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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

(OJ L 152, 13.6.2007, p. 1)

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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

([1]) OJ L 317, 15.12.2000, p. 3.
([2]) OJ L 209, 11.8.2005, p. 27.
([3]) OJ L 247, 9.9.2006, p. 32.
([4]) OJ L 247, 9.9.2006, p. 22.

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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 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 ([1]) and by its implementing Commission Regulation (EC) No 2304/2002 ([2]) 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 ([3]), 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 ([4]). 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 ([5]). 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.

([1]) OJ L 314, 30.11.2001, p. 1. Decision as amended by Decision 2007/249/EC (OJ L 109, 26.4.2007, p. 33).
([2]) OJ L 348, 21.12.2002, p. 82.
([3]) OJ L 163, 2.7.1996, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).
([4]) OJ L 378, 27.12.2006, p. 41.
([5]) OJ L 386, 29.12.2006, p. 1.

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(9) The Decision 2005/446/EC [1] 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 [2] 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.

(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 [3]. 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,

[1] OJ L 156, 18.6.2005, p. 19.
[2] OJ L 247, 9.9.2006, p. 30.
[3] OJ C 46, 24.2.2006, p. 1.

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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 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 ([1]) ('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 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 ([2]) 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

([1]) OJ L 317, 15.12.2000, p. 3.
([2]) Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

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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 multi-annual 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.

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:

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(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.

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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.

7. In its development cooperation activities the Union shall, as appropriate, draw on and share the reform and transition experiences of Member States and the lessons learned.

8. The Union shall seek regular exchanges of information with the actors of the partnership in line with Article 4 of the ACP-EU Partnership Agreement.

TITLE II

PROGRAMMING AND ALLOCATION OF FUNDS

Article 3

General framework for allocating funds

1. The Commission shall determine the multiannual indicative resource allocations for each ACP country and region and for Intra-ACP cooperation on the basis of the criteria laid down in Articles 3, 9 and 12c of Annex IV to the ACP-EU Partnership Agreement, within the financial limits set out in Article 2 of 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 [1] (the 'Internal Agreement').

2. In the determination of the indicative national allocations, a differentiated approach shall be pursued, in order to ensure that partner countries are provided with specific, tailor-made cooperation based on:

(a) their needs;

(b) their capacities to generate and access financial resources and absorption capacities;

(c) their commitments and performance; and

(d) the potential impact of Union assistance.

The countries most in need, in particular the least developed countries, low income countries and countries in crisis, post-crisis, fragile and vulnerable situations, shall be given priority in the resource allocation process.

The Union will adapt its assistance through dynamic, result-oriented and country-specific measures, as referred to in Article 7(2), according to the country's situation and commitment and progress with regard to

[1] OJ L 247, 9.9.2006, p. 32.

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issues such as good governance, human rights, democracy, rule of law and its ability to conduct reforms and to meet the demands and needs of its people.

3. The European Development Fund Committee established by Article 8 of the Internal Agreement ('the EDF Committee') shall hold an exchange of views on the method for determining the multiannual indicative resource allocations referred to in paragraph 1 of this Article.

Article 4

General framework for programming

1. The process of programming for assistance to the ACP countries and regions under the ACP-EU Partnership Agreement shall be undertaken in accordance with the general principles referred to in Articles 1 to 14 of Annex IV to that Agreement and in Articles 1 and 2 of this Regulation.

2. Programming will, except in the cases provided for in paragraph 3, be undertaken jointly with the partner country or region concerned and will be increasingly aligned with the partner country or region's poverty reduction, or equivalent, strategies.

The Union and the Member States shall consult each other at an early stage and throughout the programming process in order to promote coherence, complementarity and consistency among their cooperation activities. This consultation may lead to joint programming with Member States locally represented. Joint programming should build on the comparative advantages of the Union donors. Other Member States are invited to contribute for the purpose of reinforcing joint external action of the Union.

The EIB financing operations shall contribute to the general principles of the Union, in particular those defined in Article 21 of the Treaty on European Union (TEU) and the objectives of the ACP-EU Partnership Agreement, such as reducing poverty through inclusive and sustainable growth and economic, environmental and social development. The EIB and the Commission should seek to maximise synergies in the EDF programming process where appropriate. The EIB shall be consulted at an early stage on matters related to its expertise and operations with a view to increasing the coherence of Union external action.

Other donors and development actors, including representatives of civil society and regional and local authorities, shall be consulted as well.

3. In circumstances such as those referred to in Article 3(3) and Article 4(5) of Annex IV to the ACP-EU Partnership Agreement, the Commission may establish specific provisions for programming and implementing development aid by managing itself the resources allocated to the State in question in accordance with the relevant Union policies.

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4. The Union will in principle concentrate its bilateral assistance on a maximum of three sectors, to be agreed with the partner countries.

Article 5

Programming documents

1. Strategy papers are documents drawn up by the Union and the partner country or region concerned to provide a coherent policy framework for development cooperation, consistent with the overall purpose and scope, objectives and general principles of the ACP-EU Partnership Agreement, and in line with the principles established in Articles 2, 8 and 12a of Annex IV to that Agreement.

The preparation and implementation of strategy papers shall comply with the principles of aid effectiveness: national ownership, partnership, coordination, harmonisation, alignment with recipient country or regional systems, transparency, mutual accountability and results orientation as laid down in Article 2 of this Regulation. The programming period must become, in principle, synchronised with partner country strategy cycles.

2. With the consent of the partner country or region concerned, no strategy paper will be required for:

(a) countries or regions having a development strategy in the form of a development plan or a similar development document accepted by the Commission as a basis for the corresponding multiannual indicative programme, when adopting the latter document;

(b) countries or regions for which a joint multiannual programming document between the Union and Member States has been agreed;

(c) countries or regions where a Joint Framework Document (JFD) already exists that provides a comprehensive Union approach to the relations with that partner country or region, including Union development policy;

(d) regions having a jointly agreed strategy with the Union;

(e) countries where the Union intends to synchronise its strategy with a new national cycle starting before 1 January 2017; in such cases the multiannual indicative programme for the interim period between 2014 and the beginning of the new national cycle will contain the Union's response for that country.

3. Strategy papers shall not be required for the countries or regions receiving an initial allocation of Union funds under this Regulation not exceeding EUR 50 million for the 2014-20 period. In such cases, the multiannual indicative programmes will contain the Union's response for these countries or regions.

If the options referred to in paragraphs 2 and 3 are not acceptable for the partner country or region, a strategy paper shall be prepared.

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4. Except in the circumstances referred to in Article 4(3), multiannual indicative programmes shall be based on a dialogue with the partner country or region and be drawn up on the basis of the strategy papers or similar documents referred to in this Article, and will be the subject of an agreement with the country or region concerned.

For the purpose of this Regulation, the joint multiannual programming document referred to in point (b) of paragraph 2 of this Article and complying with the principles and conditions established in this paragraph, including an indicative allocation of funds, may in accordance with the procedure set out in Article 14 be considered as the multiannual indicative programme in agreement with the partner country or region.

5. Multiannual indicative programmes shall set out the priority sectors selected for Union financing, the specific objectives, the expected results, the performance indicators and the indicative financial allocation, both overall and per priority area. They will also explain how the proposed programmes will contribute to the overall country strategy referred to in this Article and how they will contribute to delivery of the Agenda for Change.

In accordance with aid effectiveness principles, the intra-ACP strategy shall avoid fragmentation, and ensure complementarity and real value added with the country and regional programmes.

6. In addition to programming documents for countries and regions, an intra-ACP strategy paper and related multiannual indicative programme shall be prepared jointly by the Commission and the ACP through the ACP secretariat, in line with the principles established in Articles 12 to 14 of Annex IV to the ACP-EU Partnership Agreement.

7. The specific provisions referred to in Article 4(3) may take the form of special support programmes, taking into account the special considerations referred to in Article 6(1).

Article 6

Programming for countries and regions in crisis, post-crisis or fragility situations

1. When drawing up programming documents for countries and regions in crisis, post-crisis, or fragility situations, or prone to natural disasters, due account shall be taken of the vulnerability, special needs and circumstances of the populations, countries or regions concerned.

The Union remains fully committed to implementing the New Deal for Engagement in Fragile States and its principles, including by focusing on the five peace and statebuilding goals, by ensuring local ownership and by closely aligning with national plans developed as part of the New Deal implementation.

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Proper attention will be given to conflict prevention and resolution, state and peace building, post-conflict reconciliation and reconstruction measures by focusing specifically on inclusive and legitimate politics, security, justice, economic foundations, and by building capacity for accountable and fair service delivery. Particular attention will be paid to the role of women and the perspective of children in those processes.

Where partner countries or regions are directly involved in, or affected by, a crisis, post-crisis or fragility situation, special emphasis shall be placed on stepping up coordination between relief, rehabilitation and development amongst all relevant actors, including for political initiatives, to help the transition from an emergency situation to the development phase. Programming for countries and regions in fragility or regularly subject to natural disasters shall provide for disaster preparedness and prevention and for managing the consequences of such disasters, and shall address vulnerability to shocks and strengthen resilience.

2. For countries or regions experiencing crisis, post-crisis or fragility situations, an ad hoc review of the country's or region's cooperation strategy may be carried out. Such reviews may propose a specific and adapted strategy to ensure the transition to long-term cooperation and development, promoting a better coordination and transition between the humanitarian and development policy instruments.

Article 7

Approval and modification of programming documents

1. The programming documents, including the indicative allocations therein, shall be approved by the Commission in accordance with the procedure set out in Article 14.

At the same time as the programming documents are transmitted to the EDF Committee, the Commission shall also transmit them to the Joint Parliamentary Assembly for information, while fully respecting the decision-making procedure in accordance with Title IV of this Regulation.

The programming documents shall be subsequently endorsed by the ACP State or region concerned as stipulated in Annex IV to the ACP-EU Partnership Agreement. Countries or regions without a signed programming document remain eligible to funding under the conditions laid down in Article 4(3) of this Regulation.

2. Strategy papers and multiannual indicative programmes, including the indicative allocations therein, may be adjusted taking into account the reviews as foreseen in Articles 5, 11 and 14 of Annex IV of the ACP-EU Partnership Agreement.

In line with the provisions of Article 2(4) and Article 3(2) of this Regulation, and building on previous EDF and other experience acquired on incentives, including lessons learnt, indicative country allocations may be supplemented through, amongst others, a performance-based mechanism. In this respect, while acknowledging that special treatment shall be given to fragile and vulnerable states to ensure that their particular needs are duly taken into account, resources, if possible up to the range of the volume of the governance incentive tranche under

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the 10th EDF, are to be made available in order to provide incentives for result-oriented reforms in line with the Agenda for Change and for the fulfilment of the commitments established in the ACP-EU Partnership Agreement. The EDF Committee shall in accordance with Article 14(2) of this Regulation hold an exchange of views on the performance-based mechanism.

3. The procedure set out in Article 14 shall also apply to substantial modifications which have the effect of significantly modifying the strategy, its programming documents and/or its programmable resource allocation. Where applicable, the corresponding addenda to the programming documents shall be subsequently endorsed by the ACP State or region concerned.

4. On duly justified imperative grounds of urgency, such as crises or immediate threats to democracy, the rule of law, human rights or fundamental freedoms, including those cases referred to in Article 6(2), the procedure referred to in Article 14(4) may be used to modify the programming documents referred to in Article 5.

TITLE III

IMPLEMENTATION

Article 8

General framework for implementation

The implementation of the assistance provided to the ACP countries and regions managed by the Commission and the EIB under the ACP-EU Partnership Agreement shall be undertaken in accordance with the Financial Regulation referred to in Article 10(2) of the Internal Agreement (the 'EDF Financial Regulation').

Article 9

Adoption of action programmes, individual measures and special measures

1. The Commission shall adopt annual action programmes, based on the indicative programming documents referred to in Article 5.

In the case of recurrent actions, it may also adopt multiannual action programmes for a period of up to three years.

When necessary and duly justified, an action may be adopted as an individual measure before or after the adoption of annual or multiannual action programmes.

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2. The action programmes and individual measures shall be prepared by the Commission with the partner country or region, involving the Member States locally represented and coordinating where appropriate with other donors, in particular in cases of joint programming, and with the EIB. Member States that are not locally represented will be informed about activities in the field.

Action programmes shall contain a specific description of each foreseen operation. That description will specify the objectives pursued, the expected results and the main activities.

The description shall set out the expected results in terms of outputs, outcomes and impacts, with quantified or qualified targets, and will provide explanations on the links between each as well as with the objectives set in the multiannual indicative programme. The outputs and, in principle, the outcomes shall have specific, measurable and realistic indicators, with baselines and time bound benchmarks, aligning with the partner country or region's own outputs and benchmarks to the maximum extent possible. A cost-benefit analysis will be completed, where relevant.

The description shall set out the risks, with proposals for their mitigation where appropriate, the analysis of the specific sector context and key stakeholders, methods of implementation, budget and indicative timetable and in the case of budget support, the criteria for disbursement, inclusive of possible variable tranches. It shall also specify any associated support measures as well as arrangements for monitoring, audit and evaluation.

Where appropriate, the description shall indicate the complementarity with current or planned EIB activities in the partner country or region.

3. In the cases referred to in Article 4(3) and in cases of unforeseen and duly justified needs or exceptional circumstances, the Commission may adopt special measures, including measures to ease the transition from emergency aid to long-term development operations, or measures to better prepare people to deal with recurring crises.

4. The action programmes and the individual measures provided for in paragraph 1 for which the Union's financial assistance exceeds EUR 5 million, and special measures for which the Union's financial assistance exceeds EUR 10 million, shall be adopted by the Commission in accordance with the procedure set out in Article 14 of this Regulation. That procedure shall not be required for action programmes and measures below those thresholds, and for non-substantial amendments thereto. Non-substantial amendments are technical adjustments such as extending the implementation period, reassigning funds within the forecast budget, or increasing or reducing the size of the budget by less than 20 % of the initial budget, but not exceeding EUR 10 million, provided that those amendments do not substantially affect the objectives of the initial action programme or measure. In such cases, action programmes and measures and non-substantial amendments thereto shall be adopted by the Commission, which shall inform the EDF Committee within one month of their adoption.

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Each Member State may request the withdrawal of a project or programme from an action programme submitted to the EDF Committee in accordance with the procedure set out in Article 14 of this Regulation. If such a request is supported by a blocking minority of Member States as laid down in Article 8(3) in connection with Article 8(2) of the Internal Agreement, the action programme shall be adopted by the Commission without the project or programme concerned. Unless the Commission, in line with the views of the Member States in the EDF Committee, wishes not to pursue the withdrawn project or programme it shall, at a later stage, be resubmitted to the EDF Committee outside the action programme in the form of an individual measure which shall then be adopted by the Commission in accordance with the procedure set out in Article 14 of this Regulation.

On duly justified imperative grounds of urgency, such as crises, natural or man-made disasters or immediate threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may adopt individual or special measures or amendments to existing action programmes and measures, in accordance with the procedure referred to in Article 14(4) of this Regulation.

5. The Commission shall adopt specific action programmes for support expenditures referred to in Article 6 of the Internal Agreement in accordance with the procedure set out in Article 14 of this Regulation. Any changes in the action programmes for support expenditures shall be adopted in accordance with the same procedure.

6. Appropriate environmental screening, including for climate change, biodiversity and related social impacts, shall be undertaken at project level, including where applicable environmental impact assessment (EIA) for environmentally sensitive projects, in particular if they are likely to have significant adverse environmental and/or social impacts that are sensitive, diverse, or unprecedented. That screening shall be guided by internationally recognised practices. Where relevant, strategic environmental assessments (SEA) shall be used in the implementation of sectoral programmes. The involvement of interested stakeholders in environmental assessments and public access to the results shall be ensured.

Article 10

Additional Member State contributions

1. On their own initiative, Member States may provide the Commission or the EIB with voluntary contributions in accordance with Article 1(9) of the Internal Agreement to help achieve the objectives of the ACP-EU Partnership Agreement outside joint co-financing arrangements. Such contributions shall not affect the overall allocation of funds under the EDF. They shall be treated in the same way as Member States' regular contributions referred to in Article 1(2) of the Internal Agreement except for the provisions of Articles 6 and 7 of the Internal Agreement for which specific arrangements may be laid down in a bilateral contribution agreement.

2. Earmarking shall only be made in duly justified circumstances, for example in response to the exceptional circumstances as referred to in Article 4(3). In such a case, voluntary contributions entrusted to the Commission shall be treated as assigned revenue in accordance with the EDF Financial Regulation.

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3. The additional funds shall be integrated in the programming and review process and in the annual action programmes, in the individual measures and in the special measures referred to in this Regulation, and shall reflect partner country or region ownership.

4. Any resulting change in the action programmes, individual measures or special measures shall be adopted by the Commission in accordance with Article 9.

5. Member States entrusting the Commission or the EIB with additional voluntary contributions to help achieve the objectives of the ACP-EU Partnership Agreement shall inform the Council and the EDF Committee, or the Investment Facility Committee, of those contributions in advance.

Article 11

Taxes, duties and charges

Union assistance shall not generate or activate the collection of specific taxes, duties or charges.

Without prejudice to Article 31 of Annex IV to the ACP-EU Partnership Agreement, such taxes, duties and charges may be eligible under the conditions laid down in the EDF Financial Regulation referred to in Article 10(2) of the Internal Agreement.

Article 12

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery, or where appropriate by the restitution, of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, or in the case of international organisations the power of verification in accordance with agreements reached with them, and verification, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

3. The European Anti-Fraud Office (OLAF) may carry out investigations including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([1]) and Council Regulation (Euratom, EC) No

([1]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

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2185/96 ([1]) with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections, according to their respective competences.

Article 13

Rules on nationality and origin for public procurement, grants and other award procedures

The rules on nationality and origin for public procurement, grants and other award procedures are defined in Article 20 of Annex IV to the ACP-EU Partnership Agreement.

TITLE IV

DECISION-MAKING PROCEDURES

Article 14

Responsibilities of the EDF Committee

1. The EDF Committee shall give its opinion in accordance with the procedure set out in paragraphs 3 and 4 of this Article.

An observer from the EIB shall take part in the EDF Committee's proceedings with regard to questions concerning the EIB.

2. The EDF Committee's tasks shall cover the responsibilities laid down in Titles II and III of this Regulation:

(a) programming of Union aid under the EDF and programming reviews focusing in particular on country, regional and intra-ACP strategies; and

(b) monitoring the implementation and evaluation of Union aid, covering amongst others the impact of assistance on the reduction of poverty, sectoral aspects, cross-cutting issues, the functioning of field-level coordination with Member States and other donors and progress on the aid effectiveness principles referred to in Article 2.

([1]) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

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For budget support programmes on which the EDF Committee expressed a positive opinion but that are suspended during implementation, the Commission shall inform the Committee in advance about the suspension and the subsequent decision to resume disbursements.

Each Member State can invite the Commission at any moment to provide the EDF Committee with information and to have an exchange of views on issues related to the tasks referred to in this paragraph. Such an exchange of view may lead to the formulation of recommendations by the Member States, which the Commission shall take into account.

3. When the EDF Committee is called upon to give its opinion, the representative of the Commission shall submit to the EDF Committee, within the time-limits set out in the Council Decision on the rules of procedures of the EDF Committee referred to in Article 8(5) of the Internal Agreement, a draft of the measures to be taken. The EDF Committee shall deliver its opinion within a time-limit which the chair may lay down according to the urgency of the matter, but which shall not exceed 30 days. The EIB shall take part in the exchange of views. The opinion shall be delivered by the qualified majority laid down in Article 8(3) of the Internal Agreement on the basis of the votes of the Member States weighted in the manner set out in Article 8(2) of the Internal Agreement.

When the EDF Committee has delivered its opinion, the Commission shall adopt measures which shall apply immediately.

However, if those measures are not in accordance with the opinion of the EDF Committee, they shall be communicated by the Commission to the Council forthwith. In such a case, the Commission shall defer the application of the measures for a period which shall in principle not exceed 30 days from the date of such communication, but which may be prolonged for a period of up to 30 days in exceptional circumstances. The Council, acting by the same qualified majority as the EDF Committee, may take a different decision within this period.

4. On duly justified imperative grounds of urgency as provided for in Article 7(4) and Article 9(4), the Commission shall adopt the measures which shall apply immediately, without prior submission to the EDF Committee, and which shall remain in force for the duration of the adopted or modified document, action programme or measure.

At the latest 14 days after their adoption, the chair shall submit the measures to the EDF Committee in order to obtain its opinion.

In the event of the EDF Committee delivering a negative opinion as referred to in paragraph 3 of this Article, the Commission shall immediately repeal the measures adopted in accordance with the first subparagraph of this paragraph.

Article 15

The African Peace Facility

The intra-ACP indicative programmes shall earmark funding for the African Peace Facility. That funding may be complemented by the regional indicative programmes. A specific procedure shall apply as follows:

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(a) on a request from the African Union, endorsed by the ACP Committee of Ambassadors, pluriannual action programmes shall be prepared by the Commission specifying the objectives pursued, the scope and nature of the possible interventions and the implementation arrangements; an agreed format for reporting shall be specified at intervention level. An annex to each action programme shall describe the specific decision-making procedures for each possible type of intervention according to its nature, size and urgency;

(b) the action programmes, including the annex referred to in point (a), and any changes thereto shall be discussed by the relevant preparatory Council working groups and the Political and Security Committee, and shall be approved by Coreper by qualified majority laid down in Article 8(3) of the Internal Agreement, before being adopted by the Commission;

(c) the action programmes, excluding the annex referred to in point (a), shall be the basis for the financing agreement to be concluded between the Commission and the African Union;

(d) each intervention to be implemented under the financing agreement shall be subject to the prior approval of the Political and Security Committee; the relevant preparatory Council working groups shall be informed or, at least when new peace support operations are to be financed, consulted in due time prior to their transmission to the Political and Security Committee in accordance with the specific decision-making procedures referred to in point (a) in order to ensure that, in addition to the military and security dimension, the development and finance related aspects of the envisaged measures are being taken into account. Without prejudice to the financing of peace support operations, special attention shall be given to activities recognised as ODA;

(e) the Commission shall prepare an activity report on the use of the funds for the information of the Council and the EDF Committee on an annual basis, and at the request of the Council or the EDF Committee, distinguishing between ODA and non-ODA related commitments and disbursements.

At the end of the first pluriannual action programme, the Union and its Member States will review the results and procedures of the African Peace Facility and will discuss options regarding future funding possibilities. In that context, and in order to put the African Peace Facility on a sounder footing, the Union and its Member States will hold discussions addressing both the issue of funds for Peace Support Operations, including those financed from the EDF, and the issue of sustainable Union support to African-led peace support operations beyond 2020. In addition, the Commission will conduct an evaluation of the Facility no later than 2018.

Article 16

The Investment Facility Committee

1. The Investment Facility Committee set up under the auspices of the EIB by Article 9 of the Internal Agreement (the 'IF Committee') shall consist of the representatives of the Member States and a representative of the Commission. An observer from the General Secretariat of the Council and an observer from the European External Action

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Service shall be invited to attend. Each Member State, as well as the Commission, shall nominate one representative and one designated alternate. With a view to maintaining continuity, the Chairman of the IF Committee shall be elected by and from among the members of the IF Committee for a period of two years. The EIB shall provide the Committee's secretariat and support services. Only the members of the IF Committee designated by the Member States, or their alternates, shall vote.

The Council, acting unanimously, shall adopt the rules of procedure of the IF Committee on the basis of a proposal drawn up by the EIB after consulting the Commission.

The IF Committee shall act by qualified majority. The weighting of the votes shall be as laid down in Article 8 of the Internal Agreement.

The IF Committee shall meet at least four times a year. Additional meetings may be convened at the request of the EIB or of the members of the IF Committee as set out in its rules of procedure. In addition, the IF Committee may deliver an opinion by written procedure in accordance with its rules of procedure.

2. The IF Committee shall approve:

(a) the operational guidelines on the implementation of the Investment Facility (the 'IF');

(b) the investment strategies and business plans of the IF, including performance indicators, on the basis of the objectives of the ACP-EU Partnership Agreement and of the general principles of Union development policy;

(c) the annual reports of the IF;

(d) any general policy document, including evaluation reports, concerning the IF.

3. The IF Committee shall deliver an opinion on:

(a) proposals to grant an interest subsidy under paragraph 7 of Article 2 and point (b) of paragraph 2 of Article 4 of Annex II to the ACP-EU Partnership Agreement. In such cases, the IF Committee shall also deliver an opinion on the use of such an interest subsidy;

(b) proposals for an IF investment for any project in respect of which the Commission has delivered a negative opinion;

(c) other proposals relating to the IF based on the general principles defined in the operational guidelines of the IF;

(d) proposals related to the development of the EIB's result measurement framework to the extent that such framework is applicable to operations pursuant to the ACP-EU Partnership Agreement.

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In order to streamline the approval process for small operations, the IF Committee may give its favourable opinion on proposals from the EIB for a global allocation (interest subsidies, technical assistance) or global authorisation (lending, equity), that shall subsequently, without further opinion from the IF Committee and/or the Commission, be sub-allocated by the EIB to individual projects in accordance with criteria set out in the global allocation or authorisation, including the maximum sub-allocation per project.

In addition, the governing bodies of the EIB may, from time to time, request the IF Committee to deliver an opinion on all financing proposals, or on certain categories of financing proposals.

4. The EIB shall submit to the IF Committee in a timely manner any matters that require the approval or opinion of the IF Committee, as provided for in paragraphs 2 and 3 respectively. Any proposal submitted to the IF Committee for an opinion shall be made in accordance with the relevant criteria and principles set out in the operational guidelines of the IF.

5. The EIB shall cooperate closely with the Commission and, where applicable, shall coordinate its operations with other donors. In particular, the EIB shall:

(a) prepare or revise jointly with the Commission the operational guidelines of the IF referred to in point (a) of paragraph 2. The EIB shall be held accountable for compliance with the guidelines and shall ensure that the projects it supports respect international social and environmental standards, and are coherent with the objectives of the ACP-EU Partnership Agreement, with the general principles of Union development policy and with the relevant country or regional cooperation strategies;

(b) request the opinion of the Commission in the preparation of the investment strategies, business plans and general policy documents;

(c) inform the Commission on the projects it administers in accordance with Article 18(1). At the appraisal stage of a project, it shall request the opinion of the Commission on its coherence with the relevant country cooperation strategy or regional cooperation strategy or, as the case may be, with the general objectives of the IF;

(d) with the exception of interest subsidies falling within the global allocation referred to in point (a) of paragraph 3, request the agreement of the Commission at the appraisal stage of a project on any proposal made to the IF Committee for an interest subsidy, as regards its compliance with Article 2(7) and Article 4(2) of Annex II to the ACP-EU Partnership Agreement, and with the criteria defined in the operational guidelines of the IF.

The Commission shall be deemed to have rendered a favourable opinion on or to have agreed to a proposal unless it notifies a negative opinion on such a proposal within three weeks following the submission of the proposal. As regards opinions for financial or public sector projects, as well as agreements to interest rate subsidies, the Commission may request that the final project proposal be submitted for its opinion or approval two weeks before it being sent to the IF Committee.

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6. The EIB shall not proceed with any action referred to in points (a), (b) or (c) of paragraph 3 unless the IF Committee has given a favourable opinion.

Following a favourable opinion of the IF Committee, the EIB shall decide on the proposal in accordance with its own procedures. In particular, it may decide not to proceed with the proposal. The EIB shall periodically inform the IF Committee and the Commission of cases in which it decides not to proceed with the proposal.

For loans from its own resources and for IF investments for which no opinion of the IF Committee is required, the EIB shall decide on the proposal in accordance with its own procedures and, in the case of the IF, in accordance with the operational guidelines of the IF and the investment strategies approved by the IF Committee.

Notwithstanding a negative opinion of the IF Committee on a proposal to grant an interest subsidy, the EIB may proceed with the loan in question without the benefit of the interest subsidy. The EIB shall periodically inform the IF Committee and the Commission of each occasion on which it so decides to proceed with the loan.

The EIB may, subject to conditions laid down in the operational guidelines of the IF and provided that the essential objective of the loan or IF investment in question is unchanged, decide to modify the terms of an IF loan or investment on which the IF Committee has given a favourable opinion under paragraph 3 or of any loan on which the IF Committee has given a favourable opinion regarding interest subsidies. In particular, the EIB may decide to increase the amount of the loan or IF investment by up to 20 %.

Such an increase may, for projects with interest subsidies referred to in Article 2(7) of Annex II to the ACP-EU Partnership Agreement, result in a proportionate increase in the value of the interest subsidy. The EIB shall periodically inform the IF Committee and the Commission of each occasion on which it so decides to proceed. For projects pursuant to Article 2(7) of Annex II to the ACP-EU Partnership Agreement, if an increase in the value of the subsidy is requested, the IF Committee shall be required to deliver an opinion before the EIB proceeds.

7. The EIB shall manage IF investments and all funds held on account of the IF in accordance with the objectives of the ACP-EU Partnership Agreement. It may, in particular, take part in the management and supervisory bodies of legal persons in which the IF is invested, and may compromise, discharge and modify the rights held on account of the IF in accordance with the operational guidelines of the IF.

TITLE V

FINAL PROVISIONS

Article 17

Participation by a third country or region

In order to ensure the coherence and effectiveness of Union assistance, the Commission may decide that non-ACP developing countries and regional integration bodies with ACP participation that promote regional cooperation and integration eligible for Union assistance under other Union financing instruments for external action, where

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the project or programme concerned is of a regional or cross-border nature and complies with Article 6 of Annex IV to the ACP-EU Partnership Agreement, are eligible for funds referred to in point (a)(i) of Article 1(2) of the Internal Agreement. The overseas countries and territories (OCTs) eligible for Union assistance pursuant to Council Decision 2013/755/EU ([1]) and the Union's outermost regions can also participate in regional cooperation projects or programmes; the funding to enable the participation of those territories or outermost regions shall be additional to funds referred to in point (a)(i) of Article 1(2) of the Internal Agreement. The objective of a reinforced cooperation between the Member States, the Union's outermost regions, the OCTs and the ACP States should be taken into account and, where appropriate, coordination mechanisms be set up. Provision for this funding and for the types of financing referred to in Council Regulation (EC) No 215/2008 ([2]) may be made in the strategy papers and multiannual indicative programmes and in the action programmes and measures referred to in Article 9 of this Regulation.

Article 18

Monitoring, reporting and evaluation of EDF assistance

1. The Commission and the EIB shall regularly monitor their actions and measures financed and review the progress made towards delivering expected results. The Commission will also conduct evaluations of the impact and effectiveness of its sectoral policies and actions, and the effectiveness of programming, where appropriate by means of independent external evaluations. Proposals by the Council for independent external evaluations will be taken into due account. Evaluations should be based on OECD/DAC good practice principles, seeking to ascertain whether the specific objectives, taking into account gender equality, have been met, to formulate recommendations and to provide evidence to facilitate learning with a view to improving future operations. Those evaluations shall be carried out on the basis of predefined, clear, transparent and, where appropriate, country-specific and measurable indicators.

The EIB shall periodically inform the Commission and the Member States of the implementation of projects financed from the EDF resources it administers, following the procedures set out in the operational guidelines of the IF.

2. The Commission shall send its evaluation reports, together with the response of the services to the main recommendations, to the Member States through the EDF Committee and to the EIB for information. Any evaluation, including recommendations and follow-up actions, may be discussed in the EDF Committee at the request of

([1]) Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

([2]) Council Regulation (EC) No 215/2008 of 18 February 2008 on the Financial Regulation applicable to the 10th European Development Fund (OJ L 78, 19.3.2008, p. 1).

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a Member State. In such cases, the Commission will report back to the EDF Committee, one year later, on the implementation of agreed follow-up actions. The results shall feed back into programme design and resource allocation.

3. The Commission shall associate to an appropriate extent all relevant stakeholders in the evaluation phase of the Union assistance provided under this Regulation and may, where appropriate, seek to undertake joint evaluations with Member States, other donors and development partners.

4. The Commission shall examine the progress made in implementing the EDF, including the multiannual indicative programmes, and as from 2016 shall submit to the Council an annual report on the implementation. The report will include an analysis of key outputs and outcomes and, whenever possible, the contribution of the Union's financial assistance to impacts. A results framework will be created for this purpose. That report shall also be sent to the European Parliament, to the European Economic and Social Committee and to the Committee of the Regions.

5. The annual report shall also contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of the relevant development partners, and the implementation of commitments and of payments appropriations broken down by country, region and cooperation sector. It shall also contain a qualitative analysis of the initially foreseen and achieved results, based on, among others, data from monitoring systems, and a follow-up on the lessons learned.

6. The report shall use as far as possible specific and measurable indicators of its role in meeting the objectives of the ACP-EU Partnership Agreement. It shall reflect the main lessons learned and the follow-up to the recommendations of the evaluations of the previous years. The report shall also assess, where possible and relevant, the adherence to aid effectiveness principles, including for innovative financial instruments.

7. The Union and its Member States shall conduct, at the latest by the end of 2018, a performance review, assessing the degree of realisation of commitments and disbursements, and the results and impact of the aid provided by means of output, outcome and impact indicators measuring the efficiency of the use of resources as well as the effectiveness of the EDF. It shall also address the contribution of the measures financed to the achievement of the objectives of the ACP-EU Partnership Agreement and to the Union priorities, as set out in the Agenda for Change. The review shall be undertaken on the basis of a proposal by the Commission.

8. The EIB shall provide the IF Committee with information as regards progress towards achieving the objectives of the IF. In accordance with Article 6b of Annex II to the ACP-EU Partnership Agreement, the overall performance of the IF shall be subject to a joint review at the mid- and end-term of the EDF. The mid-term review shall be carried out by an independent external expert, in cooperation with the EIB, and shall be made available to the IF Committee.

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Article 19

Climate action and biodiversity expenditure

An annual estimate of the overall spending related to climate action and biodiversity shall be made on the basis of the adopted indicative programming documents. The funding allocated in the context of the EDF shall be subject to an annual tracking system based on the OECD methodology ('Rio markers'), without excluding the use of more precise methodologies where such are available, integrated into the existing methodology for performance management of Union programmes, to quantify the expenditure related to climate action and biodiversity at the level of the action programmes, individual and special measures referred to in Article 9, and recorded within evaluations and the annual reports.

Article 20

European External Action Service

This Regulation shall apply in accordance with Council Decision 2010/427/EU [1].

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This Regulation shall be binding in its entirety and directly applicable in all Member States.

[1] Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).