



EUROPEAN COMMISSION

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Proposal for a

### **COUNCIL DECISION**

**concerning the conclusion of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005**

## **EXPLANATORY MEMORANDUM**

By decision of 23 February 2009, the Council authorised the Commission to open negotiations with the African, Caribbean and Pacific Group of States (hereinafter referred to as 'the ACP States') with a view to undertaking the second revision of the Partnership Agreement between the ACP States, of the one part, and the European Community and its Member States, of the other part (hereinafter referred to as 'the Cotonou Agreement').

In line with Article 95 (3) of the Cotonou Agreement, both the ACP and the EU side notified the other party of the provisions that they wished to review with a view to a possible amendment of the Agreement. The ACP and EU notifications converged in many areas, with both parties recognising that the Cotonou Agreement should be further developed in terms of its political dimension, in the area of regional integration and in implementation of the partnership with regard inter alia to development cooperation. It was agreed in this context to set aside the updating of the terms in the Agreement required by the entry into force of the Treaty of Lisbon, and the EU eventually issued a declaration annexed to the Final Act announcing proposals to the ACP states for an exchange of letters with the aim of bringing the Agreement into conformity with the institutional changes resulting from this entry into force.

Following the official launch of negotiations at the Joint Council on 29 May 2009, a series of negotiating sessions took place between June 2009 and March 2010.

In line with Article 95 (3) of the Cotonou Agreement, the negotiations were successfully concluded by an extraordinary Joint Ministerial meeting on 19 March 2010 with the negotiators initialling the texts which aimed at amending the Agreement, the parties thus endorsing the outcome of the negotiations.

By Decision 2010/648/EU of 14 May 2010, the Council authorised the signing of the agreement. The Amending Agreement, which is the result of the negotiations, was consequently signed by both sides on 22 June 2010 at the ACP-EU Council of Ministers held in Ouagadougou, subject to its conclusion at a later date.

Article 95(3) of the Cotonou Agreement authorised the Joint Council to adopt transitional measures in respect of the amended provisions until they come into force. By Council Decision 2010/614/EU of 14 June 2010, the Council approved the position to be adopted by the European Union within the ACP-EU Council of Ministers concerning the transitional measures, and by Decision No 2/2010 of the ACP-EU Council of Ministers of 21 June 2010, the amending provisions are provisionally applied, as from 31 October 2010. This decision also calls on Parties to complete all the necessary procedures to ensure the full entry into force of the Agreement within two years from the date of its signature.

The Commission therefore proposes the Council to adopt a decision concluding the Agreement, according to Article 218(6) TFEU, after having obtained the consent of the European Parliament, according to Article 218(6)(a) TFEU.

Proposal for a

## **COUNCIL DECISION**

**concerning the conclusion of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218 paragraph 6, 2nd subparagraph, littera (a) thereof,

Having regard to the proposal from the Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

Whereas:

- (1) As authorized by the Council on 23 February 2009, the Commission has negotiated on behalf of the Union and its Member States an Agreement, amending, for the second time, the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005, (hereinafter referred to as "the Cotonou Agreement").
- (2) In accordance with Council Decision 2010/648/UE of 14 May 2010 the Agreement was signed by the Parties on 22 June 2010 at the ACP-EU Council of Ministers held in Ouagadougou subject to its conclusion at a later date.
- (3) Decision No 2/2010 of 21 June 2010 of the ACP-EU Council of Ministers adopted a provisional application of the Amending Agreement as from 1 November 2010.
- (4) The Agreement amending for the second time the Cotonou Agreement should be concluded.
- (5) The Declaration III attached to the Final Act adopted by the signatories states that "The European Union will propose to the ACP States an exchange of letters with the aim of bringing the Agreement into conformity with the institutional changes in the European Union resulting from the entry into force of the Treaty of Lisbon".

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<sup>1</sup> OJ C [...], [...], p. [...]

HAS ADOPTED THIS DECISION:

*Article 1*

The Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as amended for a first time in Luxembourg on 25 June 2005, is hereby concluded.

The text of the Agreement to be concluded, and the declarations made by the European Union unilaterally or jointly with other parties and attached to the Final Act, are attached to this Decision as Annex I.

*Article 2*

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to deposit the instrument of approval as provided for in Article 93 of the Cotonou Agreement, in order to express the consent of the European Union to be bound.

*Article 3*

The letter in Annex II to this Decision shall be addressed to the ACP Secretariat.

*Article*

This Decision shall enter into force on the day of its adoption. It shall be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council*  
*The President*

**ANNEXE I**

**AGREEMENT**  
**AMENDING FOR THE SECOND TIME THE PARTNERSHIP AGREEMENT**  
**BETWEEN THE MEMBERS OF THE AFRICAN, CARIBBEAN**  
**AND PACIFIC GROUP OF STATES, OF THE ONE PART,**  
**AND THE EUROPEAN COMMUNITY**  
**AND ITS MEMBER STATES, OF THE OTHER PART,**  
**SIGNED IN COTONOU ON 23 JUNE 2000,**  
**AS FIRST AMENDED IN LUXEMBOURG ON 25 JUNE 2005**

HIS MAJESTY THE KING OF THE BELGIANS,  
THE PRESIDENT OF THE REPUBLIC OF BULGARIA,  
THE PRESIDENT OF THE CZECH REPUBLIC,  
HER MAJESTY THE QUEEN OF DENMARK,  
THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,  
THE PRESIDENT OF THE REPUBLIC OF ESTONIA,  
THE PRESIDENT OF IRELAND,  
THE PRESIDENT OF THE HELLENIC REPUBLIC,  
HIS MAJESTY THE KING OF SPAIN,  
THE PRESIDENT OF THE FRENCH REPUBLIC,  
THE PRESIDENT OF THE ITALIAN REPUBLIC,  
THE PRESIDENT OF THE REPUBLIC OF CYPRUS,  
THE PRESIDENT OF THE REPUBLIC OF LATVIA,  
THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,  
HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,  
THE PRESIDENT OF THE REPUBLIC OF HUNGARY,  
THE PRESIDENT OF MALTA,  
HER MAJESTY THE QUEEN OF THE NETHERLANDS,  
THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,  
THE PRESIDENT OF THE PORTUGUESE REPUBLIC,  
THE PRESIDENT OF ROMANIA,  
THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,  
THE PRESIDENT OF THE SLOVAK REPUBLIC,  
THE PRESIDENT OF THE REPUBLIC OF FINLAND,  
THE GOVERNMENT OF THE KINGDOM OF SWEDEN,  
HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the  
European Union, hereinafter referred to as "the Member States",

and

THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the EU",

of the one part, and

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,  
HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,  
THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,  
THE HEAD OF STATE OF BARBADOS,  
HER MAJESTY THE QUEEN OF BELIZE,  
THE PRESIDENT OF THE REPUBLIC OF BENIN,  
THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,  
THE PRESIDENT OF BURKINA FASO,  
THE PRESIDENT OF THE REPUBLIC OF BURUNDI,  
THE PRESIDENT OF THE REPUBLIC OF CAMEROON,  
THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,  
THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,  
THE PRESIDENT OF THE UNION OF THE COMOROS,  
THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,

THE PRESIDENT OF THE REPUBLIC OF CONGO,  
THE GOVERNMENT OF THE COOK ISLANDS,  
THE PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE,  
THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,  
THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,  
THE PRESIDENT OF THE DOMINICAN REPUBLIC,  
THE PRESIDENT OF THE STATE OF ERITREA,  
THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,  
THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,  
THE PRESIDENT OF THE GABONESE REPUBLIC,  
THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,  
THE PRESIDENT OF THE REPUBLIC OF GHANA,  
HER MAJESTY THE QUEEN OF GRENADA,  
THE PRESIDENT OF THE REPUBLIC OF GUINEA,  
THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,  
THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,  
THE PRESIDENT OF THE REPUBLIC OF HAITI,  
THE HEAD OF STATE OF JAMAICA,  
THE PRESIDENT OF THE REPUBLIC OF KENYA,  
THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,  
HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,  
THE PRESIDENT OF THE REPUBLIC OF LIBERIA,  
THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,  
THE PRESIDENT OF THE REPUBLIC OF MALAWI,  
THE PRESIDENT OF THE REPUBLIC OF MALI,  
THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,  
THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,  
THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,  
THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,  
THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,  
THE GOVERNMENT OF THE REPUBLIC OF NAURU,  
THE PRESIDENT OF THE REPUBLIC OF NIGER,  
THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,  
THE GOVERNMENT OF NIUE,  
THE GOVERNMENT OF THE REPUBLIC OF PALAU,  
HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW  
GUINEA,  
THE PRESIDENT OF THE REPUBLIC OF RWANDA,  
HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,  
HER MAJESTY THE QUEEN OF SAINT LUCIA,  
HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,  
THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,  
THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE,  
THE PRESIDENT OF THE REPUBLIC OF SENEGAL,  
THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,  
THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,  
HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,  
THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,  
THE PRESIDENT OF THE REPUBLIC OF SURINAME,  
HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,  
THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,  
THE PRESIDENT OF THE REPUBLIC OF CHAD,  
THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,  
THE PRESIDENT OF THE TOGOLESE REPUBLIC,



HIS MAJESTY THE KING OF TONGA,  
THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,  
HER MAJESTY THE QUEEN OF TUVALU,  
THE PRESIDENT OF THE REPUBLIC OF UGANDA,  
THE GOVERNMENT OF THE REPUBLIC OF VANUATU,  
THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,  
THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,  
which States are hereinafter referred to as "ACP States",  
of the other part,

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

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

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

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

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

FOR HIS MAJESTY THE KING OF THE BELGIANS,  
FOR THE PRESIDENT OF THE REPUBLIC OF BULGARIA,  
FOR THE PRESIDENT OF THE CZECH REPUBLIC,  
FOR HER MAJESTY THE QUEEN OF DENMARK,  
FOR THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,  
FOR THE PRESIDENT OF THE REPUBLIC OF ESTONIA,  
FOR THE PRESIDENT OF IRELAND,

FOR THE PRESIDENT OF THE HELLENIC REPUBLIC,  
FOR HIS MAJESTY THE KING OF SPAIN,  
FOR THE PRESIDENT OF THE FRENCH REPUBLIC,  
FOR THE PRESIDENT OF THE ITALIAN REPUBLIC,  
FOR THE PRESIDENT OF THE REPUBLIC OF CYPRUS,  
FOR THE PRESIDENT OF THE REPUBLIC OF LATVIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,  
FOR HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,  
FOR THE PRESIDENT OF THE REPUBLIC OF HUNGARY,  
FOR THE PRESIDENT OF MALTA,  
FOR HER MAJESTY THE QUEEN OF THE NETHERLANDS,  
FOR THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF POLAND,  
FOR THE PRESIDENT OF THE PORTUGUESE REPUBLIC,  
FOR THE PRESIDENT OF ROMANIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,  
FOR THE PRESIDENT OF THE SLOVAK REPUBLIC,  
FOR THE PRESIDENT OF THE REPUBLIC OF FINLAND,  
FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN,  
FOR HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND,  
FOR THE EUROPEAN UNION,  
FOR THE PRESIDENT OF THE REPUBLIC OF ANGOLA,  
FOR HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,  
FOR THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,  
FOR THE HEAD OF STATE OF BARBADOS,

FOR HER MAJESTY THE QUEEN OF BELIZE,  
FOR THE PRESIDENT OF THE REPUBLIC OF BENIN,  
FOR THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,  
FOR THE PRESIDENT OF BURKINA FASO,  
FOR THE PRESIDENT OF THE REPUBLIC OF BURUNDI,  
FOR THE PRESIDENT OF THE REPUBLIC OF CAMEROON,  
FOR THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,  
FOR THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,  
FOR THE PRESIDENT OF THE UNION OF THE COMOROS,  
FOR THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,  
FOR THE PRESIDENT OF THE REPUBLIC OF CONGO,  
FOR THE GOVERNMENT OF THE COOK ISLANDS,  
FOR THE PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE,  
FOR THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,  
FOR THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,  
FOR THE PRESIDENT OF THE DOMINICAN REPUBLIC,  
FOR THE PRESIDENT OF THE STATE OF ERITREA,  
FOR THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,  
FOR THE PRESIDENT OF THE GABONESE REPUBLIC,  
FOR THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF GHANA,  
FOR HER MAJESTY THE QUEEN OF GRENADA,  
FOR THE PRESIDENT OF THE REPUBLIC OF GUINEA,  
FOR THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

FOR THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,  
FOR THE PRESIDENT OF THE REPUBLIC OF HAITI,  
FOR THE HEAD OF STATE OF JAMAICA,  
FOR THE PRESIDENT OF THE REPUBLIC OF KENYA,  
FOR THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,  
FOR HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,  
FOR THE PRESIDENT OF THE REPUBLIC OF LIBERIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,  
FOR THE PRESIDENT OF THE REPUBLIC OF MALAWI,  
FOR THE PRESIDENT OF THE REPUBLIC OF MALI,  
FOR THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,  
FOR THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,  
FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,  
FOR THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,  
FOR THE GOVERNMENT OF THE REPUBLIC OF NAURU,  
FOR THE PRESIDENT OF THE REPUBLIC OF NIGER,  
FOR THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,  
FOR THE GOVERNMENT OF NIUE,  
FOR THE GOVERNMENT OF THE REPUBLIC OF PALAU,  
FOR HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA  
NEW GUINEA,  
FOR THE PRESIDENT OF THE REPUBLIC OF RWANDA,  
FOR HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

FOR HER MAJESTY THE QUEEN OF SAINT LUCIA,  
FOR HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,  
FOR THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,  
FOR THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE,  
FOR THE PRESIDENT OF THE REPUBLIC OF SENEGAL,  
FOR THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,  
FOR THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,  
FOR HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,  
FOR THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,  
FOR THE PRESIDENT OF THE REPUBLIC OF SURINAME,  
FOR HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,  
FOR THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,  
FOR THE PRESIDENT OF THE REPUBLIC OF CHAD,  
FOR THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,  
FOR THE PRESIDENT OF THE TOGOLESE REPUBLIC,  
FOR HIS MAJESTY THE KING OF TONGA,  
FOR THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,  
FOR HER MAJESTY THE QUEEN OF TUVALU,  
FOR THE PRESIDENT OF THE REPUBLIC OF UGANDA,  
FOR THE GOVERNMENT OF THE REPUBLIC OF VANUATU,  
FOR THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,  
FOR THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,  
WHO, having exchanged their Full Powers, found in good and due form,  
HAVE AGREED AS FOLLOWS:

## SOLE ARTICLE

In accordance with the procedure laid down in Article 95 thereof, the Cotonou Agreement is hereby amended as follows:

### A. PREAMBLE

1. The eleventh recital, commencing "RECALLING the Libreville and Santo Domingo declarations ...", is replaced by the following:

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

2. The twelfth recital, commencing "CONSIDERING that the Millennium Development Goals ...", is replaced by the following:

"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-EU cooperation within this Agreement; acknowledging that the EU and the ACP States need to make a concerted effort to accelerate progress towards attaining the Millennium Development Goals;"

3. After the twelfth recital, commencing "CONSIDERING that the Millennium Development Goals ...", the following recital is inserted:

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

4. The thirteenth recital, commencing "PAYING particular attention to the pledges ...", is replaced by the following:

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

5. After the thirteenth recital, commencing "PAYING particular attention to the pledges .", the following recital is inserted:

"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;"

## **B. TEXT OF THE ARTICLES OF THE COTONOU AGREEMENT**

1. Article 1 is amended as follows:

(a) the third paragraph is replaced by the following:

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

(b) the fourth paragraph is replaced by the following:

"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.".

2. Article 2 is replaced by the following:

"Article 2

Fundamental principles

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

- equality of the partners and ownership of the development strategies: for the purposes of implementing the objectives of the partnership, the ACP States shall determine the development strategies for their economies and societies in all sovereignty and with due regard for the essential and fundamental elements described in Article 9; the partnership shall encourage ownership of the development strategies by the countries and populations concerned; EU development partners shall align their programmes with these strategies;
- participation: apart from central government as the main partner, the partnership shall be open to ACP parliaments, and local authorities in ACP States and different kinds of other actors in order to encourage the integration of all sections of society,

including the private sector and civil society organisations, into the mainstream of political, economic and social life;

- the pivotal role of dialogue and the fulfilment of mutual obligations and accountability: the obligations assumed by the Parties in the framework of their dialogue shall be central to their partnership and cooperation relations; the Parties shall work closely together in determining and implementing the necessary processes of donor alignment and harmonisation, with a view to securing a key role for ACP States in these processes;
- differentiation and regionalisation: cooperation arrangements and priorities shall vary according to a partner's level of development, its needs, its performance and its long-term development strategy. Special treatment shall be given to the least-developed countries. The vulnerability of landlocked and island countries shall be taken into account. Particular emphasis shall be put on regional integration, including at continental level."

3. Article 4 is replaced by the following:

"Article 4

General approach

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

- be informed and involved in consultation on cooperation policies and strategies, on priorities for cooperation especially in areas that concern or directly affect them, and on the political dialogue;
- be provided with capacity-building support in critical areas in order to reinforce the capabilities of these actors, particularly as regards organisation and representation, and the establishment of consultation mechanisms including channels of communication and dialogue, and to promote strategic alliances.

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

- be provided with financial resources, under the conditions laid down in this Agreement in order to support local development processes;
- be involved in the implementation of cooperation projects and programmes in areas that concern them or where these actors have a comparative advantage."

4. Article 6 is amended as follows:

- (a) paragraph 1 is replaced by the following:



"1. The actors of cooperation will include:

- (a) State (local, regional and national), including ACP national parliaments;
- (b) ACP regional organisations and the African Union. For the purpose of this Agreement the notion of regional organisations or levels shall also include sub-regional organisations or levels;
- (c) non-State:
  - private sector;
  - economic and social partners, including trade union organisations;
  - civil society in all its forms according to national characteristics.";
- (b) in paragraph 2 the words "non-governmental actors" are replaced by "non-State actors".

5. Article 8 is replaced by the following:

"Article 8

Political dialogue

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

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

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

4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs, organised crime or child labour, or discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The dialogue shall also

encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance.

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

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

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

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

6. Article 9 is amended as follows:

(a) in paragraph 3, the second subparagraph is replaced by the following:

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

(b) in paragraph 4, the following subparagraph is added:

"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.".

7. Article 10 is amended as follows:

(a) in paragraph 1, the second indent is replaced by the following:

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

(b) in paragraph 2, the words "market economy" are replaced by "social market economy".

8. Article 11 is replaced by the following:

"Article 11

Peace-building policies, conflict prevention and resolution, response to situations of fragility

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

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

The Parties emphasize 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 for the African Union.

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

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

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

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

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

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

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

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

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

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

- share experience in the adoption of legal adjustments required to allow for the ratification and implementation of the Rome Statute of the International Criminal Court; and
- fight against international crime in accordance with international law, giving due regard to the Rome Statute.

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

9. Article 12 is replaced by the following:

"Article 12

Coherence of Community policies and their impact on the implementation of this Agreement

The Parties are committed to addressing policy coherence for development in a targeted, strategic and partnership-oriented way, including strengthening dialogue on issues of policy coherence for development. The Union acknowledges that Union policies, other than development policy, can support the development priorities of ACP States in line with the objectives of this Agreement. On this basis the Union will enhance the coherence of those policies with a view to attaining the objectives of this Agreement.

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

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

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

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

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

10. Article 14 is replaced by the following:

"Article 14

The joint institutions

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

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

11. The following Article is inserted:

"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."

12. Article 15 is amended as follows:

(a) in paragraph 1, the third subparagraph is replaced by the following:

"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, as set out in Article 38, and in the ACP-EC Development Finance Cooperation Committee, as set out in Article 83, which feed into the annual regular Council of Ministers meetings.";

- (b) in paragraph 3, the second subparagraph is replaced by the following:

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

13. Article 17 is amended as follows:

- (a) paragraph 2 is amended as follows:

- (i) the third and fourth indents are replaced by the following:

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

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

- (ii) the following indent is added:

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

- (b) paragraph 3 is replaced by the following:

"3. The Joint Parliamentary Assembly shall meet twice a year in plenary session, alternately in the European Union and in an ACP State. With a view to strengthening regional integration and fostering cooperation between national parliaments meetings between EU and ACP members of parliament shall be arranged at regional level.

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

14. Article 19(2) is replaced by the following:

"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."

15. Article 20 is amended as follows:

- (a) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

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

(ii) point (a) is replaced by the following:

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

(iii) the following point is inserted:

"(aa) fostering regional cooperation and integration;"

(b) paragraph 2 is replaced by the following:

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

16. Article 21 is amended as follows:

(a) in the introductory part of paragraph 1, the words "private investment" are replaced by "investment";

(b) in paragraph 3, point (c), the words "enhancement of" are replaced by "enhancing";

(c) paragraph 5 is replaced by the following:

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

(d) the following paragraph is added:

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

17. In Article 22(1), point (b), the introductory wording is replaced by the following:



"(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:".

18. Article 23 is replaced by the following:

"Article 23

Economic sector development

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

- (a) the development of training systems that help increase productivity in both the formal and the informal sectors;
- (b) capital, credit, land, especially as regards property rights and use;
- (c) development of rural strategies aimed at establishing a framework for participatory decentralised planning, resource allocation and management;
- (d) the development of strategies with a view to enhancing agricultural production and productivity in ACP States by providing, in particular, the necessary financing for agricultural research, agricultural inputs and services, supportive rural infrastructure, and risk reduction and management. Support shall include public and private investments in agriculture, encouragement to develop agricultural policies and strategies, strengthening of farmer and private sector organisations, management of natural resources, and development and functioning of agricultural markets. The agricultural production strategies shall reinforce national and regional food-security policies and regional integration. In this context, cooperation shall support ACP efforts to enhance the competitiveness of their commodity exports and to adapt their commodity export strategies in the light of evolving trade conditions;
- (e) sustainable development of water resources, based on integrated water resources management principles, ensuring equitable and sustainable distribution of shared water resources between their different uses;
- (f) sustainable development of aquaculture and fisheries which include both inland fisheries and marine resources within the economic exclusive zones of the ACP States;
- (g) economic and technological infrastructure and services, including transport, telecommunication systems, communication services and the development of information society;
- (h) development of competitive industrial, mining and energy sectors, while encouraging private sector involvement and development;
- (i) trade development, including the promotion of fair trade;
- (j) development of business, finance and banking; and other service sectors;

- (k) tourism development;
- (l) development of scientific, technological and research infrastructure and services; including the enhancement, transfer and absorption of new technologies;
- (m) the strengthening of capacities in productive areas, especially in public and private sectors;
- (n) the promotion of traditional knowledge; and
- (o) development and implementation of specific adaptation strategies addressing the impact of preference erosion, possibly including activities mentioned in points (a) to (n) above."

19. The following Article is inserted:

"Article 23a

#### Fisheries

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

Cooperation programmes and activities shall support, inter alia, the development and implementation of sustainable aquaculture and fisheries development strategies and management plans in ACP countries and regions; the mainstreaming of aquaculture and fisheries into national and regional development strategies; the development of the infrastructure and technical know-how necessary to enable ACP countries to yield maximum sustainable value from their fisheries and aquaculture; capacity building of ACP countries to overcome external challenges that hinder them from taking full 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 give due consideration to consistency with the development strategies in this area.

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

20. In Article 25(1), points (a) and (b) are replaced by the following:

"(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 and ensuring adequate food supply and security, including through supporting safety nets;"

21. Article 27 is amended as follows:

(a) the title is replaced by the following:

"Culture and development";

(b) point (c) is replaced by the following:

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

(c) the following points are added:

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

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

22. Articles 28, 29 and 30 are replaced by the following:

"Article 28

General approach

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

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

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

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

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

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

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

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

(c) non-ACP developing countries.

## Article 29

### ACP-EU cooperation in support of regional cooperation and integration

1. In the area of stability, peace and conflict prevention, cooperation shall support:
  - (a) the promotion and development of a regional political dialogue in areas of conflict prevention and resolution; human rights and democratisation; 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. In the area of regional economic integration, cooperation shall support:
  - (a) the participation of Least Developed Countries (LDC) ACP States in the establishment of regional markets and sharing the benefits there from;
  - (b) the implementation of sectoral economic reform policies at regional level;
  - (c) the liberalisation of trade and payments;
  - (d) the promotion of cross-border investments both foreign and domestic, and other regional economic integration initiatives;
  - (e) the mitigation of the effects of net transitional costs of regional integration on budget revenue and balance of payments; and
  - (f) infrastructure, particularly transport and communications and safety thereof, and services, including the development of regional opportunities in the area of Information and Communication Technologies (ICT).
3. In the area of regional policies for sustainable development, cooperation shall support the priorities of ACP regions and, in particular:
  - (a) the environment and the sustainable management of natural resources, including water and energy, and addressing climate change;
  - (b) food security and agriculture;
  - (c) health, education and training;
  - (d) research and technological development; and
  - (e) regional initiatives for disaster preparedness and mitigation as well as post-disaster reconstruction.

## Article 30

### Capacity building in support of ACP regional cooperation and integration

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

- (a) regional integration institutions and organisations set up by the ACP States and those with ACP State participation that promote regional cooperation and integration;
- (b) national governments and parliaments in matters of regional integration; and
- (c) non-State actors, including the private sector."

23. The following Article is inserted:

"Article 31a

#### HIV/AIDS

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

- (a) supporting the development and implementation of comprehensive multi-sectoral strategies and plans for HIV/AIDS as a priority in national and regional development plans;
- (b) involving, in national responses to HIV/AIDS, all appropriate development sectors and ensuring a broad mobilisation of stakeholders at all levels;
- (c) strengthening national health systems and addressing shortages in human resources for health as the basis for ensuring universal access to, and the effective integration of, HIV/AIDS prevention, treatment and care and other health services;
- (d) addressing gender inequality, gender-based violence and abuse, as drivers of the HIV/AIDS pandemic and intensifying efforts to safeguard women's and girls' rights, develop effective gender sensitive HIV/AIDS programmes and services for women and girls, including those related to sexual and reproductive health and rights, and to support the full involvement of women in planning and decision making related to HIV/AIDS strategies and programmes;
- (e) developing supportive legal and policy frameworks and removing punitive laws, policies, practices, stigma and discrimination that undermine human rights, increase vulnerability to HIV/AIDS and inhibit access to effective HIV/AIDS prevention, treatment, care and support, including medicines, commodities and services for people living with HIV/AIDS and for the populations most at risk;

- (f) scaling up access to evidence-based, comprehensive HIV/AIDS prevention, which address the local drivers of the epidemic and the specific needs of women, young people and the populations most at risk; and
- (g) ensuring universal and reliable access to safe, high-quality and affordable medicines, and to health commodities, including sexual and reproductive health commodities."

24. The following Article is inserted:

"Article 32a

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 point (a) of paragraph 2 thereof, cooperation shall:

- (a) 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;
- (b) strengthen and support policies and programmes to mitigate and adapt to the consequences of, and threat posed by, climate change including through institutional development and capacity building;
- (c) enhance the capacity of ACP States in the development of, and the participation in, the global carbon market; and
- (d) focus on the following activities:
  - (i) integrating climate change into development strategies and poverty reduction efforts;
  - (ii) raising the political profile of climate change in development cooperation, including through appropriate policy dialogue;
  - (iii) assisting ACP states to adapt to climate change in relevant sectors such as agriculture, water management and infrastructure, including through transfer and adoption of relevant and environmentally sound technologies;
  - (iv) promoting disaster risk reduction, reflecting that an increasing proportion of disasters are related to climate change;
  - (v) providing financial and technical support for mitigation action of ACP states in line with their poverty reduction and sustainable development objectives, including reducing emissions from deforestation and forest degradation and reducing emissions in the agricultural sector;

- (vi) improving weather and climate information and forecasting and early warning systems; and
- (vii) promoting renewable energy sources, and low-carbon technologies that enhance sustainable development."

25. In Article 33(3), point (c) is replaced by the following:

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

Measures may include:

- (i) enhancing capacities for domestic revenue management, including the building of effective, efficient and sustainable tax systems;
- (ii) promoting the participation in international tax cooperation structures and processes with a view to facilitating the further development of and effective compliance with international standards;
- (iii) supporting implementation of international best practices in tax matters, including the principle of transparency and exchange of information, in those ACP countries that have committed to them;"

26. Article 34(2) to (4) are replaced by the following:

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

3. To this end, economic and trade cooperation shall aim, through national and regional development strategies as defined in Title I, at enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment. It shall further aim at creating a new trading dynamic between the Parties, at strengthening the ACP countries' trade and investment policies, at reducing their dependency on commodities, at promoting more diversified economies and at improving the ACP 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 World Trade Organisation (WTO), including special and differential treatment, taking account of the Parties' mutual interests and their respective levels of development. It shall also address the effects of preference erosion in full conformity with multilateral commitments."

27. Article 35(1) and (2) are replaced by the following:

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

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

28. Articles 36 and 37 are replaced by the following:

"Article 36

Modalities

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

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

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

Article 37

Procedures

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

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

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

4. Negotiations of the Economic Partnership Agreements shall aim notably at establishing the timetable for the progressive removal of barriers to trade between the Parties, in accordance with the relevant WTO rules. On the Community side trade liberalisation shall build on the *acquis* and shall aim at improving current market access for the ACP countries



through, inter alia, a review of the rules of origin. Negotiations shall take account of the level of development and the 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.

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

6. The Parties shall discuss further how to simplify and review the rules of 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 ACP-EU cooperation in support of ACP regional cooperation and integration as outlined in Title I, and in accordance with Article 35, the Parties shall pay particular attention to the needs arising from the implementation of the Economic Partnership Agreements. The principles outlined in Article 1 of Annex IV to this Agreement shall apply. To that effect, the Parties agree on the use of existing or new regional financing mechanisms through which resources from the multi-annual financial framework of cooperation and other additional resources could be channelled."

29. The following Article is inserted:

"Article 37a

Other trading arrangements

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

2. In accordance with the objectives of economic and trade cooperation, the EU shall endeavour to pursue measures to overcome possible negative 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."

30. Article 38(2) is replaced by the following:

"2. The Ministerial Trade Committee shall discuss any trade-related issue of concern to all ACP States and, in particular, regularly monitor the negotiations and implementation of Economic Partnership Agreements. It shall pay special attention to current multilateral trade negotiations and shall examine the impact of the wider liberalisation initiatives on ACP-EC trade and the development of ACP economies. It shall report and make appropriate

recommendations to the Council of Ministers, including on any supportive measures, with a view to enhancing the benefits of the ACP-EC trading arrangements."

31. The following Article is inserted:

"Article 38a

#### Consultations

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

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

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

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

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

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

32. Article 41(5) is replaced by the following:

"5. The Community shall support, through national and regional development strategies as defined in Title I and in conformity with Article 35, the ACP States' efforts to 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."

33. Article 42(4) is replaced by the following:

"4. The Community shall support, through national and regional development strategies as defined in Title I and in conformity with Article 35, the ACP States' efforts to develop and

promote cost-effective and efficient maritime transport services in the ACP States with a view to increasing the participation of ACP operators in international shipping services."

34. Article 43(5) is replaced by the following:

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

35. Article 44(2) is replaced by the following:

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

36. Article 45(3) is replaced by the following:

"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 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."

37. Article 46(6) is replaced by the following:

"6. The Parties further agree to strengthen their cooperation in this field. Upon request, on mutually agreed terms and conditions, and through national and regional development strategies as defined in Title I and in conformity with Article 35, cooperation shall, inter alia, extend to the following areas: the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by 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."

38. In Article 47(2), the introductory wording is replaced by the following:

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

39. Article 48(3) is replaced by the following:

"3. The Parties agree to strengthen their cooperation, through national and regional development strategies as defined in Title I and in conformity with Article 35, with a view to

reinforcing the capacity of the public and the private sector of the ACP countries in this field."

40. Article 49 is amended as follows:

(a) paragraph 1 is replaced by the following:

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

(b) the following paragraph is added:

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

41. Article 50(3) is replaced by the following:

"3. The Parties agree that labour standards should not be used for protectionist purposes."

42. Article 51(2) is replaced by the following:

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

43. Article 56(1), is replaced by the following:

"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:

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

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

- (c) emphasise the importance of predictability and security in resource flows, granted on highly concessional terms and on a continuous basis;
- (d) be flexible and appropriate to the situation in each ACP State as well as adapted to the specific nature of the project or programme concerned; and
- (e) ensure efficiency, coordination and consistency."

44. Article 58 is amended as follows:

- (a) in paragraph 1, point (b) is replaced by the following:

"(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";

- (b) paragraph 2 is amended as follows:

- (i) point (d) is replaced by the following:

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

- (ii) point (f) is replaced by the following:

"(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."

45. Article 60 is amended as follows:

- (a) point (c) is replaced by the following:

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

- (b) point (g) is replaced by the following:

"(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."

46. Article 61 is amended as follows:

- (a) paragraph 2 is replaced by the following:

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

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

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

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

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

(b) paragraph 5 is replaced by the following:

"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.".

47. Article 66(1) is replaced by the following:

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

48. Article 67(1) is replaced by the following:

"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.".

49. The title of Chapter 3 of Title II of Part 4, is replaced by the following:

"CHAPTER 3

Support in case of exogenous shocks".

50. Article 68 is replaced by the following:

"Article 68

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

2. The purpose of this support is to safeguard 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 this context, the least developed, landlocked and island, post-conflict and post-natural disaster ACP States shall receive more favourable treatment.

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

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

51. The title of Chapter 6 of Title II of Part 4 is replaced by the following:

"CHAPTER 6

Humanitarian, emergency and post-emergency assistance".

52. Article 72 is replaced by the following:

"Article 72

General principle

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

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

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

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

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

53. The following Article is inserted:

"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, with a view to reducing the consequences of disasters.

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

3. Post-emergency action shall aim at physical and social rehabilitation consequent to the results of the crisis concerned and may be undertaken to link the short-term relief and rehabilitation with the relevant longer term development programmes funded from the national, regional indicative programmes or the intra-ACP programme. Such actions must be necessary for the transition from the emergency phase to the development phase, promoting the 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. Where appropriate, short-term disaster prevention and preparedness mechanisms as referred to in paragraph 1(e) will be coordinated with other disaster prevention and preparedness mechanisms in place.

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

54. Article 73 is replaced by the following:

"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."

55. In Article 76(1), point (d) is replaced by the following:

"(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."

56. In Article 95(3), the first subparagraph is replaced by the following:

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

57. In Article 100, the second paragraph is replaced by the following:

"This Agreement, drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, all texts

being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union and the Secretariat of the ACP States, which shall both transmit a certified copy to the government of each of the Signatory States."

## C. ANNEXES

1. Annex II, as amended by Decision No 1/2009 of the ACP-EC Council of Ministers of 29 May 2009<sup>2</sup>, shall be amended as follows:

### (a) Article 1 is replaced by the following:

#### "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 channeled to eligible enterprises, either directly or indirectly, through eligible investment funds and/or financial intermediaries.

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

3. Interest subsidies may be capitalised or may be used in the form of grants. The amount of the interest rate subsidy, calculated in terms of its value at the times of disbursement of the loan, shall be charged against the interest subsidy allocation specified in Annex Ib, paragraph 2(c), and paid directly to the Bank. Up to 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.";

### (b) Article 2(7) and (8) are replaced by the following:

"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 %;

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<sup>2</sup> OJ EU L 168, 30.6.2009, p. 48

- (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 point (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), to this Agreement.";

**(c) Article 4(2) is replaced by the following:**

"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 rate subsidies on the terms specified in that provision.

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

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

2. Annex III is amended as follows:

**(a) in Article 1, points (a) and (b) are replaced by the following:**

"(a) strengthen and enhance the role of the Centre for the Development of Enterprise (CDE) so as to provide the private sector with the necessary support in the promotion of private sector development activities in ACP countries and regions; and

(b) strengthen and reinforce the role of the Technical Centre for Agricultural and Rural Cooperation (CTA) in ACP institutional capacity development, particularly information management, in order to improve access to technologies for increasing agricultural productivity, commercialisation, food security and rural development.";

**(b) Article 2 is replaced by the following:**

"Article 2

CDE

1. The CDE shall promote a business environment which is conducive to private sector development and support the implementation of private sector development strategies in the ACP countries by providing non-financial services, including consultancy services, to ACP companies and businesses and support to joint initiatives set up by economic operators of the Community and of the ACP States. In this regard, due account shall be taken of the needs arising from the implementation of the Economic Partnership Agreements.

2. The CDE shall aim to assist private ACP enterprises to become more competitive in all sectors of the economy. It shall in particular:

- (a) facilitate and promote business cooperation and partnerships between ACP and EU enterprises;
- (b) assist with the development of business support services through support for capacity building in private sector owned organisations or support for providers of technical, professional, management, commercial and training support services;
- (c) provide assistance for investment promotion activities, such as investment promotion organisations, organisation of investment conferences, training programmes, strategy workshops and follow-up investment promotion missions;
- (d) support initiatives that contribute to fostering innovation and the transfer of technologies, know-how and best practices on all aspects of business management;
- (e) inform the ACP private sector about the provisions of this Agreement; and
- (f) provide information to European companies and private sector organisations on business opportunities and modalities in ACP countries.

3. The CDE shall also contribute to the improvement of business environment at national and regional levels so as to support enterprises to take advantage of the progress in regional integration processes and trade opening. This shall include:

- (a) assisting enterprises in meeting existing and new quality and other standards introduced by progress in regional integration and the implementation of the Economic Partnership Agreements;
- (b) diffusing information within the local ACP private sector about the product quality and standards required in external markets;
- (c) promoting regional and national business environment reforms, including by facilitating the dialogue between private sector and public institutions; and

- (d) enhancing the role and function of national and/or regional service-providing intermediaries.

4. The activities of the CDE shall be based on the concept of coordination, complementarity and added value in respect of any private sector development initiatives taken by public or private entities. In particular, its activities shall be consistent with the national and regional development strategies as defined in Part 3 of this Agreement. The CDE shall exercise selectivity and ensure financial sustainability in undertaking its tasks. It shall ensure an appropriate division of tasks between its Headquarters and regional offices.

5. Periodic evaluations of the activities undertaken by the CDE shall be carried out.

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

- (a) lay down the statutes of the Centre;
- (b) appoint the members of the Executive Board;
- (c) appoint the management of the Centre on a proposal from the Executive Board; and
- (d) monitor the overall strategy of the Centre and supervise the work of the Executive Board.

7. The Executive Board shall, according to the statutes of the Centre:

- (a) lay down the financial and staff regulations and the rules of operation;
- (b) supervise its work;
- (c) adopt the programme and the budget of the Centre;
- (d) submit periodic reporting and evaluations to the Supervisory Authority; and
- (e) perform any other tasks allocated to it by the statutes of the Centre.

8. The budget of the Centre shall be financed in accordance with the rules laid down in this Agreement in respect of development finance cooperation.";

**(c) Article 3 is replaced by the following:**

"Article 3

CTA

1. The mission of the CTA shall be to strengthen policy and institutional capacity development and information and communication management capacities of ACP agricultural and rural development organisations. It shall assist such organisations in formulating and implementing policies and programmes to reduce poverty, promote sustainable food security, preserve the natural resource base, and thus contribute to building self-reliance in ACP rural and agricultural development.

2. The CTA shall:

- (a) develop and provide information services and ensure better access to research, training and innovations in the spheres of agricultural and rural development and extension, in order to promote agriculture and rural development; and
- (b) develop and reinforce ACP capacities in order to:
  - (i) improve the formulation and management of agricultural and rural development policies and strategies at national and regional levels including improved capacity for data collection, policy research, analysis and formulation;
  - (ii) improve the information and communication management, in particular within the National Agricultural Strategy;
  - (iii) promote effective intra-institutional Information and Communication Management (ICM) for performance monitoring, as well as consortia with regional and international partners;
  - (iv) promote decentralised ICM at local and national levels;
  - (v) strengthen initiatives via regional cooperation; and
  - (vi) develop approaches for assessing the impact of policy on agricultural and rural development.

3. The Centre shall support regional initiatives and networks and shall progressively share capacity development programmes with appropriate ACP organisations. To this end, the Centre shall support decentralised regional information networks. Such networks shall be built up gradually and efficiently.

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

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

- (a) lay down the statutes of the Centre;
- (b) appoint the members of the Executive Board;
- (c) appoint the management of the Centre on a proposal from the Executive Board; and
- (d) monitor the overall strategy of the Centre and supervise the work of the Executive Board.

6. The Executive Board shall, according to the statutes of the Centre:

- (a) lay down the financial and staff regulations and the rules of operation;
- (b) supervise its work;

- (c) adopt the programme and the budget of the Centre;
- (d) submit periodic reporting and evaluations to the Supervisory Authority; and
- (e) perform any other tasks allocated to it by the statutes of the Centre.

7. The budget of the Centre shall be financed in accordance with the rules laid down in this Agreement in respect of development finance cooperation."

3. Annex IV, as amended by Decision No 3/2008 of the ACP-EC Council of Ministers of 15 December 2008<sup>3</sup>, is amended as follows:

(a) Articles 1, 2 and 3 are replaced by the following:

#### "Article 1

Operations financed by grants within the framework of this Agreement shall be programmed at the beginning of the period covered by the multi-annual financial framework of cooperation.

Programming will be based on the principles of ownership, alignment, donor coordination and harmonisation, managing for development results and mutual accountability.

Programming for this purpose shall mean:

- (a) the preparation and development of country, regional or intra-ACP strategy papers (SP) based on their own medium-term development objectives and strategies, and taking into account the principles of joint programming and division of labour among donors, which shall, to the extent possible, be a partner country or region led process;
- (b) a clear indication from the Community of the indicative programmable financial allocation from which the country, region or intra-ACP cooperation may benefit during the period covered by the multi-annual financial framework of cooperation under this Agreement as well as any other relevant information, including a possible reserve for unforeseen needs;
- (c) the preparation and adoption of an indicative programme for implementing the SP, taking into account commitments of other donors, and in particular of the EU Member States; and
- (d) a review process covering the SP, the indicative programme and the volume of resources allocated to it.

#### Article 2

##### Country strategy paper

The country strategy paper (CSP) shall be prepared by the ACP State concerned and the EU. It shall draw from prior consultation with a wide range of actors including non-State actors, local authorities and, where relevant, ACP Parliaments, and shall draw on lessons learned and

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<sup>3</sup> OJ EU L 352, 31.12.2008, p. 59.

best practices. Each CSP shall be adapted to the needs and respond to the specific circumstances of each ACP State. The CSP shall be an instrument to prioritise activities and to build local ownership of cooperation programmes. Any divergences between the country's own analysis and that of the Community shall be noted. The CSP shall include the following standard elements:

- (a) an analysis of the political, economic, social, and environmental country context, constraints, capacities and prospects including an assessment of basic needs, such as income per capita, population size and social indicators, and vulnerability;
- (b) a detailed outline of the country's medium-term development strategy, clearly defined priorities and expected financing requirements;
- (c) an outline of relevant plans and actions of other donors present in the country, in particular including those of the EU Member States in their capacity as bilateral donors;
- (d) response strategies, detailing the specific contribution the EU can provide. These shall, to the extent possible, enable complementarity with operations financed by the ACP State itself and by other donors present in the country; and
- (e) an indication of the most appropriate support and implementation mechanisms to be applied in implementing the above strategies.

### Article 3

#### Resource allocation

1. The indicative resource allocation among ACP countries shall be based on standard, objective and transparent needs and performance criteria. In this context:

- (a) needs shall be assessed on the basis of criteria pertaining to per capita income, population size, social indicators and level of indebtedness and vulnerability to exogenous shocks. Special treatment shall be accorded to the least developed ACP States, and the vulnerability of island and landlocked States shall duly be taken into account. In addition, account shall be taken of the particular difficulties of countries dealing with the aftermath of conflict or natural disaster; and
- (b) performance shall be assessed on the basis of criteria pertaining to governance, progress in implementing institutional reforms, country performance in the use of resources, effective implementation of current operations, poverty alleviation or reduction, progress towards achieving the Millennium Development Goals, sustainable development measures and macroeconomic and sectoral policy performance.

2. The allocated resources shall comprise:

- (a) a programmable allocation to cover macroeconomic support, sectoral policies, programmes and projects in support of the focal or non-focal areas of Community assistance. The programmable allocation shall facilitate the long-term programming of Community aid for the country concerned. Together with



other possible Community resources, these allocations shall be the basis for the preparation of the indicative programme for the country concerned; and

- (b) an allocation to cover unforeseen needs such as those defined in Articles 66 and 68 and Articles 72, 72a and 73 of this Agreement, accessible under the conditions set out in those Articles, where such support cannot be financed from the Union's budget.

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

4. Without prejudice to Article 5(7) of this Annex concerning reviews, the Community may, in order to take account of new needs or exceptional performance, increase a country's programmable allocation or its allocation for unforeseen needs:

- (a) new needs may result from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);
- (b) exceptional performance is a situation in which, outside the mid-term and end-of-term reviews, a country's programmable allocation is totally committed and additional funding from the national indicative programme can be absorbed against a background of effective poverty-reduction policies and sound financial management.";

**(b) Article 4(1) to (4) are replaced by the following:**

"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.";

**(c) Article 5 is amended as follows:**

- (i) paragraph 2 is replaced by the following:

"2. In exceptional circumstances as referred to in Article 3(4), in order to take into account new needs or exceptional performance, an ad hoc review can be carried out on the demand of either Party.";

- (ii) in paragraph 4, the introductory wording is replaced by the following:

"4. The annual operational, mid-term and end-of-term reviews of the indicative programme shall consist of a joint assessment of the implementation of the programme and take into account the results of relevant activities of monitoring and evaluation. These reviews shall be conducted locally and shall be finalised between the National Authorising Officer and the Commission, in consultation with the appropriate stakeholders, including non-State actors, local authorities and, where relevant, ACP parliaments. They shall in particular cover an assessment of:";

- (iii) paragraphs 5, 6 and 7 are replaced by the following:

"5. The Commission shall submit once a year a synthesis 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 this Agreement.

6. In the light of the annual operational reviews, the National Authorising Officer and the Commission may at the mid-term and end-of-term reviews, review and adapt the CSP:

- (a) where operational reviews indicate specific problems; and/or
- (b) in the light of changed circumstances of an ACP State.

A change in the CSP may also be decided as a result of the ad hoc review process foreseen under paragraph 2.

The end-of-term review may also include adaptation for the new multi-annual financial framework of cooperation in terms of both resource allocation and preparation for the next programme.

7. Following the completion of the mid-term and end-of-term reviews, the Commission may, on behalf of the Community, increase or decrease the resource allocation of a country in the light of current needs and the 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).";

**(d) Article 6 is amended as follows:**

- (i) The title is replaced by the following:

"Scope";

- (ii) The following paragraphs are added:

"3. Requests for financing of regional programmes shall be submitted by:

- (a) a duly mandated regional body or organisation; or
- (b) a duly mandated sub-regional body, organisation or an ACP State in the region concerned at the programming stage, provided that the operation has been identified in the regional indicative programme (RIP).

4. The participation of non-ACP developing countries to regional programmes shall be envisaged only to the extent that:

- (a) the centre of gravity of the projects and programmes funded under the multi-annual financial framework of cooperation remains in an ACP country;
- (b) equivalent provisions exist in the framework of the Community's financial instruments; and
- (c) the principle of proportionality is respected.";

**(e) Articles 7, 8 and 9 are replaced by the following:**

"Article 7

## Regional programmes

The ACP States concerned shall decide on the definition of geographical regions. To the maximum extent possible, regional integration programmes should correspond to programmes of existing regional organisations. In principle, in case the membership of several relevant regional organisations overlaps, the regional integration programme should correspond to the combined membership of these organisations.

## Article 8

### Regional programming

1. Programming shall take place at the level of each region. The programming shall be a result of an exchange of views between the Commission and the duly mandated regional organisation(s) concerned, and in the absence of such a mandate, the National Authorising Officers of the countries in that region. Where appropriate, programming may include a consultation with non-State actors represented at regional level and, where relevant, regional parliaments.

2. The regional strategy paper (RSP) shall be prepared by the Commission and the duly mandated regional organisation(s) in collaboration with the ACP States in the region concerned, on the basis of the principle of subsidiarity and complementarity, taking into account the programming of the CSP.

3. The RSP will be an instrument to prioritise activities and to build local ownership of supported programmes. The RSP shall include the following standard elements:

- (a) an analysis of the political, economic, social and environmental context of the region;
- (b) an assessment of the process and prospects of regional economic integration and integration into the world economy;
- (c) an outline of the regional strategies and priorities pursued and the expected financing requirements;
- (d) an outline of relevant activities of other external partners in regional cooperation;
- (e) an outline of the specific EU contribution towards achievement of the goals for regional integration, complementary insofar as possible to operations financed by the ACP States themselves and by other external partners, particularly the EU Member States; and
- (f) an indication of the most appropriate support and implementation mechanisms to be applied in implementing the above strategies.

## Article 9

### Resource allocation

1. The indicative resource allocation among ACP regions shall be based on standard, objective and transparent estimates of needs and the progress and prospects in the process of regional cooperation and integration.

2. The allocated resources shall comprise:

- (a) a programmable allocation to cover support to regional integration, sector policies, programmes and projects in support of the focal or non-focal areas of Community assistance; and
- (b) an allocation for each ACP region to cover unforeseen needs such as those defined in Articles 72, 72a and 73 of this Agreement where, given the cross-border nature and/or scope of the unforeseen need, such support can more effectively be provided at regional level. These funds shall be accessible under the conditions set out in Articles 72, 72a and 73 of this Agreement, where such support cannot be financed from the Union's budget. Complementarity between interventions provided for under this allocation and possible interventions at country level shall be ensured.

3. The programmable allocation shall facilitate the long-term programming of Community aid for the region concerned. In order to achieve an adequate scale and to increase efficiency, regional and national funds may be mixed for financing regional operations with a distinct national component.

A regional allocation for unforeseen needs may be mobilised to the benefit of the region concerned and of ACP countries outside the region where the nature of the unforeseen need requires their involvement and the centre of gravity of the projects and programmes envisaged remains on the region.

4. Without prejudice to Article 11 concerning reviews, the Community may, in order to take account of new needs or exceptional performance, increase a region's programmable allocation or its allocation for unforeseen needs:

- (a) new needs are needs resulting from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);
- (b) exceptional performance is a situation in which, outside the mid-term and end-of-term reviews, a region's allocation is totally committed and additional funding from the regional indicative programme can be absorbed against a background of effective regional integration and sound financial management.";

**(f) Article 10(2) is replaced by the following:**

"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.";

**(g) in Article 11, the existing paragraph is numbered and the following paragraph is added:**

"2. In exceptional circumstances as referred to in Article 9(4), in order to take into account new needs or exceptional performance, the review can be carried out on the demand of either Party. As a result of an ad hoc review, a change in the RSP may be decided by both Parties and/or the resource allocation increased by the Commission on behalf of the Community.

The end-of-term review may also include adaptation for the new multi-annual financial framework of cooperation in terms of both resource allocation and preparation for the next regional indicative programme.";

**(h) Article 12 is replaced by the following:**

"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.";

**(i) the following Articles are inserted:**

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

## Article 12b

### Requests for financing

Requests for financing of intra-ACP programmes shall be submitted:

- (a) directly by the ACP Council of Ministers or the ACP Committee of Ambassadors; or
- (b) indirectly by:
  - (i) at least three duly mandated regional bodies or organisations belonging to different geographic regions, or at least two ACP States from each of the three regions;
  - (ii) international organisations, such as the African Union, carrying out operations that contribute to the objectives of regional cooperation and integration, subject to prior approval by the ACP Committee of Ambassadors; or
  - (iii) the Caribbean or Pacific regions, in view of their particular geographic situation, subject to prior approval by the ACP Council of Ministers or the ACP Committee of Ambassadors.

## Article 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."

### **(j) Articles 13 and 14 are replaced by the following:**

#### "Article 13

#### Intra-ACP indicative programme

1. The Intra-ACP indicative programme comprises the following main standard elements:

- (a) focal sectors and themes of Community aid;

- (b) the most appropriate measures and actions for achieving the objectives set for the focal sectors and themes; and
- (c) the programmes and projects necessary to achieve the objectives identified, insofar as they have been clearly identified, as well as an indication of the resources to be allocated to each of them and an implementation timetable.

2. The Commission and the ACP Secretariat shall identify and appraise the corresponding actions. On this basis, the intra-ACP indicative programme shall be jointly prepared by the services of the Commission and the ACP Secretariat and presented to the ACP-EC Committee of Ambassadors. It shall be adopted by the Commission, on behalf of the Community and by the ACP Committee of Ambassadors.

3. Without prejudice to point (iii) of Article 12b(b), the ACP Committee of Ambassadors shall present each year a consolidated list of requests for financing of the priority actions foreseen in the Intra-ACP indicative programme. The Commission shall identify and prepare the corresponding actions with the ACP Secretariat as well as an annual action programme. To the extent possible and in consideration of the allocated resources, requests for financing of actions not foreseen in the Intra-ACP indicative programme shall be included in the annual action programme. In exceptional cases, these requests are adopted through a special financing decision of the Commission.

## Article 14

### Review process

1. Intra-ACP cooperation should be sufficiently flexible and reactive to ensure that its actions remain consistent with the objectives of this Agreement and to take account of any changes in the priorities and objectives of the ACP Group of States.

2. The ACP Committee of Ambassadors and the Commission shall undertake a mid-term and end-of-term review of the intra-ACP cooperation strategy and indicative programme to adapt it to current circumstances and ensure its correct implementation. If circumstances so require, ad hoc reviews may also be conducted to take account of new needs which may arise from exceptional or unforeseen circumstances, such as those arising from new challenges which are common to ACP countries.

3. The ACP Committee of Ambassadors and the Commission may, at the mid-term and end-of-term reviews, or after an ad hoc review, review and adapt the Intra-ACP cooperation strategy paper.

4. Following the mid-term and end-of-term review exercises, or ad hoc reviews, the ACP Committee of Ambassadors and the Commission may adjust the allocations within the intra-ACP indicative programme and mobilise the non-programmed Intra-ACP reserve.";

### **(k) Article 15 is amended as follows:**

(i) paragraph 1 is replaced by the following:

"1. Programmes and projects that have been presented by the ACP State concerned or the relevant organisation or body at regional or intra-ACP level shall be subject to



joint appraisal. The ACP-EC Development Finance Cooperation Committee shall develop the general guidelines and criteria for appraisal of programmes and projects. These programmes and projects are generally multi-annual and may incorporate a whole range of actions of a limited size in a particular area.";

(ii) paragraph 3 is replaced by the following:

"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.";

(iii) in paragraph 4, the words "National Authorising Officer" are replaced by "relevant Authorising Officer";

**(l) throughout Article 16 the words "the ACP State concerned" are replaced by "the ACP State concerned or the relevant organisation or body at regional or intra-ACP level";**

**(m) Article 17 is replaced by the following:**

"Article 17

Financing Agreement

1. As a rule, programmes and projects financed by the multi-annual financial framework of cooperation are subject to a financing agreement drawn up by the Commission and the ACP State or the relevant organisation or body at regional or intra-ACP level.

2. The financing agreement shall be drawn up within 60 days following the communication of the financing decision taken by the Commission. The financing agreement shall:

(a) specify, in particular, the details of the Community's financial contribution, the financing arrangements and terms and the general and specific provisions relating to the programme or project concerned, including expected outcomes and results; and

(b) make adequate provision for appropriations to cover cost increases, contingencies, audits and evaluations.

3. Any unexpended balance left upon closure of the accounts of programmes and projects within the timeframe for commitments of the multi-annual financial framework of cooperation from which the programmes and projects have been funded shall accrue to the ACP State or the relevant organisation or body at regional or intra-ACP level.";

**(n) throughout Article 18 the words "National Authorising Officer" are replaced by "relevant Authorising Officer";**

**(o) Article 19 is amended as follows:**

- (i) in paragraph 1, the words "the ACP States" are replaced by "the ACP States or the relevant organisation or body at regional or intra-ACP level";
- (ii) in paragraph 3, the words "the ACP State" are replaced by "the ACP State or the relevant organisation or body at regional or intra-ACP level";

**(p) Article 19a(1) is amended as follows:**

(i) the introductory wording is replaced by the following:

"1. Implementation of programmes and projects financed from the multi-annual financial framework of cooperation under this Agreement shall consist chiefly of the following:";

(ii) point (d) is replaced by 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.";

**(q) in Article 19b the words "the ACP States" are replaced by "the ACP States or the relevant organisation or body at regional or intra-ACP level";**

**(r) Articles 19c and 20 are replaced by the following:**

"Article 19c

Awarding contracts, awarding grants and performing contracts

1. Except as provided for in Article 26, contracts and grants shall be attributed and implemented according to Community rules and, except in the specific cases provided for by these rules, according to the standard procedures and documentation set and published by the Commission for the purposes of implementing cooperation actions with third countries and in force at the time the procedure in question is launched.

2. In decentralised management, where a joint assessment shows that the procedures for awarding contracts and grants in the ACP State or the recipient region or the procedures approved by the fund providers are in accordance with the principles of transparency, proportionality, equal treatment and non-discrimination and preclude any kind of conflict of interest, the Commission shall use these procedures, in accordance with the Paris Declaration and without prejudice to Article 26, in full respect of the rules governing the exercise of its powers in this field.

3. The ACP State or the relevant organisation or body at regional or intra-ACP level shall undertake to check regularly that the operations financed from the multi-annual financial framework of cooperation under this Agreement have been properly implemented, to take appropriate measures to prevent irregularities and fraud, and, if necessary, to take legal action to recover unduly paid funds.

4. In decentralised management, contracts are negotiated, established, signed and performed by the ACP States or the relevant organisation or body at regional or intra-ACP level. These States or the relevant organisation or body at regional or intra-ACP level may, however, call upon the Commission to negotiate, establish, sign and perform contracts on their behalf.

5. Pursuant to the commitment referred to in Article 50 of this Agreement, contracts and grants financed from resources from the multi-annual financial framework of cooperation

with the ACP shall be performed in accordance with internationally recognised basic standards in the field of labour law.

6. An expert group of representatives of the Secretariat of the ACP Group of States and the Commission shall be set up to identify, at the request of one or other of the parties, any appropriate alterations and to suggest amendments and improvements to the rules and procedures referred to in paragraphs 1 and 2.

This expert group shall also submit a periodic report to the ACP-EC Development Finance Cooperation Committee to assist it in its task of examining the problems surrounding the implementation of development cooperation activities and proposing appropriate measures.

## Article 20

### Eligibility

Save where a derogation is granted in accordance with Article 22, and without prejudice to Article 26:

1. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to:

- (a) all natural persons who are nationals of, or legal persons who are established in, an ACP State, a Member State of the European Community, an official candidate country of the European Community or a Member State of the European Economic Area;
- (b) all natural persons who are nationals of, or legal persons who are established in, a Least Developed Country as defined by the United Nations.

1a. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to all natural persons who are nationals of, or legal persons established in, any country other than those referred to in paragraph 1, where reciprocal access to external assistance has been established. Reciprocal access in the Least Developed Countries as defined by the United Nations shall be automatically granted to the OECD/DAC members.

Reciprocal access shall be established by means of a specific Commission decision concerning a given country or a given regional group of countries. The decision shall be adopted by the Commission in agreement with the ACP States and shall be in force for a minimum period of one year.

2. Services under a contract financed from the multi-annual financial framework of cooperation under this Agreement may be provided by experts of any nationality, without prejudice to the qualitative and financial requirements set out in the Community's procurement rules.

3. Supplies and materials purchased under a contract financed from the multi-annual financial framework of cooperation under this Agreement must originate in a State that is eligible under paragraphs 1 or 1a. In this context, the definition of the concept of "originating products" shall be assessed by reference to the relevant international agreements, and supplies

originating in the Community shall include supplies originating in the Overseas Countries and Territories.

4. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to international organisations.

5. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation implemented through an international organisation, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraphs 1 or 1a, and to all natural and legal persons who are eligible according to the rules of the organisation, care being taken to ensure equal treatment of all donors. The same rules apply for supplies and materials.

6. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation implemented as part of a regional initiative, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraphs 1 or 1a, and to all natural and legal persons from a country participating in the relevant initiative. The same rules apply for supplies and materials.

7. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation co-financed with a third State, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons eligible under paragraphs 1 or 1a, and to all persons eligible under the rules of the above mentioned third State. The same rules apply for supplies and materials.";

**(s) Article 21 is deleted<sup>4</sup>;**

**(t) Article 22(1) is replaced by the following:**

"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;

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<sup>4</sup> Article 21 was deleted by Decision No 3/2008 of the ACP-EC Council of Ministers.

- (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.";

**(u) Articles 23 and 25 are deleted<sup>5</sup>;**

**(v) in Article 26(1), the introductory wording is replaced by the following:**

"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:";

**(w) Articles 27, 28 and 29 are deleted<sup>6</sup>;**

**(x) in Article 30, the introductory wording is replaced by the following:**

"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:";

**(y) Articles 33 and 34 are replaced by the following:**

"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

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<sup>5</sup> Articles 23 and 25 were deleted by Decision No 3/2008 of the ACP-EC Council of Ministers.

<sup>6</sup> Articles 27, 28 and 29 were deleted by Decision No 3/2008 of the ACP-EC Council of Ministers.

- (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.";

### **(z) Article 35 is amended as follows:**

- (i) in paragraph 1, the introductory wording is replaced by the following :

"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

event that the ACP Secretariat is not the Authorising Officer, the Committee of Ambassadors shall be informed in conformity with the financing agreement of the implementation of programmes and projects.

When the Commission becomes aware of problems in carrying out procedures relating to management of resources from the multi-annual financial framework of cooperation under this Agreement, it shall, in conjunction with the relevant Authorising Officer, make all contacts necessary to remedy the situation and take any appropriate steps.

The relevant Authorising Officer shall assume financial responsibility only for the executive tasks entrusted to him.

Where resources from the multi-annual financial framework of cooperation under this agreement are managed in a decentralised way and subject to any additional powers that might be granted by the Commission, the relevant Authorising Officer shall:";

(ii) In paragraph 2, the words "National Authorising Officer" are replaced by "relevant Authorising Officer";

**(za) Article 37 is amended as follows:**

(i) in paragraph 2 the words "ACP States" are replaced by "ACP States or the relevant organisation or body at regional or intra-ACP level";

(ii) in paragraph 4, the words "National Authorising Officer" are replaced by "relevant Authorising Officer";

(iii) in paragraph 6, the words "National Authorising Officer" are replaced by "relevant Authorising Officer";

(iv) in paragraph 7, the words "the ACP State or States concerned" are replaced by "the ACP State concerned or the relevant organisation or body at regional or intra-ACP level".

4. Annex V, including its protocols, is deleted.

5. In Annex VII, Article 3(4) is replaced by the following:

"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 Articles 96 and 97 of this Agreement."

## D. PROTOCOLS

Protocol 3 on South Africa, as amended by Decision No 4/2007 of the ACP-EC Council of Ministers of 20 December 2007<sup>7</sup>, is amended as follows:

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<sup>7</sup> OJ EU L 25 of 30.1.2008, p. 11.



1. In Article 1(2), the words "signed in Pretoria on 11 October 1999" are replaced by "as amended by the Agreement signed on 11 September 2009".
2. Article 4 is amended as follows:
  - (a) paragraph 2 is replaced by the following:

"2. However, in derogation from this principle, South Africa shall have the right to participate in the ACP-EC development finance cooperation listed in Article 8 of this Protocol, on the basis of the principles of reciprocity and proportionality, understanding that South Africa's participation will be financed from the resources provided for under Title VII of the TDCA. Where resources from the TDCA are deployed for participation in operations in the framework of ACP-EC financial cooperation, South Africa will enjoy the right to participate fully in the decision-making procedures governing implementation of such aid.";
  - (b) the following paragraph is added:

"4. For the purpose of the investment financing provided for in Annex II, Chapter 1, to this Agreement, investment funds and financial and non-financial intermediaries established in South Africa can be eligible.".
3. Article 5(3) is replaced by the following:

"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.".

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

## FINAL ACT

The Plenipotentiaries of:

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF ROMANIA,

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

THE PRESIDENT OF THE SLOVAK REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

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

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the  
European Union, hereinafter referred to as "the Member States",

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

of the one part, and

the Plenipotentiaries of:

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

THE HEAD OF STATE OF BARBADOS,

HER MAJESTY THE QUEEN OF BELIZE,

THE PRESIDENT OF THE REPUBLIC OF BENIN,

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,

THE PRESIDENT OF BURKINA FASO,

THE PRESIDENT OF THE REPUBLIC OF BURUNDI,

THE PRESIDENT OF THE REPUBLIC OF CAMEROON,

THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,

THE PRESIDENT OF THE UNION OF THE COMOROS,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,

THE PRESIDENT OF THE REPUBLIC OF CONGO,

THE GOVERNMENT OF THE COOK ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,

THE PRESIDENT OF THE DOMINICAN REPUBLIC,

THE PRESIDENT OF THE STATE OF ERITREA,  
THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,  
THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,  
THE PRESIDENT OF THE GABONESE REPUBLIC,  
THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,  
THE PRESIDENT OF THE REPUBLIC OF GHANA,  
HER MAJESTY THE QUEEN OF GRENADA,  
THE PRESIDENT OF THE REPUBLIC OF GUINEA,  
THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,  
THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,  
THE PRESIDENT OF THE REPUBLIC OF HAITI,  
THE HEAD OF STATE OF JAMAICA,  
THE PRESIDENT OF THE REPUBLIC OF KENYA,  
THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,  
HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,  
THE PRESIDENT OF THE REPUBLIC OF LIBERIA,  
THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,  
THE PRESIDENT OF THE REPUBLIC OF MALAWI,  
THE PRESIDENT OF THE REPUBLIC OF MALI,  
THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,  
THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,  
THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,  
THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,  
THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,  
THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,  
THE GOVERNMENT OF THE REPUBLIC OF NAURU,  
THE PRESIDENT OF THE REPUBLIC OF NIGER,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,  
THE GOVERNMENT OF NIUE,  
THE GOVERNMENT OF THE REPUBLIC OF PALAU,  
HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW  
GUINEA,  
THE PRESIDENT OF THE REPUBLIC OF RWANDA,  
HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,  
HER MAJESTY THE QUEEN OF SAINT LUCIA,  
HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,  
THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,  
THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE,  
THE PRESIDENT OF THE REPUBLIC OF SENEGAL,  
THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,  
THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,  
HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,  
THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,  
THE PRESIDENT OF THE REPUBLIC OF SURINAME,  
HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,  
THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,  
THE PRESIDENT OF THE REPUBLIC OF CHAD,  
THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,  
THE PRESIDENT OF THE TOGOLESE REPUBLIC,  
HIS MAJESTY THE KING OF TONGA,  
THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,  
HER MAJESTY THE QUEEN OF TUVALU,  
THE PRESIDENT OF THE REPUBLIC OF UGANDA,  
THE GOVERNMENT OF THE REPUBLIC OF VANUATU,  
THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

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

of the other part,

meeting in Ouagadougou on the twenty-second day of June in the year two thousand and ten for the signature of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005,

Have at the time of signature of this Agreement adopted the following declarations attached to this Final Act:

Declaration I: | Joint Declaration on Support for Market Access in the ACP-EC Partnership; |

Declaration II: | Joint Declaration on Migration and Development (Article 13); |

Declaration III: | European Union Declaration on Institutional Changes Resulting From the Entry into Force of the Treaty of Lisbon; |

and have, furthermore, agreed that the following existing declarations, as a consequence of the deletion of Annex V, have become obsolete:

Declaration XXII: | Joint Declaration concerning agricultural products referred to in Article 1(2)(a) of Annex V; |

Declaration XXIII: | Joint Declaration on Market Access in the ACP-EC Partnership; |

Declaration XXIV: | Joint Declaration on rice; |

Declaration XXV: | Joint Declaration on rum; |

Declaration XXVI: | Joint Declaration on beef and veal; |

Declaration XXVII: | Joint Declaration on the arrangements governing access to the markets of the French overseas departments for products originating in the ACP States referred to in Article 1(2) of Annex V; |

Declaration XXIX: | Joint Declaration on products covered by the common agricultural policy; |

Declaration XXX: | ACP Declaration on Article 1 of Annex V; |

Declaration XXXI: | Community Declaration on Article 5(2)(a) of Annex V; |

Declaration XXXII: | Joint Declaration on non-discrimination; |

Declaration XXXIII: | Community Declaration on Article 8(3) of Annex V; |

Declaration XXXIV: | Joint Declaration on Article 12 of Annex V; |

Declaration XXXV: | Joint Declaration relating to Protocol 1 of Annex V; |

Declaration XXXVI: | Joint Declaration relating to Protocol 1 of Annex V; |

Declaration XXXVII: | Joint Declaration relating to Protocol 1 of Annex V on the origin of fishery products; |

Declaration XXXVIII: | Community Declaration relating to Protocol 1 of Annex V on the extent of territorial waters; |

Declaration XXXIX: | ACP Declaration relating to Protocol 1 of Annex V on the origin of fishery products; |

Declaration XL: | Joint Declaration on the application of the value tolerance rule in the tuna sector; |

Declaration XLI: | Joint Declaration on Article 6(11) of Protocol 1 of Annex V; |

Declaration XLII: | Joint Declaration on rules of origin: cumulation with South Africa; |

Declaration XLIII: | Joint Declaration on Annex 2 to Protocol 1 of Annex V. |

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

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## DECLARATION I

### Joint declaration on support for market access in the ACP-EC partnership

The Parties recognise the significant value of preferential market access conditions to ACP economies, specifically for the commodity and other agro-industry sectors which are of critical importance to the economic and social development of the ACP States and constitute a major contribution to 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 liberalisation of trade may lead to deeper alteration of market access conditions for ACP producers. To that end, they agree to examine all necessary measures in order to maintain the competitive position of the ACP States in the EU 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 EU market.

When assistance programmes are developed and resources provided, the Parties agree to conduct periodic evaluations to assess progress and the results attained and decide on appropriate additional measures to be implemented.

The Joint Ministerial Trade Committee shall monitor the implementation of this Declaration and make appropriate reports and recommendations to the Council of Ministers.



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## DECLARATION II

### Joint declaration on migration and development (Article 13)

The Parties agree to strengthen and deepen their dialogue and cooperation in the area of migration, building on the following three pillars of a comprehensive and balanced approach to migration:

1. Migration and Development, including issues relating to diasporas, brain drain and remittances;
2. Legal migration including admission, mobility and movement of skills and services; and
3. Illegal migration, including smuggling and trafficking of human beings and border management, as well as readmission.

Without prejudice to the current Article 13, the Parties undertake to work out the details of this enhanced cooperation in the area of migration.

They further agree to work towards the timely completion of this dialogue and to report about the progress made to the next ACP-EC Council.

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## DECLARATION III

### European Union declaration on institutional changes resulting from the entry into force of the Treaty of Lisbon

As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the text of the Agreement are, where appropriate, to be read as "the European Union".

The European Union will propose to the ACP States an Exchange of Letters with the aim of bringing the Agreement into conformity with the institutional changes in the European Union resulting from the entry into force of the Treaty of Lisbon.

## **ANNEX II**

### **Draft letter to the ACP States**

*(addressed to the ACP Secretariat)*

Dear Sir,

Pursuant to Declaration n° III attached to the Final Act signed in Ouagadougou on the 22<sup>nd</sup> of June 2010 for the signature of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005.

The EU and its Member states wish to inform the ACP Parties to the Partnership Agreement of these consequences of the institutional changes introduced by the Treaty of Lisbon for the interpretation of certain terms and provisions under the Agreement, as follows:

- (1) all references to "the European Community" in the text of the Agreement are to be taken as references to "the European Union".
- (2) all references to the "Delegations of the European Commission" and to their Head of Delegation are to be taken as references to the "Delegations of the European Union" and to their Head of Delegation.
- (3) with respect to Article 15, the Council of Ministers shall also comprise the High Representative of the Union for Foreign Affairs and Security Policy, Vice-President of the European Commission, who shall hold the office of President alternately with a member of the government of an ACP State.
- (4) with respect to Article 16, the Committee of Ambassadors shall also comprise a representative of the High Representative of the Union for Foreign Affairs and Security Policy, who shall hold the office of Chairman alternately with a head of mission designated by the ACP States.

To ensure an effective endorsement by the ACP States of the consequences of the Treaty of Lisbon, the European Union would be obliged if you would confirm that the governments of the ACP States are in agreement with the content of this letter.

For the European Union and its Member States,