HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,

THE PRESIDENT OF THE REPUBLIC OF LIBERIA,

THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,

THE PRESIDENT OF THE REPUBLIC OF MALAWI,

THE PRESIDENT OF THE REPUBLIC OF MALI,

THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS, THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA, THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,

THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,

THE COTONOU AGREEMENT

THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,

THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,

THE GOVERNMENT OF THE REPUBLIC OF NAURU,

THE PRESIDENT OF THE REPUBLIC OF NIGER,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,

THE GOVERNMENT OF NIUE,

THE GOVERNMENT OF THE REPUBLIC OF PALAU,

HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA, THE PRESIDENT OF THE REPUBLIC OF RWANDA,

HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

HER MAJESTY THE QUEEN OF SAINT LUCIA,

HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES, THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA, THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE, THE PRESIDENT OF THE REPUBLIC OF SENEGAL,

THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,

THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,

HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,

THE PRESIDENT OF THE REPUBLIC OF SURINAME,

HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,

THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,

THE PRESIDENT OF THE REPUBLIC OF CHAD,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE, THE PRESIDENT OF THE TOGOLESE REPUBLIC,

HIS MAJESTY THE KING OF TONGA,

THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO, HER MAJESTY THE QUEEN OF TUVALU,

THE PRESIDENT OF THE REPUBLIC OF UGANDA,

THE GOVERNMENT OF THE REPUBLIC OF VANUATU,

THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

which States are hereinafter referred to as 'ACP states'
of the other part,
meeting in Quagadougou on the twenty-second day of June in the year two thou- sand and ten for the signature of the

Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of states, of the one part, and the European community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005,

have at the time of signature of this Agreement adopted the following declara- tions attached to this Final Act:

Declaration |: Joint Declaration on Support for Market Access in the ACP-EC Partnership;

Declaration Il: Joint Declaration on Migration and Development (Article 13);

Declaration Ill: European Union Declaration on Institutional Changes Resulting From the Entry into Force of the Treaty of Lisbon;

and have, furthermore, agreed that the following existing declarations, as a con- sequence of the deletion of Annex V, have become obsolete:

Declaration XXII: Joint Declaration concerning agricultural products referred to in Article 1(2)(a) of Annex V;

Declaration XXIII: Joint Declaration on Market Access in the ACP-EC Partnership; Declaration XXIV; Joint Declaration on rice;

Declaration XXV: Joint Declaration on rum;

Declaration XXVI: Joint Declaration on beef and veal;

Declaration XXVII: Joint Declaration on the arrangements governing access to the markets of the French overseas departments for products originating in the ACP

States referred to in Article 1(2) of Annex V;

Declaration XXIX: Joint Declaration on products covered by the common agricul- tural policy;

Declaration XXX: ACP Declaration on Article 1 of Annex V; Declaration XXXI: Community Declaration on Article 5(2)(a) of Annex V;

Declaration XXXII: Joint Declaration on non-discrimination;

Declaration XXXIII: Community Declaration on Article 8(3) of Annex V; Declaration XXXIV: Joint Declaration on Article 12 of Annex V;

Declaration XXXV: Joint Declaration relating to Protocol 1 of Annex V; Declaration XXXVI: Joint Declaration relating to Protocol 1 of Annex V;

Declaration XXXVII; Joint Declaration relating to Protocol 1 of Annex V on the origin of fishery products;

Declaration XXXVIII; Community Declaration relating to Protocol 1 of Annex V on the extent of territorial waters;

Declaration XXXIX: ACP Declaration relating to Protocol 1 of Annex V on the origin of fishery products;

Declaration XL: Joint Declaration on the application of the value tolerance rule in the tuna sector;

Declaration XLI: Joint Declaration on Article 6(11) of Protocol 1 of Annex V; Declaration XLII: Joint Declaration on rules of origin: cumulation with South Africa; Declaration XLII; Joint Declaration on Annex 2 to Protocol 1 of Annex V.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

Declarations

Cotonou, 23 June 2000 (OJ L 317, 15.12.2000)

DECLARATION I Joint Declaration on the actors of the partnership (Article 6)

The Parties agree that the definition of civil society may differ significantly according to the socioeconomic and cultural conditions of each ACP country. However, they believe that this definition may include *inter alia* the following organisations: human rights groups and agencies, grassroots organisations, women's associations, youth organisations, child-protection organisations, environmental movements, farmers' organisations, consumers' associations, religious organisations,

development support structures (non-governmental organisations (NGOs)), teaching and research establishments), cultural associations and the media.

DECLARATION II Declaration of the Commission and the Council of the European Union on the clause concerning the return and readmission of illegal immigrants (Article 13(5))

Article 13(5) Shall Be without Prejudice to the Internal Division of Powers Be- Tween the Community and Its Member States for the Conclusion of Readmission Agreements.

DECLARATION III Joint Declaration on participation in the Joint Parliamentary Assembly (Article 17(1))

The Parties reaffirm the role of the Joint Parliamentary Assembly in promoting and defending democratic processes through dialogue between members of par- liament, and agree that the participation of representatives who are not mem- bers of a parliament, as set out in Article 17, shall be allowed only in exceptional circumstances. Such participation shall be subject to the approval of the Joint Parliamentary Assembly before each session.

DECLARATION IV Community Declaration on the financing of the ACP Secretariat

The Community shall contribute to the cost of running the ACP Secretariat from intra ACP cooperation resources.

DECLARATION V Community Declaration on the financing of the joint institutions

The Community, being aware that expenditure in connection with interpreting at meetings and the translation of documents is expenditure incurred essentially for its own requirements, is prepared to continue past practice and meet this ex- penditure both for meetings of the institutions of the Agreement which take place in the territory of a Member State and those which take place in the territory of an ACP State.

DECLARATION VI Community Declaration relating to the Protocol on privileges and immunities

The Protocol on privileges and immunities is a multilateral act from the point of view of international law. However, any specific problems that may arise in the host state regarding the application of this Protocol should be settled by bilateral agreement with that state.

The Community has noted the ACP States' requests that certain provisions of Protocol 2 be modified, notably as regards the status of the staff of the ACP Secretariat, the Centre for the Development of Enterprise (CDE) and the Centre for the Development of Agriculture (CTA).

The Community is willing to seek jointly appropriate solutions in respect of the ACP Statesâ requests with a view to establishing a separate legal instrument as referred to above.

In this context, the host country will, without derogating from the present benefits enjoyed by the ACP Secretariat, the CDE, the CTA and their staff:

(1) Show understanding as regards the interpretation of the expression âstaff of senior rankâ, such an interpretation to be arrived at by mutual agreement;

(2) Recognise the powers delegated by the President of the Council of ACP Min- isters to the Chairman of the ACP EC Committee of Ambassadors, in order to simplify implementation of Article 9 of the Protocol;

(3) Agree to grant certain facilities to the staff of the ACP Secretariat, the CDE and the CTA to facilitate initial installation in the host country;

(4) Examine in an appropriate way tax related questions concerning the ACP Sec- retariat, the CDE and the CTA and their staff.

DECLARATION VII Declaration by the Member States relating to the Protocol on privileges and immunities

The Member States shall strive, in the context of their respective regulations, to facilitate throughout their respective territories, the movement in pursuit of their official duties of ACP diplomats accredited to the Community, members of the ACP Secretariat referred to in Article 7 of Protocol 2, whose names and positions shall be communicated in accordance with Article 9 of that Protocol, and the ACP executives of the CDE and the CTA.

DECLARATION VIII Joint Declaration relating to the Protocol on privileges and immunities

Within the context of their respective regulations, the ACP States shall grant Com- mission delegations privileges and immunities similar to those granted to diplo- matic missions so that they are able to carry out the functions incumbent on

them under the Agreement in a satisfactory and effective manner.

DECLARATION IX Joint Declaration on Article 49(2) on trade and environment

Keenly aware of the specific risks attaching to radioactive waste, the Parties will refrain from any practice of discharging such waste which would encroach upon the sovereignty of states or threaten the environment or public health in other coun- tries. They attach the greatest importance to developing international cooperation to protect the environment and public health against such risks. They accordingly affirm their determination to play an active part in the work being done in the IAEA to produce an internationally approved code of good practice.

Council Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community defines the term âradioactive wasteâ as any material, which contains or is contaminated by radio nuclides and for which no use is foreseen. The Directive is applicable to shipments of radioactive waste between Member States and into and out of the Community whenever the quantities and concentration exceed the levels laid down in Article 3(2)(a) and (b) of the Council Directive 96/29/Euratom of 13 May 1996. The defined levels ensure basic safety standards for the protec- tion of health of workers and the general public against the dangers arising from ionising radiation.

Shipments of radioactive waste are subject to a system of prior authorisation as defined in Directive 92/3/Euratom of 3 February 1992 on the supervision and con- trol of shipments of radioactive waste between Member States and into and out of the Community. Article 11(1)b of the Directive stipulates that the competent authorities of Member States shall not authorise shipments of radioactive waste to a state party to the Fourth ACP-EC Convention which is not a member of the Community, taking account, however, of Article 14. The Community ensures that Ar- ticle 11 of Directive 92/3/Euratom will be revised to cover all Parties of this Agree- ment which are not members of the Community. Until then, the Community will act, as if the abovementioned parties would already be covered.

The Parties shall make every effort to sign and ratify as quickly as possible the Ba- sle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as well as the 1995 amendment to the Convention, as laid down in Decision III/1.

DECLARATION X ACP Declaration on trade and environment

The ACP States are seriously concerned about environmental problems in general and the transboundary movement of hazardous, nuclear and other radioactive wastes in particular.

In interpreting and implementing the provisions of Article 32(1)(d) of the Agreement, the ACP States have expressed their determination to be guided by the principles and the provisians of the OAU Resolution on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in Africa as contained in AHG 182 (XXV).

DECLARATION XI Joint Declaration on the ACP cultural heritage

1, The Parties express their common will to promote the preservation and en- hancement of the cultural heritage of each ACP country, at the international, bi- lateral and private level and in the context of this Agreement.

2. The Parties acknowledge the need to facilitate the access of ACP historians and researchers to archives with a view to promoting the development of exchange of information on the cultural heritage of ACP States.

3. They acknowledge the usefulness of providing assistance for the appropriate activities conducted especially in the area of training, for the preservation, protec- tion and exhibition of cultural properties, monuments and objects, including the promulgation and implementation of appropriate legislation.

4, They underpin the importance of undertaking common cultural activities, fa- cilitating the mobility of ACP and European artists, as well as the exchanges of cultural objects which are symbolic of their cultures and civilisations with a view to enhancing mutual understanding and solidarity between their respective populations.

DECLARATION XII Declaration by the ACP States on return or restitution of cultural property

The ACP States urge the Community and its Member States, insofar as they ac- knowledge the legitimate right of the ACP States to cultural identity, to promote the return or restitution of cultural property taken from ACP States and now to be found in Member States.

DECLARATION XIII Joint Declaration on copyright

The Parties acknowledge that promotion of copyright protection is an integral part of cultural cooperation, the aim of which is to enhance all forms of human expression, Furthermore, such protection is a prerequisite for nurturing and devel- oping

production, dissemination and publishing activities.

Consequently, the two Parties shall, in the context of ACP EC cultural cooperation, seek to promote and foster respect for copyright and related rights.

In this context, and in accordance with the rules and procedures laid down by the Agreement, the Community may offer financial and technical support for dis- seminating copyright information, training economic operators in the protection of such rights and drafting national legislation for their better protection.

DECLARATION XIV Joint Declaration on regional cooperation and the outermost regions (Article 28)

The reference to the outermost regions concems the Spanish autonomous com- munity of the Canary Islands, the four French overseas departments, namely Guadeloupe, Guyana, Martinique and RÃ©union, and the Portuguese autonomous regions of the Azores and Madeira.

DECLARATION XV Joint Declaration on accession

Any accession of a third state to this Agreement shall be made in compliance with the provisions of Article 1 and the objectives of Article 2 laid down by the ACP Group in the Georgetown Agreement as amended in November 1992.

DECLARATION XVI Joint Declaration on accession of the overseas countries and territories referred to in Part Four of the EC Treaty

The Community and the ACP States are prepared to allow the overseas countries and territories referred to in Part Four of the Treaty which have become independent to accede to this Agreement, if they wish to continue their relations with the Com- munity in this farm.

DECLARATION XVII Joint Declaration on Article 66 (debt relief) of the Agreement

The Parties agree on the following principles: (a) In the longer term, the Parties will seek an improvement of the Heavily Indebt-

ed Poor Countries initiative and promote a deepening, broadening and speed- ing up debt relief to ACP Countries;

(b) The Parties will alsa seek the mobilisation and establishment of support mech- anisms for debt reduction in favour of ACP countries who are not yet eligible for the HIPC initiative.

DECLARATION XVIII EU Declaration on the Financial Protocol

Within the overall amount of EUR 13 500 million of the 9th EDF, EUR 12 500 mil- lion shall be made available immediately upon the entry into force of the Financial Protocol. The remaining EUR 1 000 million shall be released on the basis of the performance review referred to in paragraph 7 of the Financial Protocol that shall be undertaken in 2004,

In evaluating the need for new resources, full account shall be taken of this perfor- mance review as well as of a date beyond which the funds of the 9th EDF will not be cammitted.

DECLARATION XIX Declaration by the Council and the Commission on the Programming Process

The Community and its Member States reaffirm their attachment to the agree- ment on a reform of the programming process for implementation of assistance financed from the 9th EDF.

In this context, the Community and its Member States regard a properly imple- mented review mechanism as the most important tool for successful program- ming. The review process that has been agreed for governing the implementation of the 9th EDF will ensure continuity in the programming process while allowing for regular adjustments of the Country Support Strategy to reflect developments in needs and performance of the ACP State concerned.

In order to reap the full benefits of the reform and ensure the efficiency of the programming process, the Community and its Member States reaffirm the politi- cal commitment to the following principles:

The reviews must as far as possible be carried out in the ACP State concerned. Localising the reviews shall not imply that the Member States or the Commission Headquarters shall be prevented from following and being involved in the pro- gramming process as appropriate.

The time frames that have been set for completion of the reviews shall be respected.

The reviews must not be an isolated event in the programming process. The reviews shall be regarded as management

tools, which synthesise the results of the regular (monthly) dialogue between the National Authorising Officer and the Commission's Head of Delegation.

The reviews must not increase the administrative burden of either of the Parties concerned, The procedures and reporting requirements surrounding the program- ming process must therefore be managed in a disciplined manner. To this end, the respective roles of the Member States and the Commission in the decision making process will be reviewed and adapted.

DECLARATION XX Joint Declaration on the Impact of Export Revenue Fluctuations on Vulnerable Small, Island and Landlocked ACP States

The Parties note the concern of ACP States that the modalities of the mechanism for additional support to countries suffering from fluctuation of export revenues may not provide sufficient support to vulnerable small, island and landlocked states subject to volatile export revenues,

From the second year of operation of the mechanism, and on request of one or more ACP States who have met with difficulties, the Parties agree to re-examine the modalities of the mechanism on the basis of a proposal from the Commission, with a view, where necessary, to remedy the effects of such fluctuations.

DECLARATION XXI Community Declaration on Article 3 of Annex IV

The notification of the indicative amount referred to in Article 3 of Annex IV, will not apply to the ACP States with whom the Community has suspended its cooperation.

DECLARATION XXII [Obsolete]

DECLARATION XXIII

[Obsolete]

DECLARATION XXIV

[Obsolete]

DECLARATION XXV

[Obsolete]

DECLARATION XXVI

[Obsolete]

DECLARATION XXVII

[Obsolete]

DECLARATION XXVIII

Joint Declaration on cooperation between ACP States and the neighbouring overseas countries and territories and French overseas departments The Parties shall encourage greater regional cooperation in the Caribbean, the Pacific and the Indian Ocean involving ACP States and the neighbouring overseas countries and territories and French overseas departments. The Parties call upon interested Parties to consult each other on the procedure for promoting such cooperation and, in this context, to take measures, in line with their respective policies and their specific situation in the region, which will permit initiatives in the economic field, including the development of trade, as well as in the social and cultural fields. Where there are trade agreements involving French overseas departments, such agreements may provide for specific measures in favour of products from those departments. Issues relating to cooperation in these different areas shall be brought to the attention of the Council of Ministers, so that it can be duly informed of the progress achieved.

DECLARATION XXIX

[Obsolete]

DECLARATION XXX

[Obsolete]

DECLARATION XXXI

[Obsolete]

DECLARATION XXXIf

[Obsolete]

DECLARATION XXXIil

[Obsolete]

DECLARATION XXXIV

[Obsolete]

DECLARATION XXXV

[Obsolete]

DECLARATION XXXVI

[Obsolete]

DECLARATION XXXVII

[Obsolete]

DECLARATION XXXVIII

[Obsolete]

DECLARATION XXXIX [Obsolete] DECLARATION XL [Obsolete] DECLARATION XLI [Obsolete] DECLARATION XLH [Obsolete]

DECLARATION XLII

[Obsolete]

Luxembourg, 25 June 2005 (OJ L 287, 28.10.2005)

DECLARATION I Joint declaration on article 8 of the Cotonou Agreement

In relation to dialogue at national and regional levels, for the purposes of Article 8 of the Cotonou Agreement, the 'ACP Group' shall be taken to mean the Troika of the ACP Committee of Ambassadors (CoA) and the Chairperson of the ACP Subcommittee on Political, Social, Humanitarian and Cultural Affairs (PSHCA); the Joint Parliamentary Assembly (JPA) shall be interpreted as the Co-Presidents of the JPA, or their designated nominees.

DECLARATION If Joint declaration on article 68 of the Cotonou Agreement

The ACP-EC Council of Ministers will examine, in application of the provisions contained in Article 100 of the Cotonou Agreement, the proposals of the ACP side concerning Annex II thereof on short-term fluctuations in export earnings (FLEX).

DECLARATION Il Joint declaration on annex la

Should the Agreement amending the Cotonou Agreement not have entered into force by 1 January 2008, cooperation shall be financed from the balances of the 9th EDF and from the previous EDFs.

DECLARATION IV Joint declaration on article 3(4) of annex IV

For the purposes of Article 3(4) of Annex IV, 'special needs' are needs resulting from exceptional or unforeseen circumstances, such as post-crisis situations; 'exceptional performance' means a situation in which, outside the mid-term and end-of-term reviews, a country's allocation is totally committed and additional funding from the national indicative programme can be absorbed against a background of effective poverty-reduction policies and sound financial management

DECLARATION V Joint declaration on article 9(2) of annex IV

For the purposes of Article 9(2) of Annex IV, 'new needs' are needs resulting from exceptional or unforeseen circumstances, such as post-crisis situations; 'exceptional performance' means a situation in which, outside the mid term and endof-term reviews, a region's allocation is totally committed and additional funding from the regional indicative programme can be absorbed against a background of effective regional integration policies and sound financial management.

DECLARATION VI Joint declaration on article 12(2) of annex IV

For the purposes of Article 12(2) of Annex IV, ‘new needs’ are needs which may arise from exceptional or unforeseen circumstances, such as those arising from new commitments to international initiatives or to address challenges which are common to ACP countries

DECLARATION Vil Joint declaration on article 13 of annex IV

In view of the particular geographic situation of the Caribbean and Pacific regions, the ACP Council of Ministers or the ACP Committee of Ambassadors may, notwith- standing Article 13(2)(a) of Annex IV, present a specific funding request for one or the other of these regions.

DECLARATION VIIt Joint declaration on article 19A of annex IV

In accordance with Article 100 of the Cotonou Agreement, the Council of Ministers will examine the provisions of Annex IV concerning the awarding and performance of contracts with a view to adopting them before the Agreement amending the Cotonou Agreement enters into force.

DECLARATION IX Joint declaration on article 24(3) of annex IV

The ACP States will be consulted, a priori, on any amendments to the Community rules referred to in Article 24(3) of Annex IV.

DECLARATION X Joint declaration on article 2 of annex VII

The internationally recognised standards and norms are those of the instruments referred to in the Preamble of the Cotonou Agreement.

DECLARATION XI Community declaration on articles 4 and 58(2) of the Cotonou Agreement

For the purpose of Articles 4 and 58(2), it is understood that the term ‘local decentralised authorities’ covers all levels of decentralisation including ‘collectivités locales’.

DECLARATION XII Community declaration on article 11A of the Cotonou Agreement

Financial and technical assistance in the area of cooperation in the fight against terrorism will be financed by resources other than those intended for the financing of ACP-EC development cooperation.

DECLARATION XIII Community declaration on article 11B(2) of the Cotonou Agreement

It is understood that the measures set out in Article 11B(2) of the Cotonou Agree- ment will be undertaken within an adapted timeframe that takes into account each country specific constraints.

DECLARATION XIV Community declaration on articles 28, 29, 30 and 58 of the Cotonou Agreement and on article 6 of Annex IV

The implementation of the provisions regarding regional cooperation where non- ACP countries are involved will be subject to the implementation of equivalent provisions in the framework of the Communityâs financial instruments on coop- eration with other countries and regions of the world. The Community will inform the ACP Group upon the entry into force of these equivalent provisions.

DECLARATION XV European Union declaration on annex la

1. The European Union undertakes to propose at the earliest opportunity, if at all possible by September 2005, an exact amount for the multiannual financial framework for cooperation under the Agreement amending the Cotonou Agree- ment and its period of application.

2. The minimum aid effort referred to in paragraph 2 of Annex la is guaranteed, without prejudice to the eligibility of the ACP countries for additional resources under other financial instruments which already exist or, potentially, may be cre- ated in support of actions in areas such as emergency humanitarian aid, food security, poverty-related diseases, support for the implementation of the Eco- nomic Partnership Agreements, support for the measures envisaged following the reform of the sugar market, and relating to peace and stability.

3. The deadline for the commitment of funds of the 9th EDF, fixed at 31 Decem- ber 2007, could be reviewed if necessary.

DECLARATION XVI Community declaration on articles 4(3), 5(7), 16(5) and (6) and 17(2) of annex IV

These provisions are without prejudice to the role of the Member States in the decision making process.

DECLARATION XVII Community declaration on article 4(5) of annex IV

Article 4(5) of Annex IV and the return to the standard management arrangements will be implemented by means of a Council decision based on a Commission proposal. This decision will be duly notified to the ACP Group

DECLARATION XVIII Community declaration on article 20 of annex IV

The provisions of Article 20 of Annex IV will be implemented in accordance with the principle of reciprocity with other donors.

DECLARATION XIX Community declaration on articles 34, 35 and 36 of annex IV

The detailed respective responsibilities of management and executing agents of Fund resources are included in a manual on procedures upon which ACP States will be consulted in accordance with Article 12 of the Cotonou Agreement. The manual will be made available to ACP States from the entry into force of the Agreement amending the Cotonou Agreement. Any amendments to the manual will be subject to the same procedure.

DECLARATION XX Community declaration on article 3 of annex VII

As regards the modalities foreseen in Article 3 of Annex VII, the position to be taken by the Council of the European Union within the Council of Ministers will be based on a proposal by the Commission.

Declarations concerning the multi-annual financial framework for the period 2008 to 2013 agreed at the 31st session of the ACP-EC Council of Ministers Port Moresby, Papua New Guinea, 1 and 2 June 2006

1. EPAs: EU Declaration

The Economic Partnership Agreements, as development instruments, aim to foster smooth and gradual integration of the ACP States into the world economy, especial- ly by making full use of the potential of regional integration and South-South trade.

The Commission reconfirms the importance of further steps towards coherent re- gional integration and sectoral policy reforms, and that the gradually arising needs from the implementation of EPAs will be taken into account in the programming dia- logue with the ACP on the end of term review of the 9th EDF and on the resources of the 10th EDF, covering the time period after the entry into force on 1 January 2008.

Moreover, the European Union recalls its commitments to substantially increase Aid for Trade by 2010 in addition to the EDF resources.

2. Decommitted funds: Community Declaration

Based on the performance review in 2010 and a proposal by the Commission, the Council of the European Union will consider a decision by unanimity on the transfer of any funds decommitted from ACP projects funded out of the 9th and previous EDFs into the reserves of the 10th EDF, Given the important develop- ment objectives pursued by EPAs, the Council of the European Union will, in its consideration, also pay attention to giving further support to structural adjust- ment costs and other development needs in the implementation of EPAs.

3. interest subsidies: Community Declaration

Acknowledging the high adaptation costs to which the sugar protocol countries are confronted as a result of the EC sugar reforms, the EIB shall endeavour to direct part of the resources of the Investment Facility and of its own resources towards investments in the sugar sector of the ACP sugar protocol countries. An amount of up to EUR 100 million shall be mobilised where applicable and on the basis of the eligibility criteria set out in Annex II to the Cotonou Agreement from the envelope for grants for the financing of the interest rate subsidies foreseen in paragraph 2(c) of Annex I(b) to the Cotonou Agreement.

Ouagadougou, 22 June 2010 (OJ L 287, 4.11.2010)

DECLARATION I Joint declaration on support for market access in the ACP-EC partnership

The Parties recognise the significant value of preferential market access conditions to ACP economies, specifically for the commodity and other agro- industry sectors which are of critical importance to the economic and social development of the ACP States and constitute a major contribution to em- ployment, export earnings and Government revenue.

The Parties acknowledge that some sectors have been undergoing, with EU support, a process of transformation aimed at

allowing ACP exporters con- cerned to compete in the EU and the international markets, including through the development of branded and other value added products.

They also recognise that additional support could be necessary where greater liberalisation of trade may lead to deeper alteration of market access conditions for ACP producers, To that end, they agree to examine all necessary measures in order to maintain the competitive position of the ACP States in the EU mar- ket, Such examination may include rules of origin, sanitary and phytosanitary measures and implementation of specific measures addressing supply side con- straints in the ACP States. The objective will be to enable ACP States to exploit their existing and potential comparative advantage in the EU market,

When assistance programmes are developed and resources provided, the Par- ties agree to conduct periodic evaluations to assess progress and the results attained and decide on appropriate additional measures to be implemented.

The Joint Ministerial Trade Committee shall monitor the implementation of this Declaration and make appropriate reports and recommendations to the Council of Ministers.

DECLARATION If Joint declaration on migration and development (Article 13)

The Parties agree to strengthen and deepen their dialogue and cooperation in the area of migration, building on the following three pillars of a comprehen- sive and balanced approach to migration:

1. Migration and Development, including issues relating to diasporas, brain drain and remittances;

2. Legal migration including admission, mobility and movement of skills and services; and

3. Illegal migration, including smuggling and trafficking of human beings and border management, as well as readmission.

Without prejudice to the current Article 13, the Parties undertake to work out the details of this enhanced cooperation in the area of migration.

They further agree to work towards the timely completion of this dialogue and to report about the progress made to the next ACP-EC Council.

DECLARATION III European Union declaration on institutional changes resulting from the entry into force of the Treaty of Lisbon

As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to ‘the European Community’ in the text of the Agreement are, where appropriate, to be read as ‘the European Union’.

The European Union will propose to the ACP States an Exchange of Letters with the aim of bringing the Agreement into conformity with the institutional changes in the European Union resulting from the entry into force of the Treaty of Lisbon.