# Council Regulation (EC) No 617/2007 of 14 May 2007 on the implementation of the 10th European Development Fund under the ACP-EC Partnership Agreement

## COUNCIL REGULATION (EC) No 617/2007

## of 14 May 2007

## on the implementation of the 10th European Development Fund under the ACP-EC Partnership Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000[(1)] as revised in Luxembourg on 25 June 2005[(2)] (hereinafter referred to as the ACP-EC Partnership Agreement),

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, 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[(3)] (hereinafter referred to as the Internal Agreement), and in particular Article 10(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Investment Bank,

Whereas:

(1) Decision No 1/2006 of the ACP-EC Council of Ministers[(4)] specifies the multiannual financial framework for the period 2008 to 2013 and inserts a new Annex Ib in the ACP-EC Partnership Agreement.

(2) The Internal Agreement defines the various financial envelopes of the 10th European Development Fund (hereinafter referred to as the EDF), the contribution key and contributions to the 10th EDF, sets up the EDF Committee and the Investment Facility Committee (hereinafter referred to as the IF Committee), and determines the voting weight and qualified majority rule therein.

(3) Furthermore, the Internal Agreement sets the aggregate amount of Community aid to the African, Caribbean and Pacific Group of States (hereinafter referred to as ACP States) (excluding the Republic of South Africa) and to the Overseas Countries and Territories (hereinafter referred to as the OCTs) for the six-year period 2008 to 2013 at EUR 22 682 million from the 10th EDF contributed by Member States. From the amount of the 10th EDF set by the Internal Agreement, EUR 21 966 million should be allocated to the ACP States as specified in the multiannual financial framework 2008 to 2013 referred to in Annex Ib to the ACP-EC Partnership Agreement, EUR 286 million should

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be allocated to the OCTs and EUR 430 million should be allocated to the Commission for support expenditures linked to programming and implementation of the EDF by the Commission.

(4) The 10th EDF allocation to the OCTs is governed by Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community[5] and by its implementing Commission Regulation (EC) No 2304/2002[6] and any subsequent updates thereof.

(5) Measures covered by, and eligible for funding under Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid[7], should only in exceptional circumstances be financed under the 10th 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 European Union.

(6) On 11 April 2006, the Council adopted the principle of funding the African Peace Facility from the 10th EDF for an amount of up to EUR 300 million covering the period 2008 to 2010 and agreed on future modalities and design for the facility.

(7) The Sugar Protocol countries as referred to in Protocol 3 to ACP-EC Partnership Agreement affected by the Community sugar reform should be able to benefit from accompanying measures funded through Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation[8]. The ACP countries will also access Community assistance from thematic programmes provided by the instrument for development cooperation and by Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 establishing a financing instrument for the promotion of democracy and human rights worldwide[9]. Those thematic programmes should add value to, be consistent with and subsidiary and additional to the geographic programmes funded under the EDF.

(8) The ACP-EC Partnership Agreement stresses the importance of regional cooperation among the ACP States, the OCTs and the Community's outermost regions.

(9) The Decision 2005/446/EC[10] of the Representatives of the Governments of the Member States meeting within the Council sets as 31 December 2007 the date beyond which the funds of the 9th EDF managed by the Commission, the interest subsidies managed by the European Investment Bank (hereinafter referred to as the EIB) and the revenue accruing from the interest on these appropriations are no longer to be committed. This date could be reviewed if necessary.

(10) In order to implement the EDF, the procedure for programming, examining and approving aid should be decided and the detailed rules for supervising the use of aid should be laid down. On 17 July 2006 the representatives of the Governments of the Member States meeting within the Council adopted Decision 2006/610/EC[11] on the provisional application of the Internal Agreement, for the purpose of the adoption of the Implementation Regulation and the Financial Regulation and, *inter alia*, for the purposes of establishing the EDF Committee and the IF Committee.

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(11) On 24 November 2004 the Council adopted conclusions on the effectiveness of EU external actions, including further strengthening complementarity and coordination between Community and Member States' development cooperation. On 24 May 2005 the Council committed itself to timely implementation and monitoring of the Paris Declaration on Aid Effectiveness and of the EU specific commitments adopted at the Paris Forum of 28 February to 2 March 2005. The Council of 11 April 2006 adopted conclusions on the common framework for country strategy papers thus enabling a joint multiannual programming by the EU and other interested donors. On 16 October 2006 the Council adopted conclusions on the importance of complementarity and division of labour as constitutive parts of aid effectiveness.

(12) 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[(12)]. Subsequently the European Council adopted a strategy for Africa in December 2005 and the Council adopted conclusions on a strategy for the Caribbean (10 April 2006) and the Pacific (17 July 2006).

(13) On 16 October 2006 the Council adopted conclusions on Governance in the European Consensus on Development: Towards a Harmonised Approach within the European Union, recalling that the allocation of incentive tranches of the Governance Initiative should be thoroughly discussed between Member States and the Commission and stressing the need for the Commission to involve the competent bodies of the Council,

HAS ADOPTED THIS REGULATION:

## [F1TITLE 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 European Development Fund (EDF) shall be founded on the objectives, basic principles and values reflected in the general provisions of 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[(13)] (‘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:

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(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 those objectives shall be measured using relevant indicators, including human development indicators, in particular Millennium Development Goal (MDG) 1 for point (a) and MDG 1 to 8 for point (b) 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 that over the period 2014-20 at least 90 % of its overall external assistance be counted as ODA.

4 Actions covered by Council Regulation (EC) No 1257/96[(14)] 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 Investment Bank (EIB), shall be based on the cooperation policies set out in documents such as arrangements, declarations and action plans between the Union and the third countries and regions concerned, and on the Union's decisions, specific interests, policy priorities and strategies.

2 The Union and the Member States shall work towards joint multiannual programming, based on partner countries' poverty reduction or equivalent development strategies. They may undertake joint action including joint analysis of and joint response to those strategies identifying priority sectors of intervention and in-country division of labour, by joint donor-wide missions and by the use of co-financing and delegated cooperation arrangements.

3 The Union shall promote a multilateral approach to global challenges and shall cooperate with Member States and partner countries in that respect. Where appropriate, it shall foster cooperation with international organisations and bodies and other bilateral donors.

4 Relations between the Union and its Member States and partner countries are based on and will promote shared values of human rights, democracy and the rule of law as well as the principles of ownership and of mutual accountability. Support to partners will be adapted to their development situation and commitment and progress with regard to human rights, democracy, the rule of law and good governance.

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Furthermore, relations with partner countries shall take into account their commitment and track record in implementing international agreements and contractual relations with the Union, including within the area of migration as stipulated by the ACP-EU Partnership Agreement.

5 The Union shall promote effective cooperation with partner countries and regions in line with international best practice. It shall align its support with partners' national or regional development strategies, reform policies and procedures wherever possible, and support democratic ownership, as well as domestic and mutual accountability. To that end, it shall promote:

a a development process that is transparent, partner country or region led and owned, including the promotion of local expertise;

b a rights-based approach encompassing all human rights, whether civil and political, economic, social and cultural, in order to integrate human rights principles into the implementation of this Regulation, to assist partner countries in implementing their international human rights obligations and to support the right holders, with a focus on poor and vulnerable groups, in claiming their rights;

c the empowerment of the population of partner countries, inclusive and participatory approaches to development and a broad involvement of all segments of society in the development process and in national and regional dialogue, including political dialogue. Particular attention shall be given to the respective roles of parliaments, local authorities and civil society, inter alia, regarding participation, oversight and accountability;

d effective cooperation modalities and instruments in line with OECD/DAC best practices, including the use of innovative instruments such as blending grants and loans and other risk-sharing mechanisms in selected sectors and countries, and private sector engagement, with due regard to the issues of debt sustainability and the number of such mechanisms, and the requirement for systematic assessment of the impact in accordance with the objectives of this Regulation, in particular poverty reduction, as well as specific budget support mechanisms such as state building contracts. All programmes, interventions and cooperation modalities and instruments shall be adapted to the particular circumstances of each partner country or region, with a focus on programme-based approaches, on the delivery of predictable aid funding, on the mobilisation of private resources, including from the local private sector, on universal and non-discriminatory access to basic services, and on the development and use of country systems;

e mobilisation of domestic revenue and reinforcement of partner countries' fiscal policy with the purpose of reducing poverty and aid dependence;

f improved impact of policies and programming through coordination, consistency and harmonisation between donors to create synergies and avoid overlap and duplication, to improve complementarity and to support donor-wide initiatives and through coordination in partner countries and regions using agreed guidelines and best practice principles on coordination and aid effectiveness;

g results-based approaches to development, including through transparent and country-led results frameworks based on, where appropriate, internationally agreed targets and comparable and aggregatable indicators such as those of the MDGs, in order to assess and communicate the results, including the outputs, outcomes and impact of development aid.

6 The Union shall support, as appropriate, the implementation of bilateral, regional and multilateral cooperation and dialogue, the development dimension of partnership agreements and triangular cooperation. The Union shall promote south-south cooperation.