Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund

COUNCIL REGULATION (EU) 2015/322

of 2 March 2015

on the implementation of the 11th European Development Fund

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, as last amended[(1)] ('ACP-EU Partnership Agreement'),

Having regard to the 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[(2)] ('the Internal Agreement'), and in particular Article 10(1) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Investment Bank,

Whereas:

(1) Decision No 1/2013 of the ACP-EU Council of Ministers[(3)] established the multiannual financial framework for cooperation with African, Caribbean and Pacific (ACP) countries for the period 2014 to 2020 by inserting a new Annex Ic to the ACP-EU Partnership Agreement.

(2) The Internal Agreement defines the various financial envelopes of the 11th European Development Fund (EDF), the contribution key and contributions to the 11th EDF, sets up the EDF Committee and the Investment Facility Committee ('the IF Committee'), and determines the voting weights and qualified majority rule within those Committees.

(3) Furthermore, the Internal Agreement sets the aggregate amount of Union aid to the ACP Group of States ('the ACP States') (excluding the Republic of South Africa) and to the Overseas Countries and Territories ('the OCTs') for the seven-year period from 2014 to 2020 at EUR 30 506 million contributed by the Member States. From this amount, EUR 29 089 million is allocated to the ACP States as specified in the multiannual financial framework 2014 to 2020 referred to in Annex Ic to the ACP-EU Partnership Agreement, EUR 364,5 million is allocated to the OCTs and EUR 1 052,5 million is allocated to the Commission for support expenditures linked to programming and implementation

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of the EDF by the Commission, 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) of the Internal Agreement.

(4) The 11th EDF allocation to the OCTs is governed by Council Decision 2013/755/EU[(4)] and by its implementing rules and any subsequent updates thereof.

(5) Measures covered by, and eligible for, funding under Council Regulation (EC) No 1257/96[(5)] should only in exceptional circumstances be financed under the 11th EDF where such assistance is required to ensure continuity of cooperation from crisis to stable conditions for development and cannot be financed from the general budget of the Union.

(6) On 11 April 2006, the Council adopted the principle of funding the African Peace Facility from the EDF and agreed on future modalities and design for the Facility.

(7) The ACP countries will also be eligible for Union assistance from thematic programmes provided by Regulation (EU) No 233/2014 of the European Parliament and of the Council[(6)], Regulation (EU) No 234/2014 of the European Parliament and of the Council[(7)], Regulation (EU) No 230/2014 of the European Parliament and of the Council[(8)] and Regulation (EU) No 235/2014 of the European Parliament and of the Council[(9)]. Those programmes should add value to, be consistent with and complementary to the programmes funded under the 11th EDF.

(8) As referred to in recital 8 of Regulation (EU) No 1288/2013 of the European Parliament and of the Council[(10)], in order to promote the international dimension of higher education, funds may be made available from the European Development Fund, in accordance with the procedures governing it, for actions of learning mobility to or from non-EU countries and to cooperation and policy dialogue with authorities, institutions and organisations of those countries. The provisions of Regulation (EU) No 1288/2013 will apply to the use of those funds.

(9) The regional cooperation among the ACP States, the OCTs and the Union's outermost regions should be further encouraged. In accordance with Article 10(1) of the Internal Agreement, the Implementation Regulation should 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.

(10) In order to implement the 11th EDF, the procedure for programming, examining and approving aid should be established and the detailed rules for supervising the use of aid should be laid down.

(11) The European Consensus on Development of 22 December 2005 and the Council Conclusions of 14 May 2012 on ‘Increasing the impact of EU development policy: an Agenda for Change’ should provide the general policy framework to guide the programming and implementation of the 11th EDF, including the internationally agreed principles on aid effectiveness, such as the principles set out in the Paris Declaration on Aid Effectiveness (2005), the EU Code of Conduct on Division of Labour in

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Development Policy (2007), the EU Guidelines for the Accra Agenda for Action (2008), the 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, which resulted in, inter alia, the Busan Outcome Document (2011), the Gender Action Plan for external action (2010) and the United Nations Convention on the Rights of Persons with Disabilities to which the Union is a party.

(12) On 14 May 2012, the Council adopted Conclusions on 'The Future Approach to EU budget Support to third Countries'. In those Conclusions, Council stated its commitment to use budget support effectively to support poverty reduction and the use of country systems, make aid more predictable and strengthen partner countries' ownership of development policies and reforms, in line with the European Consensus on Development, the Agenda for Change, as well as the international aid effectiveness agenda.

(13) The Union should promote a comprehensive approach in response to crisis and disaster and to conflict-affected and fragile situations, including those of transition. Such approach should in particular build on the Council conclusions on security and development, on a Union response to situations of fragility, on conflict prevention as well as any relevant subsequent conclusions. The Union should employ the approach and principles of the New Deal for Engagement in Fragile States. This should also help to ensure an appropriate balance between security, diplomatic, development and humanitarian approaches, and to link short-term response with long-term institutional support.

(14) In its Conclusions of 12 December 2013 on the report from the Commission on EU Support for Democratic Governance, with a focus on the Governance Initiative, the Council noted that notwithstanding the partner country's needs and the commitment of the Union to provide predictable funding, elements of an incentive-based approach in programming can stimulate progress and results in democratic governance and should respond in a dynamic way to the level of commitment and progress with regards to human rights, democracy, the rule of law and good governance. The Council also noted that while financial incentives are not sufficient to trigger democratic reforms, an incentive-based approach works best when a critical mass of funding is available in order to generate significant impact and results, where allocations form part of a broader strategy of Union engagement. An incentive-based approach should take into account previous experience and lessons learnt acquired on performance-based mechanisms such as the Governance Initiative of the 10th EDF.

(15) In the course of 2013, the EDF Committee established under the Internal Agreement of the 10th EDF[(11)] held several initial exchanges of views on the method for determining the multiannual indicative resource allocations of the 11th EDF. Those discussions established the basis for a final endorsement of national indicative allocations.

(16) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. This should be achieved through coherence and complementarity between the Union's Instruments for external action as well as using, where appropriate, financial instruments that have a leverage effect. The Union should

also aim to ensure coherence with other areas of its external action when formulating the Union's development cooperation policy and its strategic planning programming and implementation of measures.

(17) Fighting climate change and protecting the environment are among the great challenges which face the Union and where the need for international action is urgent. In accordance with the intent stated in the Commission Communication of 29 June 2011 entitled ‘A budget for Europe 2020’, which underlines the commitment of the Union to promote in its internal and external policies smart, inclusive and sustainable growth bringing together the economic, social and environmental pillars, this Regulation should as far as possible contribute to the objective of addressing at least 20 % of the overall Union funding for climate action objectives, while respecting the principle of partnership with ACP countries enshrined in the ACP-EU Partnership Agreement. Actions in low carbon and climate resilient society should, wherever possible, be mutually supportive in order to reinforce their impacts.

(18) The Union and the Member States should improve the consistency and the complementarity of their respective policies on development cooperation, in particular by responding to partner countries' and regions' priorities at country and regional level. To ensure that the Union's development cooperation policy and that of the Member States complement and reinforce each other, it is appropriate to work towards joint multiannual programming and its successive steps at local level, notably joint analysis, joint response, division of labour, indicative financial allocations and, where appropriate, joint results framework.

(19) The EU-Africa Summit in December 2007 adopted the Africa-EU Strategic Partnership, confirmed by the EU-Africa summit in November 2010. The Council also adopted conclusions on the Joint Caribbean-EU Partnership Strategy on 19 November 2012, replacing the Council Conclusions of 11 April 2006 on the EU-Caribbean Partnership. For the Pacific, the Council adopted conclusions on a renewed Development Partnership on 14 May 2012, updating and complementing the strategy adopted in 2006 (Council Conclusions of 17 July 2006).

(20) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties. Those measures should be carried out in accordance with the applicable agreements concluded with international organisations and third countries.

(21) The organisation and functioning of the European External Action Service are established in Council Decision 2010/427/EU[(12)],

HAS ADOPTED THIS REGULATION:

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TITLE I

OBJECTIVES AND GENERAL PRINCIPLES

Article 1

Objectives and eligibility criteria

1 Geographic cooperation with the ACP countries and regions in the context of the 11th EDF shall be founded on the objectives, basic principles and values reflected in the general provisions of the ACP-EU Partnership Agreement.

2 In particular, and within the framework of the principles and objectives of the Union's external action, of the European Consensus on Development and of the Agenda for Change and subsequent modifications and additions thereto:

a the primary objective of cooperation under this Regulation shall be the reduction and, in the long term, the eradication of poverty;

b cooperation under this Regulation will also contribute to:

(i) fostering sustainable and inclusive economic, social and environmental development;

(ii) consolidating and supporting democracy, the rule of law, good governance, human rights and the relevant principles of international law; and

(iii) implementing a rights-based approach encompassing all human rights.

The achievement of the objectives referred to in the first subparagraph shall be measured using relevant indicators, including human development indicators, in particular Millennium Development Goal (MDG) 1 for point (a) of that subparagraph and MDG 1 to 8 for point (b) of that subparagraph and, after 2015, other indicators agreed at international level by the Union and its Member States.

3 Programming shall be designed so as to fulfil to the greatest extent possible the criteria for official development assistance (‘ODA’) established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC), taking into account the Union's aim to ensure over the period 2014-2020 that at least 90 % of its overall external assistance be counted as ODA.

4 Actions covered by Regulation (EC) No 1257/96 and eligible for funding under that Regulation shall not, in principle, be funded under this Regulation, without prejudice to the need to ensure continuity of cooperation from crisis to stable conditions for development. In those cases, special consideration shall be given to ensuring that humanitarian relief, rehabilitation and development assistance are effectively linked and contribute to disaster risk reduction and resilience.

Article 2

General principles

1 In implementing this Regulation, consistency with other areas of Union external action and with other relevant Union policies and policy coherence for development shall be ensured, in accordance with Article 208 of the Treaty on the Functioning of the European Union (TFEU). To this end, measures financed under this Regulation, including those managed by the European