

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 [...] ON [...]  
([...] AGREEMENT)

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## PREAMBLE

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

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

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

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

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

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

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

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

RECALLING the Libreville and Santo Domingo declarations of the Heads of State and Government of the ACP countries at their Summits in 1997 and 1999;

CONSIDERING that the development targets and principles agreed in United Nations Conferences and the target, set by the OECD Development Assistance Committee, to reduce by one half the proportion of people living in extreme poverty by the year 2015 provide a clear vision and must underpin ACP-EU cooperation within this Agreement;

PAYING particular attention to the pledges made at the Rio, Vienna, Cairo, Copenhagen, Beijing, Istanbul and Rome UN 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;

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

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

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

## PART 1

### GENERAL PROVISIONS

#### TITLE I

#### OBJECTIVES, PRINCIPLES AND ACTORS

##### CHAPTER 1

##### OBJECTIVES AND PRINCIPLES

##### ARTICLE 1

##### Objectives of the partnership

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

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

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

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



## ARTICLE 2

### Fundamental principles

ACP-EC cooperation, underpinned by a legally binding system and the existence of joint institutions, shall be 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 elements described in Article 9; the partnership shall encourage ownership of the development strategies by the countries and populations concerned;
- participation: apart from central government as the main partner, the partnership shall be open to 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: the obligations assumed by the Parties in the framework of their dialogue shall be central to their partnership and cooperation relations;
- 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. Particular emphasis shall be placed on the regional dimension. Special treatment shall be given to the least-developed countries. The vulnerability of landlocked and island countries shall be taken into account.

## ARTICLE 3

### Achievement of this Agreement's objectives

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

## CHAPTER 2

### THE ACTORS OF THE PARTNERSHIP

## ARTICLE 4

### General approach

The ACP States shall determine the development principles, strategies and models of their economies and societies in all sovereignty. They shall establish, with the Community, the cooperation programmes provided for under this Agreement. However, the parties recognise the complementary role of and potential for contributions by non-State actors to the development process. To this end, under the conditions laid down in this Agreement, non-State actors 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 financial resources, under the conditions laid down in this Agreement in order to support local development processes;
- be involved in the implementation of cooperation project and programmes in areas that concern them or where these actors have a comparative advantage;
- 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.

## ARTICLE 5

### Information

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

- encourage partnership and build links between ACP and EU actors;
- strengthen networking and exchange of expertise and experience among the actors.

## ARTICLE 6

### Definitions

1. The actors of cooperation will include:

(a) State (local, national and regional);

(b) Non-State:

- Private sector;
- Economic and social partners, including trade union organisations;
- Civil Society in all its forms according to national characteristics.

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

## ARTICLE 7

### Capacity building

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

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

## TITLE II

### THE POLITICAL DIMENSION

## ARTICLE 8

### Political dialogue

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

2. The objective of this dialogue shall be to exchange information, to foster mutual understanding, and to facilitate the establishment of agreed priorities and shared agendas, in particular by recognising existing links between the different aspects of the relations between the Parties and the various areas of cooperation as laid down in this Agreement. The dialogue shall facilitate consultations between the Parties within international fora. The objectives of the dialogue shall also include preventing situations arising in which one Party might deem it necessary to have recourse to the non-execution clause.

3. The dialogue shall cover all the aims and objectives laid down in this Agreement as well as all questions of common, general, regional or sub-regional interest. Through dialogue, the Parties shall contribute to peace, security and stability and promote a stable and democratic political environment. It shall encompass cooperation strategies as well as global and sectoral policies, including environment, gender, migration and questions related to the cultural heritage.

4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs and organised crime, or ethnic, religious or racial discrimination. 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.

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

7. Regional and sub-regional organisations as well as representatives of civil society organisations shall be associated with this dialogue.

## ARTICLE 9

### Essential Elements and Fundamental Element

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

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

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

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

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

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

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



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

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

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

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

## ARTICLE 10

### Other elements of the political environment

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

- sustainable and equitable development involving, inter alia, access to productive resources, essential services and justice;
- greater involvement of an active and organised civil society and the private sector.

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

## ARTICLE 11

### Peace-building policies, conflict prevention and resolution

1. The Parties shall pursue an active, comprehensive and integrated policy of peace-building and conflict prevention and resolution within the framework of the Partnership. This policy shall be based on the principle of ownership. It shall in particular focus on building regional, sub-regional and national capacities, and on preventing violent conflicts at an early stage by addressing their root-causes in a targeted manner, and with an adequate combination of all available instruments.
2. The 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 bridging dividing lines among different segments of society as well as support for an active and organised civil society.

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 problem of child soldiers, as well as for suitable action to set responsible limits to military expenditure and the arms trade, including through support for the promotion and application of agreed standards and codes of conduct. In this context, particular emphasis shall be given to the fight against anti-personnel landmines as well as to addressing an excessive and uncontrolled spread, illegal trafficking and accumulation of small arms and light weapons.
  
4. 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.
  
5. In post-conflict situations, the Parties shall take all suitable action to facilitate the return to a non-violent, stable and self-sustainable situation. The Parties shall ensure the creation of the necessary links between emergency measures, rehabilitation and development cooperation.

## ARTICLE 12

### Coherence of Community policies and their impact on the implementation 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 said States of its intentions. Towards this end, the Commission shall communicate simultaneously to the Secretariat of the ACP States 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 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 States shall also be provided with adequate information on the entry into force of such decisions, in advance whenever possible.

## ARTICLE 13

### Migration

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

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

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

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

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

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

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

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

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

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

(c) The Parties further agree that:

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

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

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

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

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

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

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

## PART 2

### INSTITUTIONAL PROVISIONS

#### ARTICLE 14

##### The joint institutions

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



## ARTICLE 15

### The Council of Ministers

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

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

The Council shall meet as a rule once a year on the initiative of the President and whenever it seems necessary, in a form and a geographical composition appropriate to the issues to be addressed.

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

- (a) conduct the political dialogue;
- (b) adopt the policy guidelines and take the decisions necessary for the implementation of the provisions of this Agreement, in particular as regards development strategies in the specific areas provided for by this Agreement or any other area that should prove relevant, and as regards procedures;
- (c) examine and resolve any issue liable to impede the effective and efficient implementation of this Agreement or present an obstacle to achieving its objectives;

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

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

It may take decisions that are binding on the Parties and frame resolutions, recommendations and opinions. It shall examine and take into consideration resolutions and recommendations adopted by the Joint Parliamentary Assembly.

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

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

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

## ARTICLE 16

### The Committee of Ambassadors

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

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

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

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

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

## ARTICLE 17

### The Joint Parliamentary Assembly

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

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

- promote democratic processes through dialogue and consultation;
- facilitate greater understanding between the peoples of the European Union and those of the ACP States and raise public awareness of development issues;
- discuss issues pertaining to development and the ACP-EU Partnership;
- adopt resolutions and make recommendations to the Council of Ministers with a view to achieving the objectives of this Agreement.

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

The Joint Parliamentary Assembly shall organise regular contacts with representatives of the ACP-EU economic and social partners and the other actors of civil society in order to obtain their views on the attainment of the objectives of this Agreement.

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

### PART 3

#### COOPERATION STRATEGIES

#### ARTICLE 18

The cooperation strategies shall be based on development strategies and economic and trade cooperation which are interlinked and complementary. The Parties shall ensure that the efforts undertaken in both aforementioned areas are mutually reinforcing.

## TITLE I

### DEVELOPMENT STRATEGIES

#### CHAPTER 1

#### GENERAL FRAMEWORK

#### ARTICLE 19

##### Principles and objectives

1. The central objective of ACP-EC cooperation is poverty reduction and ultimately its eradication; sustainable development; and progressive integration of the ACP countries into the world economy. In this context, cooperation framework and orientations shall be tailored to the individual circumstances of each ACP country, shall promote local ownership of economic and social reforms and the integration of the private sector and civil society actors into the development process.
2. Cooperation shall refer to the conclusions of United Nations Conferences and to the objectives, targets and action programmes agreed at international level and to their follow up as a basis for development principles. Cooperation shall also refer to the international development cooperation targets and shall pay particular attention to putting in place qualitative and quantitative indicators of progress.

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

## ARTICLE 20

### The Approach

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 this context and within the framework of development policies and reforms pursued by the ACP States, ACP-EC cooperation strategies shall aim at:

- (a) achieving rapid and sustained job-creating economic growth, developing the private sector, increasing employment, improving access to productive economic activities and resource, and fostering regional cooperation and integration;
- (b) promoting human and social development helping to ensure that the fruits of growth are widely and equitably shared and promoting gender equality;
- (c) promoting cultural values of communities and specific interactions with economic, political and social elements;

- (d) promoting institutional reforms and development, strengthening the institutions necessary for the consolidation of democracy, good governance and for efficient and competitive market economies; and building capacity for development and partnership; and
- (e) promoting environmental sustainability, regeneration and best practices, and the preservation of natural resource base.

2. Systematic account shall be taken in mainstreaming into all areas of cooperation the following thematic or cross-cutting themes : gender issues, environmental issues and institutional development and capacity building. These areas shall also be eligible for Community support.

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



## CHAPTER 2

### AREAS OF SUPPORT

#### SECTION 1

#### ECONOMIC DEVELOPMENT

#### ARTICLE 21

##### Investment and private sector development

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

- (a) the promotion of public-private sector dialogue and cooperation;
- (b) the development of entrepreneurial skills and business culture;
- (c) privatisation and enterprise reform; and
- (d) development and modernisation of mediation and arbitration systems.

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

- (a) catalysing and leveraging flows of private savings, both domestic and foreign, into the financing of private enterprises by supporting policies for developing a modern financial sector including a capital market, financial institutions and sustainable microfinance operations;
- (b) the development and strengthening of business institutions and intermediary organisations, associations, chambers of commerce and local providers from the private sector supporting and providing non-financial services to enterprises such as professional, technical, management, training and commercial support services; and
- (c) supporting institutions, programmes, activities and initiatives that contribute to the development and transfer of technologies and know-how and best practices on all aspects of business management.

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

- (a) creating and/or strengthening financial instruments in the form of investment capital;
- (b) improving access to essential inputs such as business information and advisory, consultancy or technical assistance services;

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

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

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

5. Support for investment and private sector development shall integrate actions and initiatives at macro, meso and micro economic levels.

## ARTICLE 22

### Macroeconomic and structural reforms and policies

1. Cooperation shall support ACP efforts to implement:

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

- (b) structural policies designed to reinforce the role of the different actors, especially the private sector and improve the environment for increases in business, investment and employment, as well as:
- (i) liberalise trade and foreign exchange regimes and current account convertibility, having regard to the particular circumstances of each country;
  - (ii) strengthen labour and product-market reforms;
  - (iii) encourage financial systems reforms which help to develop viable banking and non-banking systems, capital markets and financial services, including micro-finance;
  - (iv) improve the quality of private and public services; and
  - (v) encourage regional cooperation and progressive integration of macroeconomic and monetary policies.

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

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

- (b) support programmes shall be adapted to the different situation in each ACP State and be sensitive to the social conditions, culture and environment of these States;
- (c) the right of the ACP States to determine the direction and the sequencing of their development strategies and priorities shall be recognised and respected;
- (d) the pace of reforms shall be realistic and compatible with each ACP State's capacities and resources; and
- (e) strengthening the communication and the information of populations on economic and social reforms and policies.

## ARTICLE 23

### Economic sector development

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

- (a) the development of training systems that help increase productivity in both the formal and the informal sectors;
- (b) capital, credit, land, especially as regards property rights and use;

- (c) development of rural strategies aimed at establishing a framework for participatory decentralised planning, resource allocation and management;
- (d) agricultural production strategies, national and regional food security policies, sustainable development of water resources and fisheries as well as marine resources within the economic exclusive zones of the ACP States. Any fishery agreement that may be negotiated between the Community and the ACP States shall pay due consideration to consistency with the development strategies in this area;
- (e) economic and technological infrastructure and services, including transport, telecommunication systems, communication services and the development of information society;
- (f) development of competitive industrial, mining and energy sectors, while encouraging private sector involvement and development;
- (g) trade development, including the promotion of fair trade;
- (h) development of business, finance and banking; and other service sectors;
- (i) tourism development; and

- (j) development of scientific, technological and research infrastructure and services; including the enhancement, transfer and absorption of new technologies;
- (k) the strengthening of capacities in productive areas, especially in public and private sectors.

## ARTICLE 24

### Tourism

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

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

## SECTION 2

### SOCIAL AND HUMAN DEVELOPMENT

#### ARTICLE 25

##### Social sector development

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

- (a) improving education and training, and building technical capacity and skills;
- (b) improving health systems and nutrition, eliminating hunger and malnutrition, ensuring adequate food supply and security;
- (c) integrating population issues into development strategies in order to improve reproductive health, primary health care, family planning; and prevention of female genital mutilation;
- (d) promoting the fight against HIV/AIDS;
- (e) increasing the security of household water and improving access to safe water and adequate sanitation;



- (f) improving the availability of affordable and adequate shelter for all through supporting low-cost and low-income housing programs and improving urban development; and
- (g) encouraging the promotion of participatory methods of social dialogue as well as respect for basic social rights.

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

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

## ARTICLE 26

### Youth issues

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

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

- (b) promoting the skills, energy, innovation and potential of youth in order to enhance their economic, social and cultural opportunities and enlarge their employment opportunities in the productive sector;
- (c) helping community-based institutions to give children the opportunity to develop their physical, psychological, social and economic potential; and
- (d) reintegrating into society children in post-conflict situations through rehabilitation programmes.

## ARTICLE 27

### Cultural development

Cooperation in the area of culture shall aim at:

- (a) integrating the cultural dimension at all levels of development cooperation;
- (b) recognising, preserving and promoting cultural values and identities to enable inter-cultural dialogue;
- (c) recognising, preserving and promoting the value of cultural heritage; supporting the development of capacity in this sector; and
- (d) developing cultural industries and enhancing market access opportunities for cultural goods and services.

## SECTION 3

### REGIONAL COOPERATION AND INTEGRATION

#### ARTICLE 28

##### General approach

Cooperation shall provide effective assistance to achieve the objectives and priorities which the ACP States have set themselves in the context of regional and sub-regional cooperation and integration, including inter-regional and intra-ACP cooperation. Regional Cooperation can also involve Overseas Countries and Territories (OCTs) and outermost regions. In this context, cooperation support shall aim to:

- (a) foster the gradual integration of the ACP States into the world economy;
- (b) accelerate economic cooperation and development both within and between the regions of the ACP States;
- (c) promote the free movement of persons, goods, services, capital, labour and technology among ACP countries;
- (d) accelerate diversification of the economies of the ACP States; and coordination and harmonisation of regional and sub-regional cooperation policies; and
- (e) promote and expand inter and intra-ACP trade and with third countries.

## ARTICLE 29

### Regional economic integration

Cooperation shall, in the area of regional economic integration, support:

- (a) developing and strengthening the capacities of:
  - (i) regional integration institutions and organisations set up by the ACP States to promote regional cooperation and integration, and
  - (ii) national governments and parliaments in matters of regional integration;
- (b) fostering participation of Least Developed Countries (LDC) ACP States in the establishment of regional markets and sharing the benefits therefrom;
- (c) implementation of sectoral reform policies at regional level;
- (d) liberalisation of trade and payments;
- (e) promoting cross-border investments both foreign and domestic, and other regional or sub-regional economic integration initiatives; and
- (f) taking account of the effects of net transitional costs of regional integration on budget revenue and balance of payments.

## ARTICLE 30

### Regional Cooperation

1. Cooperation shall, in the area of regional cooperation, support a wide variety of functional and thematic fields which specifically address common problems and take advantage of scale of economies, including:
  - (a) infrastructure particularly transport and communications and safety thereof and services, including the development of regional opportunities in the area of Information and Communication Technologies (ICT);
  - (b) the environment; water resource management and energy;
  - (c) health, education and training;
  - (d) research and technological development;
  - (e) regional initiatives for disaster preparedness and mitigation; and
  - (f) other areas, including arms control, action against drugs, organised crimes, money laundering, bribery and corruption.
2. Cooperation shall also support inter and intra-ACP cooperation schemes and initiatives.

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

## SECTION 4

### THEMATIC AND CROSS-CUTTING ISSUES

#### ARTICLE 31

##### Gender issues

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

- (a) integrate a gender-sensitive approach and concerns at every level of development cooperation including macroeconomic policies, strategies and operations; and
- (b) encourage the adoption of specific positive measures in favour of women such as:
  - (i) participation in national and local politics;

- (ii) support for women's organisations;
- (iii) access to basic social services, especially to education and training, health care and family planning;
- (iv) access to productive resources, especially to land and credit and to labour market; and
- (v) taking specific account of women in emergency aid and rehabilitation operations.

## ARTICLE 32

### Environment and natural resources

1. Cooperation on environmental protection and sustainable utilisation and management of natural resources shall aim at:
  - (a) mainstreaming environmental sustainability into all aspects of development cooperation and support programmes and projects implemented by the various actors;
  - (b) building and/or strengthening the scientific and technical human and institutional capacity for environmental management for all environmental stakeholders;

- (c) supporting specific measures and schemes aimed at addressing critical sustainable management issues and also relating to current and future regional and international commitments concerning mineral and natural resources such as:
  - (i) tropical forests, water resources, coastal, marine and fisheries resources, wildlife, soils, biodiversity;
  - (ii) protection of fragile ecosystems (e.g. coral reef);
  - (iii) renewable energy sources notably solar energy and energy efficiency;
  - (iv) sustainable rural and urban development;
  - (v) desertification, drought and deforestation;
  - (vi) developing innovative solutions to urban environmental problems; and
  - (vii) promotion of sustainable tourism.
- (d) Taking into account issues relating to the transport and disposal of hazardous waste.

2. Cooperation shall also take account of:

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



- (b) the worsening drought and desertification problems especially of least developed and land-locked countries; and
- (c) institutional development and capacity building.

## ARTICLE 33

### Institutional development and capacity building

1. Cooperation shall pay systematic attention to institutional aspects and in this context, shall support the efforts of the ACP States to develop and strengthen structures, institutions and procedures that help to:
  - (a) promote and sustain democracy, human dignity, social justice and pluralism, with full respect for diversity within and among societies;
  - (b) promote and sustain universal and full respect for and observance and protection of all human rights and fundamental freedoms;
  - (c) develop and strengthen the rule of law; and improve access to justice, while guaranteeing the professionalism and independence of the judicial systems; and
  - (d) ensure transparent and accountable governance and administration in all public institutions.
2. The Parties shall work together in the fight against bribery and corruption in all their societies.

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

- (a) the reform and modernisation of the civil service;
- (b) legal and judicial reforms and modernisation of justice systems;
- (c) improvement and strengthening of public finance management;
- (d) accelerating reforms of the banking and financial sector;
- (e) improvement of the management of public assets and reform of public procurement procedures; and
- (f) political, administrative, economic and financial decentralisation.

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

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

- (b) improving capacity to analyse, plan, formulate and implement policies, in particular in the economic, social, environmental, research, science and technology and innovation fields;
- (c) modernising, strengthening and reforming financial and monetary institutions and improving procedures;
- (d) building the capacity at the local and municipal levels which is required to implement decentralisation policy and to increase the participation of the population in the development process; and
- (e) developing capacity in other critical areas such as:
  - (i) international negotiations; and
  - (ii) management and coordination of external aid.

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

## TITLE II

### ECONOMIC AND TRADE COOPERATION

#### CHAPTER 1

#### OBJECTIVES AND PRINCIPLES

#### ARTICLE 34

##### Objectives

1. Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.
2. The ultimate objective of economic and trade cooperation is to enable the ACP States to play a full part in international trade. In this context, particular regard shall be had to the need for the ACP States to participate actively in multilateral trade negotiations. Given the current level of development of the ACP countries, economic and trade cooperation shall be directed at enabling the ACP States to manage the challenges of globalisation and to adapt progressively to new conditions of international trade thereby facilitating their transition to the liberalised global economy.

3. To this end economic and trade cooperation shall aim 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 and at improving the ACP countries' capacity to handle all issues related to trade.

4. Economic and trade cooperation shall be implemented in full conformity with the provisions of the WTO, including special and differential treatment, taking account of the Parties' mutual interests and their respective levels of development.

## ARTICLE 35

### Principles

1. Economic and trade cooperation shall be based on a true, strengthened and strategic partnership. It shall further be based on a comprehensive approach which builds on the strengths and achievements of the previous ACP-EC Conventions, using all means available to achieve the objectives set out above by addressing supply and demand side constraints. In this context, particular regard shall be had to trade development measures as a means of enhancing ACP States' competitiveness. Appropriate weight shall therefore be given to trade development within the ACP States' development strategies, which the Community shall support.

2. Economic and trade cooperation shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy.

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

## CHAPTER 2

### NEW TRADING ARRANGEMENTS

#### ARTICLE 36

##### Modalities

1. In view of the objectives and principles set out above, the Parties agree to conclude new World Trade Organisation (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.
2. The Parties agree that the new trading arrangements shall be introduced gradually and recognise the need, therefore, for a preparatory period.

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

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

## ARTICLE 37

### Procedures

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

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

3. The preparatory period shall also be used for capacity-building in 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.
4. The Parties will regularly review the progress of the preparations and negotiations and, will in 2006 carry out a formal and comprehensive review of the arrangements planned for all countries to ensure that no further time is needed for preparations or negotiations.
5. Negotiations of the economic partnership agreements will be undertaken with ACP countries which consider themselves in a position to do so, at the level they consider appropriate and in accordance with the procedures agreed by the ACP Group, taking into account regional integration process within the ACP.
6. In 2004, the Community will assess the situation of the non-LDC which, after consultations with the Community decide that they are not in a position to enter into economic partnership agreements and will examine all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules.



7. 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.
  
8. The Parties shall closely cooperate and collaborate in the WTO with a view to defending the arrangements reached, in particular with regard to the degree of flexibility available.
  
9. The Community will start by the year 2000, a process which by the end of multilateral trade negotiations and at the latest 2005 will allow duty free access for essentially all products from all LDC building on the level of the existing trade provisions of the Fourth ACP-EC Convention and which will simplify and review the rules of origin, including cumulation provisions, that apply to their exports.

## ARTICLE 38

### Joint Ministerial Trade Committee

1. A Joint ACP-EC Ministerial Trade Committee shall be established.
2. The Ministerial Trade Committee 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 make any necessary recommendations with a view to preserving the benefits of the ACP-EC trading arrangements.
3. The Ministerial Trade Committee shall meet at least once a year. Its rules of procedure shall be laid down by the Council of Ministers. It shall be composed of representatives of the ACP States and of the Community.

## CHAPTER 3

### COOPERATION IN THE INTERNATIONAL FORA

## ARTICLE 39

### General Provisions

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

2. They agree to cooperate closely in identifying and furthering their common interests in international economic and trade cooperation in particular in the WTO, including participation in setting and conducting the agenda in future multilateral trade negotiations. In this context, particular attention shall be paid to improve access to the Community and other markets for products and services originating in the ACP countries.
3. They also agree on the importance of flexibility in WTO rules to take account of the ACP's level of development as well of the difficulties faced in meeting their obligations. They further agree on the need for technical assistance to enable the ACP countries to implement their commitments.
4. The Community agrees to assist the ACP States in their efforts, in accordance with the provisions set out in this Agreement, to become active members of these organisations, by developing the necessary capacity to negotiate, participate effectively, monitor and implement these agreements.

## ARTICLE 40

### Commodities

1. The Parties recognise the need to ensure a better operation of international commodity markets and to increase market transparency.
2. They confirm their willingness to step up consultations between them in the international fora and organisations dealing with commodities.
3. To this end, exchange of views shall take place at the request of either Party:

- regarding the operation of existing international agreements or specialised intergovernmental working parties with the aim of improving them and making them more effective, consistent with market trends;
- when it is proposed to conclude or renew an international agreement or set up a specialised intergovernmental working party.

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

## CHAPTER 4

### TRADE IN SERVICES

#### ARTICLE 41

##### General Provisions

1. The Parties underline the growing importance of services in international trade and their major contribution to economic and social development.
2. They reaffirm their respective commitments under the General Agreement on Trade in Services (GATS), and underline the need for special and differential treatment to ACP suppliers of services;

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

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

5. The Community shall support the ACP States' efforts to strengthen their capacity in the supply of services. Particular attention shall be paid to services related to labour, business, distribution, finance, tourism, culture and construction and related engineering services with a view to enhancing their competitiveness and thereby increasing the value and the volume of their trade in goods and services.

## ARTICLE 42

### Maritime Transport

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

2. They undertake to promote the liberalisation of maritime transport and to this end apply effectively the principle of unrestricted access to the international maritime transport market on a non-discriminatory and commercial basis.
3. Each Party shall grant, inter alia, a treatment no less favourable than that accorded to its own ships, for ships operated by nationals or companies of the other Party, and for ships registered in the territory of either party, with respect to access to ports, the use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.
4. The Community shall support the ACP States' efforts to develop and promote cost-effective and efficient maritime transport services in the ACP States with a view to increasing the participation of ACP operators in international shipping services.

#### ARTICLE 43

##### Information and Communication Technologies, and Information Society

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

2. They therefore reconfirm their respective commitments under existing multilateral agreements, in particular the protocol on Basic Telecommunications attached to the GATS, and invite those ACP countries, which are not yet members of these agreements, to accede to them.
3. They furthermore agree to participate fully and actively in any future international negotiation, which might be conducted in this area.
4. The Parties will therefore take measures that will enable inhabitants of ACP countries easy access to information and communication technologies, through, amongst other, the following measures:
  - the development and encouragement of the use of affordable renewable energy resources;
  - the development and deployment of more extensive low-cost wireless networks.
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, in particular, be directed towards greater complementarity and harmonisation of communication systems, at national, regional and international level and their adaptation to new technologies.

## CHAPTER 5

### TRADE-RELATED AREAS

#### ARTICLE 44

##### General Provisions

1. The Parties acknowledge the growing importance of new areas related to trade in facilitating progressive integration of the ACP States into the world economy. They therefore agree to strengthen their cooperation in these areas by establishing full and coordinated participation in the relevant international fora and agreements.
2. The Community shall support the ACP States' efforts, in accordance with the provisions set out in this Agreement and the development strategies agreed between the Parties to strengthen their capacity to handle all areas related to trade, including, where necessary, improving and supporting the institutional framework.

#### ARTICLE 45

##### Competition Policy

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



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

3. The Parties also agree to reinforce cooperation in this area with a view to formulating and supporting effective competition policies with the appropriate national competition agencies that progressively ensure the efficient enforcement of the competition rules by both private and state enterprises. Cooperation in this area shall, in particular, include assistance in the drafting of an appropriate legal framework and its administrative enforcement with particular reference to the special situation of the least developed countries.

## ARTICLE 46

### Protection of Intellectual Property Rights

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

2. They underline the importance, in this context, of adherence to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to the WTO Agreement and the Convention on Biological Diversity (CBD).
3. They also agree on the need to accede to all relevant international conventions on intellectual, industrial and commercial property as referred to in Part I of the TRIPS Agreement, in line with their level of development.
4. The Community, its Member States and the ACP States may consider the conclusion of agreements aimed at protecting trademarks and geographical indications for products of particular interest of either Party.
5. For the purpose of this Agreement, intellectual property includes in particular copyright, including the copyright on computer programmes, and neighbouring rights, including artistic designs, and industrial property which includes utility models, patents including patents for bio-technological inventions and plant varieties or other effective sui generis systems, industrial designs, geographical indications including appellations of origin, trademarks for goods or services, topographies of integrated circuits as well as the legal protection of data bases and the protection against unfair competition as referred to in Article 10a of the Paris Convention for the Protection of Industrial Property and protection of undisclosed confidential information on know how.

6. The Parties further agree to strengthen their cooperation in this field. Upon request and on mutually agreed terms and conditions cooperation shall inter alia extend to the following areas: the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by rightholders and the infringement of such rights by competitors, the establishment and reinforcement of domestic and regional offices and other agencies including support for regional intellectual property organisations involved in enforcement and protection, including the training of personnel.

## ARTICLE 47

### Standardisation and Certification

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

In this context, they reaffirm their commitment under the Agreement on Technical Barriers to trade, annexed to the WTO Agreement (TBT Agreement).

2. Cooperation in standardisation and certification shall aim at promoting compatible systems between the Parties and in particular include:

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

- cooperation in the area of quality management and assurance in selected sectors of importance to the ACP States,
  - support for capacity building initiatives in the ACP countries in the fields of conformity assessment, metrology and standardisation,
  - developing functioning links between ACP and European standardisation, conformity assessment and certification institutions.
3. The Parties undertake to consider, in due course, negotiating mutual recognition agreements in sectors of mutual economic interest.

## ARTICLE 48

### Sanitary and Phytosanitary Measures

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

2. They further undertake to reinforce coordination, consultation and information as regards notification and application of proposed sanitary and phytosanitary measures, in accordance with the SPS-Agreement whenever these measures might affect the interests of either Party. They also agree on prior consultation and coordination within the CODEX ALIMENTARIUS, the International Office of Epizootics and the International Plant Protection Convention, with a view to furthering their common interests.
3. The Parties agree to strengthen their cooperation with a view to reinforcing the capacity of the public and the private sector of the ACP countries in this field.

## ARTICLE 49

### Trade and Environment

1. The Parties reaffirm their commitment to promoting the development of international trade in such a way as to ensure sustainable and sound management of the environment, in accordance with the international conventions and undertakings in this area and with due regard to their respective level of development. They agree that the special needs and requirements of ACP States should be taken into account in the design and implementation of environment measures.
2. Bearing in mind the Rio Principles and with a view to reinforcing the mutual supportiveness of trade and environment, the Parties agree to enhance their cooperation in this field. Cooperation shall in particular aim at the establishment of coherent national, regional and international policies, reinforcement of quality controls of goods and services related to the environment, the improvement of environment-friendly production methods in relevant sectors.

## ARTICLE 50

### Trade and Labour Standards

1. The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant International Labour Organisation (ILO) Conventions, and in particular the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination in respect to employment.
2. They agree to enhance cooperation in this area, in particular in the following fields:
  - exchange of information on the respective legislation and work regulation;
  - the formulation of national labour legislation and strengthening of existing legislation;
  - educational and awareness-raising programmes;
  - enforcement of adherence to national legislation and work regulation.
3. The Parties agree that labour standards should not be used for protectionist trade purposes.

## ARTICLE 51

### Consumer Policy and Protection of Consumer Health

1. The Parties agree to step up their cooperation in the area of consumer policy and consumer health protection, having due regard to domestic legislation to avoid barriers to trade.
2. Cooperation shall, in particular, aim at improving the institutional and technical capacity in this area, establishing rapid-alert systems of mutual information on dangerous products, exchanging information and experiences on the establishment and operation of post market surveillance of products and product safety, improving information provided to consumers on prices, characteristics of products and services offered, encouraging the development of independent consumer associations and contacts between consumer interest representatives, improving compatibility of consumer policies and systems, notifying enforcement of the legislation and promoting cooperation in investigating harmful or unfair business practices and implementing exports prohibitions in the trade between the Parties of goods and services the marketing of which has been prohibited in their country of production.

## ARTICLE 52

### Tax Carve-out Clause

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

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

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

## CHAPTER 6

### COOPERATION IN OTHER AREAS

#### ARTICLE 53

##### Fishery Agreements

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



2. In the conclusion or implementation of such agreements, the ACP States shall not discriminate against the Community or among the Member States, without prejudice to special arrangements between developing States within the same geographical area, including reciprocal fishing arrangements, nor shall the Community discriminate against ACP States.

## ARTICLE 54

### Food security

1. With regard to available agricultural products, the Community undertakes to ensure that export refunds can be fixed further in advance for all ACP States in respect of a range of products drawn up in the light of the food requirements expressed by those States.
2. Advance fixing shall be for one year and shall be applied each year throughout the life of this Agreement, it being understood that the level of the refund will be determined in accordance with the methods normally followed by the Commission.
3. Specific agreements may be concluded with those ACP States which so request in the context of their food security policies.
4. The specific agreements referred to in paragraph 3 shall not place in jeopardy production and trade flows in ACP regions.

PART 4

DEVELOPMENT FINANCE COOPERATION

TITLE I

GENERAL PROVISIONS

CHAPTER 1

OBJECTIVES, PRINCIPLES, GUIDELINES AND ELIGIBILITY

ARTICLE 55

Objectives

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

## ARTICLE 56

### Principles

1. Development finance cooperation shall be implemented on the basis of and be consistent with the development objectives, strategies and priorities established by the ACP States, at both national and regional levels. Their respective geographical, social and cultural characteristics, as well as their specific potential, shall be taken into account. In addition, cooperation shall:

- (a) promote local ownership at all levels of the development process;
- (b) reflect a partnership based on mutual rights and obligations;
- (c) emphasise the importance of predictability and security in resource flows, granted on highly concessional terms and on a continuous basis;
- (d) be flexible and appropriate to the situation in each ACP State as well as adapted to the specific nature of the project or programme concerned; and
- (e) ensure efficiency, coordination and consistency.

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

## ARTICLE 57

### Guidelines

1. Operations financed within the framework of this Agreement shall be implemented by the ACP States and the Community in close cooperation, the concept of equality between the partners being recognised.
2. The ACP States shall be responsible for:
  - (a) defining the objectives and priorities on which the indicative programmes are based;
  - (b) choosing projects and programmes;
  - (c) preparing and presenting the dossiers of projects and programmes;
  - (d) preparing, negotiating and concluding contracts;
  - (e) implementing and managing projects and programmes; and
  - (f) maintaining projects and programmes.
3. Without prejudice to the provisions above, eligible non-State actors may also be responsible for proposing and implementing programmes and projects in areas concerning them.

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

- (a) establishing, within the joint institutions, the guidelines for development finance cooperation;
- (b) adopting the indicative programmes;
- (c) appraising projects and programmes;
- (d) ensuring equality of conditions for participation in invitations to tender and contracts;
- (e) monitoring and evaluating the effects and results of projects and programmes; and
- (f) ensuring the proper, prompt and efficient execution of projects and programmes.

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

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

## ARTICLE 58

### Eligibility for financing

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

- (a) ACP States;
- (b) regional or inter-State bodies to which one or more ACP States belong and which are authorised by those States; and
- (c) joint bodies set up by the ACP States and the Community to pursue certain specific objectives.

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

- (a) national and/or regional public or semi-public agencies, departments or local authorities of the ACP States and, in particular, their financial institutions and development banks;
- (b) companies, firms and other private organisations and private operators of ACP States;
- (c) enterprises of a Community Member State to enable them, in addition to their own contribution, to undertake productive projects in the territory of an ACP State;

- (d) ACP or Community financial intermediaries providing, promoting and financing private investments in ACP States; and
- (c) agents of decentralised cooperation and other non-State actors from the ACP States and from the Community.

## CHAPTER 2

### SCOPE AND NATURE OF FINANCING

#### ARTICLE 59

Within the framework of the priorities established by the ACP State or States concerned at both national and regional levels, support may be given to projects, programmes and other forms of operations contributing to the objectives set out in this Agreement.

#### ARTICLE 60

##### Scope of Financing

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

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

- (b) macroeconomic and structural reforms and policies;
- (c) mitigation of adverse effects of instability in export earnings;
- (d) sectoral policies and reforms;
- (e) institutional development and capacity building;
- (f) technical cooperation programmes; and
- (g) humanitarian and emergency assistance including assistance to refugees and displaced persons, short-term rehabilitation measures and disaster preparedness.

## ARTICLE 61

### Nature of Financing

1. The nature of financing shall, inter alia, include:
  - (a) projects and programmes;
  - (b) credit lines, guarantee schemes and equity participation;
  - (c) budgetary support, either directly, for the ACP States whose currencies are convertible and freely transferable, or indirectly, from counterparts funds generated by the various Community instruments;



- (d) the human and material resources necessary for effective administration and supervision of projects and programmes;
- (e) sectoral and general import support programmes which may take the form of:
  - (i) sectoral import programmes through direct procurement including financing of inputs in the productive system and supplies to improve social services;
  - (ii) sectoral import programmes in the form of foreign exchange released in instalments for financing sectoral imports; and
  - (iii) general import programmes in the form of foreign exchange released in instalments for financing general imports covering a wide range of products.

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

- (a) public expenditure management is sufficiently transparent, accountable and effective;
- (b) well defined macroeconomic or sectoral policies established by the country itself and agreed to by its main donors are in place; and
- (c) public procurement is open and transparent.

3. Similar direct budgetary assistance shall be granted gradually to sectoral policies in substitution for individual projects.
4. The instruments of import programmes or budgetary support defined above can also be used to support eligible ACP States implementing reforms aimed at intra-regional economic liberalisation which generate net transitional costs.
5. In the framework of the Agreement, the European Development Fund (hereinafter referred to as the Fund) including counterpart funds, unexpended balance from previous Funds, own resources of the European Investment Bank (hereinafter referred to as the Bank) and where appropriate resources drawn from the European Community's budget, shall be used to finance projects, programmes and other forms of operations contributing to the achievement of the objectives of this Agreement.
6. The funds provided under the Agreement may be used to cover the total costs of both the local and foreign expenditure of projects and programmes, including recurrent cost financing.

## TITLE II

### FINANCIAL COOPERATION

#### CHAPTER 1

#### FINANCIAL RESOURCES

#### ARTICLE 62

##### Overall amount

1. For the purposes set out in this Agreement, the overall amount of the Community's financial assistance and the detailed terms and conditions of financing are provided for in the Annexes to this Agreement.
2. Should an ACP State fail to ratify this Agreement or denounce it, the Parties shall adjust the amounts of the resources provided for in the Financial Protocol set out in Annex I. Adjustment of the financial resources shall also apply upon:

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

## ARTICLE 63

### Methods of financing

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

- (a) the level of development, the geographical situation and economic and financial circumstances of these States;
- (b) the nature of the project or programme, its economic and financial return as well as its social and cultural impact; and
- (c) in the case of loans, factors guaranteeing their servicing.

## ARTICLE 64

### On-lending operations

1. Financial assistance may be made available to or through the ACP States concerned or, subject to the provisions of this Agreement through eligible financial institutions or directly to any other eligible beneficiary. Where financial assistance is granted to the final recipient through an intermediary or directly to the final beneficiary in the private sector:
  - (a) the terms and conditions on which the assistance may be made available by the intermediary to the final recipient or directly to the final beneficiary in the private sector shall be laid down in the financing agreement or loan contract; and
  - (b) any financial benefit accruing to the intermediary from the on-lending transaction or resulting from direct lending operations to the final beneficiary in the private sector, shall be used for development purposes on the conditions laid down in the financing agreement or the loan contract, after taking into account administrative costs, exchange and financial risks and the cost of technical assistance given to the final recipient.
  
2. Where the financing is undertaken through an on-lending body based and/or operating in the ACP States, it shall be the responsibility of that body to select and appraise individual projects and to administer the funds placed at its disposal under the conditions provided for in this Agreement and by mutual agreement between the Parties.

## ARTICLE 65

### Co-financing

1. The financial resources provided for in this Agreement may be applied, at the request of the ACP States, to co-financing undertaken in particular with development agencies and institutions, Community Member States, ACP States, third countries or international or private financial institutions, firms or export credit agencies.
2. Special consideration shall be given to the possibility of co-financing in cases where Community participation will encourage the participation of other sources of finance and where such financing may lead to an advantageous financial package for the ACP State concerned.
3. Co-financing may be in the form of joint or parallel financing. Preference shall be given in each case to the solution, which is more suitable from the point of view of cost-effectiveness. In addition, measures shall be taken to coordinate and harmonise operations of the Community and those of other co-financing bodies in order to minimise the number of procedures to be undertaken by the ACP States and to render those procedures more flexible.
4. The process of consultation and coordination with other donors and co-financiers should be strengthened and developed, where possible, through the establishment of co-financing framework agreements and co-financing policies and procedures should be reviewed to ensure effectiveness and the best terms and conditions possible.

## CHAPTER 2

### DEBT AND STRUCTURAL ADJUSTMENT SUPPORT

#### ARTICLE 66

##### Support for debt relief

1. In order to attenuate the debt burden of the ACP States and their balance-of-payment problems, the Parties agree to use the resources provided for in this Agreement to contribute to debt relief initiatives approved at international level for the benefit of ACP countries. In addition, on a case by case basis, the use of resources which have not been committed in the framework of past indicative programmes shall be accelerated through the quick-disbursing instruments provided for in this Agreement. The Community furthermore commits itself to examine how in the longer term other resources than the EDF can be mobilised in support of internationally agreed debt relief initiatives.
2. At the request of an ACP State, the Community may grant:
  - (a) assistance in studying and finding practical solutions to indebtedness including domestic debt, debt-servicing difficulties and balance of payments problems;
  - (b) training in debt management and international financial negotiations as well as support for training workshops, courses and seminars in these fields; and

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

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

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

## ARTICLE 67

### Structural adjustment support

1. The 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. Quick disbursement shall be an important feature of support programmes.



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

- (a) incorporate, from the beginning of the diagnosis, measures to encourage regional integration and take account of the consequences of trans-border adjustment;
- (b) support the harmonisation and coordination of macroeconomic and sectoral policies, including fiscal and customs areas, so as to fulfil the dual aim of regional integration and of structural reform at national level; and
- (c) take account of the effects of net transitional costs of regional integration on budget revenue and balance of payments, either through general import programmes or budgetary support.

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

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

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

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

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

### CHAPTER 3

#### SUPPORT IN CASES OF SHORT-TERM FLUCTUATIONS IN EXPORT EARNINGS

#### ARTICLE 68

1. The Parties recognise that instability of export earnings, particularly in the agricultural and mining sectors, may adversely affect the development of the ACP States and jeopardise the attainment of their development requirements. A system of additional support in order to mitigate the adverse effects of any instability in export earnings, including in the agricultural and mining sectors, is therefore set up within the financial envelope for support to long-term development.

2. The purpose of support in cases of short-term fluctuations in export earnings is to safeguard macroeconomic and sectoral reforms and policies that are at risk as a result of a drop in revenue and remedy the adverse effects of instability of export earnings in particular from agricultural and mining products.
3. The extreme dependence of the ACP States' economies on exports, in particular from the agricultural and mining sectors, shall be taken into account in the allocation of resources in the year of application. In this context, the least developed, landlocked and island 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 the risk of fluctuations in export earnings.

## CHAPTER 4

### SUPPORT FOR SECTORAL POLICIES

#### ARTICLE 69

1. Cooperation shall support, through the various instruments and modalities provided for in the Agreement:
  - (a) social and economic sectoral policies and reforms;

- (b) measures to enhance productive sector activity and export competitiveness;
- (c) measures to expand social sector services; and
- (d) thematic and cross cutting issues.

2. This support shall be provided as appropriate through:

- (a) sectoral programmes;
- (b) budgetary support;
- (c) investments;
- (d) rehabilitation;
- (e) training;
- (f) technical assistance; and
- (g) institutional support.

## CHAPTER 5

### MICROPROJECTS AND DECENTRALISED COOPERATION

#### ARTICLE 70

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

- (a) micro-projects at local level which have an economic and social impact on the life of the people, meet a demonstrated and observed priority need, and shall be undertaken at the initiative and with the active participation of the local community which shall benefit therefrom; and
- (b) decentralised cooperation, in particular where such operations combine efforts and resources of decentralised agents from the ACP States and their counterparts from the Community. This form of cooperation shall enable the mobilisation of capabilities, innovative operating methods and resources of decentralised agents for the development of the ACP State.

## ARTICLE 71

1. Microprojects and decentralised cooperation operations may be supported from the financial resources of the Agreement. Projects or programmes under this form of cooperation may or may not be linked to programmes in the sectors of concentration of the indicative programmes, but may be a way of achieving the specific objectives of the indicative programme or the results of initiatives by local communities or decentralised agents.
  
2. Contributions for the financing of micro-projects and decentralised cooperation shall be made by the Fund, in which case the contribution shall not normally exceed three-quarters of the total cost of each project and may not exceed the limit set in the indicative programme. The remaining balance shall be provided:
  - (a) by the local community concerned in case of micro-projects (either in kind or in the form of services or cash and adapted to its capacity to contribute);
  - (b) by the agents of decentralised cooperation, provided that the financial, technical, material and other resources brought in by such agents shall not normally be less than 25% of the estimated cost of the project/programme; and
  - (c) exceptionally by the ACP State concerned, either in the form of a financial contribution or through the use of public equipment or the supply of services.
  
3. The procedures applicable to projects and programmes financed within the framework of microprojects or decentralised cooperation shall be those laid down in the Agreement, in particular those referred to in multi-annual programmes.

## CHAPTER 6

### HUMANITARIAN AND EMERGENCY ASSISTANCE

#### ARTICLE 72

1. Humanitarian and emergency assistance shall be accorded to the population in ACP States faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters, man-made crises such as wars and other conflicts or extraordinary circumstances having comparable effects. The humanitarian and emergency assistance shall be maintained for as long as necessary to deal with the emergency needs resulting from these situations.
  
2. Humanitarian and emergency assistance shall be granted exclusively according to the needs and interests of victims of disasters and in line with the principles of international humanitarian law. 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.
  
3. Humanitarian and emergency assistance shall aim to:
  - (a) safeguard human lives in crises and immediate post-crisis situations brought about by natural disasters, conflict or war;
  
  - (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 parts of the population affected to benefit once more 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 country 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 in setting up disaster prevention and preparedness mechanisms, including prediction and early-warning systems, with a view to reducing the consequences of disasters.

4. Similar assistance, as set out above, may be granted to ACP States taking in refugees or returnees to meet acute needs not covered by emergency assistance.

5. Underlining the developmental nature of the assistance granted in accordance with this Article, assistance may be used exceptionally together with the indicative programme at the request of the State concerned.

6. Humanitarian and emergency assistance operations shall be undertaken either at the request of the ACP country affected by the crisis situation, the Commission, international organisations or local or international non-State organisations. Such assistance shall be administered and implemented under procedures permitting operations that are rapid, flexible and effective. The Community shall take adequate steps to facilitate speedy action, which is required to meet the immediate needs for which emergency assistance is needed.



## ARTICLE 73

1. Post-emergency action, aimed at physical and social rehabilitation consequent on the results of natural disasters or extraordinary circumstances having comparable effects, may be undertaken with Community assistance under this Agreement. Such action, using effective and flexible mechanisms, must ease the transition from the emergency phase to the development phase, promote the socio-economic reintegration of the parts of the population affected, remove as far as possible the causes of the crisis and strengthen institutions and the ownership by local and national actors of their role in formulating a sustainable development policy for the ACP country concerned.
2. Short-term emergency action shall only in exceptional circumstances be financed under the Fund where such assistance cannot be financed from the Community's budget.

## CHAPTER 7

### INVESTMENT AND PRIVATE SECTOR DEVELOPMENT SUPPORT

## ARTICLE 74

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

## ARTICLE 75

### Investment promotion

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

- (a) implement measures to encourage participation in their development efforts by private investors who comply with the objectives and priorities of ACP-EC development cooperation and with the appropriate laws and regulations of their respective States;
- (b) take measures and actions which help to create and maintain a predictable and secure investment climate as well as enter into negotiations on agreements which will improve such climate;
- (c) encourage the EU private sector to invest and to provide specific assistance to its counterparts in the ACP countries under mutual business cooperation and partnerships;
- (d) facilitate partnerships and joint ventures by encouraging co-financing;
- (e) sponsor sectoral investment fora to promote partnerships and external investment;

- (f) support efforts of the ACP States to attract financing, with particular emphasis on private financing, for infrastructure investments and revenue generating infrastructure critical for the private sector;
- (g) support capacity building for domestic investment promotion agencies and institutions involved in promoting and facilitating foreign investment;
- (h) disseminate information on investment opportunities and business operating conditions in the ACP States; and
- (i) promote national, regional and ACP-EU private sector business dialogue, cooperation and partnerships, in particular through an ACP-EU private sector business forum. Support for operations of an ACP-EU private sector business forum shall be provided in pursuit of the following objectives:
  - (i) to facilitate dialogue within the ACP/EU private sector and between the ACP/EU private sector and the bodies established under the Agreement;
  - (ii) to analyse and periodically provide the relevant bodies with information on the whole range of issues concerning relations between the ACP and EU private sectors in the context of the Agreement or, more generally, of economic relations between the Community and the ACP countries; and
  - (iii) to analyse and provide the relevant bodies with information on specific problems of a sectoral nature relating to, inter alia, branches of production or types of products at regional or sub-regional level.

## ARTICLE 76

### Investment finance and support

1. Cooperation shall provide long-term financial resources, including risk capital, to assist in promoting growth in the private sector and help to mobilise domestic and foreign capital for this purpose. To this end, cooperation shall provide, in particular:
  - (a) grants for financial and technical assistance to support policy reforms, human resource development, institutional capacity-building or other forms of institutional support related to a specific investment, measures to increase the competitiveness of enterprises and to strengthen the capacities of the private financial and non-financial intermediaries, investment facilitation and promotion and competitiveness enhancement activities;
  - (b) advisory and consultative services to assist in creating a responsive investment climate and information base to guide and encourage the flow of capital;
  - (c) risk-capital for equity or quasi-equity investments, guarantees in support of domestic and foreign private investment and loans or lines of credit on the conditions laid down in Annex II "Terms and Conditions of Financing" to this Agreement; and
  - (d) loans from the Bank's own resources.
2. Loans from the Bank's own resources shall be granted in accordance with its statute and with the terms and conditions laid down in Annex II to this Agreement.

## ARTICLE 77

### Investment guarantees

1. Investment guarantees are an increasingly important tool for development finance as they contribute to reducing project risks and inducing private capital flows. Cooperation shall therefore ensure the increasing availability and use of risk insurance as a risk-mitigating mechanism in order to boost investor confidence in the ACP States.
2. Cooperation shall offer guarantees and assist with guarantees funds covering risks for qualified investment. Specifically, cooperation shall provide support to:
  - (a) reinsurance schemes to cover foreign direct investment by eligible investors; against legal uncertainties and the major risks of expropriation, currency transfer restriction, war and civil disturbance, and breach of contract. Investors may insure projects for any combination of the four types of coverage;
  - (b) guarantee programmes to cover risk in the form of partial guarantees for debt financing. Both partial risk and partial credit guarantee shall be available; and
  - (c) national and regional guarantee funds, involving, in particular, domestic financial institutions or investors for encouraging the development of the financial sector.

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

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

## ARTICLE 78

### Investment protection

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

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

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

### TITLE III

#### TECHNICAL COOPERATION

#### ARTICLE 79

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

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

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

- (b) complement and support ACP efforts to identify their own requirements;
- (c) be monitored and followed up to guarantee effectiveness;
- (d) encourage the participation of ACP experts, consultancy firms and educational and research institutions in contracts financed from the Fund and identify ways of employing qualified national and regional personnel on Fund projects;
- (e) encourage the secondment of ACP national cadres as consultants to an institution in their own country, or a neighbouring country, or to a regional organisation;
- (f) aim at developing knowledge of national and regional manpower constraints and potential and establish a register of ACP experts, consultants and consultancy firms suitable for employment on projects and programmes financed from the Fund;
- (g) support intra-ACP technical assistance in order to promote the exchange between the ACP States of technical assistance, management and professional expertise;
- (h) develop action programmes for long-term institution building and staff development as an integral part of project and programme planning, account being taken of the necessary financial requirements;



- (i) support arrangements to enhance the capacity of the ACP States to build up their own expertise; and
- (j) give special attention to the development of the ACP States' capacities in project planning, implementation and evaluation, as well budget management.

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

4. Technical cooperation may be either of a specific or a general nature.

The ACP-EC Development Finance Cooperation Committee shall establish the guidelines for the implementation of technical cooperation.

#### ARTICLE 80

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

## TITLE IV

### PROCEDURES AND MANAGEMENT SYSTEMS

#### ARTICLE 81

##### Procedures

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

#### ARTICLE 82

##### Executing agents

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

## ARTICLE 83

### ACP-EC Development Finance Cooperation Committee

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

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

- (a) ensure the overall achievement of the objectives and principles of development finance cooperation and establish general guidelines for their effective and timely implementation;
- (b) examine the problems arising from the implementation of development cooperation activities and propose appropriate measures;
- (c) review the annexes to the Agreement to ensure their continued relevance and recommend any appropriate amendments to the Council of Ministers for approval; and

- (d) examine the operations deployed within the framework of the Agreement to attain the objectives of promoting private sector development and investment and the operations of the Investment Facility.
3. The ACP-EC Committee, which shall meet every quarter, shall be composed, on a basis of parity, of representatives of the ACP States and of the Community, or their authorised representatives. It shall meet at ministerial level whenever one of the parties so requests and at least once a year.
4. The Council of Ministers shall lay down the ACP-EC Committee's rules of procedure, in particular the conditions for representation and the number of members of the Committee, the detailed arrangements for their deliberations and the conditions for holding the chair.
5. The ACP-EC Committee may convene meetings of experts to study the cause of any difficulties and bottlenecks, which may impede the efficient implementation of development cooperation. These experts shall make recommendations to the Committee on possible ways of removing such difficulties and bottlenecks.

## PART 5

### GENERAL PROVISIONS FOR THE LEAST-DEVELOPED, LANDLOCKED AND ISLAND ACP STATES (LDLICs)

#### CHAPTER 1

#### GENERAL PROVISIONS

#### ARTICLE 84

1. To enable LDLICs to take full advantage of the opportunities offered by the Agreement so as to step up their respective rates of development, cooperation shall ensure special treatment for the least developed ACP countries and take due account of the vulnerability of landlocked and island ACP countries. It shall also take into consideration the needs of countries in post-conflict situations.
  
2. Independently of the specific measures and provisions for the least-developed, landlocked and island countries in the different chapters of the Agreement, special attention shall be paid in respect of these groups as well as countries in post-conflict situations to:
  - (a) the strengthening of regional cooperation;

- (b) transport and communications' infrastructure;
- (c) the efficient exploitation of marine resources and the marketing of products so produced and, in the case of landlocked countries, inland fisheries;
- (d) structural adjustment where account shall be taken of the level of development of these countries and equally, at the implementation stage, of the social dimension of adjustment; and
- (e) the implementation of food strategies and integrated development programmes.

## CHAPTER 2

### LEAST-DEVELOPED ACP STATES

#### ARTICLE 85

1. The least-developed ACP States shall be accorded a special treatment in order to enable them to overcome the serious economic and social difficulties hindering their development so as to step up their respective rates of development.
2. The list of least-developed countries is given in Annex VI. It may be amended by a decision of the Council of Ministers where:
  - (a) a third State in a comparable situation accedes to this Agreement; and

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

#### ARTICLE 86

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

### CHAPTER 3

#### LANDLOCKED ACP STATES

#### ARTICLE 87

1. Specific provisions and measures shall be established to support landlocked ACP States in their efforts to overcome the geographical difficulties and other obstacles hampering their development so as to enable them to step up their respective rates of development.
2. The list of landlocked ACP States is given in Annex VI. It may be amended by decision of the Council of Ministers when a third State in a comparable situation accedes to the Agreement.

## ARTICLE 88

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

## CHAPTER 4

### ISLAND ACP STATES

## ARTICLE 89

1. Specific provisions and measures shall be established to support island ACP States in their efforts to overcome the natural and geographical difficulties and other obstacles hampering their development so as to enable them to step up their respective rates of development.
2. The list of island ACP States is given in Annex VI. It may be amended by decision of the Council of Ministers when a third State in a comparable situation accedes to the Agreement.



## ARTICLE 90

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

## PART 6

### FINAL PROVISIONS

## ARTICLE 91

### Conflict between this Agreement and other treaties

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

## ARTICLE 92

### Scope of territorial application

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

## ARTICLE 93

### Ratification and entry into force

1. This Agreement shall be ratified or approved by the signatory Parties in accordance with their respective constitutional rules and procedures.
2. The instruments of ratification or approval of this Agreement shall be deposited in the case of the ACP States, with the General Secretariat of the Council of the European Union and in the case of the Community and the Member States, with the General Secretariat of the ACP States. The Secretariats shall promptly notify the signatory States and the Community.
3. This Agreement shall enter into force on the first day of the second month following the date of deposit of the instruments of ratification of the Member States and of at least two-thirds of the ACP States, and of the instrument of approval of this Agreement by the Community.
4. An ACP signatory State that has not completed the procedures set out in paragraphs 1 and 2 by the date on which this Agreement enters into force as provided for in paragraph 3 may do so only within the 12 months following that date, without prejudice to the provisions of paragraph 6.

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

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

6. The Council of Ministers may decide to accord special support to ACP States party to previous ACP-EC Conventions which, in the absence of normally established government institutions, have not been able to sign or ratify this Agreement. This support may concern institution building and economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. In this context, such countries will be able to draw on the funds provided for in Part 4 of this Agreement for financial and technical cooperation.

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

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

## ARTICLE 94

### Accession

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

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

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

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

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

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

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

## ARTICLE 95

### Duration of the agreement and revision clause

1. This Agreement is hereby concluded for a period of twenty years, commencing on 1 March 2000.
2. Financial protocols are defined for each five-year period.
3. The Community and the Member States, on the one hand, and the ACP States, on the other, shall notify the other Party not later than 12 months before the expiry of each five-year period of any review of the provisions they desire to make with a view to a possible amendment of the Agreement. This shall not apply, however, to the provisions on economic and trade cooperation, for which a special review procedure is provided for. Notwithstanding this time limit, if one Party requests the review of any provisions of the Agreement, the other Party shall have a period of two months in which to request the extension of the review to other provisions related to those which were the subject of the initial request.

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

Article 93 shall also apply to the amendments made.

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

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

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

#### ARTICLE 96

Essential elements: consultation procedure and appropriate measures  
as regards human rights, democratic principles and the rule of law

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

2.(a) If, despite the political dialogue conducted regularly between the Parties, a Party considers that the other Party has failed to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in paragraph 2 of Article 9, it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the party concerned to remedy the situation.

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

The consultations shall begin no later than 15 days after the invitation and shall continue for a period established by mutual agreement, depending on the nature and gravity of the violation. In any case, the consultations shall last no longer than 60 days.

If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused, or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them have disappeared.

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

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

- (c) The "appropriate measures" referred to in this Article are measures taken in accordance with international law, and proportional to the violation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. It is understood that suspension would be a measure of last resort.

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

## ARTICLE 97

### Consultation procedure and appropriate measures as regards corruption

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



2. In such cases either Party may invite the other to enter into consultations. Such consultations shall begin no later than 21 days after the invitation and shall last no longer than 60 days.
3. If the consultations do not lead to a solution acceptable to both Parties or if consultation is refused, the Parties shall take the appropriate measures. In all cases, it is above all incumbent on the Party where the serious cases of corruption have occurred to take the measures necessary to remedy the situation immediately. The measures taken by either Party must be proportional to the seriousness of the situation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. It is understood that suspension would be a measure of last resort.
4. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

## ARTICLE 98

### Dispute settlement

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

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

- 2.(a) If the Council of Ministers does not succeed in settling the dispute, either Party may request settlement of the dispute by arbitration. To this end, each Party shall appoint an arbitrator within thirty days of the request for arbitration. In the event of failure to do so, either Party may ask the Secretary-General of the Permanent Court of Arbitration to appoint the second arbitrator.
- (b) The two arbitrators shall in turn appoint a third arbitrator within thirty days. In the event of failure to do so, either Party may ask the Secretary-General of the Permanent Court of Arbitration to appoint the third arbitrator.
- (c) Unless the arbitrators decide otherwise, the procedure applied shall be that laid down in the optional arbitration regulation of the Permanent Court of Arbitration for International Organisations and States. The arbitrators' decisions shall be taken by majority vote within three months.
- (d) Each Party to the dispute shall be bound to take the measures necessary to carry out the decision of the arbitrators.
- (e) For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

## ARTICLE 99

### Denunciation clause

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

## ARTICLE 100

### Status of the texts

The Protocols and Annexes attached to this Agreement shall form an integral part thereof. Annexes II, III, IV and VI may be revised, reviewed and/or amended by the Council of Ministers on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee. This Agreement, drawn up in two copies in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, 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.