

Brussels, 19 March 2010

**SECOND REVISION OF THE COTONOU AGREEMENT –
AGREED CONSOLIDATED TEXT, 11 MARCH 2010**

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Second Revision of the Cotonou Agreement – Consolidated Agreed Texts, 11th March 2010

Following a series of negotiation sessions, with the last session having taken place on 11 March 2010, the EU and the ACP parties have reached agreement on the included set of text proposals.

Further to the official launch of negotiations at the Joint Council on 29th of May 2009, a series of negotiation sessions side took place between June 2009 and February 2010.

Regarding the organisation of the negotiations, three thematic negotiation groups were set up:

- (i) Political dimension, institutional issues and sector specific policies;
- (ii) Economic cooperation, regional integration and trade;
- (iii) Development finance cooperation and related issues.

In line with Article 95 (3) of the Cotonou Agreement, the negotiations are now to be concluded by an extraordinary ACP-EU Ministerial meeting on 19 March 2010 in Brussels.



PREAMBLE

Paragraph 11

“RECALLING the ~~Libreville and Santo Domingo~~ declarations of the successive Summits of the Heads of State and Government of the ACP States ~~countries at their Summits in 1997 and 1999~~”.

Paragraph 12

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 for a clear vision and must underpin ACP-EC cooperation within this Agreement; ACKNOWLEDGING that the EU and the ACP need to make a concerted effort to accelerate progress towards attaining the Millennium Developing Goals;

Paragraph 12bis

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

Paragraph 13

Paying particular attention to the pledges made and objectives agreed at the ~~Rio, Vienna, Cairo, Copenhagen, Beijing, Istanbul and Rome~~ 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;

Paragraph 13 bis

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;

PART 1, TITLE I

ARTICLE 1 - Objectives of the partnership

The Community (...)

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 and economic, social and cultural and environmental aspects of development. The partnership (...)

(...)

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 principle

(...).

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 (...) 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 (...)

- 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 harmonization, 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 placed on regional integration, including at continental level.**

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 project and programmes in areas that concern them or where these actors have a comparative advantage.

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 subregional 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 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 or sub-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, **and 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.**

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, sub-regional and continental or all-ACP level.**

7. **Regional and sub-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 Annexe VII.

ARTICLE 9 – Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance

3. (...)

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 ~~only~~ serious cases of corruption, including acts of bribery leading to such corruption, as ~~defined~~ referred to in Articles 97 constitute a violation of that element.

4. (...)

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** ~~It~~ shall in particular focus on building **national, regional and continental, ~~sub-regional and national~~** 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, trafficking of, notably, people, drugs and weapons. The impacts of global challenges like international financial market shocks, climate change and pandemics need also 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 expanding security threats with, in Africa, a key responsibility of 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 given 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 the 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. ~~In this context, p~~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 and excessive and uncontrolled spread, illegal trafficking and accumulation of small arms and light weapons and their ammunition, including inadequately secured and poorly managed stocks and stockpiles and uncontrolled spread.

~~In this context t~~The Parties agree to coordinate, observe and to 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 level.

3ba. 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.

65. 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.

76. 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 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 European 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 European 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 States-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.

PART 2:

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 endeavor 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 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 (Article 38) and in the ACP-EC Development Finance Cooperation Committee (Article 83) which feed into the annual regular Council of Ministers meetings.**

(...)

3. The Council of Ministers (...).

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 annually report to the Joint Parliamentary Assembly on the implementation of the Agreement.** It shall examine and take into consideration resolutions and recommendations adopted by the Joint Parliamentary Assembly.

ARTICLE 17 - 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 the 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 ~~or subregional~~ level.

Such meetings at regional level will be organised in pursuance of the objectives laid down in Article 14.2.

PART 3, TITLE I

ARTICLE 19 - Principles and objectives

1. The central objective of the ACP-EC cooperation is poverty reduction und ultimately its eradication; sustainable development; and progressive integration of the ACP countries into the world economy. In this context (...)

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.**

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 level** 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 resource, ~~and fostering regional cooperation and integration;~~

aa) **fostering regional cooperation and integration;**

(...)

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** ~~gender issues, environmental issues~~ and institutional development and capacity building. These areas shall also be eligible for Community support.

(...)

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 private 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.

(...).

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 EU 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 the 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;

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 macroeconomic and monetary 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:

(...)

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 agriculture policies and strategies, strengthening of farmer and private sector organisations, and management of natural resources, development and functioning of agricultural markets. The agricultural production strategies shall reinforce national and regional food security policies and regional integration. In this context, cooperation shall support ACP efforts to adapt enhance the competitiveness of their commodity exports and to adapt their commodity export strategies in the light of evolving trade conditions;

[e renumbered) 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 renumbered) sustainable development of aquaculture and fisheries which include both inland fisheries and marine resources within the economic exclusive zones of the ACP States.

(...)

m) development and implementation of specific adaptation strategies as addressing the impact of ~~mitigation measures of the negative effects of~~ preference erosion, possibly including activities mentioned in a) to l) 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 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 advantage 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 pay 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 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 on line 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, ensuring adequate food supply and security, including through supporting safety nets;

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

e) recognizing 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.

ARTICLE 28 - General approach

1. ~~EU-ACP 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, including inter-regional and intra-ACP cooperation. Regional Cooperation may also involve non-ACP developing countries as well as Overseas Countries and Territories (OCTs) and outermost regions. In this context cooperation support shall aim to:~~

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

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

ab) 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;

~~b) accelerate economic cooperation and development both within and between the regions of the ACP States;~~

~~e) promote the free movement of persons, goods, services, capital, labour and technology among ACP countries;~~

dc) promote the management of sustainable development challenges with a trans-national dimension through inter alia coordination and harmonisation of regional and sub-regional cooperation policies.

~~accelerate diversification of the economies of the ACP States; and;~~

~~e) promote and expand inter and intra-ACP trade and with third countries~~

3. Under the conditions set out in Article 58, cooperation shall also support inter-regional and intra-ACP cooperation such as 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 - EU-ACP cooperation in support of regional cooperation and integration
~~Regional economic integration~~

1. Cooperation shall, in the area of stability, **peace and conflict prevention**, ~~regional economic integration~~, support:

- a) **The promotion and development of a regional political dialogue in areas of conflict prevention and resolution; human rights and democratisation; exchange, 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. Cooperation shall, in the area of regional economic integration, support:

~~a) developing and strengthening the capacities of:~~

~~i) regional integration institutions and organisations set up by the ACP States~~

~~and those with ACP State participation that promote regional cooperation and integration, and~~

~~ii) national governments and parliaments in matters of regional integration;~~

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 or sub regional economic integration initiatives; and**

e) **taking account the mitigation of the effects of net transitional costs of regional integration on budget revenue and balance of payments.**

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. Cooperation shall, in the area of regional policies for sustainable development, support the priorities of ACP regions, in particular:

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

b) **food security and agriculture;**

c) **health, education and training;**

d) **research and technological development;**

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

~~1. Cooperation shall, in the area of regional cooperation, support a wide variety of functional and thematic fields which specifically address common problems and take advantage of scale of economies, including:~~

- ~~a) 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);~~
 - ~~b) the environment; water resource management and energy;~~
 - ~~c) health, education and training;~~
 - ~~d) research and technological development;~~
 - ~~e) regional initiatives for disaster preparedness and mitigation; and~~
 - ~~f) other areas, including arms control, action against drugs, organised crimes, money laundering, bribery and corruption.~~
- ~~2. Cooperation shall also support inter and intra ACP cooperation~~

~~2. Cooperation shall also inter and intra ACP cooperation schemes and initiatives including those involving non ACP developing countries.~~

~~3. Cooperation shall help promote and develop a regional political dialogue in areas of conflict prevention and resolution; human rights and democratisation; exchange, networking, and promotion of mobility between the different actors of development, in particular in civil society.~~

With a view to realise 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;**
- c) non state actors, including the private sector.**

ARTICLE 31 bis - HIV/AIDS

1) 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 in particular aim at:

- a) supporting the development and implementation of comprehensive multisectoral 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 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;

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

ARTICLE 32bis - Climate Change

The Parties acknowledge that climate change is a serious global environmental 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 its paragraph 2 a),

Cooperation shall:

- recognise the vulnerability of ACP States and in particular of small islands and low lying ACP States to climate related phenomena such as coastal erosion, cyclones, flooding and environmentally induced displacements: and in particular of least developed and landlocked ACP States to increasing floods, drought, deforestation and desertification;

- 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;

- enhancing the capacity of ACP States in the development of, and the participation in the global carbon market;

and shall focus on the following activities:

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

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

c) 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;

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

e) providing financial and technical support for mitigation action of ACP states where this benefits their poverty reduction and sustainable development objectives, including reducing emissions from deforestation and degradation and reducing emissions in the agricultural sector;

f) improving weather and climate information and forecasting and early warning systems;

g) promoting renewable energy sources, and low carbon technologies that enhance sustainable development.

ARTICLE 33 - Institutional development and capacity building

(...)

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:

(...)

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 state sovereignty of ACP States in this area.**

Measures may include:

- i) enhancing capacities for domestic revenue management, including building of ~~fair~~, 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.

PART 3, TITLE II

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 given 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 countries' capacity to handle all issues related to trade.

4. Economic and trade cooperation shall be implemented in full conformity with the provisions of the 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, ~~using all means available to achieve the objectives set out above by addressing supply and demand side constraints. In this context, particular regard shall be had to trade development measures as a means of enhancing ACP States' competitiveness. Appropriate weight shall therefore be given to trade development within the ACP States' development strategies, which the Community shall support.~~

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.** ~~, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy.~~ 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.

34. 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.

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 World Trade Organisation (WTO) compatible trading arrangements 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, and recognise the need, therefore, for a preparatory period.

~~3. In order to facilitate the transition to the new trading arrangements, the non-reciprocal trade preferences applied under the Fourth ACP-EC Convention shall be maintained during the preparatory period for all ACP countries, under the conditions defined in Annex V to this Agreement.~~

~~4. In this context, the Parties reaffirm the importance of the commodity protocols, attached to Annex V of this Agreement. They agree on the need to review them in the context of the new trading arrangements, in particular as regards their compatibility with WTO rules, with a view to safeguarding the benefits derived therefrom, bearing in mind the special legal status of the Sugar Protocol~~

ARTICLE 37 - Procedures

~~1. Economic partnership agreements shall be negotiated during the preparatory period which shall end by 31 December 2007 at the latest. Formal negotiations of the new trading arrangements shall start in September 2002 and the new trading arrangements shall enter into force by 1 January 2008, unless earlier dates are agreed between the Parties.~~

~~2. All the necessary measures shall be taken so as to ensure that the negotiations of the Economic Partnership Agreements are successfully concluded and will regularly review the progress of the negotiations within the preparatory period. To this end, the period up to the start of the formal negotiations of the new trading arrangements shall be actively used to make initial preparations for these negotiations.~~

~~31. The preparatory period shall also be used for During the negotiations of the Economic Partnership Agreements, capacity-building shall be provided in accordance with the provisions of Title I and Article 35 into 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 the preparations and negotiations as foreseen in Article 38. and, will in 2006 carry out a formal and comprehensive review of the arrangements planned for all countries to ensure that no further time is needed for preparations or negotiations.~~

~~53. Negotiations of the eEconomic Ppartnership aAgreements will be undertaken 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, taking into account and with a view to supporting regional integration processes within the ACP.~~

~~6. In 2004, the Community will assess the situation of the non-LDC which, after consultations with the Community decide that they are not in a position to enter into economic partnership agreements and will examine all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules.~~

74. Negotiations of the ~~e~~**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 socio-economic 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.

85. 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.

96. ~~The Community will start by the year 2000, a process which by the end of multilateral trade negotiations and at the latest 2005 will allow duty free access for essentially all products from all LDC building on the level of the existing trade provisions of the Fourth ACP-EC Convention and which will~~ **Parties shall discuss further how to simplify and review the rules of origin, 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 EU-ACP cooperation in support of ACP regional cooperation and integration as outlined in Title I, and in accordance with Article 35, the Parties shall give particular attention to the needs arising from the implementation of the Economic Partnership Agreements. The principles outlined in Article 1 of Annex IV shall apply. To that effect, the Parties agree on the use of existing or new regional financing mechanism through which resources from the multi-annual financial framework of cooperation and other additional resources could be channelled.

ARTICLE 37bis ~~Trade negotiations with third countries~~ 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 the economic and trade cooperation, the EU shall endeavour to ~~limit any possible ensuing negative impacts of liberalisation, by phasing it in over the longest period within the multilateral trade system.~~ to pursue measures to overcome possible negative impacts 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 necessary recommendations to the Council of Ministers, including on any supportive measures, with a view to ~~preserving~~ 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 38 bis - 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 consultation 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, provided that the likely affected ACP States are all signatories of the Economic Partnership Agreement within which the consultations were held or information was provided.

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. (...).

5. The Community shall support, **through national and regional development strategies as defined in Title I and in conformity with the 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.(...).

4. The Community shall support, **through national and regional development strategies as defined in Title I and in conformity with the 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 pre-requisite for the successful integration of the ACP countries into the world economy. (...).

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 the Article 35, in particular, be in particular**, directed towards greater complementarity and harmonisation of communication systems, at national, regional and international level and their adaptation to new technologies.

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 establishing full and coordinated participation in the relevant international fora and agreements.

2. The Community shall support the ACP States' efforts, ~~in accordance with the provisions set out in this Agreement and the development strategies agreed between the Parties~~ **through national and regional development strategies as defined in Title I and in conformity with the 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. (...).

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 I and in conformity with the 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. (...).

6. The Parties further agree to strengthen their cooperation in this field. Upon request, ~~and~~ on mutually agreed terms and conditions, **and through national and regional development strategies as defined in Title I and in conformity with the 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 rightholders 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, certification and quality assurance to remove unnecessary technical barriers and to reduce differences between them in those areas, so as to facilitate trade. In this context, they reaffirm their commitment under the Agreement on Technical Barriers to trade, annexed to the WTO Agreement (TBT Agreement).

2. Cooperation in standardisation and certification, **through national and regional development strategies as defined in Title I and in conformity with the 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.

(...).

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. (...).

3. The Parties agree to strengthen their cooperation, **through national and regional development strategies as defined in Title I and in conformity with the 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 environment measures including **in relation with the provisions of Article 32a**.

(...)

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

ARTICLE 50 – Trade and labour standards

(...)

3. The Parties agree that labour standards should not be used for protectionist- ~~trade~~ 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 the 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.

PART 4 TITLE II

CHAPTER 6: Humanitarian, emergency and post-emergency assistance

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 coordination and harmonisation, managing for development results and mutual accountability.** In particular, cooperation shall:
(...).

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

f) developing countries that are not part of the ACP Group where they participate in a joint initiative or regional organisation with ACP States, **in conformity with Article 6 of Annex IV to this Agreement.**

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

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 socio-economic 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

(...).

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

- a) **well-defined poverty-focused national or sector development policies and strategies are in place or under implementation;**
- b) well defined stability-oriented macroeconomic policy established by the country itself and **positively assessed agreed to** by its main donors, **including where relevant the international financial institutions,** is in place or under implementation;
- c) public **financial** management is sufficiently transparent, accountable and effective;

~~Budget support shall be disbursed upon satisfactory progress towards achieving clearly defined objectives, using an approach based on jointly agreed results and performance indicators. The Community shall align on the systems and procedures specific to each ACP country, monitor its budget support progress with the partner country and shall support efforts of partner countries to strengthen domestic accountability, parliamentary control-oversight, audit capacities and public access to information.~~

(...).

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.

(...).

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. ~~In addition, on a case-by-case basis, the use of resources which have not been committed in the framework of past indicative programmes shall be accelerated through the disbursing instruments provided for in this Agreement.~~ The Community furthermore commits itself to examine how in the longer term other Community resources ~~than the EDF~~ can be mobilised in support of internationally agreed debt relief initiatives.

(...).

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.

(...).

ARTICLE 68

1. The Parties recognise that **macro-economic instability resulting from exogenous shocks such as a loss of export earnings, particularly in the agricultural and mining sectors,** 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 instability resulting from exogenous shocks, including the effects on** export earnings, is therefore set up within the **multiannual financial framework for cooperation under this agreement.**

2. The purpose of **this support in cases of exogenous shocks** is to safeguard socio-economic 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 the year of application.~~ 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 Annexe 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.**

PART 4 TITLE II

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 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 multiannual financial framework for cooperation under this Agreement, where such assistance cannot be financed from the EU Budget. Humanitarian, emergency and post-emergency assistance shall be implemented in complementarity and co-ordination 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 socio-economic 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, displaced 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 repatriation and re-integration 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 systems**, 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, ~~or~~ regional indicative programmes **or the intra-ACP programme**. Such actions must be necessary for ~~to ease~~ the transition from the emergency phase to the development phase, promoting the socio-economic 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. If appropriate, short term disaster prevention and preparedness mechanisms 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.

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:
(...).

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 Annexe 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.**
(...).

PART 6

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. ~~This shall not apply, however, to the provisions on economic and trade cooperation, for which a special review procedure is provided for.~~ 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.

(...).

ANNEX II Terms and conditions of financing¹

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 1b paragraph 2(c).

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 1b, paragraph 2(c), and paid directly to the Bank. Up to 10 % of this allocation for interest rate subsidies may also be used to support project related technical assistance in ACP countries.

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 ("HIPC") 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.

¹ Changes to Annex II taken by Joint Council Decision 1/2009 of 29 May 2009 [OJ L 168, 30.06.2009, p. 48], except for art. 2(8) which is a technical adaptation and was agreed by Joint Ambassadorial meeting on 19 October 2009.

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 Ib paragraph 2 c). Investment Facility and shall not exceed 5% of the overall amount allocated for investment financing by the Investment Facility and by the Bank from its own resources.**

ARTICLE 3 – Operations of the investment facility

1. The Investment Facility shall operate in all economic sectors and support investments 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 investments 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 Article 2 (7)(b) shall be eligible for interest rates 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.

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 ~~ACP~~ 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** ~~the Development of Agriculture~~ (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 given to 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; and

d) support ~~for~~ initiatives that contribute to **foster innovation and develop and transfer of technologies, and know-how and best practices on all aspects of business management.**

~~3. The CDE shall:~~

ae) inform the ACP private sector about the provisions of the Agreement;

~~b) diffuse information within the local ACP private sector about the product quality and standards required in external markets; and~~

ef) 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 level 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; and

c) promoting regional and national business environment reforms, including by facilitating the dialogue between private sector and public institutions.

~~d) 4. The CDE shall extend its support for enterprises through qualified and competent enhancing the role and function of national and/or regional service- providing intermediaries.~~

45. 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 statute and rules of procedure of the Centre , ~~including its supervisory bodies;~~

b) appoint the members of the Executive Board;

c) appoint the management of the Centre on a proposal from the Executive Board;

d) monitor the overall strategy of the Centre and supervise the work of the ~~bodies of the Centre;~~ and executive board.

~~d) lay down the rules of operation and the procedures for the adoption of the Centre's budget.~~

~~7. The Committee of Ambassadors shall, in accordance with the procedures and criteria determined by it, appoint the members of the bodies of the Centre.~~

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;

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

(...)

4. Periodic evaluations of the activities undertaken by the CTA shall be carried out.

45. The Committee of Ambassadors shall be the supervisory authority of the Centre. It shall, after the signature of this Agreement:

a) lay down the statute and rules of procedure of the Centre, including its supervisory bodies;

b) appoint the members of the Executive Board;

c) appoint the management of the Centre on a proposal from the Executive Board;

d) monitor the overall strategy of the Centre and supervise the work of the bodies of the Centre; and executive board.

~~d) lay down the rules of operation and the procedures for the adoption of the Centre's budget.~~

~~6. The Committee of Ambassadors shall, in accordance with the procedures and criteria determined by it, appoint the members of the bodies of the Centre.~~

56. 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;

e) perform any other tasks allocated to it by the statutes of the Centre.

(...)

ANNEX IV IMPLEMENTATION AND MANAGEMENT PROCEDURES

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 from 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, **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.

b) an allocation to cover **unforeseen needs such as those defined in article 66, 68, 72-73, accessible under the conditions set out in these articles, where such support cannot be financed from the EU budget.**

3. Provision will be made **on the basis of the reserve for unforeseen needs** for those countries, which, due to exceptional circumstances, can not access normal programmable resources.

4. Without prejudice to Article 5(7) 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 and/or unforeseen such as crisis and post-crisis situations or from unforeseen needs 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 itself 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 CSP and the indicative programme in the light of current needs and performance.

2. In exceptional circumstances **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.** It shall in particular cover an assessment of:

(...)

5. The Commission shall submit **once a year a synthetic** report on the conclusion of the annual **operational** review to the 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 midterm 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).

ARTICLE 6 – Scope

1. Regional cooperation shall cover operations benefiting and involving:

- a) two or more 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; and
- b) equivalent provisions exist in the framework of the Community's financial instruments; and

c) the principle of proportionality is respected.

ARTICLE 7 - Regional programme

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 ~~with a mandate for economic integration~~. 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. ~~In this context, the Community will provide specific support from regional programmes to groups of ACP States who are committed to negotiate economic partnership agreements with the EU.~~

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, 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; and
- 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 article 72-73, 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 article 72-73, where such support cannot be financed from the EU budget. Complementarity between interventions provided 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 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, insofar 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 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 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 12a - 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;

e) An indication of the EU contribution towards achievement of the objectives of the Intra-ACP cooperation and its complementarity to operations financed at national and regional level and by other external partners, particularly the EU Member States;

ARTICLE 12b - Requests for financing

1. Requests for intra-ACP programmes shall be submitted:

a) directly by the ACP Council of Ministers or the ACP Committee of Ambassadors; or

b) indirectly:

- i) by 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; or
- ii) by 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) by 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 12c - 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;
- 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 article 12b.iii), the ACP Committee of Ambassadors shall present each year a consolidated list of request for financing of the priority actions foreseen in the indicative 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 the ACP-EC Partnership 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 reviews, the ACP Committee of Ambassadors and the Commission may adjust the allocations within the intra-ACP indicative programme and mobilize the non-programmed Intra-ACP reserve.

ARTICLE 15 - Identification, preparation and appraisal of programmes and projects

1. Programmes and projects that have been presented by the ACP State **or the relevant organisation or body at regional or intra-ACP level** concerned 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 projects 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 **or the relevant organisation or body at regional or intra-ACP level**.

2. The Commission, acting on behalf of the Community, shall communicate its financing decision to the ACP State **or the relevant organisation or body at regional or intra-ACP level** concerned within 90 days from the date on which the final version of the financial proposal is drawn up.

3. Where the financing proposal is not adopted by the Commission on behalf of the Community, the ACP State **or the relevant organisation or body at regional or intra-ACP level** concerned shall be informed immediately of the reasons for that decision. In such a case, the representatives of the ACP State **or relevant organisation or body at regional or intra-ACP level** concerned 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.

4. 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 **or the relevant organisation or body at regional or intra-ACP level** concerned 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 multiannual 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 - Cost over-runs

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 intended to cover such cost over-runs, 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 over-runs 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 projects 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 programmes, preliminary and seasonal work, orders for equipment with long delivery lead times as well as some on-going 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 under the programme or project, once the financing agreement is signed.

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:

(...)

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.**

(...).

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 contracts²

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.

² Art. 19c was adopted by Joint Council Decision 3/2008 of 15.12.2008; the underlined parts have been introduced by the present revision exercise.

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 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 in an official candidate country of the European Community or in 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.

1bis. Participation in procedures for the awarding of procurement contracts or grants financed from the multiannual financial framework of cooperation under this agreement shall be open to all natural person 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 of 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 point 1. 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 point 1, 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 point 1, 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 point 1, and to all persons eligible under the rules of the above mentioned third State. The same rules apply for supplies and materials.

ARTICLE 21 – Deleted by Joint Council Decision 3/2008.

ARTICLE 22 - Derogation

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 - Deleted by Joint Council Decision 3/2008.

ARTICLE 25 - Deleted by Joint Council Decision 3/2008.

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:

(...)

ARTICLE 27 - Deleted by Joint Council Decision 3/2008.

ARTICLE 28 - Deleted by Joint Council Decision 3/2008.

ARTICLE 29 - Deleted by Joint Council Decision 3/2008.

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 33 – Modalities

1. Without prejudice to evaluations carried out by the ACP States **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 activities **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.

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 - 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. Wherever 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 case 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:

(...).

2. The **relevant** Authorising Officer shall, during the execution of operations and subject to the requirement to inform the Commission, decide on:

(...).

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 Member 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 between the ACP State and the Commission. This institution shall exercise the functions of Paying Agent.

2. The 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 expenditure 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 payment 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 **or the relevant organisation or body at regional or intra-ACP level** concerned, and by the Commission from its own resources, for that part of the delay for which each Party is responsible in accordance with the above procedures.

8. [deleted]

ANNEX V and related Protocols:

- Annex V: Deletion; including
- Protocol 1: Deletion;
- Protocol 2: deletion;
- Protocol 3 deletion;
- Protocol 4 deletion;
- Protocol 5 deletion.
- Update Declaration IX on trade and environment;
- Update Declaration XXIII on Market Access in the ACP-EC Partnership;
- Delete Declarations XXII, XXVI, XXVII, XXIX to XLIII;
- Delete Declaration (rice) and XXV (rum);

ANNEX VII – Political dialogue as regards human rights, democratic principles and the rule of law

ARTICLE 3

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 European Community and its Member States. **The ACP Secretariat and the European Commission shall exchange all required information on the process of political dialogue carried out before, during and after consultations undertaken under Article 96 and Article 97.**

PROTOCOL 3 ON SOUTH AFRICA

ARTICLE 1 - Qualified Status

1. The participation of South Africa in this Agreement is subject to the qualifications set out in this Protocol.

2. The provisions of the bilateral Agreement on Trade, Development and Cooperation between the European Community, its Member States and South Africa ~~signed in Pretoria on 11 October 1999~~, **as amended by the agreement signed on 11 September 2009**, hereinafter referred as the "TDCA", shall take precedence over the provisions of this Agreement.

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 ~~the areas of~~ ACP-EC development finance cooperation listed in Article 8 below, **on the basis of the principles of reciprocity and proportionality**, understanding that South Africa's participation will be ~~fully~~ 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 preferences accorded to natural and legal persons from ACP States.

4. For the purpose of investment financing provided for in Annex II, Chapter 1, 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.

DECLARATION XXIII

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 have major contribution to employment, 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 concerned 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 liberalization 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 market. Such examination may include rules of origin, sanitary and phytosanitary measures and implementation of specific measures addressing supply side constraints in the ACP States. The objective will be to enable ACP States to exploit their existing and potential comparative advantage in the Community market.

When assistance programmes are developed and resources provided, the Parties agree to conduct periodic evaluation 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.