



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 14 May 2013
(OR.en)**

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**ACP 45
FIN 164
PTOM 10
RELEX 257
DEVGEN 77
OC 180**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: 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 European Union applies

COMMON GUIDELINES

Consultation deadline for Croatia: 24.5.2013

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 EUROPEAN UNION 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,

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

After consulting the European 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 2000¹, as first amended in Luxembourg on 25 June 2005² and as amended for the second time in Ouagadougou on 22 June 2010³ ('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 applies⁴.
- (3) Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community⁵ (the 'Overseas Association Decision') is applicable until 31 December 2013. A new decision should be adopted before that date.

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 287, 28.10.2005, p. 4.

³ OJ L 287, 4.11.2010, p. 3.

⁴ OJ L 247, 9.9.2006, p. 32.

⁵ OJ L 314, 30.11.2001, p. 1.

- (4) In order to implement the ACP-EU Partnership Agreement and the Overseas Association Decision, an 11th European Development Fund (EDF) should be established and a procedure should be laid down for determining the allocation of funds and Member States' contributions to those funds.
- (5) The Union and its Member States, in accordance with Annex Ib to the ACP-EU Partnership Agreement, conducted a performance review, together with the African, Caribbean and Pacific Group of States ('ACP States'), assessing 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 Governments of the Member States should be set up at the Commission ('EDF Committee'), and a similar Committee should be set up at the European Investment Bank (EIB). The work of the Commission and the EIB in applying the ACP-EU Partnership Agreement and the corresponding provisions of the Overseas Association Decision should be harmonised.
- (8) The Union's policy on development cooperation is guided by the Millennium Development Goals adopted by the United Nations General Assembly on 8 September 2000, including any subsequent modifications.

- (9) 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 Consensus¹.
- (10) On 9 December 2010, the Council adopted conclusions on Mutual Accountability and Transparency: A Fourth Chapter for the EU Operational Framework on Aid Effectiveness. Those conclusions were added to the consolidated text of the Operational Framework on Aid Effectiveness where 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) were reaffirmed. On 14 November 2011, the Council adopted an EU common position, including on the EU Transparency Guarantee and other aspects of transparency and accountability, for the fourth High Level Forum on Aid Effectiveness in Busan, South Korea which resulted in, inter alia, the Busan Outcome Document. The Union and its Member States agreed to the Busan Outcome Document. On 14 May 2012, the Council adopted conclusions on Increasing the Impact of EU Development Policy: an Agenda for Change and on the Future Approach to EU Budget Support to Third Countries.

¹ OJ C 46, 24.2.2006, p. 1.

- (11) The Official Development Assistance (ODA) targets referred to in the conclusions mentioned in recital 10 should be borne in mind. When reporting the 11th EDF expenditure to Member States and to the OECD Development Assistance Committee, the Commission should distinguish between ODA and non-ODA activities.
- (12) On 22 December 2009, the Council adopted conclusions on the EU's relations with Overseas Countries and Territories (OCTs).
- (13) The application of this Agreement should be in accordance with Council Decision 2010/427/EU 26 July 2010 establishing the organisation and functioning of the European External Action Service¹.
- (14) In order to avoid any interruption of funding from March to December 2020, it is appropriate to make the period of application of the 11th EDF multiannual financial framework the same as for the multiannual financial framework for the period 2014 to 2020 applicable to the general budget of the Union. It is therefore preferable to make 31 December 2020 the final date for commitments of the 11th EDF funds, rather than the 28 February 2020 which is the final date of application of the ACP-EU Partnership Agreement.

¹ OJ L 201, 3.8.2010, p. 30.

- (15) Building on the fundamental principles of the ACP-EU Partnership Agreement, the objectives of the 11th EDF are poverty eradication, sustainable development and the gradual integration of ACP States into the world economy. Special treatment should be given to the least developed countries.

- (16) To strengthen socio-economic cooperation between the Union outermost regions and ACP States, as well as OCTs in the Caribbean, Western Africa and Indian Ocean, the European Regional Development Fund and European territorial cooperation regulations should include a reinforcement of the allocations for the period 2014 to 2020 for such cooperation between them,

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 'the 11th EDF'.
2. The 11th EDF shall consist of:
 - (a) an amount of EUR 30 506 million (in current prices) contributed by the Member States as follows:

Member State	Contribution key (%)	Contribution in EUR
Belgium	3,24927	991 222 306
Bulgaria	0,21853	66 664 762
Czech Republic	0,79745	243 270 097
Denmark	1,98045	604 156 077
Germany	20,5798	6 278 073 788
Estonia	0,08635	26 341 931
Ireland	0,94006	286 774 704
Greece	1,50735	459 832 191
Spain	7,93248	2 419 882 349
France	17,81269	5 433 939 212
Croatia (*)	0,22518	68 693 411
Italy	12,53009	3 822 429 255
Cyprus	0,11162	34 050 797
Latvia	0,11612	35 423 567
Lithuania	0,18077	55 145 696
Luxembourg	0,25509	77 817 755
Hungary	0,61456	187 477 674
Malta	0,03801	11 595 331
Netherlands	4,77678	1 457 204 507
Austria	2,39757	731 402 704
Poland	2,00734	612 359 140
Portugal	1,19679	365 092 757
Romania	0,71815	219 078 839
Slovenia	0,22452	68 492 071
Slovakia	0,37616	114 751 370
Finland	1,50909	460 362 995
Sweden	2,93911	896 604 897
United Kingdom	14,67862	4 477 859 817
TOTAL	100,00000	30 506 000 000
(*) Estimated amount.		

The amount of EUR 30 506 million shall be available from the entry into force of the multiannual financial framework for the period 2014 to 2020, of which

- (i) EUR 29 089 million shall be allocated to the ACP States;
 - (ii) EUR 364,5 million shall be allocated to the OCTs;
 - (iii) EUR 1 052,5 million shall be allocated to the Commission for support expenditure as referred to in Article 6, linked to programming and implementation of the 11th EDF; of which at least EUR 76,3 million is to be allocated to the Commission for measures to improve the impact of EDF programmes as referred to in Article 6(3).
- (b) with the exception of the grants for the financing of the interest-rate subsidies, the funds referred to in Annexes I and Ib to the ACP-EU Partnership Agreement and Annexes II A and II Aa to the Overseas Association Decision and allocated under the 9th and 10th EDFs to finance the resources of the Investment Facilities are not affected by Decision 2005/446/EC¹, and paragraph 5 of Annex Ib to the ACP-EU Partnership Agreement stipulating the dates beyond which the funds of the 9th and 10th EDFs may no longer be committed. Those funds shall be transferred to the 11th EDF and be managed according to the implementation arrangements for the 11th EDF from, as regards the funds referred to in Annexes I and Ib to the ACP-EU Partnership Agreement, the date of entry into force of the multiannual financial framework for the period 2014 to 2020 under the ACP-EU Partnership Agreement, and, as regards the funds referred to in Annexes II A and II Aa to the Overseas Association Decision, from the date of entry into force of Council decisions on financial assistance to the OCTs for the period 2014 to 2020.

¹ Decision 2005/446/EC of the Representatives of the Governments of the Member States meeting within the Council of 30 May 2005 setting the deadline for the commitment of the funds of the 9th European Development Fund (EDF) (OJ L 156, 18.6.2005, p. 19).

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 that date falls later, balances from the 10th EDF or from previous EDFs shall no longer be committed, unless the Council acting unanimously on a proposal of the Commission decides otherwise, with the exception of the balances and funds decommitted after the relevant date 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, or after the date of entry into force of the multiannual financial framework for the period 2014 to 2020 if that date falls later, shall no longer be committed, unless the Council acting unanimously on a proposal of the Commission decides otherwise, with the exception of the funds decommitted after the relevant date and resulting from the system 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 point (a)(i) of Article 2 and in Article 3(1) and funds to finance the resources of the Investment Facilities referred to in paragraph 2(b) of this 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 acting unanimously on a proposal of the Commission decides otherwise. However, the funds subscribed by the Member States under the 9th, 10th and 11th EDFs to finance the Investment Facility shall remain available after 31 December 2020 for disbursement, until a date to be laid down in the Financial Regulation referred to in Article 10(2).

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 managed by the EIB shall be determined in the framework of the Financial Regulation referred to in Article 10(2).

7. Should a State accede to the Union, the amounts and contribution keys referred to in paragraph 2(a) shall be amended by a decision of the Council acting unanimously on 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 States at the national level shall be guaranteed.

The Implementation and Financial Regulations referred to in Article 10 shall include the necessary provisions on co-financing by the 11th 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 shall conduct a performance review, assessing the degree of realisation of commitments and disbursements, and the results and impact of the aid provided. The review shall be undertaken on the basis of a proposal by the Commission.

ARTICLE 2

Resources allocated for the ACP States

The amount of EUR 29 089 million referred to in point (a)(i) of Article 1(2) shall be allocated between the instruments of cooperation as follows:

- (a) the amount of EUR 24 365 million to finance national and regional indicative programmes.

This allocation is to 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) the amount of EUR 3 590 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 may include structural support to institutions and bodies created under the ACP-EU Partnership Agreement. . This envelope shall 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) the amount of EUR 1 134 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, comprising an additional contribution of EUR 500 million to the resources of the Investment Facility, managed as a revolving fund, and EUR 634 million 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 364,5 million referred to in point (a)(ii) of Article 1(2) shall be allocated according to a new Overseas Association Decision to be taken by the Council before 31 December 2013, of which EUR 359,5 million shall be allocated to finance territorial and regional programmes, and EUR 5 million shall be in the form of an allocation to the EIB to finance interest-rate subsidies and technical assistance in accordance with the new Overseas Association Decision.

2. Where an OCT becomes independent and accedes to the ACP-EU Partnership Agreement, the amount indicated in paragraph 1, namely EUR364,5 million, shall be reduced and the amounts indicated in point (a)(i) of Article 2 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, 10th and 11th EDFs referred to in point (b) of Article 1(2) and the amount referred to in point (d) of Article 2 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. Those resources shall be allocated for the purposes set out in Annex II to the ACP-EU Partnership Agreement of an amount of up to EUR 2 500 million which may be increased at mid-term following a decision to be taken by the EIB governing bodies, and of 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 Statute 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 and 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 the Investment 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 Overseas Association Decision.

ARTICLE 6

Resources reserved for Commission support expenditure linked to the EDF

1. The 11th EDF resources shall cover the costs of support measures. The resources referred to in point (a)(iii) of Article 1(2) and in Article 1(6) shall cover costs 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 Implementation Regulation to be adopted pursuant to Article 10(1) of this Agreement. The Commission shall provide information every two years on how those resources are spent and on further efforts to make efficiency savings and efficiency gains. The Commission shall advise Member States in advance of any additional amounts which are drawn from the EU budget for implementing the EDF.

2. The resources for support measures may cover Commission expenditure associated with:
 - (a) the preparation, follow-up, monitoring, accounting, audit and evaluation activities, including reporting on results, 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 which, inter alia, report on the results of the EDF programmes. Budget allocated to communication under this Agreement shall also cover the corporate communication of the political priorities of the 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.

The resources referred to in point (a)(iii) of Article 1(2) and Article 1(6) shall also cover expenditure both at Headquarters and in Union Delegations on the administrative support needed to programme and manage operations financed under the ACP-EU Partnership Agreement and the Overseas Association Decision.

The resources referred to in point (a)(iii) of Article 1(2) and Article 1(6) shall not be assigned to core tasks of the European public service.

3. The resources for support measures to improve the impact of EDF programmes given in point (a)(iii) of Article 1(2) shall include Commission expenditure associated with implementing a comprehensive results framework and enhanced monitoring and evaluation of EDF programmes from 2014 onwards. The resources shall also support the Commission's efforts to improve financial management and forecasting of the EDF with regular reports on progress.

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 following 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 11th 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. In this regard, the Council shall take a decision by qualified majority as laid down in Article 8.

4. The calls for contributions cannot exceed the ceiling referred to in paragraph 2, nor can 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 each of the following three budget years.

6. As regards funds transferred from previous EDFs to the 11th EDF in accordance with point (b) of Article 1(2), 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 EDFs 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 ('the EDF Committee') consisting of Representatives of the Governments of the 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. An observer from the EIB shall take part in the committee's proceedings with regard to questions concerning the EIB.

2. Within the EDF Committee, the votes of the Member States shall be weighted as follows:

Member State	Votes
Belgium	33
Bulgaria	2
Czech Republic	8
Denmark	20
Germany	206
Estonia	1
Ireland	9
Greece	15
Spain	79
France	178
Croatia (*)	[2]
Italy	125
Cyprus	1
Latvia	1
Lithuania	2
Luxembourg	3
Hungary	6
Malta	1
Netherlands	48
Austria	24
Poland	20
Portugal	12
Romania	7
Slovenia	2
Slovakia	4
Finland	15
Sweden	29
United Kingdom	147
Total EU 27	998
Total EU 28 (*)	[1 000]
(*) Estimated vote.	

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 State accede to the Union, 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 Council shall adopt the rules of procedure of the EDF Committee acting unanimously on a proposal from the Commission.

ARTICLE 9

The Investment Facility Committee

1. A Committee ('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

Implementation provisions

1. Without prejudice to Article 8 of this Agreement and the Member States' voting rights thereunder, all the relevant provisions of the Council Regulation (EC) No 617/2007 of 14 May 2007 on the implementation of the 10th European Development Fund under the ACP-EC Partnership Agreement¹ and of Commission Regulation (EC) No 2304/2002 of 20 December 2002 implementing Council Decision 2001/822/EC² concerning assistance to the OCTs shall remain in force pending the adoption by the Council of a regulation on the implementation of the 11th EDF (the '11th EDF Implementation Regulation') and of implementing rules for the Overseas Association Decision. The 11th EDF Implementation Regulation shall be decided upon by unanimity, on a proposal by the Commission and after consulting the EIB. The implementing rules for Union financial assistance to OCTs shall be adopted following adoption of a new Overseas Association Decision by the Council by unanimity and with consultation of the European Parliament.

¹ OJ L 152, 13.6.2007, p. 1.

² OJ L 348, 21.12.2002, p. 82.

The 11th EDF Implementation Regulation and the implementing rules of the Overseas Association Decision shall contain appropriate modifications and improvements to the programming and decision-making procedures, further harmonising Union and the 11th EDF procedures as far as possible. The 11th EDF Implementation Regulation shall furthermore maintain particular management procedures for the African 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 those provisions need to be approved by prior specified budgetary management procedures.

The 11th EDF Implementation Regulation shall contain appropriate measures to allow for the matching of funding of credits from the 11th EDF and the European Regional Development Fund to finance cooperation projects between Union outermost regions and ACP States as well as OCTs 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 in accordance with Article 299 of the Treaty on the Functioning of the European Union (TFEU).
2. The EIB shall manage the Investment Facility and conduct operations thereunder 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 Statute 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. 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.

6. Subject to paragraph 9 of this Article, the Court of Auditors shall exercise the powers conferred on it by Article 287 of the TFEU 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).

7. 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.

8. 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 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 Agreement shall be in accordance with Council Decision 2010/427/EU of 26 July 2010 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 the period 2014 to 2020 annexed to the ACP-EU Partnership Agreement and the duration of the Overseas Association Decision (2014 to 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, 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.