



EUROPEAN COMMISSION

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**Preparation of the multiannual financial framework regarding the financing of EU  
cooperation for African, Caribbean and Pacific States and Overseas Countries and  
Territories for the 2014-2020 period (11th European Development Fund)**

{SEC(2011) 1459 final}

{SEC(2011) 1460 final}

This Communication and its annex belong to a package of proposals from the Commission concerning EU external action within the Multiannual Financial Framework (MFF) for the period 2014-2020.

It is anticipated that Croatia will have joined the EU by 1 January 2014 and will contribute to the 11<sup>th</sup> EDF. If required, the text of the proposed Internal Agreement will be modified in accordance with its Articles 1.7 and 8.4.

The European Union maintains privileged relations with the African, Caribbean and Pacific (ACP) group of developing countries under the ACP-EU Partnership Agreement<sup>1</sup>. 25 Overseas Countries and Territories (OCTs) with constitutional links to Member States are associated to the EU through a regime based on the provisions of Part IV of the Treaty on the Functioning of the EU (TFEU) and the detailed rules and procedures laid down in the Overseas Association Decision (OAD) of 27 November 2001<sup>2</sup>.

The European Development Fund (EDF) is the main instrument for delivering EU assistance for development cooperation under the Cotonou Agreement with ACP States and for financing EU cooperation with the Overseas Countries and Territories under the Overseas Association Decision. The EDF is funded outside the EU budget by the EU Member States on the basis of specific contribution keys. Each EDF is concluded for a multi-annual period. The 10th EDF Internal Agreement<sup>3</sup>, establishing the resources of the 10th EDF and their share in broad sub-categories, covers the period 2008-2013, and includes provisions on implementation and financial monitoring.

In its Communication ‘A budget for Europe 2020’<sup>4</sup>, the Commission underlined that it was not appropriate at the present time to propose that the EDF be integrated into the EU budget (‘EDF budgetisation’). The integration of EU development cooperation with ACP States into the EU budget is foreseen for 2020, at the end of the 2014-2020 multiannual financial framework, coinciding with the year of expiry of the Cotonou Agreement.

This Communication describes the main elements that could figure in the Internal Agreement for the 11th European Development Fund, for the period 2014-2020. The content and wording of the Internal Agreement will be decided by the Representatives of the Governments of the EU Member States.

The adoption of this Internal Agreement would be followed by the adoption by the Council of an Implementing Regulation and a Financial Regulation for the 11th EDF.

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<sup>1</sup> OJ L 317, 15.12.2000, p. 3. Agreement as amended by the Agreements signed in Luxembourg on 25 June 2005 (OJ L 287, 28.10.2005, p. 4) and in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).

<sup>2</sup> OJ L 314, 30.11.2001, p. 1. Decision as amended by Decision 2007/249/EC (OJ L 109, 26.4.2007, p. 33).

<sup>3</sup> The 10th EDF Internal Agreement (OJ L 247, 9.9.2006, p. 32) was signed in July 2006 by the Representatives of the Member States meeting within the Council. The 10th EDF Implementing Regulation (Council Regulation No 617/2007) and the 10th EDF Financial Regulation (Council Regulation No 215/2008) were adopted in May 2007 and in February 2008 respectively. The 10th EDF entered into force on 1.7.2008 with the entry into force of the first revision of the Cotonou agreement.

<sup>4</sup> COM (2011) 500.

## 1. LEGAL AND POLICY FRAMEWORK

### EU Development Cooperation

The main policy objectives of EU external action are described in the Lisbon Treaty (Article 21 TEU). In addition, the main objective of EU development cooperation (Article 208 TFEU) is to reduce, and, in the long term, eradicate poverty. In this context the EU must comply with its commitments and take account of the objectives approved within the United Nations and other international organisations.

The policy framework includes the ‘European Consensus’, a Joint Statement on a European Union Development Policy, adopted on 22 December 2005 by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission<sup>5</sup>, the Communication ‘Increasing the impact of EU Development Policy: an Agenda for Change’ adopted by the Commission on 13 October 2011<sup>6</sup>, which provides for an updated policy framework for EU development cooperation in general, as well as any future communication establishing basic orientations and principles for the Union's development policy. The policy context also includes the Union's sectoral policy priorities and strategies with an external dimension and the integration of cross-sectoral policies such as climate action.

As regards cooperation with ACP States, this EU legal and policy framework is complemented by the Cotonou Agreement, concluded between the members of the ACP Group of States on the one hand and the European Union and its Member States on the other. It runs for a twenty-year period from March 2000 to February 2020, and entered into force in April 2003. It was designed to establish a comprehensive partnership, based on three complementary pillars: development cooperation, economic and trade cooperation, and the political dimension. The ACP-EU Partnership is centred on the objective of reducing and eventually eradicating poverty, consistent with the objectives of sustainable development and the gradual integration of the ACP States into the world economy (Art. 1 of the Cotonou Agreement).

The Cotonou Agreement provides for a revision clause which foresees that the agreement is adapted every five years. The second such revision was adopted in June 2010 by the ACP-EU Council of Ministers and has been applied on a provisional basis since November 2010; the Council will decide on the conclusion of the revised agreement after having obtained the consent of the European Parliament.

### OCT/EU Association

The OCT/EU Association rests on several legal bases. In EU primary law, it is based on Part IV of the Treaty on the Functioning of the EU (TFEU). The purpose of the Association is to promote the social and economic development of the OCTs (Overseas Countries and Territories) and to establish close economic relations between the OCTs and the EU as a whole (Article 198 TFEU). The detailed rules and procedures have been laid down in successive Council Decisions, the last of which is Council Decision 2001/822/EC. It applies

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<sup>5</sup> OJ C 46, 24.2.2006, p. 1.

<sup>6</sup> COM (2011) 637.

to all OCTs listed in Annex II to the Treaty, except for Bermuda, and is funded from the EDF. This Decision expires on 31 December 2013, and the Commission is preparing a proposal for a new Council Decision that should enter into force on 1 January 2014, and which will constitute the political and legal framework for the 11th EDF implementation with regard to OCTs.

## **2 MAIN CHANGES COMPARED TO THE INTERNAL AGREEMENT FOR THE 10TH EDF**

No major changes are proposed compared to the structure of the 10th EDF. The main proposed areas of change are as follows:

### *2.1 Member States' contributions*

As announced in the Communication 'A budget for Europe 2020', it is proposed to further align Member States' contribution keys under the EDF with the keys used for the EU budget. The proposed keys in Article 1(2)(a) are therefore closer to the budget contribution keys than they were when the 10th EDF was drawn up.

### *2.2 Financial envelopes*

The overall volumes proposed in Article 1(2)(a) for the 11th EDF for cooperation with ACP countries and OCTs were announced in the Communication 'A budget for Europe 2020' in 2011 prices. In the proposed draft internal agreement attached to this Communication, EDF financial envelopes are expressed in current prices to reflect more accurately inflation throughout the period covered by the Multiannual Financial Framework.

For support expenditure, the requested funding represents 5% of the EDF credits which will be managed by the Commission. This reflects the Commission's wish to take more fully into account the real support expenditures made for programming and implementing the EDF, including the costs associated with the devolution of aid implementation and with enhanced monitoring.

Regarding intra-ACP and interregional cooperation, Article 2(b) proposes to maintain the same share from ACP resources as in the 10th EDF. This envelope will be used in part to finance the new shock-absorbing scheme foreseen by the second revision of the Cotonou Agreement (see below).

Following consultation of the European Investment Bank, it appears that there is no need to replenish the Investment Facility, as sufficient funding is already available from reflows from the allocations of the 9th and 10th EDF, due to the 'revolving' nature of this Facility. However, this does not concern grants for financing interest rate subsidies and project-related technical assistance, for which an increased allocation (compared to the 10th EDF) is proposed in Article 2(d) and 3(1), to address the insufficient level of funding under the 10th EDF, to increase the scale of current activities and to allow for possible other types of blending mechanisms.

### *2.3 Regional B-envelopes and shock-absorbing scheme*

The second revision of the Cotonou Agreement foresees the creation of regional B-envelopes to cover unforeseen needs with a regional dimension (Article 9(2) of Annex IV to the revised Cotonou agreement). It also provides for the creation of shock-absorbing schemes to replace the current Flex and other ad hoc shock-absorbing schemes. These new schemes should build upon the experience of V-Flex and the Food Facility (Articles 60 and 68 of the revised Cotonou Agreement) and focus on exogenous shocks with a cross-country dimension. Article 2(c) therefore proposes to include these changes in the internal agreement for the 11th EDF.

#### *2.4 EDF Committee*

A proposed system of voting weights in the 11th EDF Committee is included in Article 8(2), based on the proposed contribution keys.

### **3. CONCLUSION**

Against this background, the Commission invites the Member States to consider the annexed draft Internal Agreement governing the implementation of EU aid for the ACP States and OCTs for the period 2014-2020.

**ANNEX:**

**DRAFT INTERNAL AGREEMENT**

**between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the EU applies**

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION, MEETING WITHIN THE COUNCIL,

Having regard to the Treaty on European Union and to the Treaty on the Functioning of the EU,

After consulting the Commission,

After consulting the European Investment Bank,

Whereas:

- (1) The Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000<sup>7</sup> (hereinafter referred to as ‘the ACP-EU Partnership Agreement’), provides for the definition of financial protocols for each five-year period.
- (2) On 17 July 2006, the Representatives of the Governments of the Member States, meeting within the Council, adopted an Internal Agreement on the financing of Community Aid under the multiannual financial framework for the period 2008 to 2013, in accordance with the ACP-EC Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies<sup>8</sup>.
- (3) Council Decision 2001/822/EC of 27 November 2001 on the association of the Overseas Countries and Territories with the European Community<sup>9</sup> (hereinafter referred to as the ‘Overseas Association Decision’), as amended by Council Decision 2007/249/EC (OJ L 109, 26.04.2007, p. 33), is applicable until 31 December 2013. A new decision should be adopted before that date.
- (4) In order to implement the ACP-EU Partnership Agreement and the Overseas Association Decision, an 11th EDF should be established and a procedure should be laid down for determining the allocation of funds and Member States' contributions to those funds.

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<sup>7</sup> OJ L 317, 15.12.2000, p. 3. Agreement as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 287, 28.10.2005, p. 4) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).

<sup>8</sup> OJ L 247, 9.9.2006, p. 32.

<sup>9</sup> OJ L 314, 30.11.2001, p. 1.

- (5) The Union and its Member States, in accordance with paragraph 7 of Annex Ib of the ACP-EU Partnership Agreement, conducted a performance review, together with the ACP States, assessing such things as the degree of realisation of commitments and disbursements.
- (6) The administration rules for financial cooperation should be determined.
- (7) A Committee of Representatives of the Member States should be set up at the Commission (hereinafter referred to as the 'EDF Committee'), and a similar Committee should be set up at the EIB. The work of the Commission and the EIB in applying the ACP-EU Partnership Agreement and the corresponding provisions of the Association Decision should be harmonised.
- (8) The Union's policy on development cooperation is guided by the Millennium Development Goals (MDGs) adopted by the United Nations General Assembly on 8 September 2000, including any subsequent modifications.
- (9) The Council and the Representatives of the Governments of the Member States, meeting within the Council, adopted the Operational Framework on Aid Effectiveness<sup>10</sup>, reaffirming the agreements under the Paris Declaration on Aid Effectiveness (2005), the EU Code of Conduct on Complementarity and Division of Labour in Development Policy (2007), and the EU Guidelines for the Accra Agenda for Action (2008). The Council also adopted in 2011 an EU common position for the High Level Forum IV in Busan, South Korea, on aid effectiveness, and the EU and its Member States agreed to the Busan Outcome Document.
- (10) The Official Development Assistance (ODA) targets referred to in the conclusions mentioned above should be borne in mind. When reporting EDF expenditure to Member States and to the OECD Development Assistance Committee, the Commission should distinguish between ODA and non-ODA activities.
- (11) On 22 December 2005, the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission adopted a Joint Statement on a European Union Development Policy: The European Consensus<sup>11</sup>.
- (12) On 13 October 2011, the Commission adopted a Communication 'Increasing the impact of EU Development Policy: an Agenda for Change'<sup>12</sup>.
- (13) On 22 December 2009, the Council and the Representatives of the Governments of the Member States meeting within the Council adopted conclusions on the EU's relations with Overseas Countries and Territories (OCTs).
- (14) The organisation and functioning of the European External Action Service are described in Council Decision 2010/427 EU.

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<sup>10</sup> Council document 18239/10 of 11 January 2011

<sup>11</sup> OJ C 46, 24.2.2006, p. 1

<sup>12</sup> COM(2011) 637.

- (15) To make it easier to integrate cooperation with ACP States into the General EU Budget in the future and avoid any interruption of funding from March to December 2020, it is appropriate to make the period of application of the EDF multiannual financial framework the same as for the 2014-2020 General EU Budget. It is therefore preferable to make 31 December 2020 the final date for commitments of EDF funds, rather than the 28 February 2020, the final date of application of the Cotonou Agreement.
- (16) To strengthen socio-economic cooperation between the EU Outermost Regions and ACP Countries, as well as Overseas Countries and Territories, in the Caribbean, Western Africa and Indian Ocean, European Regional Development Fund and European Territorial Cooperation Regulations include a reinforcement of the allocations 2014-2020 for cooperation between these Regions and partners outside the Union.

HAVE AGREED AS FOLLOWS:



## CHAPTER 1

### FINANCIAL RESOURCES

#### Article 1

##### Resources of the 11th EDF

1. The Member States hereby set up an eleventh European Development Fund, hereinafter referred to as 'the 11th EDF'.
2. The 11th EDF shall consist of:
  - (a) An amount of up to EUR 34 275.6 million (in current prices) contributed by the Member States as follows:

|                | Contribution key | Contributions<br>in EUR million |
|----------------|------------------|---------------------------------|
| Belgium        | 3.23 %           | 1 108.55                        |
| Bulgaria       | 0.22 %           | 75.38                           |
| Czech Republic | 0.83 %           | 284.58                          |
| Denmark        | 1.97 %           | 674.70                          |
| Germany        | 20.54 %          | 7 041.44                        |
| Estonia        | 0.08 %           | 28.82                           |
| Ireland        | 0.95 %           | 324.16                          |
| Greece         | 1.57 %           | 539.79                          |
| Spain          | 8.06 %           | 2 762.43                        |
| France         | 17.83 %          | 6 110.88                        |
| Italy          | 12.62 %          | 4 324.33                        |
| Cyprus         | 0.12 %           | 39.74                           |
| Latvia         | 0.11 %           | 37.52                           |
| Lithuania      | 0.18 %           | 61.42                           |
| Luxembourg     | 0.26 %           | 90.00                           |

|                 |          |          |
|-----------------|----------|----------|
| Hungary         | 0.69 %   | 237.42   |
| Malta           | 0.04 %   | 13.44    |
| The Netherlands | 4.85 %   | 1 662.01 |
| Austria         | 2.36 %   | 810.04   |
| Poland          | 2.17 %   | 743.24   |
| Portugal        | 1.20 %   | 410.17   |
| Romania         | 0.72 %   | 247.40   |
| Slovenia        | 0.23 %   | 80.05    |
| Slovak republic | 0.38 %   | 131.85   |
| Finland         | 1.51 %   | 516.47   |
| Sweden          | 2.94 %   | 1 006.82 |
| United Kingdom  | 14.33 %  | 4 912.95 |
| TOTAL           | 100.00 % | 34 275.6 |

The amount of EUR 34 275.6 million shall be available from the entry into force of the multiannual financial framework, of which

- (i) EUR 32 218.4 million shall be allocated to the ACP Group of States;
  - (ii) EUR 343.4 million shall be allocated to the OCTs;
  - (iii) EUR 1713.8 million shall be allocated to the Commission for support expenditure as referred to in Article 6, linked to programming and implementation of the EDF.
- (b) The funds referred to in Annex I and Ib to the ACP-EU Partnership Agreement and Annex II A and Aa of the Overseas Association Decision and allocated under the 9th and 10th EDF to finance the resources of the Investment Facility in accordance with the terms and conditions set out in Annex II to the ACP-EU Partnership Agreement and in Annex II C of the Overseas Association Decision (hereinafter referred to as the 'Investment Facility') are not affected by Decision 2005/446/EC as amended by Decision 2007/792/EC and paragraph 5 of Annex Ib of the Cotonou Agreement stipulating the dates beyond which the funds of the 9th and 10th EDF may no longer be committed. These funds shall be transferred to the 11th EDF and be managed according to the implementation arrangements for the 11th EDF, from the date of entry into force of the multiannual financial framework for the period 2014 to 2020 under the ACP-EU Partnership Agreement, and from the date of entry into force of Council decisions on financial assistance to the OCTs for the period 2014 to 2020, respectively.

3. After 31 December 2013, or after the date of entry into force of the multiannual financial framework for the period 2014 to 2020 if this falls later, balances from the 10th EDF or from previous EDFs shall no longer be committed, with the exception of the balances and funds decommitted after this date of entry into force and resulting from the system guaranteeing the stabilisation of export earnings from primary agricultural products (Stabex) under the EDFs prior to the 9th EDF, and of those funds referred to in paragraph 2(b).
4. Funds decommitted from projects under the 10th EDF or from previous EDFs after 31 December 2013 shall no longer be committed, unless decided otherwise by the Council unanimously, on the basis of a proposal by the Commission, with the exception of the funds decommitted after this date of entry into force resulting from the systems guaranteeing the stabilisation of export earnings from primary agricultural products (Stabex) under the EDFs prior to the 9th EDF, which shall be automatically transferred to the respective national indicative programmes referred to in Article 2(a)(i) and Article 3(1) and those funds to finance the resources of the Investment Facility referred to in paragraph 2(b) of the present Article.
5. The total amount of resources of the 11th EDF shall cover the period from 1 January 2014 to 31 December 2020. The funds of the 11th EDF, and in the case of the Investment Facility the funds stemming from reflows, shall no longer be committed beyond 31 December 2020 unless the Council decides otherwise unanimously, on a proposal from the Commission. However, the funds subscribed by the Member States under the 9<sup>th</sup> and 10<sup>th</sup> EDFs to finance the Investment Facility shall remain available after 31 December 2020 for disbursement.
6. The revenue from interest arising from operations financed under commitments made under previous EDFs and on the funds of the 11th EDF managed by the Commission shall be credited to one or more bank accounts opened in the name of the Commission, and shall be used in accordance with the terms of Article 6. The use of revenue from interest generated on the funds of the 11th EDF managed by the EIB will be determined in the framework of the Financial Regulation referred to in Article 10(2).
7. Should a new State accede to the EU, the amounts and contribution keys referred to in paragraph 2(a) shall be amended by a decision of the Council acting unanimously, on the basis of a proposal from the Commission.
8. Financial resources may be adjusted by a decision of the Council acting unanimously, in particular for acting in accordance with Article 62(2) of the ACP-EU Partnership Agreement.
9. Any Member State may, without prejudice to the decision-making rules and procedures set out in Article 8, provide the Commission or the EIB with voluntary contributions to support the objectives of the ACP-EU Partnership Agreement. Member States may also co-finance projects or programmes, e.g. under specific initiatives managed by the Commission or the EIB. The ownership of such initiatives by the ACP countries at the national level shall be guaranteed.

The Implementation and Financial Regulation referred to in Article 10 shall include the necessary provisions on co-financing by the EDF, and on co-financing activities

implemented by Member States. Member States shall inform the Council in advance of their voluntary contributions.

10. The Union and its Member States may, together with the ACP States, and in accordance with paragraph 7 of the Financial Protocol in Annex Ic to the ACP-EU Partnership Agreement, decide to conduct a performance review, assessing the degree of realisation of commitments and disbursements, and the results and impact of the aid provided. The review would be undertaken on the basis of a proposal by the Commission.

## Article 2

### **Resources allocated for the ACP States**

The amount of EUR 32 218.4 million referred to in Article 1(2)(a)(i) shall be allocated between the instruments of cooperation as follows:

- (a) EUR 27 658.2 million to finance national and regional indicative programmes. This allocation will be used to finance
  - (i) the national indicative programmes of the ACP States in accordance with Articles 1 to 5 of Annex IV to the ACP-EU Partnership Agreement;
  - (ii) the regional indicative programmes of support for regional and inter-regional cooperation and integration of ACP States in accordance with Articles 6 to 11 of Annex IV to the ACP-EU Partnership Agreement;
- (b) EUR 3 960.2 million to finance intra-ACP and inter-regional cooperation involving many or all of the ACP States, in accordance with Articles 12 to 14 of Annex IV to the ACP-EU Partnership Agreement. This envelope shall include structural support for the CDE and the CTA referred to in Annex III to the ACP-EU Partnership Agreement and supervised according to the rules and procedures set out in that Annex, and for the Joint Parliamentary Assembly referred to in Article 17 of the ACP-EU Partnership Agreement. This envelope shall also cover assistance for the operating expenditure of the ACP Secretariat referred to in points 1 and 2 of Protocol 1 attached to the ACP-EU Partnership Agreement;
- (c) Part of the resources referred to under points (a) and (b) may be used to cover unforeseen needs and to mitigate adverse short-term effects of exogenous shocks, in accordance with Articles 60, 66, 68, 72, 72a and 73 of the ACP-EU Partnership Agreement and with Articles 3 and 9 of Annex IV to the ACP-EU Partnership Agreement, including, as appropriate, complementary short-term humanitarian relief and emergency assistance, where such support cannot be financed from the Union budget.
- (d) EUR 600 million allocated to the EIB to finance the Investment Facility in accordance with the terms and conditions set out in Annex II to the ACP-EU Partnership Agreement, in the form of grants to finance the interest-rate subsidies and project-related technical assistance provided for in Articles 1, 2 and 4 of Annex II to the ACP-EU Partnership Agreement over the period of the 11th EDF.

## Article 3

### **Resources allocated for the OCTs**

1. The amount of EUR 343.4 million referred to in Article 1(2)(a)(ii) shall be allocated according to a Council Decision to be taken before 31 December 2013 for implementing the Association with the OCTs, of which EUR 338.4 million to finance territorial and regional programmes, and EUR 5 million in the form of an allocation to the EIB to finance interest subsidies and technical assistance in accordance with the Overseas Association Decision.
2. Where an OCT becomes independent and accedes to the ACP-EU Partnership Agreement, the amount indicated in paragraph 1 shall be reduced and the amounts indicated in Article 2(a)(i) correspondingly increased by a decision of the Council acting unanimously on a proposal from the Commission.

## Article 4

### **Loans from the EIB's own resources**

1. To the amount allocated to the Investment Facility under the 9th EDF referred to in Article 1(2)(b) and the amount referred to in Article 2(d) shall be added an indicative amount of up to EUR 2 600 million in the form of loans granted by the EIB from its own resources. These resources shall be allocated for an amount of up to EUR 2 500 million for the purposes set out in Annex II to the ACP-EU Partnership Agreement and for an amount of up to EUR 100 million for the purposes set out in the Overseas Association Decision, in accordance with the conditions specified in its statutes and the relevant terms and conditions for investment financing as laid down in Annex II to the ACP-EU Partnership Agreement and the Overseas Association Decision.
2. The Member States shall undertake to act as guarantor for the EIB in proportion to their contributions to its capital, waiving any right to object, in respect of all financial commitments arising for borrowers under contracts concluded by the EIB for loans from its own resources pursuant to Article 1(1) of Annex II to the ACP-EU Partnership Agreement and the corresponding provisions of the Overseas Association Decision.
3. The guarantee referred to in paragraph 2 shall be restricted to 75% of the total amount of credits opened by the EIB under all the loan contracts; it shall cover all risks for public sector projects. For private sector projects, the guarantee shall cover all political risks, but the EIB will assume the full commercial risk.
4. The undertakings referred to in paragraph 2 shall be the subject of guarantee contracts between each Member State and the EIB.

## Article 5

### **Operations managed by the EIB**

1. Payments made to the EIB in respect of special loans granted to the ACP States, the OCTs and the French overseas departments, together with the proceeds and income

from risk capital operations, under the EDFs prior to the 9th EDF shall be credited to the Member States in proportion to their contributions to the EDF to which the sums relate, unless the Council decides unanimously, on a proposal from the Commission, to place them in reserve or allocate them to other purposes.

2. Any commission due to the EIB for managing the loans and operations referred to in paragraph 1 shall be deducted in advance from the sums to be credited to the Member States.
3. Proceeds and income received by the EIB from operations under the Investment Facility under the 9th, 10th and 11th EDF shall be used for further operations under that Facility, in accordance with Article 3 of Annex II to the ACP-EU Partnership Agreement and after deduction of exceptional expenses and liabilities arising in connection with the Investment Facility.
4. The EIB shall be remunerated on a full indemnity basis for managing the Investment Facility operations referred to in paragraph 3, in accordance with Article 3(1a) of Annex II to the ACP-EU Partnership Agreement and with the relevant provisions of the revised Overseas Association Decision.

#### Article 6

##### **Resources reserved for Commission support expenditure linked to the EDF**

1. The EDF resources shall cover the costs of support measures. The resources referred to in Article 1(2)(a)(iii) and Article 1(6) shall cover any cost linked to the programming and implementation of the EDF which are not necessarily covered by the strategy papers and multiannual indicative programmes referred to in the Implementing Regulation to be adopted pursuant to Article 10(1).
2. The resources for support measures may cover Commission expenditure associated with:
  - (a) the preparation, follow-up, monitoring, accounting, audit and evaluation activities directly necessary for the programming and implementation of the EDF resources;
  - (b) the achievement of the EDF objectives, by way of development policy research activities, studies, meetings, information, awareness-raising, training and publication activities, including provision of information and communication activities on the EDF. Budget allocated to communication under this Agreement shall also cover the corporate communication of the political priorities of the European Union in relation to the EDF; and
  - (c) computer networks for the exchange of information, and any other administrative or technical assistance expenditure for the programming and implementation of the EDF.

They shall also cover expenditure both at Headquarters and in Delegations on the administrative support needed to programme and manage operations financed under the ACP-EU Partnership Agreement and the Overseas Association Decision.

They shall not be assigned to core tasks of the European public service.

## CHAPTER II

### IMPLEMENTATION AND FINAL PROVISIONS

#### *Article 7*

#### **Contributions to the 11th EDF**

1. The Commission shall, taking into account the EIB's forecasts concerning the management and operation of the Investment Facility, establish and communicate to the Council by 20 October of each year a statement of the commitments, payments and the annual amount of the calls for contributions to be made in the current and the next two budget years. These amounts shall be based on the capacity to effectively deliver the proposed level of resources.
2. Upon a proposal from the Commission, specifying the respective shares for the Commission and for the EIB, the Council shall decide by qualified majority, as laid down in Article 8, on the ceiling for the annual contribution for the second year following the proposal from the Commission (n+2) and, within the ceiling decided the previous year, on the annual amount of the call for contributions for the first year following the proposal from the Commission (n+1).
3. Should the contributions decided according to paragraph 2 deviate from the EDF's actual needs during the financial year in question, the Commission shall submit to the Council proposals to amend the contribution amounts within the ceiling referred to in paragraph 2; the Council shall take a decision by qualified majority as laid down in Article 8.
4. The calls for contributions may not exceed the ceiling referred to in paragraph 2, nor may the ceiling be increased except when decided by the Council by qualified majority as laid down in Article 8 in cases of special needs resulting from exceptional or unforeseen circumstances, such as post-crisis situations. In this case, the Commission and the Council shall ensure that contributions correspond to expected payments.
5. The Commission shall, taking into account the EIB's forecasts, communicate to the Council by 20 October of each year its estimates of commitments, disbursements and contributions for the next three budget years.
6. As regards funds transferred from previous EDFs to the 11th EDF in accordance with Article 1(2)(b), the contributions of each Member State shall be calculated in proportion to the contribution of each Member State to the EDF in question.

As regards any funds of the 10th EDF and the previous EDF that are not transferred to the 11th EDF, the impact on the contribution of each Member State shall be calculated in proportion to the contribution of each Member State to the 10th EDF.

7. The detailed rules for the payment of contributions by the Member States shall be determined by the Financial Regulation referred to in Article 10(2).

*Article 8*

**The European Development Fund Committee**

1. A Committee (hereinafter ‘the EDF Committee’) consisting of Representatives of Member States shall be set up at the Commission for the 11th EDF resources which the Commission administers. The EDF Committee shall be chaired by a Commission representative, and its secretariat shall be provided by the Commission. A representative of the EIB may take part in its work.
2. Within the EDF Committee, the votes of the Member States shall be weighted as follows:

| Member State    | EU-27 Votes |
|-----------------|-------------|
| Belgium         | 32          |
| Bulgaria        | 2           |
| Czech Republic  | 8           |
| Denmark         | 20          |
| Germany         | 205         |
| Estonia         | 1           |
| Ireland         | 9           |
| Greece          | 16          |
| Spain           | 80          |
| France          | 178         |
| Italy           | 126         |
| Cyprus          | 1           |
| Latvia          | 1           |
| Lithuania       | 2           |
| Luxembourg      | 3           |
| Hungary         | 7           |
| Malta           | 1           |
| The Netherlands | 48          |



|                |     |
|----------------|-----|
| Austria        | 24  |
| Poland         | 22  |
| Portugal       | 12  |
| Romania        | 7   |
| Slovenia       | 2   |
| Slovakia       | 4   |
| Finland        | 15  |
| Sweden         | 29  |
| United Kingdom | 143 |
| Total EU-27    | 998 |

3. The EDF Committee shall act by a qualified majority of 720 votes out of 998, expressing a vote in favour by at least 14 Member States. The blocking minority shall consist of 279 votes.
4. Should a new State accede to the EU, the weightings laid down in paragraph 2 and the qualified majority referred to in paragraph 3 shall be amended by a Decision of the Council, acting unanimously.
5. The Committee shall adopt its rules of procedure.

#### *Article 9*

#### **The Investment Facility Committee**

1. A Committee (hereinafter ‘the Investment Facility Committee’) consisting of Representatives of the Governments of the Member States and of a representative of the Commission shall be set up under the auspices of the EIB. The EIB shall provide the Committee’s secretariat and support services. The Chairperson of the Investment Facility Committee shall be elected by and from among the Committee's members.
2. The Council shall adopt the rules of procedure of the Investment Facility Committee, acting unanimously.
3. The Investment Facility Committee shall act by a qualified majority, as laid down in Article 8(2) and 8(3).

#### *Article 10*

#### **Implementing provisions**

1. Without prejudice to Article 8 of this Agreement and the Member States' voting rights there under, all the relevant provisions of the Implementing Regulation for the 10th EDF and of Commission Regulation No 2304/2002 implementing Council Decision 2001/822/EC concerning assistance to the OCTs shall remain in force pending the adoption by the Council of an Implementing Regulation for the 11th EDF and of implementing rules for the revised Overseas Association Decision. The 11th EDF Implementing Regulation shall be decided upon by unanimity, based on a proposal by the Commission and after consulting the EIB. The implementing rules for EU financial assistance to OCTs shall be adopted following adoption of the revised Overseas Association Decision by the Council by unanimity and with consultation of the European Parliament.

The 11th EDF Implementing Regulation and the implementing rules of the revised Overseas Association Decision shall contain appropriate modifications and improvements to the programming and decision-making procedures, further harmonising Union and EDF procedures as far as possible. The 11th EDF Implementing Regulation shall furthermore maintain particular management procedures for the Peace Facility. Recalling that financial and technical assistance for the implementation of Article 11b of the ACP-EU Partnership Agreement will be financed by specific instruments other than those intended for the financing of the ACP-EU Cooperation, activities developed under these provisions need to be approved by prior specified budgetary management procedures.

The 11<sup>th</sup> EDF Implementing Regulation shall contain appropriate measure to allow for matching of funding of credits from the EDF and the European Regional Development Fund to finance cooperation projects between EU Outermost Regions and ACP Countries as well as Overseas Countries and Territories in the Caribbean, Western Africa and Indian Ocean, in particular simplified mechanisms for joint management of such projects.

2. A Financial Regulation shall be adopted by the Council, acting by a qualified majority as laid down in Article 8, on the basis of a proposal from the Commission and after an opinion has been delivered by the EIB on those provisions concerning it, and by the Court of Auditors.
3. The Commission will present its proposals for the regulations referred to in paragraphs (1) and (2) making provision, *inter alia*, for the possibility of delegating the implementation of tasks to third parties.

#### *Article 11*

#### **Financial implementation, accounting, audit and discharge**

1. The Commission shall undertake the financial implementation of the envelopes it manages and in particular the financial execution of projects and programmes, in accordance with the Financial Regulation referred to in Article 10(2). For the recovery of sums unduly paid, decisions of the Commission shall be enforceable within the jurisdiction of the EU in accordance with Article 299 of the Treaty on the Functioning of the EU.

2. The EIB shall manage the Investment Facility and conduct operations there under on behalf of the Union, in accordance with the rules set out in the Financial Regulation referred to in Article 10(2). In so doing, the EIB shall act at the risk of the Member States. Any rights resulting from such operations, in particular rights as creditor or owner, shall be vested in the Member States.
3. The EIB shall undertake, according to its statutes and best banking practice, the financial implementation of operations by means of loans from its own resources as referred to in Article 4, where applicable combined with interest-rate subsidies drawn from the EDF's grant resources.
4. For each financial year, the Commission shall draw up and approve the accounts of the EDF and send them to the European Parliament, the Council and the Court of Auditors.
5. The Commission shall make the information referred to in Article 10 available to the Court of Auditors so that the latter may, on the basis of the documentary evidence, carry out checks on the aid provided from EDF resources.
6. Each year, the EIB shall send to the Commission and the Council its Annual Report on the implementation of operations financed from the EDF resources it manages.
7. Subject to paragraph 9 of this Article, the Court of Auditors shall exercise the powers conferred on it by Article 287 of the Treaty on the Functioning of the EU in respect of EDF operations. The conditions under which the Court of Auditors exercises its powers shall be laid down in the Financial Regulation referred to in Article 10(2).
8. Discharge for the financial management of the EDF, excluding operations managed by the EIB, shall be given to the Commission by the European Parliament on the recommendation of the Council, acting by a qualified majority as laid down in Article 8.
9. The operations financed from the EDF resources managed by the EIB shall be subject to the control and discharge procedure laid down by the Statute of the EIB for all its operations.

## Article 12

### **Revision clause**

Article 1(3) and the Articles contained in Chapter II, with the exception of Article 8, may be amended by the Council, acting unanimously and on a proposal from the Commission. The EIB shall be associated with the Commission's proposal on matters relating to its activities and those of the Investment Facility.

## *Article 13*

### **European External Action Service**

The application of this Regulation shall be in accordance with Council Decision 2010/427 EU, establishing the organisation and functioning of the European External Action Service.

#### *Article 14*

##### **Ratification, entry into force and duration**

1. Each Member State shall approve this Agreement in accordance with its own constitutional requirements. The Government of each Member State shall notify the General Secretariat of the Council of the European Union when the procedures required for the entry into force of this Agreement have been completed.
2. This Agreement shall enter into force on the first day of the second month following the notification of the approval of this Agreement by the last Member State.
3. This Agreement is concluded for the same duration as the multiannual financial framework for 2014-2020 annexed to the ACP-EU Partnership Agreement and the duration of the Overseas Association Decision (2014-2020). However, notwithstanding Article 1(4), this Agreement shall remain in force for as long as is necessary for all the operations financed under the ACP-EU Partnership Agreement and the Overseas Association Decision and the multi-annual financial framework to be fully executed.

#### *Article 15*

##### **Authentic languages**

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