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DEVELOPMENT FINANCE COOPERATION

**Report on the
Conclusions of the second revision of the Cotonou Agreement**

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I. Introduction

1. The ACP Group's objective with regard to the second revision of the Cotonou Agreement was to maintain and reinforce the fundamental achievements, as well as the specific nature of development finance cooperation, by adapting it to recent developments.

To that end, the Group's proposals were organised around the following objectives:

- Clarify and better define certain provisions to make them more operational, in particular with regard to national and regional programming.
 - Delete provisions that had become obsolete in the light of the adoption by the ACP-EC Council of Article 19c relating to the rules and procedures for the award of contracts. ..
 - Include a new chapter on Intra-ACP programming; and
 - Incorporate Article 19c as adopted by the ACP-EC Council.
2. The European side basically advocated the same approach, but wanted to update some of the provisions to ensure greater coherence with certain internationally agreed principles relating to development financing and development aid.

II. Outcome of the negotiations

3. The main changes dealt essentially with Annex IV as well as with certain articles on the general provisions for development finance cooperation.

The outcome of the negotiations is presented below:

A. ANNEX IV

Annex IV comprises two titles, namely Programming and Implementation.

1. Title 1: Programming

4. In general, for the sake of consistency with the Paris Declaration and the Accra Agenda on Aid Effectiveness, the programming section formally integrated the principles of ***ownership, alignment, donor coordination and harmonisation, as well as results-oriented management and mutual accountability***.
5. There are now three (3) chapters on financial cooperation programming: national and regional programming, as well as a new chapter dedicated to intra-ACP programming.

a) National programming (Articles 1 to 5)

6. The new provisions under national programming provide not only for consultation with non-State actors but, ***where relevant, consultations with national Parliaments as well***.
7. Regarding resource allocation, from now on, needs shall be assessed not only on the basis of the pre-established criteria, but also on ***countries' vulnerability to exogenous shocks, governance and progress towards achieving the Millennium Development Goals***.
8. Furthermore, the "B Envelopes" have been maintained and the terms "new needs" and "exceptional performance" have been better defined and incorporated into the text.
9. In addition to the mid-term and end-of-term reviews, ***ad hoc reviews*** have been included to take account of new needs or exceptional performance.
10. The ad hoc reviews may be carried out at the request of either party and shall not, under any circumstances, lead to a decrease in the resources allocated to the country concerned, but rather to an increase in resource allocation in the light of new needs or exceptional performance by the given country.
11. The review process provides for consultation with ***national Parliaments***, prior to finalisation by the European Commission and the National Authorising Officers.

Observations

12. The provision for consultations with national Parliaments reinforces the participatory approach and the principle of ownership enshrined in the Cotonou Agreement. This provides more visibility and transparency to the entire programming process.
13. It should also be noted that the taking into account exogenous shocks, as inspired by the creation of the Vulnerability FLEX mechanism following the financial and economic crisis of 2009, should, based on Article 100, enable extension of the scope of application of the existing FLEX mechanism to cover exogenous shocks.

a) Regional programming (Articles 6 to 11)

14. Participation by non-ACP developing countries has been maintained in the framework of regional programming, but only insofar as:
 - The centre of gravity of the programmes and projects financed under the multi-annual financial cooperation framework is located in an ACP country;
 - Equivalent provisions exist in the Community's financial instruments;
 - The principle of proportionality is respected.
15. It was also agreed that in certain cases regional programming may also include consultation with non-State actors represented at the regional level and, **where appropriate, the regional Parliaments.**
16. As regards resource allocation, in addition to the programmable envelopes, **new "B Envelopes"** have been created to cover unforeseen needs such as humanitarian aid, emergency aid and post-emergency aid, for which, given their cross-border nature and/or scope, support may be more effectively provided at the regional level.
17. Under exceptional circumstances, **an ad hoc review** can be carried out at the request of either party to take account of new needs or exceptional performance which have been better defined and incorporated into the text.

Observations

18. The main innovation under regional programming has been the creation of a “B” Envelope for humanitarian aid for each ACP region, based on criteria defined in Articles 72 and 73.
19. Under the circumstance defined in the above-mentioned articles, the regional “B” Envelopes will supplement the resources of the national “B” Envelopes.

b) Intra-ACP programming (Article 12 to 14)

20. Intra-ACP cooperation became programmable with the signing of the Intra-ACP Strategy Paper and Indicative Programme in March 2009.
21. While maintaining a structure similar to that of national and regional programming, the new chapter highlights the specificity of intra-ACP cooperation, in particular the following elements:
 - The supra-regional nature of this cooperation which aims to address common challenges facing the ACP States by means of operations that transcend geographic location and which benefit several or all ACP States;
 - The principles of subsidiarity and complementarity, in relation to national and/or regional action;
 - Visibility of the ACP Group when it decides to contribute to international or inter-regional initiatives.

The new chapter covers the different aspects linked to programming including:

- Preparation and content of the strategy paper;
 - Entities eligible for financing under intra-ACP programmes;
 - Structure and content of the intra-ACP indicative programme;
 - Allocation of intra-ACP indicative resources under intra-ACP cooperation;
 - Mid-term, end-of-term and ad hoc reviews.
22. With regard to its implementation, a multi-annual Plan of Action covering the period 2009 to 2013 has been developed. Each year, the Committee of Ambassadors will adopt the annual Plan of Action for the current year.

Observations

23. Intra-ACP programming is another innovation that has been introduced by the second revision of the Cotonou Agreement.
24. From now on, all EDF long-term development resources will be programmed providing greater visibility and ensuring better planning of the activities to be financed.

2. Implementation (Articles 15 to 37)

25. Regarding the implementation provisions, the bulk of the work involved tidying up the text, deleting articles that had become obsolete, and updating the text by incorporating the new Article 19c that was adopted by an ACP-EU Council decision in 2008.
26. This article deals with the award and implementation of contracts and grants. It incorporates one of the principles of the Paris Declaration, namely recourse to national rules, where possible, following a joint evaluation.

B. GENERAL PROVISIONS

Article 56: Cooperation principles

This article has been updated to include certain internationally agreed principles such as aid effectiveness, ownership, alignment, coordination, donor harmonisation, and mutual accountability.

Article 58: Eligibility for financing

This article makes special mention of the ***African Union*** and the participation of non-ACP developing countries in the projects and programmes financed under the multi-annual financial cooperation framework as provided for under Article 6.4 of Annex IV on Regional Cooperation.

Article 60: Scope of financing

The scope of this article has been enlarged to include the mitigation of adverse short-term effects of exogenous shocks. That opening provides for the potential implementation of a Vulnerability FLEX mechanism that would cover the effects of such shocks, as well as export revenue losses.

Article 61: Nature of financing

Paragraph (c) on budget support has been clarified and it has been agreed that ***the Community shall align itself on ACP country-specific arrangements*** and support the efforts of partner countries aimed at strengthening domestic accountability, parliamentary control, audit capacities and information to the public.

Article 66: Support for debt relief

This article provided for the speedy disbursement, on a case-by-case basis, of uncommitted resources in past indicative programmes, through rapid disbursement instruments. However, with the introduction of the expiration clause in the 9th EDF, that consideration became obsolete, and has therefore been removed.

Article 67: Structural adjustment support

This article has been updated by the replacement of “financial protocol” by “***multi-annual financial framework of cooperation***” so as to ensure coherence with the terminology adopted in Annex 1b of the Agreement.

Article 68: Support for exogenous shocks

In anticipation of a future amendment to Chapter 3, Annex 2: Financing for short-term fluctuations in export earnings (FLEX), to be replaced by a Vulnerability FLEX mechanism, the title of Article 68 has been changed to “***Support for exogenous shocks***”, and its scope of application has been enlarged to take into account exogenous shocks, including loss of export earnings.

Observations

The general provisions have been amended with the following three objectives in mind:

- Update the texts to ensure coherence with certain internationally accepted principles to which the ACP countries subscribe;
- Open up the possibility to amend certain Annexes; and
- The future creation of a Vulnerability FLEX mechanism which would take into account the negative effects of exogenous shocks, including loss of export earnings, in the medium and long term.
