



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 23 April 2008
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**ACP 43
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PTOM 6**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be adopted by the Community within the ACP-EC Council of Ministers regarding the revision of the terms and conditions of financing for short-term fluctuations in export earnings

COUNCIL DECISION

of

**on the position to be adopted by the Community
within the ACP-EC Council of Ministers
regarding the revision of the terms and conditions
of financing for short-term fluctuations in export earnings**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second subparagraph of Article 300(2) thereof,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000¹ and revised in Luxembourg on 25 June 2005² (hereinafter referred to as "the ACP-EC Partnership Agreement"),

Having regard to the proposal from the Commission,

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 287, 28.10.2005, p. 1.

Whereas:

- (1) Article 100 of the ACP-EC Partnership Agreement lays down that Annexes II, III, IV and VI of the Agreement may be revised, reviewed and/or amended by decision of the ACP-EC Council of Ministers on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee.
- (2) Article 11 of Chapter 3 of Annex II to the ACP-EC Partnership Agreement lays down that the Chapter shall be subject to review at the latest after two years of operation and subsequently at the request of either Party.
- (3) The system of support to mitigate the adverse effects of any instability in export earnings was amended for the first time by Decision No 2/2004 of the ACP-EC Council of Ministers of 30 June 2004¹.
- (4) At the signing of the revised ACP-EC Partnership Agreement in Luxembourg on 25 June 2005, the Parties made a joint declaration that: "The ACP-EC Council of Ministers will examine, in application of the provisions contained in Article 100 of the Cotonou Agreement, the proposals of the ACP side concerning Annex II thereof on short-term fluctuations in export earnings".
- (5) The position of the Community within the ACP-EC Council of Ministers regarding the revision of Chapter 3 of Annex II to the ACP-EC Partnership Agreement covering the terms and conditions of financing for short-term fluctuations in export earnings needs to be established,

HAS DECIDED AS FOLLOWS:

¹ OJ L 297, 22.9.2004, p. 18.

Sole Article

The Community shall adopt a position within the ACP-EC Council of Ministers regarding the revision of the terms and conditions of financing for short-term fluctuations in export earnings on the basis of the draft decision of the ACP-EC Council of Ministers annexed hereto.

Minor changes may be made to this draft decision without a new Council Decision's being necessary.

Done at Brussels,

For the Council

The President

Draft

DECISION OF THE ACP-EC COUNCIL OF MINISTERS
regarding the revision of the terms and conditions of financing
for short-term fluctuations in export earnings

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 and revised in Luxembourg on 25 June 2005 (hereinafter referred to as "the ACP-EC Partnership Agreement"), and in particular Article 100 thereof,

Whereas:

- (1) The signatory countries of the ACP-EC Partnership Agreement, aware that the instability of export earnings could be prejudicial to the development of the ACP States, have set up a system of additional support to mitigate the adverse effects of any instability in export earnings, including those of the agricultural and mining sectors; they confirm that the aim of this support is to safeguard socio-economic reforms and policies that could be affected negatively as a result of a drop in earnings and to remedy the adverse effects of instability of export earnings from agricultural and mining products.

- (2) In accordance with Article 11 of Annex II to the ACP-EC Partnership Agreement, the provisions of Chapter 3 of that Annex covering the financing of short-term fluctuations in export earnings are subject to review at the latest after two years and subsequently at the request of either Party.
- (3) The system of support to mitigate the adverse effects of any instability in export earnings was amended for the first time by Decision No 2/2004 of the ACP-EC Council of Ministers of 30 June 2004.
- (4) At the signing of the revised ACP-EC Partnership Agreement in Luxembourg on 25 June 2005, the Parties made a joint declaration that: "The ACP-EC Council of Ministers will examine, in application of the provisions contained in Article 100 of the Cotonou Agreement, the proposals of the ACP side concerning Annex II thereof on short-term fluctuations in export earnings".
- (5) It is necessary to improve the functioning of the system of financing for short-term fluctuations in export earnings so that it responds more adequately to its objectives,

HAS DECIDED AS FOLLOWS:

Article 1

Chapter 3 of Annex II to the ACP-EC Partnership Agreement is hereby amended as follows:

1) Article 9(1) shall be replaced by the following:

"Eligibility criteria

1. Eligibility for additional resources shall be established by:

- a 10 % (2 % in the case of least-developed, landlocked, island, post-conflict and post-natural disaster States) loss of export earnings from goods compared with the arithmetic mean of the earnings in the four years preceding the application year, excluding the most extreme value; or
- a 10 % (2 % in the case of least-developed, landlocked, island, post-conflict and post-natural disaster States) loss of export earnings from the total of agricultural or mineral products compared with the arithmetic mean of the earnings in the four years preceding the application year, excluding the most extreme value for countries where the agricultural or mineral export earnings represent more than 40 % of total export earnings from goods;

- a 10 % (2 % in the case of least-developed, landlocked, island, post-conflict and post-natural disaster States) loss of export earnings from the total of agricultural or mineral products compared with the arithmetic mean of the earnings in the four years preceding the application year, excluding the most extreme value for countries where the agricultural or mineral export earnings represent between 20 % and 40 % of total export earnings from goods, provided that total earnings do not increase more than proportionally with respect to the impact of the loss of export earnings from agricultural or mineral products as a proportion of total exports."

2) Article 9(2) shall be replaced by the following:

"2. The loss of export earnings defined in paragraph 1 must be 0,5 % of GDP or more for there to be entitlement to additional support. Entitlement to additional support shall be limited to three successive years."

3) Article 9(3) shall be replaced by the following:

"3. The additional resources shall be reflected in the public accounts of the country concerned. They shall be utilised in accordance with programming rules and methods, including the specific provisions of Annex IV "Implementation and management procedures", on the basis of agreements drawn up in advance between the Community and the ACP State concerned in the year following the application year. By agreement of both Parties the resources may be used to finance programmes included in the national budget. However, a part of the additional resources may be set aside for specific sectors, in particular to develop market-based insurance schemes offering protection against the risk of fluctuations in export earnings."

4) An Article 9a shall be added to Chapter 3 of Annex II:

"Article 9a

1. The amount of additional financial support shall be equal to the loss of export earnings multiplied by the arithmetic mean of the "government revenue/gross domestic product" ratio of the four years preceding the application year, excluding the most extreme value and capping that ratio at 25 %.
2. The Commission shall analyse the data provided by the ACP States for the purpose of establishing eligibility and additional financial support as defined in Article 9 in the local currency corrected for inflation. The Commission will then convert the potential amount of additional financial support into euro in accordance with its procedures.
3. Each year, within the total financial allocation for national indicative programmes, the Commission shall establish an envelope covering all ACP countries to provide support in the event of short-term fluctuations in export earnings. If the amount of financial support calculated on the basis of the criteria defined in Article 9 exceeds the amount of that envelope, each ACP State's share will be established in proportion to the potential amount of its additional financial support expressed in euro."

5) Article 10 shall be replaced by the following:

"The system for allocating additional resources shall provide for advances to cover any delays in obtaining consolidated trade statistics and to ensure that the resources in question can be included in the budget of the second year following the application year at the latest. Advances shall be reserved for States where Flex financial support can be implemented by means of general budgetary support. They shall be mobilised on the basis of provisional export statistics drawn up by the government and submitted to the Commission. The maximum advance shall be 100 % of the amount of additional financial support for the application year. The amounts thus mobilised shall be adjusted in the light of the final consolidated export statistics. Those statistics shall be submitted no later than 31 December of the second year following the application year."

Article 2

This Decision shall enter into force on the day of its adoption.

Done at

For the ACP-EC Council of Ministers

The President
