PARLIAMENT OF KENYA LIBRARY

EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY

RESOLUTION OF THE ASSEMBLY URGING THE EAC PARTNER STATES TO HALT THE SIGNING OF THE EU-EAC EPAs UNTIL REVISIONS ARE MADE TO THE FRAMEWORK AGREEMENT

By: Hon. Dr. James Ndahiro

WHEREAS the European Union (EU) is negotiating new trade deals with African, Caribbean and Pacific (ACP) Countries under the framework of the Economic Partnership Agreements (EPAs);

AND WHEREAS a number of African Countries including EAC Partner States signified their willingness to sign the EPAs Framework by the act of initialing non-binding agreements to indicate their good faith to proceed with the arrangements to negotiate comprehensive EPAs;

AND WHEREAS the EU previously engaged the EAC Partner States at bi-lateral level before adopting the current regional approach which therefore necessitates a review of the text in accordance with the EAC approval process;

COGNIZANT of the fact that the EAC Partner States and stakeholders including Parliaments are aware of the regional approach and have raised some concerns in a bid to revise the EPAs Framework prior to signing. The views which stakeholders feel should be incorporated in the framework to form the basis for negotiating a comprehensive framework; which procedure the EU has not agreed to are as follows;

- *that Articles 16, 32 and 36 have not been resolved between the negotiators and should therefore be resolved first;*

- *that the Singapore issues that include investment, government procurement amongst others are unresolved matters at the WTO;*

- *that the Doha development agenda and the Doha Ministerial Statement both emphasize the need to respect the special and differential treatment accorded to developing countries by the WTO instruments and concerned that the current EPA text does not take this into consideration;*

- *that EAC countries production capacities are not as competitive as EU's and in terms of trade, this may most likely displace EAC's products on the market thereby undermining or negatively impacting on the EAC's industrialization Policy Framework including tariff regimes;*

- *that food security and Agriculture which is the bedrock of the region's economy yet at the same time EU countries effectively subsidize farmers; which situation may expose EAC's farmers in the EAC region to unfair competition particularly in the dairy sector;* ***AND CONCERNED*** *that this may worsen the food security situation of the region;*

- *that the relationship if not well and fairly negotiated will expose EAC countries to unfair trading terms with the EU which has stringent protectionist policies, and this will not be commensurate to our aspired development benchmarks;*

NOTING the validity of the various arguments raised confirming that the Framework as it exists is outdated as evidenced by *Article 32* of the EPAs framework and as evidenced by the current developments in the EAC such as the regional approach;

AWARE that the EPAs is supposed to provide an excellent opportunity not only for free trade, but most importantly the opportunity for fair trade between the EU and EAC/or individual EAC Partner States amongst others;

CONCERNED HOWEVER that the outstanding issues if not resolved and included in the EPAs framework will bind the EAC to poor trading terms on the presumption that these issues will not be discussed during the negotiation of the comprehensive EPAs;

NOW THEREFORE this Assembly do resolve as follows:

1. **THAT** the Council of Ministers delays the signing of the EPAs Framework with a view to urging the EU to work with EAC Partner States to review and revise the Framework to include interests of both parties.

2. **THAT** the draft Framework be subjected to the Parliamentary approval process both in the Partner States and at regional level.

Done at Mombasa on the 3rd day of June 2010.

11TH EXTRAORDINARY SUMMIT OF HEADS OF STATE OF THE EAST AFRICAN COMMUNITY

JOINT COMMUNIQUÉ

1. THE EAST AFRICAN COMMUNITY HEADS OF STATE, THEIR EXCELLENCIES PRESIDENT YOWERI KAGUTA MUSEVENI OF THE REPUBLIC OF UGANDA, PRESIDENT PIERRE NKURUNZIZA OF THE REPUBLIC OF BURUNDI, PRESIDENT UHURU MUIGAI KENYATTA OF THE REPUBLIC OF KENYA, PRESIDENT JAKAYA MRISHO KIKWETE OF THE UNITED REPUBLIC OF TANZANIA AND RT. HON. DR. PIERRE DAMIEN HABUMUREMYI, PRIME MINISTER OF THE REPUBLIC OF RWANDA HELD THE 11TH EXTRAORDINARY SUMMIT OF THE EAST AFRICAN COMMUNITY HEADS OF STATE AT THE NGURDOTO MOUNTAIN LODGE, IN ARUSHA, TANZANIA ON SUNDAY 28TH APRIL 2013. THE HEADS OF STATE AND GOVERNMENT MET IN A WARM AND CORDIAL ATMOSPHERE.

2. THE SUMMIT APPOINTED MR. CHARLES JACKSON KINYANJUI NJOROGE EBS DEPUTY SECRETARY GENERAL OF THE EAST AFRICAN COMMUNITY. MR. NJOROGE REPLACES DR. JULIUS TANGUS ROTICH WHOSE TERM OF SERVICE WITH THE COMMUNITY ENDS ON 28TH JUNE 2013. THE HEADS OF STATE THANKED DR. ROTICH FOR HIS DEDICATED SERVICE TO THE COMMUNITY AND WISHED HIM SUCCESS IN HIS FUTURE CAREER.

3. THE SUMMIT APPOINTED HON. MR. JUSTICE LIBOIRE NKURUNZIZA FROM THE REPUBLIC OF BURUNDI, JUDGE OF THE EAST AFRICAN COURT OF JUSTICE (APPELATE DIVISION) AND HON. MR. JUSTICE DR. FAUSTIN NTEZILYAYO FROM THE REPUBLIC OF RWANDA JUDGE OF THE EAST AFRICAN COURT OF JUSTICE (FIRST INSTANCE DIVISION) WITH EFFECT FROM 27TH JUNE 2013. THE TWO JUDGES REPLACE HON. MR. JUSTICE LAURENT NZOSABA AND HON. MR. JUSTICE JOHNSTONE BUSINGYE, PRINCIPAL JUDGE WHOSE RESPECTIVE TENURES OF OFFICE COME TO AN END ON 26TH JUNE 2013. THE HEADS OF STATE THANKED HON. MR. JUSTICE LAURENT NZOSABA AND HON. MR. JUSTICE JOHNSTONE BUSINGYE FOR THEIR DEDICATED SERVICE TO THE COMMUNITY AND WISHED THEM SUCCESS IN THEIR FUTURE CAREERS. THE SUMMIT DESIGNATED HON. MR. JUSTICE JEAN BOSCO

BUTASI AS PRINCIPAL JUDGE OF THE EAST AFRICAN COURT OF JUSTICE.

4. THE SUMMIT CONSIDERED THE PROPOSAL TO ESTABLISH THE BUREAU OF SPEAKERS AS AN ORGAN OF THE EAST AFRICAN COMMUNITY AND THE RECOMMENDATION OF THE COUNCIL ON THE MATTER AND AGREED THAT IT WAS NOT APPROPRIATE TO TRANSFORM THE BUREAU OF SPEAKERS INTO AN ORGAN OF THE COMMUNITY.

5. THE SUMMIT ENCOURAGED THE BUREAU OF SPEAKERS TO ENHANCE THE RELATIONSHIP BETWEEN THE EAST AFRICAN LEGISLATIVE ASSEMBLY AND THE NATIONAL ASSEMBLIES/PARLIAMENTS AS PROVIDED FOR IN ARTICLE 65 OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY.

6. THE SUMMIT RECEIVED A PROGRESS REPORT OF THE COUNCIL OF MINISTERS ON THE EXTENSION OF THE JURISDICTION OF THE EAST AFRICAN COURT OF JUSTICE TO COVER AMONG OTHERS CRIMES AGAINST HUMANITY. THE SUMMIT DIRECTED THE COUNCIL TO EXPEDITE FINALIZATION OF THE MATTER AND REPORT PROGRESS AT THE 15TH ORDINARY MEETING OF THE SUMMIT SCHEDULED FOR NOVEMBER 2013.

7. THE SUMMIT RECEIVED A PROGRESS REPORT ON THE NEGOTIATIONS OF THE DRAFT PROTOCOL ON THE ESTABLISHMENT OF THE EAC MONETARY UNION.

8. THE SUMMIT NOTED THAT THE SECTORAL COUNCIL ON MONETARY UNION MET IN FEBRUARY 2013 AND GAVE GUIDANCE TO THE HIGH LEVEL TASK FORCE NEGOTIATING THE DRAFT PROTOCOL ON THE OUTSTANDING MATTERS.

9. THE SUMMIT DIRECTED THAT THE ROADMAP TO THE CONCLUSION OF THE PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY MONETARY UNION WILL INCLUDE HOLDING THE FOLLOWING MEETINGS: THE THIRD MEETING OF THE SECTORAL COUNCIL ON EAST AFRICAN MONETARY UNION TO FINALIZE THE TECHNICAL NEGOTIATIONS; THE EXTRA-ORDINARY COUNCIL OF MINISTERS TO CLEAR THE DRAFT PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY MONETARY UNION AND REFER IT TO THE SECTORAL COUNCIL ON LEGAL AND JUDICIAL AFFAIRS FOR LEGAL INPUT; AND THE SECTORAL COUNCIL ON LEGAL AND JUDICIAL AFFAIRS TO CLEAR THE DRAFT PROTOCOL.

10. THE SUMMIT REITERATED ITS EARLIER DIRECTIVE TO THE COUNCIL OF MINISTERS TO EXPEDITE NEGOTIATIONS AND CONCLUSION OF THE PROTOCOL ON THE ESTABLISHMENT OF THE EAC MONETARY UNION WITH A VIEW TO SIGNING THE

PROTOCOL AT THE 15TH SUMMIT OF THE EAC HEADS OF STATE SCHEDULED FOR NOVEMBER 2013.

11. THEIR EXCELLENCIES, OBSERVING THE NEED FOR PARTNER STATES TO USE THE RECENTLY DISCOVERED OIL AND GAS RESOURCES FOR THE BENEFIT OF THE PEOPLE OF EAST AFRICA DIRECTED-

A. THE SECRETARY GENERAL TO CONVENE A MEETING OF MINISTERS RESPONSIBLE FOR ENERGY AND FINANCE, THE ATTORNEYS GENERAL, HEADS OF REVENUE AUTHORITIES AND CHIEF EXECUTIVE OFFICERS OF NATIONAL OIL AND GAS COMPANIES TO SHARE EXPERIENCES AND AGREE ON BEST PRACTICES; AND

B. DIRECTED THE SECRETARIAT TO WORK WITH PARTNER STATES AND OTHER RELEVANT PARTNERS IN DEVELOPING CAPACITY AT THE NATIONAL AND COMMUNITY LEVEL IN THE MANAGEMENT OF HYDROCARBONS.

12. THE SUMMIT NOTED AND COMMENDED THE REPUBLIC OF KENYA FOR THE SUCCESSFUL GENERAL ELECTIONS AND CONGRATULATED HIS EXCELLENCY UHURU MUIGAI KENYATTA UPON HIS ELECTION AS THE 4TH PRESIDENT OF THE REPUBLIC OF KENYA AND HIS EXCELLENCY WILLIAM RUTO THE DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA. THE SUMMIT WELCOMED HIS EXCELLENCY UHURU KENYATTA TO THE SUMMIT OF THE HEADS OF STATES OF THE EAST AFRICAN COMMUNITY AND WISHED HIM SUCCESS IN STEERING THE AFFAIRS OF HIS COUNTRY TO GREATER HEIGHTS IN THE NEXT FIVE YEARS. THE SUMMIT ALSO SALUTED THE PEOPLE OF KENYA FOR THE SUCCESSFUL AND PEACEFUL ELECTIONS.

13. THE SUMMIT WELCOMED THE PLANNED CELEBRATIONS FOR THE JUBILEE ANNIVERSARY OF THE OAU/AU ON 25TH MAY 2013 IN ADDIS ABABA, ETHIOPIA, AND THE YEAR LONG ACTIVITIES ACROSS THE CONTINENT TO REFLECT THE PAST, ASSESS THE PRESENT AND PLAN FOR THE FUTURE. THE SUMMIT CALLED FOR GREATER INVOLVEMENT OF THE YOUTH, WOMEN, PEOPLE LIVING WITH DISABILITIES, THE DIASPORA, THE PRIVATE SECTOR AND OTHER GROUPS IN THE CELEBRATIONS WITH A VIEW TO PROMOTE THE SPIRIT OF AFRICAN RENAISSANCE AND PAN-AFRICANISM AMONG THE VARIOUS STAKEHOLDERS.

14. THE SUMMIT NOTED WITH SATISFACTION THE PARTICIPATION OF THE EAC AT THE 5TH BRICS MEETING WHOSE THEME WAS "BRICS AND AFRICA-PARTNERSHIP FOR DEVELOPMENT, INTEGRATION AND INDUSTRIALISATION" AND WHICH WAS HELD ON 27TH MARCH 2013 IN DURBAN, REPUBLIC OF SOUTH AFRICA.

15. THE SUMMIT NOTED THAT THE EMERGENCE OF BRICS WAS A WELCOME

PHENOMENON FOR THE MAINTENANCE OF GLOBAL PEACE, SECURITY, ECONOMIC DEVELOPMENT AND PROSPERITY FOR THE PEOPLE IN THE AFRICAN CONTINENT AND THE REGION NEEDS TO STRENGTHEN RELATIONS WITH THE BRICS COUNTRIES WITH A VIEW TO DEVELOPING REGIONAL INFRASTRUCTURE, INDUSTRIALISATION, SKILLS DEVELOPMENT AND TECHNOLOGY TRANSFER.

16. THEIR EXCELLENCIES, PRESIDENT YOWERI KAGUTA MUSEVENI OF THE REPUBLIC OF UGANDA, PRESIDENT PIERRE NKURUNZIZA OF THE REPUBLIC OF BURUNDI AND PRESIDENT UHURU MUIGAI KENYATTA OF THE REPUBLIC OF KENYA AND RT. HON. DR. PIERRE DAMIEN HABUMUREMYI, PRIME MINISTER OF THE REPUBLIC OF RWANDA CONGRATULATED THE UNITED REPUBLIC OF TANZANIA ON THE 49TH UNION DAY AND THANKED THEIR HOST, HIS EXCELLENCY PRESIDENT JAKAYA MRISHO KIKWETE OF THE UNITED REPUBLIC OF TANZANIA, FOR THE WARM AND CORDIAL HOSPITALITY EXTENDED TO THEM AND THEIR RESPECTIVE DELEGATIONS DURING THEIR STAY IN THE BEAUTIFUL CITY OF ARUSHA, TANZANIA.

DONE AT ARUSHA, THIS 28TH DAY OF APRIL 2013.

REPUBLIC OF KENYA

OFFICE OF THE PRIME MINISTER

National Regional Integration Strategy and Implementation Plan for Kenya

Draft Final Report

Charmy Investments Limited

Kenya Reinsurance Plaza,

P.O. Box 50968-00200, Nairobi

19th November, 2012

TABLE OF CONTENTS

TABLES & FIGURES v
ACRONYMS vi
EXECUTIVE SUMMARY ix
CHAPTER ONE 1
1.0 INTRODUCTION 1
1.1. Background/Context 1
1.2. Rationale for the Strategy 2
1.3. Objectives of the Strategy 3
CHAPTER TWO 5
2.0 KENYA'S REGIONAL INTEGRATION DEVELOPMENTS- STATE OF PLAY 5
2.1 Overview of Regional Integration in Kenya 5
2.1.1 Multilateral Commitments 5
2.1.2 Regional Commitments 6
2.1.3 Bilateral Agreements 8
2.2 Achievements 8
2.2.1 Governance, Justice, Law and Order (GJLO) 8
2.2.2 Peace and Security 11
2.3 Role of Kenya Parliament in Regional Integration 12
2.4 Public Administration, International Relations & Special Programmes 13
2.4.1 Public Administration 13
2.4.2 Regional Policy and Programmes 14
2.4.3 International and Regional Relations 15
2.4.4 Special Programmes 15
2.5 Trade, Industry, Tourism and Financial Services 16
2.5.1 Trade and Investment 16
2.5.2 Financial Services 20
2.5.3 Other Services 22

2.6 Physical Infrastructure *23*

2.6.1 Modernization and Expansion Programmes in the Corridors 23

2.6.2 Improving Access to Clean Energy and Supply Reliability 26

2.6.3 Improving ICT and Telecommunication Connectivity 27

2.7 Agriculture and Rural Development, Environment and Water *28*

2.7.1 Agriculture 28

2.7.2 Environment 30

2.7.3 Water 32

2.8 Human Resource Development, Research, Innovation and Technology *33*

2.9 Cross Cutting Challenges *34*

2.10 Conclusion *35*

CHAPTER THREE **37**

3.0 SWOT ANALYSIS OF KENYA'S REGIONAL INTEGRATION ACTIVITIES **37**

3.1 Introduction *37*

3.2 Strengths *37*

3.2.1 Strategic geographical location as a gateway to East Africa 37

3.2.2 Competitive Service Industries 38

3.2.3 Well Developed Human Resources 40

3.2.4 Political Stability, Peace and Security 41

3.2.5 Relatively Diversified Export Base 42

3.2 Weaknesses *43*

3.2.1 Institutional Framework and Mechanisms 43

3.2.2 Trade Facilitation 45

3.2.3 Infrastructure Challenges 46

3.2.4 Business and Regulatory Environment 49

3.2.5 Immigration 50

3.3 Opportunities *50*

3.3.1 Bigger Market Access and Investment Areas 50

3.3.2 Jobs and Employment Creation 53

3.3.3 Shared Management And Approach To Common/Public Goods 53

3.4 Threats: ***53***

3.4.1 Increased Global and Regional Competition 53

3.4.2 External Shocks and Events 54

3.4.3 Nationalistic Tendencies 55

3.5 Conclusion ***55***

4.0 KENYA's REGIONAL INTEGRATION STRATEGY **56**

4.1 Principles ***56***

4.1.1 Market Access for Economic Advancement and Development 56

4.1.2 National Security and Sovereignty 57

4.1.3 Solidarity and Mutual Benefit 57

4.1.4 Compliance with International Requirements 58

4.1.5 Wide Stakeholder Involvement 58

4.2 Elements of Kenya's Regional Integration Strategy ***59***

4.2.1Institutional Framework for Coordination and Collaboration ***59***

4.2.2Peace, Security and Trans-boundary Resource Management ***65***

4.2.2.1 Regional Peace Keeping 65

4.2.2.2 Combating Terrorism 66

4.2.2.3 Food Security and Sustainable Livelihoods 66

4.2.3Cross-Border Connectivity and Regional Infrastructure Development ***69***

4.2.3.1 Ports 70

4.2.3.2 Roads 70

4.2.3.3 Railways 71

4.2.3.4 Airports 72

4.2.3.5 Energy 72

4.2.4Trade Facilitation and Business Environment 74

4.2.4.1Policy, Legal and Regulatory Environment 74

4.2.4.2Strengthening ICT Infrastructure 75

4.2.4.3Maintaining Macroeconomic Stability 76

4.2.4.4Leveraging on Complementary Service Providers within and Outside the Region 76

4.2.5Integrating SMEs into Local, Regional and Global Value Chains 76

4.2.6Human Resource Development 77

4.2.7Special Agreements to Secure Kenyans Working Outside the Region 79

4.2.8Targeted Capacity and Training of Regional Integration Implementers 79

4.2.8.1Trade Negotiation Skills 79

4.2.8.2Training Resource for MPs and Parliament Staff on Regional Integration 80

4.2.8.3Training Media Fraternity on Regional Integration issues 80

4.2.8.4Training existing staff on the National regional Integration Strategy and Policy 80

4.2.8.5Regular Staff Updates for regional integration implementing agencies 81

4.2.9Exploring Alternative Sources of Financing Infrastructure 81

CHAPTER FIVE **83**

5.0 SECTORAL IMPLEMENTATION PLANS AND COORDINATION MECHANISMS **83**

5.1 Introduction ***83***

5.2 Sectoral Implementation Plans ***83***

5.3 Monitoring and Evaluation Framework ***83***

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy **84**

TABLES & FIGURES

Tables

Table 1.1 : Milestones for the AEC, EAC, COMESA, IGAD and SADC RECs
Table 2.1 : Number of Kenyan Banks with Branches in the EAC Partner States
Table 2.2 : Kenyan Supermarkets with EAC Presence
Table 3.1 : Kenyan Supermarkets with EAC Presence
Table 3.2 : Macroeconomic Indicators and Trend towards Convergence for EAC Economies, 2005- 2010
Table 3.3 : Foreign Direct Investment Flows in EAC region, 2006 – 2008 (USD millions)
Table 3.4 : EAC: Treasury Bills and Bonds Outstanding at End-2010 (USD, millions)
Table 3.5 : EAC Partner States Exports to GDP 2005-2010 (%)
Table 4.1 : Areas of Socio-Economic Cooperation Earmarked EAC & COMESA Treaties
Table 4.2 : Organs Established by the EAC and COMESA Treaties

Figures

Figure 2.1 : Kenya GDP Real Growth Rates, 2000-2010 (%)

Annexes

Annex 1 : Implementation Plan for Kenya's Regional Integration Strategy
Annex 2 : Macroeconomic Convergence criteria for COMESA and EAC regions for 2005 to 2015
Annex 3 : Sector Working Groups (SWGs) for Kenya's MDAs

ACRONYMS

ACP	African Caribbean and Pacific
ADB	African development Bank
AMISOM	African Mission in Somalia
ATIA	African Trade Insurance Agency
AU	African Union
BPO	Business Process Offshore
CAADP	Comprehensive Africa Agriculture Development Programme
CASSOA	Civil Aviation Safety and Security Oversight Agency,
CBK	Central Bank of Kenya
CENSAD	Community of Sahel-Saharan States
CET	Common External Tariff
CIA	Central Intelligence Agency
CITES C	Convention on International Trade on Endangered Species
CM	Common Market
CMA	Capital Market Authority
CMI	COMESA Monetary Institute
COMESA	Common market for Eastern and Southern Africa
CPA	Comprehensive Peace Agreement
CTN	Chief Trade Negotiator
CU	Customs Union
DART	Dry-Land Technology Transfer
EAC	East African Community
EACSOF	East Africa Civil Society Forum
EADB	East African Development Bank
EAFF	East African Farmers Federation
EALA	East African Legislative Assembly
EAPP	Eastern Africa Power Pool
EMCA	Environmental Management and Coordination Act
EPC	Export Promotion Council
EPZs	Export Processing Zones
ESAMI	Eastern and Southern African Management Institute
FDI	Foreign Direct Investment
FTA	Free Trade Area
GJLO	Governance, Justice, Law and Order
GOK	Government of Kenya
ICPAC	Climate Prediction and Application Centre
ICT	Information Communication and Technology
IGAD	Intergovernmental Authority on Development
JKIA	Jomo Kenyatta International airport

KAA	Kenya Airport Authority
KCB	Kenya Commercial Bank
KESSULO	Kenya-South Sudan Liaison Office
KIA	Kenya Institute of Administration
KPA	Kenya Port Authority
KR	Kenya Railways
LAPPSET	Lamu Port Southern Sudan-Ethiopia Transport Corridor
LAVEMP	Lake Victoria Development and Management Program
LVBC	Lake Victoria Basin Commission
MDAs	Ministries, Departments and Agencies
MDG	Millennium Development Goals
MEAC	Ministry of East African Community
MFN	Most Favoured Nation
MoU	Memorandum of Understanding
MTCs	Medical Training Centres
MTP	Medium Term Plan
MU	Monetary Union
MUBs	Manufacturing Under Bond
NCBDA	Nairobi Central Business District Area
NEMA	National Environmental Management Authority
NEMA	National Environmental Management Authority
NEPAD	New Partnership for Africa's Development
NSE	Nairobi Securities Exchange
NSSF	National Social Security Fund
NT	National Treatment
NTB	Non-Tariff barriers
PF	Political Federation
PSIP	Public Sector Investment Programme
RECs	Regional Economic Communities
RI	Regional Integration
RIGs	Regional Integration Groupings
RoO	Rules of Origin
SACCOs	Savings and Co-operative Societies
SADC	Southern Africa Development community
SEZs	Special Economic Zones
SME	Small Medium Enterprises
STI	Science, Technology and Innovation
STI	Science, Technology And Innovation
SWGs	Sector Working Groups
SWOT	Strength, Weaknesses, Opportunities and Threats

TRALAC	Trade Law Centre for Southern Africa
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
UNIDO	United Nations Industrial Development Organization
VA	Value Added
WCO	World Customs Organisation
WTO	World Trade Organisation
ICAO	International Civil Aviation Organization

EXECUTIVE SUMMARY

Kenya's development aspirations are enunciated in Vision 2030 development blueprint anchored on economic, social and political pillars that seek to achieve the following: (i) promote peace, security and good governance as central prerequisites for sustainable development; (ii) support regional integration, trade and interconnectivity to promote economic development; and (iii) improve access to health, education and other basic social services including protection of the environment to achieve MDGs goals.

Regional integration is an important component of Kenya's foreign policy though it received marginal attention in Vision 2030. In spite of Kenya's active participation in the implementation of the programs and projects of various Regional Economic Communities (RECs)/Regional Integration Groupings (RIGs) including the EAC, COMESA and IGAD; there is no strategy in place to coordinate the efforts.

The rationale for the regional integration strategy in addition to strengthening conventional corporation will also act as a development policy instrument; to facilitate timely implementation of the regional commitments including identifying critical capacity gaps for enhancement. It will leverage Kenya's strength in providing leadership in regional integration; facilitate market access and additional investment opportunities.

The strategy will also prioritise key sectors of intervention that promote linkages, diversification, specialisation and complementarity with other Regional Partners, and enhance inclusive growth and development within the RECs. In the end regional integration will result in stronger voice of a regional bloc, efficiency through competition, increased credibility of national policies that are locked in a regional framework and the positive neighbourhood effects.

The main objective of Kenya's Regional Integration Strategy is to facilitate a government-wide approach to regional integration. The strategy will take cognisance of competitiveness and the attendant aspects of business environment including peace and security, cost of production and relates transaction costs, diversification of product range and efficiency of backbone services as well as value added (VA) economic activities, and value chains with strong forward and backward linkages.

Kenya's regional integration agenda is underpinned by a number of multilateral frameworks, key among them being the WTO and CITES. Other complementary multilateral agreements relate to labour and human rights including cultural heritage, corruption, gender equality and democratisation; environment, investment, Competition, Transparency in government procurement, Electronic commerce. At the regional level, Kenya is engaged in EAC, COMESA, IGAD and IOC. At the bilateral level Kenya is active within the SSA-AGOA and ACP/EPA agreements. Many more bilateral agreements have been entered into at country level.

Kenya has registered major milestones/achievements in the context of the projects and programs being implemented by the various government departments. In the area of governance, justice and order, domestication of substantial regional commitments have been made. These include reforms to effect liberalization, reviews of trade and investment frameworks, immigration laws and extensive peace and security interventions in the region. Other achievements include reviewing approach to international relations with the deepening regional integration, building of institutions and capacities of implementers and institutionalizing wider stakeholder involvement. Other achievements include the changed status from further regional integration initiatives. These include transformations into regional and corporate hub, transport hub for air transport, financial sector and diplomatic capital.

The immediate impact of the regional integration efforts for Kenya include expansion and diversification of the export basket, stability of the revenue base and policy environment, deepening financial sectors with a number of Kenyan investors expanding their operations into the region, more specifically the banks, supermarkets and employment opportunities. Kenya also benefitted from expanded employment opportunities. Joint regional priority setting across economic enablers-transport infrastructure, ICT and telecommunication, energy generation, and human resource development have in deepening regional integration for the benefit of all partner states. The expectations from the new constitution re-enforce achievements of the obligations of the different RECs.

The key challenges Kenya faced in the implementation of the regional integration relate to the inadequate coordination mechanisms from fragmented implementing institutional frameworks, conflicting commitments under the different RECs, delays in the domestication of the policy and regulatory frameworks. Worse still is the limited role of the national Parliament in matters of regional integration. Other impediments to regional integration are the plethora of NTBs, inadequate infrastructure connectivity, limited access to affordable energy, insecurity, perennial food shortages and environment challenges. On the social scene are the terrorist and piracy activities, unemployment, human trafficking, and the effects of climate change. More could have been achieved with a regional strategy in place.

Accordingly, the regional integration strategy shall be underpinned by the principles of market access for economic development, solidarity and mutual benefit, national security and sovereignty including wide stakeholder involvement. Kenya's elements of regional integration strategy include economic priorities, social welfare and political stability, institutional framework for coordination and collaboration including mainstreaming the role of Parliament in regional integration matters. Other critical elements include investment in trade facilitation for enhanced competitiveness and supply capacities in order to benefit from expanded market access, integrating SMEs into the relevant regional and global value chains, support for cross border infrastructure connectivity and promotion of enabling policy and regulatory environment to reduce trade finance and information costs.

At the end of the day, the regional strategy shall contribute to the market and product diversification, stability of the macroeconomic fundamentals in positioning Kenya as a regional service hub. This will allow Kenya leverage other regional and international resources for its own benefit. More importantly is the improvement of the efficiency of the backbone services which should be benchmarked to international best practice. For this reason, Kenya's regional integration efforts shall be underpinned by the EAC REC. The monitoring and impact assessment of the regional integration programmes shall be carried out within the existing government frameworks.

CHAPTER ONE

1.0 INTRODUCTION

1.1. Background/Context

Kenya's development aspirations are enunciated in Vision 2030 development blueprint. The blueprint has three pillars, namely; economic, social and political pillars that seek to achieve the following: (i) promote peace, security and good governance as central prerequisites for sustainable development; (ii) support trade and interconnectivity to promote economic development; and (iii) improve access to health, education and other basic social services including protection of the environment to achieve MDGs goals. The Vision is anchored on a market based economy which prioritises macroeconomic stability; continuity in governance reforms; enhanced equity and wealth creation opportunities for the poor; development of infrastructure, energy, science, technology and innovation (STI); land reform; human resources development; security and public sector reforms.

Regional integration is an important component of Kenya's foreign policy although it is not well articulated in Vision 2030. Kenya has thus actively participated in the implementation of the programs and projects of various Regional Economic Communities (RECs)/Regional Integration Groupings (RIGs) including the EAC, COMESA and IGAD. This is consistent with international practice where regional economic groupings underpin global connectivity in both production and trade. Hitherto, Kenya has benefitted from the EAC Customs Union and Common Market and COMESA Free Trade Area (FTA) trade regimes which came into effect in the last decade (**Table 1.1**).

Table 1.1: Milestones for the AEC, EAC, COMESA, IGAD and SADC RECs

Milestone	AEC	EAC	COMESA	SADC	IGAD	IOC
Establishment of a free trade area	2014	-	2000*	2008	2011	NA
Establishment of a customs union	2016	2005*	2009	2010		NA
Establishment of a common market	2020	2010*	2014	2015	NA	NA
Establishment of a monetary union	2025	2012	2018	2016	NA	NA
Establishment of common central bank with common currency	....	2015	2018	2016	....	...
Establishment of a Political federation	....	2015	NA	NA	NA	NA
African Economic Community	2028					

Source: REC Treaties and Protocols

Consequently, Kenya's exports have dominated the regional markets, with manufactures accessing outlets hitherto not available in the traditional export markets. Kenya's exports to both the regional markets and other African countries constitute nearly half of its total exports; with EAC and COMESA accounting for more than 80 percent. Available data however shows that intra-EAC merchandize exports are around 19% while intra-COMESA-trade are about 7% of total exports of the regions. Kenya plays an important contribution to this. This achievement has been made even though Kenya has not developed a regional integration strategy to guide its approach in accessing the opportunities in regional markets. The proposed strategy will lead to faster implementation of the customs union and common market in EAC and COMESA and thus to move them closer to around 80% intra-regional trade that the EU was one it embraced a monetary union.

An analysis of the Vision 2030 document shows that regional integration and EAC in particular are given a marginal importance (each mentioned three times in a document of 180 pp). Thus while regional integration is an important element of Kenya's policy, this is not reflected in the Vision 2030. The development of regional integration strategy and an implementation framework/plan for Kenya is therefore expected fill this gap in vision 2030.

The full implementation of the strategy will open up more opportunities to trade, FDI inflows and subsequent wealth and employment creation. The strategy will address the challenges of conflicting commitments from the different RECs with varying degrees of integration. The conflicts are in respect of institutional targets and milestones; overlapping membership and divergent implementation time lines resulting in incoherent trade policy, inefficient resource use due to duplication of effort; and lost opportunities in tapping into the wider markets.

1.2. Rationale for the Strategy

Kenya requires a Regional Integration Strategy for several reasons. First, it acts as reaffirmation of Kenya's commitment to improve its relations with regional neighbours and other African countries beyond conventional cooperation. Second, creating a framework through which Kenya's strengths can be optimized effectively to become the main driver for deeper regional integration in the region and Africa.

Third, as a development policy instrument, regional integration facilitates market access and investment opportunities for the private sector, while also enhancing prospects for attaining Vision 2030 growth target. Kenya shall thus seek access to raw materials, markets and trade routes that it cannot achieve through ordinary diplomacy. This will be done via 'spheres of influence' especially with respect to; promotion of joint economic development, promotion and protection of investments as well as securing destination for Kenya's expertise in various fields including education, tourism and medicines. In addition, it creates the momentum for deepening financial sector reforms supportive of a globalised business environment. These include potentials in strategic partnerships leading to expanded capacities for diversified value added

high technology and knowledge intense trade and investment opportunities in goods and services. This has potential for improved welfare, social and political cohesion of the people of the region.

Fourth, it aims at actualising Kenya's role as the bridge between the regions of East and Central Africa as well as the Horn Africa. In this regard, the strategy is intended to catalyze action for regional infrastructural projects of mutual benefit, and which result in enhanced connectivity and reduced transport costs; access to affordable environment friendly energy; and, compliance with international/multilateral commitments to mitigate the impacts of climate change.

Fifth, the strategy aims at accelerating the implementation of the various regional and bilateral agreements that seek to expand economic ties and increase the volume of cross border trade and investments. Towards this end, the strategy shall leverage Kenya's vantage position and sphere of influence in brokering regional peace and security interventions, a relatively well developed democratic infrastructure, systems and processes facilitating wide stakeholder participation. In addition the strategy will invoke various safeguard provisions to protect Kenya's investment interests that spread across the continent.

Sixth, the strategy will, in addition to investing in the requisite capacities and competences to take advantage of the available opportunities, it will prioritise key sectors of intervention that promote linkages, diversification, specialisation and complementarity with other Regional Partners, and enhance inclusive growth and development within the RECs. Towards this end, the strategy will also explore ways and means of facilitating private sector to step up their supply capacities to meet the regional market demands and take advantage of the emerging market opportunities. Such priority interventions have the potential to generate maximum benefit in employment and equitable income generation.

Finally, the strategy will facilitate greater realization of other important positive impacts of regional integration such as: stronger voice of a regional bloc, efficiency through competition, increased credibility of national policies that are locked in a regional framework and the positive neighbourhood effects.

1.3. Objectives of the Strategy

The main objective of Kenya's Regional Integration Strategy is to facilitate a government-wide approach to regional integration. The strategy aims at fostering a policy, legal, regulatory and an institutional environment critical for expedited and sequenced implementation of regional policies, projects and programmes, while not only enhancing the country's market access in the region, but also giving it a lead role on regional integration. Successful implementation of the Strategy would lead to the mainstreaming of regional integration in the country's national planning within the context of the development of the second medium term, plan (MTP) for the period 2013-18.

By ensuring coherence in regional integration, the Strategy will provide the country with numerous opportunities and benefits including: increased access to larger markets for trade and investments, lower costs of doing business, improvements in infrastructure, free movement of persons and enhanced peace and security within the region. In a nutshell, the strategy will take cognisance of competitiveness and the attendant aspects of business environment including peace and security, cost of production, diversification of product range and efficiency of backbone services as well as value added (VA), and value chains with strong forward and backward linkages.

Ultimately, the Strategy will act as a blue print of how Kenya will seamlessly implement regional decisions, policies, programmes and projects, and thereby, optimise and deepen its regional integration endeavours as part of the globalising World. The strategy will provide the relevant input for the preparation of a Sessional paper/policy on regional integration that seeks to establish a holistic framework for regional integration; putting the constituent elements of integration into a single framework, with an implementation plan on the goals to be reached, and expected contributions from all stakeholders.

The National Policy on regional Integration will in particular attempt to make the management of the integration process more effective and efficient and to ensure that the regional integration activities contributes to Kenya' goal of becoming a middle-income country by 2030. The policy also seeks to enable Kenya react adequately to regional and global initiatives, decisions and other actions, as well as position Kenya to be proactive on critical issues, including remedial and mitigating action in order to safeguard its national interests.

The strategy will address government's coordination & management of the Regional Integration Affairs and functions which are currently disaggregated, domiciled and managed in at least four ministries. COMESA is managed from the Ministry of Trade; EAC, in the Ministry of East African Community Affairs; Intergovernmental Authority on Development (IGAD), in the Ministry of Foreign Affairs; and Kenya-South Sudan Liaison Office, (KESSULO), in the Office of the President.

CHAPTER TWO

2.0 KENYA'S REGIONAL INTEGRATION DEVELOPMENTS- STATE OF PLAY

2.1 Overview of Regional Integration in Kenya

Kenya has approached and participated in regional integration matters over the last two decades through different regional trading arrangements and integration agreements. While regional partners' with who Kenya participates in regional integration have common objectives as enunciated in the various treaties and protocols, the country aims at positioning itself as a regional leader in all fronts of regional integration and particularly in the provision of services, which presently underlie Kenya's strength in the region. In the context of Vision 2030, Kenya anticipates to leverage its strength in the services sectors to become a regional hub. Kenya's regional integration initiatives are underpinned by a number of regional and multilateral obligations and commitments to which it belongs.

2.1.1 Multilateral Commitments

The World Trade Organization (WTO, 1995) Rules based disciplined mechanisms of trade in goods and services are founded on the multilateral trading system, taking into account the need for development. To ensure smooth flow of business, the WTO member countries, Kenya as a founder member included, apply the same rules in the formulation of their trade policies and agreements. The WTO trade rules are underpinned by five principles of non-discrimination, reciprocity, enforceable commitments, transparency, and safety valves. These are reflected in the agreements on agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards and product safety, food sanitation regulations, intellectual property, and much more.

Kenya's trade policy is anchored on the principles and objectives of the WTO. Towards this end, both regional and bilateral agreements, that Kenya is signatory to, subscribe to most favoured nations (MFN) and national treatment (NT) principles of equal treatment of all trading partners, enforcement of common and predictable international standards with full information disclosures supportive of competition.

Other multilateral agreements impacting on trade and investment to which Kenya belongs are deliberated outside the formal WTO mechanisms. These include Trade and the environment, Trade and investment, Finance, Security, Competition, Transparency in government procurement, Trade "facilitation, Electronic commerce, Trade and labour rights, human rights including cultural heritage, corruption, gender equality and democratisation. Other conventions include International Trade on Endangered Species (CITES) on covered products that require

prior authorization by the Government before exportation. In the case of Kenya, this includes endangered wildlife and exotic plants.

2.1.2 Regional Commitments

The regional integration agenda and strategies employed vary across the different RECs (Box 1). Under the EAC treaty (2000), Kenya's obligations encompass a wide spectrum of catchment areas that entail deepening economic, social, cultural and political integration at regional and global levels for the enhancement of competitiveness and development resulting in the wellbeing of the people of the region.

Through a gradual process, parties to EAC would gradually liberalise their economies through "the establishment of a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared". This is actualized through protocols, adoption of common policies and regulations, master plans and sectoral strategies subscribed by wide stakeholders.

The obligations under the COMESA Treaty (1994) are anchored on sustainable economic development aspirations of trade and investments, promotion of peace, security and stability culminating in the establishment of the African Economic Community. This would be achieved through gradual convergence of the economies via establishment of the customs union, common market and monetary union; with strong emphasis on trade facilitation; strengthening the productive sectors, in particular agriculture, tourism and industry; harmonization of transport and communications policies; elimination of restrictions on freedom of movement of persons and workers and trade in services; and joint infrastructure development.

IGAD Treaty (1986 rev 1995) diversified its obligations to promote peace, security and economic development. The IGAD trade and development agenda is to be harmonized within the EAC and COMESA integration frameworks. The Indian Ocean Commission (IOC) in its advocacy of environmental conservations of the small Indian Ocean islands undertakes leadership in the conservation of the fisheries. Kenya among Indian Ocean coastal countries is a member of IOC for purposes of sustainable exploitation of the fisheries resources for the benefit of the countries involved.

Box 1: Long Term Treaty Strategies of the EAC, COMESA, IGAD RECs and the CES FTA

Broad Area/Pillar	EAC (2000)	COMESA (1994)	IGAD Treaty, 1993 rev 1995; 2010)	CES Tripartite, 2010
Overall objective	Enhanced harmonious balanced growth Harmonized policy and regulatory framework Integrate into the global frameworks Strengthened institutions to manage RI	Enhanced harmonious balanced growth		Trade and invest Policy and regulatory framework harmonisation
Economic	Trade liberalization and development CU and CM - Customs cooperation and administration - Trade facilitation - Standards & Quality assurance - Trade remedies and trade related issues - Dispute settlement	Trade liberalization and customs cooperation - Establish CU & CM - Harmonised customs management and administration - Trade facilitation mechanisms, remedies - Competition framework - Dispute settlement	Benchmark COMESA trade and investment framework	Trade liberalisatio through TFTA
	Infrastructure development - Transport corridors - Air and marine transport - Communications	Infrastructure development - Transport and communications corridors - Transit trade facilitation thru removal barriers and harmonization insurance	Infrastructure development -Transport and communications	Infrastructure development
	Productive sector development - Investment and Industrial development - Agriculture, food security and livestock development - Tourism and wildlife management - Environment and natural resources - Energy generation and distribution - Private sector development	Productive sector development-enabling investment and business environment for: - Industry and energy - Toursim management - Agriculture, food security and rural development - Management of environment and natural resources - Private sector development	Management of environment and desrtification - Convention to Combat desertification - Sustainable and harmonised use of energy resources	Industrial development
	Services sectors - Fiancial and moetary affairs including banking and capital markets - Transport, meteoroligal and communication services	Services sectors - Finance and monetary affairs - Tourism and wild life services - Transport, meteorologigal and communication services	Limited to social sector	To be negotiatited after 2014
Social	- CM freedoms- movement of persons, labour service, right of establishment and residence - Cultural exchange	- Movement of persons, labour service, right of establishment and residence - Cultural exchanges - Management of displaced persons	- Promotion of human rights, social and cultural exchanges - Resettlement of refugees and displaced persons	To be negotiatited after 2014
	MU Monetary and financial cooperation	MU - deepened capital and financial markets Financial sector policy harmonisation	Harmonisation of fiscal and monetary policies	NA
Political/ governance	Political integration Regional peace and security Internationa relations Democracy Defense	Regional peace and security International relations Democracy	Regional peace and security	NA

2.1.3 Bilateral Agreements

In addition to being a member of several RECs/RIGs, Kenya maintains bilateral trade agreements with a number countries including: Argentine, Bangladesh, Bulgaria, China, the former Czech and Slovak Republic, Djibouti, Egypt, Ethiopia, India, Iran, Lesotho, Nigeria, Pakistan, Poland, Romania, Rwanda, Republic of Korea, Sudan, Tanzania, Thailand, the former USSR, the former Yugoslavia, Zambia and Zimbabwe.

Under these agreements, according to WTO (2000), Kenya and its contracting partners accord each other the MFN treatment in all matters with respect to their mutual trade relations. These agreements have been used as instruments for promoting trade and improving economic relations between Kenya and these countries. However, some of them have not been fully implemented. For instance, Kenya has several bilateral agreements with Ethiopia some of which have been agreed but not signed while others have been signed but not yet fully implemented.

2.2 Achievements

In general, Kenya has registered major milestones/achievements in the context of the projects and programs being implemented by the various government departments. It has equally faced a number of challenges; which include national, regional and global commitments inhibiting Kenya's effective regional integration. In order to review the 'State of Play', the government departments are grouped into sector working groups (SWGs)[1] consisting of: (i) Governance Justice, Law and Order; (ii) Parliament; (iii) (ii) Public Administration, International Relations and Special Programmes; (iv) Trade, Tourism, Finance and Industry; (v) Physical Infrastructure; (vi) Agriculture, Environment and Water; and (vii) Human Resources Development, Research, Innovation and Technology.

2.2.1 Governance, Justice, Law and Order (GJLO)

2.2.1.1 Treaties and Related Instruments

The treaties and related instruments of implementation provide the complementary regional platforms within which social justice and equity as well as other aspects of vulnerability are addressed in the context of peace and security, defense; governance with respect to democracy, equity, human rights and rule of law; affirmative action and freedom of movement, employment and association (EAC Art.7 (2), 104, 120; COMESA Art 5(2), 154, 155; IGAD Art 7, 13, 18). These legal and justice provisions also complement regional trade and investment commitments aligned to international and multilateral provisions of national treatment and non-discrimination.

Kenya has made a great effort to meet all obligations under the various RECs/RIGs (EAC, COMESA, IGAD) as defined in the constitutive treaties setting them up and the related protocols

[1] *See Annex I for the MDAs in each SWG*

and declarations operationalizing the commitments thereof. Consequently, Kenya has achieved key milestones in the governance, justice, law and order (GJLO) among the RECs. Nevertheless, more remains to be done to fully align the regional treaties/protocols with the domestic legal/regulatory regimes for the full implementation of the CU and CM. Kenya has been active in aligning its policy and regulatory frameworks with regional commitments in order to safeguard its national interest given the fact that Kenyan firms are dominant players in the regional market.

In the area of trade liberalization and trade facilitation, Kenya reviewed its trade frameworks to incorporate regional integration on incremental basis. This was done through regular review of policies and regulatory frameworks to take on board commitments acceded to in order to domesticate legal instruments in support of trade liberalization and trade facilitation instruments. With the coming into entry of the COMESA FTA in 2000, the trade policy and tariff regimes were reviewed to take into account reciprocity enshrined in the COMESA FTA arrangements. In 2005 with the coming into entry of the EAC CU, the trade policy and support legal and regulatory instruments were amended to reflect the overhang commitments in the CU. These have undergone further review with the coming into force of the EAC CM in 2010. The Kenyan trade regime is underpinned by the EAC RI framework. Kenya's foreign trade policy is now pursued through the EAC framework. For example, the EPA, AGOA and CES tripartite are negotiated under the EAC framework.

While visa relaxations and adoption of common travel documents had been undertaken from the start with the signing of the respective REC agreements, enhanced cooperation in the case of EAC has been entrenched with the coming into force of the CM in 2010. At the operational level, the adoption of the EAC passport and related regional travel documents has made it a lot easier for the movement of persons and workers in EAC. In operationalising the Kenyan Constitution (2010), the Kenya Citizens and Foreign Nationals Management Service (KCFNMS) Act 2011 and the Kenya Citizenship and Immigration Act (KCIA) 2011 create the legal and institutional framework for the operationalisation of all matters of free movement of persons and immigration. This in part takes into account the EAC CM commitments.

The work permit requirements in Kenya, Uganda and Rwanda for regional citizens are less stringent making it possible for citizens of the region to seek employment across the EAC. Other EAC CM commitments are covered in the investment acts. These include Customs and Excise Act (472 rev 2000), Investment Promotion Act, 2004 and foreign investment act among a number of other enabling acts. In addition to EAC and COMESA the regional courts handling disputes arising from the implementation of the commitments of the regional treaties, with the Kenyan judicial system upholding regional court decisions thereof.

2.2.1.2 Governance Reforms Including New Constitutional Order

The 2008 EAC Framework Action Plan on Protection of Human Rights in East Africa in compliance with Paris Principles on National Human Rights incorporating free and fair elections, has been domesticated within the new constitution (2010). Matters of affirmative action including gender equality within EAC and COMESA frameworks have also been well articulated in the new Kenya constitution. Kenya enjoys a participatory democracy and political pluralism. The Constitution has addressed important issues such as electoral reform, human rights, presidential powers and the country's regional and district administration. Many governance reforms that fall under the GJLO sector Reform Programme have been successfully coordinated by Kenya's Ministry of Justice and Constitutional Affairs.

The programmes have and continue to focus on policy and legal reform and strengthening governance institutions. Further, the easing of the movement of people, service and labour has created enormous opportunities for Kenyan's in particular. The three million plus Kenyans in diaspora, half of who are in Africa and gainful employment will benefit from the provisions of the new Constitution and ongoing reforms within the RECs as they progress into the CM and CES FTA Tripartite stage of integration. The regional reforms target mainly freedoms with regard to movement of factors of production, all of which form constituent elements of the RECs. The EAC through the implementation of the CM (2010) is a head of the COMESA and IGAD. Kenya is in the process of reviewing its national regulatory acts to align with commitments in this respect.

The entrenchment of the democratization processes in Kenya has sent positive message to investors. However, the instabilities in South Sudan and Somalia might dampen investor confidence. Unlike in the past when the role of Kenyan Parliament on economic matters including regional integration were very limited, the Kenyan Constitution (2010) entrenches regional and international relations by ensuring that henceforth Parliament approves and monitors achievements on annual basis. This creates the unique opportunity to harmonize international obligations.

Further, the provisions of dual citizenship, and those of bestowing citizenships on basis of length of stay in the country go a long in guaranteeing the Common Market freedoms and rights, greater protection of civil and political rights such as right to information, right to fair administrative action, right to privacy, political rights, property rights, human rights, labour rights and environment. The National Security Council with membership from all government security arms shall address matters of national and regional security. The new Constitution entrenches property rights and demands for participatory processes in economic and social activities. This safeguards both investor and consumer rights.

The new constitutional dispensation limits the number of ministries to not more than 22. This will therefore provide an opportunity to leverage on and rationalize its engagement in issues of Trade, Industry and Investment in a more coordinated manner and optimize its resource utilization from a single ministry.

The actualization of the protocols such as the EAC common market requires a review of national laws which at the moment do not conform to the East African Community Common Market Protocol and the constitutional provisions. These include the review of national laws International treaties, immigration, citizenship, bill of rights, property rights, governance, dispute settlement to eliminate discrimination against the citizens of the other four member states especially in areas of movement of labour, services and capital markets are yet to be reviewed by the Kenyan Parliament. Other complementary laws to enforce the CM commitments include: the NSSF Act and the Retirement Benefits Act.

Within the region, Kenya is also making efforts to promote the sharing of information on cross border crime, criminal intelligence, illicit drug trafficking; joint training of security and defense personnel; election monitoring including maintaining peace and security. In particular the brokerage of peace in South Sudan, Eritrea and the ongoing similar efforts in Somalia are but a few cases in point.

2.2.2 Peace and Security

The EAC Partner states in 2006 adopted the *East African Community Strategy for Regional Peace and Security in East Africa.* These included maintaining and on request sharing data bases on citizen identification records for security and intelligence gathering, crime control and management, combating drug trafficking and terrorism among others. COMESA on the other hand has put in place elaborate programmes for conflict resolution in war economies and those associated with conflicts in the exploitation of natural resources. These efforts are integrated into related African and European initiatives.

Kenya's conflict resolution mechanisms at regional level have been more elaborate through IGAD in the context of securing peace and security in the Sudan. While South Sudan has not yet joined either the EAC or COMESA, Kenya's interventions have been critical in securing regional peace. More importantly, Kenya and South Sudan signed a bilateral agreement on technical, economic and cultural cooperation in 2006 and further in March 2007 signed a memorandum of understanding (MoU) on technical assistance/cooperation in training and capacity building for the public sector employees in particular. So far over 800 public servants of the government South Sudan have been trained in various Kenyan institutions. Kenya has also opened a Kenya Institute of Administration (KIA) centre in Juba for purposes of further capacity building. Kenya, through AMISON, is also participating in the on- going efforts of

restoring governance in Somalia. It is hoped that stability in Somalia will contribute to peace in the horn of Africa.

Other notable achievements on the peace and security front include the institutionalized mechanisms for early warning conflict mechanisms, refugee management and controlling proliferation of small arms and electoral monitoring across the member states. In the case of EAC, collaboration across the security is more extensive. Military attaches, monitoring peace efforts, are resident in Arusha. Under EAC, joint training and military exercises are undertaken periodically among the different security agencies including the police, immigration chiefs, and CID and cross border administrative personnel. In addition information exchange is maintained for purposes monitoring external threats to the region. These include terrorism, piracy, drug and human trafficking among others.

2.3 Role of Kenya Parliament in Regional Integration

Whereas EALA exercises legislative oversight at the regional level, its mandate and spectrum is limited. National parliaments are therefore expected to fill in the vacuum. However, national parliaments lack the requisite capacity and experience to handle regional integration as demonstrated in the Kenyan situation; where the weak capacity and institutional engagement of the Parliament with regional organizations has robbed it of the ability to systematically and coherently review and influence policy and legislation to bolster regional integration including grassroots engagement on the same. Matters are not helped by the weak horizontal engagement between the executive branch and the parliament on regional integration issues.

The role of the Kenyan parliament on matters relating to COMESA is not well defined and yet a number of commitments have been made. For instance, Kenya now hosts the COMESA Monetary Institute (CMI), which is a precursor of the future monetary union of COMESA. In AU, ACP and CPA, Kenyan participation is through secondment of national Members of Parliament. However, the effect of this participation on regional economic policy has not been felt. In spite of the centrality of policy harmonization in the IGAD Agreement, the role of Parliament is silent. Nevertheless, the Kenyan Parliament, even with their limited involvement and understanding of the regional matters has ratified the regional operational instruments (protocols) and support legislations to domesticate the same nationally.

Whereas the Kenya Parliament has continuously participated in various regional and global organizations, this participation is not necessarily guided by a clear policy aligned to the country's strategic interests. Therefore the effects and benefits of such participation vary from one relationship/regional organization to another. The Kenya Parliament should increase its efficiency and strengthen its relationship with regional parliaments and Secretariats. Although it is possible to have dual membership in both national and regional parliaments, there is likely to be higher efficiency when national parliamentarians do not serve at the same time in national and regional parliaments.

The new Kenyan Constitution creates a better framework for the recognition and enforcement of international law. Article 2 (5), recognizes general principles of international law as part of the laws of Kenya. Art 2(6) provides that treaties ratified by Kenya shall form part of laws of Kenya. This means all treaty obligations are self-executing in Kenya as long as the treaty is ratified in Kenya. The national parliament is the centre of the ratification process and obtains regular reports from the President on implementation and impact. In effect this creates the opportunity to harmonize international obligations.

2.4 Public Administration, International Relations & Special Programmes

2.4.1 Public Administration

Overall, the responsibility for the promotion and coordination of integration activities as well as negotiations, monitoring and evaluation in Kenya rests with the Offices of the Minister's in charge of Regional Integration and Cooperation which are mainly the Ministries of EAC, Trade and Foreign Affairs. The challenge is how to coordinate the implementation of regional policies across relevant Government Departments and Agencies to achieve coherent and effective integration. While matters pertaining to EAC have been dedicated to a ministry, the other RECs are managed through different ministries in which they constitute the core functions- COMESA in Trade, and IGAD in Foreign Affairs.

Regional integration now constitutes an integral part of public administration and management. This will be more prominent with the deepening of regional integration initiatives. The respective treaty provisions across the different RECs clearly spell out administrative structures, representation, rules, procedures and processes that guide the operations of RI. Article 9 of the Treaty for the establishment of the EAC establishes seven main organs through which the EAC operates. The Kenyan institutions are represented in all these organs and institutions.

These include the Summit of Heads of State; the Council of Ministers responsible for EAC Affairs of each Partner State; the Coordination Committee of the Permanent Secretaries responsible for EAC Affairs in each Partner States; the Sectoral Committees composed of Senior Officials from the Partner States and established by the Council of Ministers which spell out their composition and functions; the East African Court of Justice which is the judicial arm of the EAC; the East African Legislative Assembly which is the legislative arm of the EAC; and the Secretariat which is the executive organ of the Community headed by a Secretary General.

Except for the EAC regional Parliament, a similar institutional framework applies for COMESA. IGAD administrative is much leaner and concentrated in peace and security, food security and environment management. The IGAD Summit has more extensive roles given the predominance of peace and security requiring political interventions. The national governance and

administrative structures implement regional integration programmes mainly within their core functions or to a limited extent on delegated authority to specialized organizations.

National mechanisms for coordinating regional integration are fragmented and operate without an organized cohesive framework. This makes it difficult to disseminate timely information on initiatives and implementation status to all stakeholders. Moreover, the separate functions of EAC and COMESA institutions lead to overlapping programs among the two regional economic blocs. The EAC regional policy adopted soon after the coming into force of the CU was to establish a dedicated ministry in each partner state mandated to develop, drive and co-ordinate regional integration policy for the EAC across other Government Departments, agencies and services.

However, the actual delivery of regional integration services is still the responsibility of mainstream Government Ministries, Departments and Agencies which are continuing to respond to the needs of regional integration by developing responses appropriate to their areas of responsibility. National revenue authorities collect customs revenues on delegated authority. Furthermore, the MEAC does not cover regional policies and programmes that Kenya pursues in the COMESA REC. Currently, Kenya does not have a strategic indicative plan nor strategy for regional economic integration based on the existing Treaties Agreements and Protocols to ensure that there is coherence while pursuing the different integration programmes.

For instance, both the EAC and COMESA track the harmonization and convergence processes among its member States through roadmaps and milestones as already shown in Table 1.1 in chapter one. The main challenge facing the COMESA and EAC in the implementation of their integration programmes is the overlapping membership. The EAC became a customs union on January 1, 2005 and a common market in 2010. COMESA planned to become a customs union in 2008. However, this has not been realized by 2012 and may take longer before coming into force. The issue of multiple memberships in the region implies countries have deal with issues related to common policy implementation including the implementation of Free Trade Areas, the rules of origin, standards and the Common External Tariff (CET), among other policies.

2.4.2 Regional Policy and Programmes

To the extend feasible, the Kenyan national policies and regulatory frameworks have in the majority of cases been revised to take on board regional commitments and administered through national institutions within which the core functions fall. For example customs administration is benchmarked to EAC CMA while the immigration regulations have taken into account freedoms enshrined in the EAC CM wherein, in relation to EAC citizens have eliminated the fee for work permits.

In other areas, the delays in the domestication of the regional commitments into the national policy and regulatory frameworks have put inhibited programmes implementation. These include full implementation of the commitments under the EAC CM, wherein a lot of work remains to align regional commitments with the provisions of the new constitution. Further the social security support institutions for pensions, health, HRD certifications have as yet to be harmonized.

Kenya like the other Partner States has benefited from EALA countrywide sensitization and awareness campaigns on the benefits of to update members of the public on the opportunities, benefits and implications of the EAC. The government has just concluded a baseline study on awareness and level of Kenya's preparedness to implement EAC regional programmes. The results of the baseline study will assist the government carry out nationwide targeted awareness campaigns on EAC CM.

2.4.3 International and Regional Relations

International and regional cooperation forms a major component of Kenya's Foreign Policy. Kenya's foreign policy framework mirrors its domestic policy, which is encapsulated in vision 2030. The five pillars of Kenya's Foreign Policy include diplomatic relations in matters of economic, peace, environmental, and cultural matters. Regionally, Kenya maintains solidarity with neighbours as an active mediator of peace talks in the Horn of Africa through the country's chairmanship of the peace forum, the Inter-Government Authority in Development (IGAD).

The main regional foreign policy challenge is managing peace initiatives in neighbouring countries. Kenya has traditionally served as an anchor for stability in the Great Lakes region where it has played a key role as mediator. The worsening situation in Somalia particularly Al-Shabaab militants has necessitated the use of military force to protect Kenya's security interests.

The challenges in the administration of justice, law and order lie in the compatibility of institutional frameworks, competence of the administrators and knowledge of the beneficiaries of their rights and obligations within the national, regional and international jurisdictions. All the three arms of government- executive, legislative and the judiciary while maintain independence have to work collectively in service delivery.

2.4.4 Special Programmes

Social welfare and affirmative action constitute key programmes implemented under the respective RECs for social welfare, empowerment, and bridging the inequality gaps. In particular the programmes target women, youth and elderly, the disadvantaged and marginalized groups. Article 121 of the EAC Treaty requires the partner states through appropriate legislative and other measures to promote empowerment of women, youth, the disadvantaged and the marginalized as well as adoption of technologies to facilitate professions take advantage of their skills and competences.

Under chapter 12, close co-operation between COMESA Member States in the social and cultural fields is being promoted, particularly with respect to employment, labor laws and 102 working conditions including the right of association, collective bargaining and facilities for the disabled; vocational training and the eradication of adult illiteracy in the region; Cultural and sporting exchanges; prevention of occupational accidents and diseases.

2.5 Trade, Industry, Tourism and Financial Services

The MDAs in the trade, industry, tourism and financial services sectors is to enhance supply, technical, administrative and management capacities; and connectivity within regional and across the globe. In fulfillment of key regional integration milestones of the Customs Union (CU), Common Market (CM), Monetary Union (MU) and Political Federation (PF), a number of policies, programmes and activities benchmarked to international best practice have been implemented. Other agreements though signed have as yet to be implemented. These include protocols on environment, agriculture, foreign policy, NTB, internationalization of the EAC passport are cases in point.

2.5.1 Trade and Investment

Kenya's trade policy is substantially liberalized[2]. It is now underpinned by the EAC and the COMESA regional integration frameworks following the adoption of the EAC Customs Union in 2005 and Common Market in 2010 for the former and the FTA and CU in 2000 and 2010 respectively for latter. IGAD's trade and investment framework is based on COMESA acqui.

The COMESA trade facilitating instruments form the basis for both EAC and Kenya's regional trade facilitation framework. These include policy frameworks of simplified trade and customs administration regimes, air transport liberalisation, transport facilitation, and insurance schemes, investment and trade financial guarantee schemes. Towards this end, Kenya market access options into the regional markets are wide and presently accounting for 85% of export trade (GOK, 2011).

In addition to the stability and predictability of Kenya's trade policy, the EAC CU and COMESA in particular expanded trade opportunities for a wider basket of goods. Outside the traditional commodity and horticulture exports, the regional markets have provided market access for manufacturers including animal and vegetable oils, paper and paper products, tobacco, beer, iron and steel products, chemicals, pharmaceuticals, and cement.

---

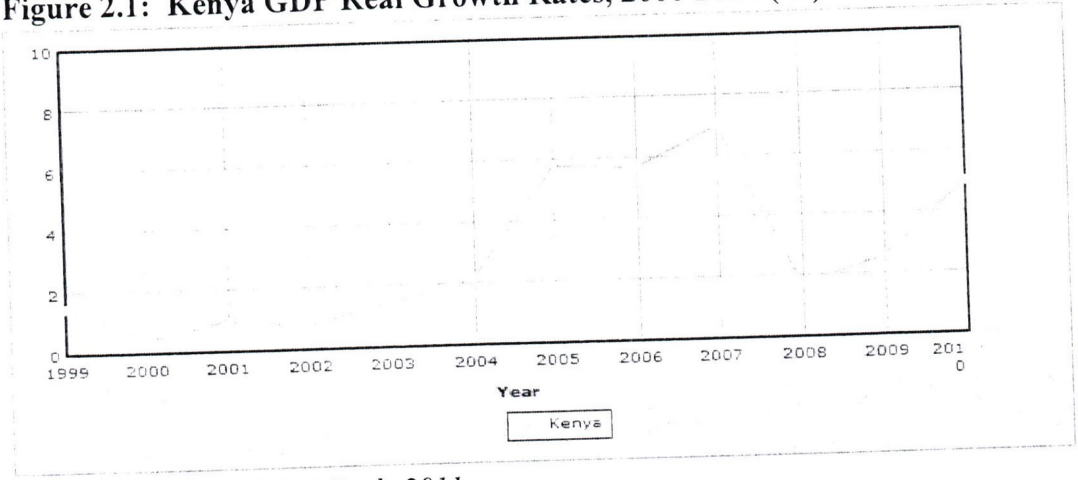
[2] *Various international comparative indicators (world trade indicator, ease of business indices, logistics performance indicator) show Kenya rather in the middle field, sometimes below neighbouring countries. They indicate a high potential for further liberalization.*

Kenya's trade regime now is now defined by the EAC tariff structure of 0, 10 and 25 per cent and the short list of negative products consisting of sugar, rice, wheat flour, milk and milk products. The same tariff structure has been adopted by COMESA for it's yet to be implemented CU. The same tariff structure formed the basis of market access negotiations with EU on the EPA. Starting in 2003, WTO trade policy reviews have been carried out regionally from EAC. However, the EAC sensitive list with EU is wider extending outside the agricultural products to include either manufacturers' with contribution to rural development, employment, livelihood sustainability, promotion of food security, fostering infant industries, contribution to government revenues. Products which were deemed to contribute or to have a potential to contribute to increased production and trade competitiveness were excluded from the list. All products subsidized by EU are on this list. This regional approach to trade reviews further strengthens the intent EAC regional integration agenda.

Kenya remains the dominant player in the EAC bloc, accounting for 44.8% of the intra-regional trade in the region (EAC Trade Report, 2009). However, Kenya's main trading partners outside the African continent, with regard to selected imports and exports, remains EU, UAE, India and China which account for 20.2 per-cent, 11 per-cent, 8.7 per-cent and 6 per-cent of total trade respectively (EAC Trade Report, 2009). In this regard therefore, Kenya has to factor these markets into its trade policy making, while ensuring that regional policy receives adequate attention.

Regional integration has entrenched trade and investment liberalisation leading to expanded trade and investment opportunities for Kenya. The positive growth reported in the last ten years in Kenya (Figure 2.1) has in part come from the deepening regional integration initiatives. Except for the low growth rates for the years 2008 and 2009 associated with the post-election and global financial crisis respectively, the Kenyan economy grew at an average of 5% since the coming into force of the EAC CU.

Figure 2.1: Kenya GDP Real Growth Rates, 2000-2010 (%)



Source: CIA, World Fact Book, 2011

Although intra-African trade is still very low, accounting for about 10 per cent of the value of total exports, Kenya has enjoyed a significant share of this. Nearly half of Kenya's exports (about US$ 5.3 million as at 2011) are destined to African countries with 85% of this being to COMESA and EAC member countries. The shares to EAC region is 55 percent. Regional integration has also resulted in diversification of the trade basket to include manufacturers. Kenya's main exports into the regional markets includes beverages, food and live animals, tobacco, metal containers, beer, tobacco, paper and paper products.

Kenya's revenue base has also stabilised, with tax revenues having increased from USD 15.5 million in 2005 to USD 17.9 million in 2009 (EAC, 2009). Tax revenue as a percentage of GDP has maintained an upward trend from 25% in 2005 to over 35% in 2009. The latter figure of 2009 incorporates revenues from infrastructure bonds in which resources are sourced from within and outside the region.

Kenya has embraced a number of frameworks to facilitate private sector participation in regional integration. These include; the EAC industrial policy, EAC investment code, harmonized regional standards benchmarked to international frameworks, common incentive packages for the EPZs/SEZs/MUBs, buttressed with associated legal instruments. While the standardization of RoO and trade facilitation instruments (insurance, transportation, immigration, customs administration, documentation and procedures, etc.) across EAC and COMESA have enhanced Kenya's regional trade and investment, non-compliance by the majority of regional member states remains an NTB grossly inhibiting trade potentials. This is in spite of the EAC and COMESA joint assessment and identification of the various NTBs for each member state to eliminate.

Private sector participation has been stepped up in cross border investments including participation in capital markets. Kenya is now the second highest source of FDI in the region. Kenya also remains the dominant player in currency convertibility with its currency being relatively more convertible than other regional currencies. The achievements in currency convertibility have laid the basis for diversifications into new and upcoming economic activities, particularly those in financial and services sectors. Further, regionalisation has stabilised Kenya's policy environment and revenues which augurs well for investor confidence. The establishment of the credit reference bureau will enhance the rating of the Kenyan economy.

The prevalence of NTBs, inadequate infrastructure; institutional handicaps; inadequate national level capacities to domesticate regional policies; divergent socio-economic structures; supply side constraints; weak legal, regulatory and dispute settlement mechanisms and requisite powers for EAC to enforce Community obligations and decisions; delays in operationalization of EAC competition Act; mismatch during the implementation of trade facilitation instruments and

processes are some of the major constraints that slowed the achievement of the full benefits of the Customs Union.

Other challenges include supply side constraints; weak legal, regulatory and dispute settlement mechanisms and requisite powers for EAC to enforce Community obligations and decision; weak institutional infrastructure and inadequate enforcement machinery and sanction mechanism; and lengthy decision making systems and processes. Critical private sector constraints include limited supply capacities to take advantage of the available regional preferential market access; and under-developed regional infrastructure. The general public sector .challenges relate to lack of timely and reliable regional statistics coupled with a weak information sharing culture among Partner States.

The constraints and challenges in trade development and investment promotion are categorised into five broad areas namely: market access, trade facilitation, institutional capacity and coordination mechanisms, supply capacity and information flow. In particular, inadequacies of technical competences, negotiation capacity, and cumbersome customs administration greatly inhibit ability of the business community to take advantage of the available regional and international market opportunities. These have been exacerbated by the multiple memberships. With the on-going consultations on the COMESA-EAC-SADC tripartite, Kenya's participation in the different RECs deepening to a Common Market and monetary union require rationalisation, thus expanding trade and investment areas. The proposed COMESA-EAC and SADC Tripartite FTA is expected to provide an opportunity to rationalise and harmonise the various trade and investment commitments and timelines. Potential acts of terrorism and lately the infiltration of piracy have impacted negatively on regional potentials.

Nevertheless, there are, at regional and global levels commitments inhibiting Kenya's pursuits in regional integration. With the anchorage of Kenya's National Trade policy on the principles and objectives of the WTO, the delays in conclusion of the WTO talks, undermine the business regulatory environment. The DOHA agenda promises included further liberalisation of agriculture, review of the market access provisions with regard to services sectors, committing more resources to capacity building and enhancing value addition in the developing countries.

Some of the areas that stand to suffer on account delayed conclusion of the WTO talks include further liberalisation for enhanced market access, adoption of balanced rules taking into account the specificities of developing counties, and well-targeted, sustainably financed technical assistance and capacity-building programmes. In particular, the key areas requiring immediate negotiation were in the disciplining agriculture to remove subsidies and tariff escalation and quotas and products subjected to value addition; and inadequacy of resources to address capacity constraints among the developing countries. The losses from the delayed conclusion of the WTO talks have further been compounded by the proliferations of RTAs which are putting high

demand on Kenya and similar countries in coping with the resultant varied demands at the market place, sometimes in excess of those demanded from the WTO.

Kenya, like other low-income countries, have faced challenges to move up the value chain given the structure of demand for—and supply of—exports by high-growth emerging markets. Although the RECs now take center stage as policy instruments for development, the lack of transport and trade logistic connectivity might however hamper this opportunity. Further, the switch from existing production processes is more costly in developing countries.

Further, consumer tastes tend to change frequently in the current globalised business environment. The slow pace in adapting to the changing consumer tastes has impacted negatively on Kenya's regional competiveness. This has been exacerbated by the delays in shifting trade to emerging markets. This will continue to cost Kenya dearly unless action is taken to integrate into these markets. Thus, there is need to adjust production to satisfy different consumer references in emerging markets and to put a greater emphasis on price competitiveness.

2.5.2 Financial Services

Financial services sectors play critical roles in the economy by providing better intermediation between savings and investment and also facilitate FDI inflows for achieving broad based economic growth. Kenya`s financial sector is relatively well developed when compared to those pertaining in the EAC Partner States. With the coming into effect of the EAC Common Market in July 2010, the gains made under the Customs union were consolidated. In particular, the freedom of movement of capital and right of establishment further enhanced efficiencies of the payment systems for cross border trade and currency convertibility.

The Kenyan banks have supported the financial integration agenda by expanding not only into the EAC markets but by also setting up operations in South Sudan, Mauritius and the Democratic Republic of Congo. Major multinational banks specifically; Barclays Bank, Standard Chartered, and Stanbic and the Kenyan locally owned banks, the Kenya Commercial Bank, Equity Bank, Fina Bank and Commercial Bank of Africa use Kenya as a hub to expand their operations into the East African region. Uganda, Tanzania, Rwanda and Burundi banks do not have regional presence as yet and operate exclusively in their home markets.

Kenya Commercial Bank started regional expansion by establishing operations in Tanzania in 1997 while Commercial Bank of Africa entered Tanzania in 2009. Fina Bank entered Rwanda in 2004 and Uganda in 2009. Equity bank entered Uganda in 2009. Table 2.1 shows the number of branches regional banks have established in each partner country.

Table 2.1: Number of Kenyan Banks with Branches in the EAC Partner States					
Name of Bank	Number of Bank Branches in:				
	Kenya	Tanzania	Uganda	Rwanda	Burundi
Kenya Commercial Bank (K.C.B)	169	11	13	9	-
Equity Bank	116	-	43	-	-
Diamond Trust Bank	32	10	15	-	2
Fina Bank	15	-	5	9	-
NIC Bank	16	3	-	-	-
Commercial Bank of Africa	19	5	-	-	-
I&M Bank	16	3	-	-	-

Source: CBK

Further, the deepening reforms in the capital markets including diversification of the products has created alternative avenues of mobilizing development and investment resources from the region through the participation of the private sector, citizens, pension funds and cooperative savings.

In addition, the various RECs have created opportunities for trade in other services besides the direct employment and professional practice for individuals. The deepening of the reforms in the financial sector has created additional opportunities in resource mobilization through the capital markets, and institutionalization of trade and investment options. The capital markets operating from national capitals, transact business on regional basis. The cross listing of shares across EAC has increased private capital flows within the region.

All the seven (7) companies cross listed are Kenyan firms. The Nairobi Stock Exchange (NSE) accounts for 99.8% of the market capitalization for cross listed shares in EAC. Negotiations are at an advanced stage for EAC CMA, Pensions and Insurance policies and regulatory frameworks to be harmonized within the CM framework. The Kenyan private sector has taken full advantage of the RI framework to set up new or subsidiary business institutions. Examples include KCB, Nakumatt, Uchumi, Bidco, Kenya Breweries, Equity Bank, among others.

With the support of an integrated IT facilitated trading platform, there is cross listing among nearly all the CMAs. There are several Kenyan stock broking firms have subsidiaries within the EAC region. These include; Dyer and Blair Investment Bank (Uganda and Rwanda), Faida Securities (Rwanda), and Kingdom Securities (Rwanda). Each of these stockbrokers has only one branch in the regional countries they operate in.

Negotiations on the EAC MU are at an advanced stage, with the possibility of the protocol being signed by end of 2012. With the hosting of COMESA Monetary institute (CMI), the natural choice for EAC MU would be Kenya particularly within the CES Tripartite arrangements such that the preparatory work for monetary union by 2018 would incorporate EAC aspirations. .

2.5.3 Other Services

Kenyan supermarkets have penetrated the regional market. Currently, the three largest Kenyan supermarkets have a combined total of seven branches in Uganda, and two in Rwanda. These are Uchumi, Tuskys and Nakumatt Holdings. The estimated Kenyan FDI in the East African supermarket segment amounts to USD22 - 28 million (Table 2.2). Total Kenyan FDI outflow in distribution services is estimated to be around USD 26 – 32 million over the period 2002-2009. The expected investment in the EAC distribution services sector over the next five years is projected to be USD 30-50 million. The major drivers of investment in East Africa include the adoption of the EAC Common Market Protocol and the harmonization of tax regimes and customs import regulations.

Table 2.2: Kenyan Supermarkets with EAC Presence

Kenyan Supermarket	**No. of Branches in EAC Countries**		**Estimated FDI Investment Flows* ($ millions)**
	Uganda	**Rwanda**	
Nakumatt	2	1	8.25
Tuskys	4	-	11
Uchumi	1	-	2.75
Total	**7**	**1**	**22**

Source: Planel, 2010/11

Kenya has several world class firms that already provide and export business services to the region, and beyond. The subsectors with greatest export turnover totals are insurance, accounting, nonbanking financial, and Business Process Outsourcing (BPO) services. Business services are generally provided on a private sector basis and require a high level of skills that are usually certified, and include accounting, architectural, engineering, legal, BPO, ICT, information communication technology enabled services (ITeS), and more.

The huge market in EAC, IGAD and COMESA represents enormous opportunities for investments in tourism. The EAC and COMESA region promotes regional tourism circuits covering all the member states. The success of the sector has benefitted from immense private sector investments in hotels, transportation, marketing and product development and dedicated government efforts in conservation. In addition, substantial progress has been made in the establishment, harmonization and standardization of common codes of ethics for private and public tour and travel operators, hotel classification and professional standards of agents in the tourism and travel industry.

Tourism for example remains the key source of foreign exchange and incomes to wider spectrum of the population in the region. It accounts for 10% of Kenya's GDP and second highest source of foreign exchange. With the EAC adoption of joint tourism promotion, tourism arrivals in Kenya have increased significantly, from 2.721 million in 2005 to 4.236 million in 2010 will close of half of them destined to Kenya. There are now stronger commitments for the regional

countries to adopt and harmonize trade, tourism and investment frameworks within the Common Market and Monetary Union. However, travel adversaries issued by source markets, continued acts of terrorism, piracy and hijackings will undermine the tourism potentials in the region and Kenya in particular.

2.6 Physical Infrastructure

Physical infrastructure, including transport infrastructure, energy, information communication and technology are the key foundations and enablers upon which Vision 2030 is supposed to be anchored to achieve national transformation and accelerated development. They play a facilitative role in the movement of goods, people and services. Other countries in the four RECs plan and implement their infrastructure programmes guided by their respective national development plans.

Kenya is involved in the development of a number of regional infrastructure programmes in the transport sector, energy and communications. The ministries of roads, public works, and local government, urban, metropolitan and housing sub-sectors are the key players in the implementation of transport infrastructure programmes. Other ministries include those of energy and communications.

2.6.1 Modernization and Expansion Programmes in the Corridors

Road transport carries about 85% of all cargo and passenger traffic in Kenya. Only 70% of the network is in a serviceable/maintainable condition. Kenya is party to the regional harmonization of networks under COMESA, IGAD, and EAC including rules regarding operations of roads shall be pursued through regional arrangements to enhance development and maintenance of roads with great regional importance.

In the transport and roads sub-sectors, construction work for a number projects under the Northern Corridor that caters for eight countries in the region including Kenya, Uganda, Rwanda, Burundi, DRC, Sudan, Ethiopia and Djibouti, have either been commenced or are at advanced stages of planning and design. These roads include: Arusha- Namanga- Athi river Arusha – Holili- Voi road (260Km) and Malindi- Lunga lunga – Tanga road (300Km both connecting Kenya with Tanzania; the 512 km Kitale-Lodwar-Lokchoggio Road and the upgrading of the 27 km Lokchoggio-Nandapal road.

The regional link is between Kenya and South Sudan providing access for South Sudan to Mombasa port and; upgrading of the 275 km Nakuru/ Loruk /Marich Pass Road so as to provide an alternative route on the Northern Corridor to South Sudan. These will be complemented with the LAPPSET project connecting Kenya to South Sudan and Ethiopia.

The East Africa road transport development strategy and Regional Road Sector Development Program- 2008- 2018 is composed of:

a) Corridor 1 : Mombasa-Nairobi-Malaba-Katuna (Kenya/Uganda/Rwanda);
b) Corridor 2 : Dar-es-Salaam-Dodoma-Isaka-Mutukula- Masaka (Tanzania/ Uganda);
c) Corridor 3 : Biharamulo-Mwanza-Musoma-Sirari-Lodwar-Lokichoggio (Kenya/ Tanzania);
d) Corridor 4 : Nyakanazi-Kasulu-Sumbawanga-Tunduma(Tanzania);
e) Corridor 5 : Tunduma-Iringa-Dodoma-Arusha- Namanga-Moyale (Tanzania/Kenya) Ethiopia);
f) Corridor 6 : Ring road for Lake Victoria-Oseko -Usenge-Bondo-Kisumu Ahero-Kendu Bay-Homa Bay-Muhuru Bay

In order to enhance the efficiency of the regional corridors, the urban centres have to be decongested. Key road programmes are under implementation in Nairobi and Mombasa. Three key road by-passes and several road links are at various stages of construction to bypass the Nairobi Central Business District Area (NCBDA) and to ease congestion in the city's roads and to improve traffic flow within the Northern Corridor. The Northern Corridor links and by-passes include the Northern, Eastern and Southern by-passes. Mombasa by-pass will connect Mombasa mainland with South Coast to ease congestion at the Likoni Ferry, connection to the new container terminal as well as necessary infrastructure for the development of the free port.

The anticipated efficiency of Nairobi by-passes will equally be augmented by the on-going dualling of the key segments of the international trunk roads on the Northern Corridor and connection of Mombasa mainland to the South Coast. Other by-passes are planned for from Miritini Township in Changamwe mainland, Likoni-Diani and the Mombasa-Nairobi highways and Malindi-Mombasa-Lunga Lunga Road which runs along the East African coastline and links with Tanzania to improve the transport linkage that has a rich tourism and agricultural (horticultural) potential.

Kenya has prioritized the development of a new transport corridor to South Sudan and Ethiopia– the Lamu Port and Lamu Southern Sudan-Ethiopia Transport Corridor (LAPSSET). The LAPSSET project will comprise a new road network, a standard gauge railway line, an oil refinery at Lamu, an oil pipeline, Lamu Airport and a free port at Lamu (Manda Bay) in addition to three resort cities at Lamu, Isiolo and Lokichogio in Turkana. It will provide an alternative route for south Sudan oil which is currently transported by pipeline to Port Sudan in the north eastern part of Sudan.

The second route from Isiolo will proceed to Nairobi where the new corridor will link to the existing Northern Corridor and a final route will proceed to Lokichogio at the Kenya- Southern Sudan border. Lamu and Mombasa will be connected by a railway line and the two ports will complement each other. In addition to raising the scope for this region's tourism, agriculture and industrial potential, the project will open up access to Southern Sudan, which has huge unexploited natural resources including oil.

In addition Harmonization of regional transport master plans is being pursued under the proposed COMESA-EAC-SADC tripartite FTA. The MOUs include part of the frameworks port management Authority for East and Southern Africa- This is to develop a port statistics and performance indicators, database for port in the East and Southern African region. Although some progress has been made on development, rehabilitation and maintenance of roads throughout the country, about 30% of the roads are still in poor condition.

Part of the envisaged development of the Northern Corridor incorporates the modernization and expansion of the Port of Mombasa which is critical to the development of trade within the hinterland countries in Eastern and Central Africa. It also includes rehabilitation and construction of roads, modernization of the railway system, and simplification of transit border procedures, streamlining customs procedures and improving border efficiency; modernizing transport regulatory frameworks and institutions and improving road safety.

Kenya has a relatively well-developed air transport system and remains an important regional hub with many local, foreign and private operators running services. Marine transport consists of the port facilities in Mombasa plus shipping and inland waterway transport and container depots in Nairobi, Kisumu and Eldoret, which are managed by the Kenya Ports Authority (KPA). However, KPA faces a number of challenges, including the competitiveness of the port of Mombasa against Dar es Salaam, clearance times and corruption. Other changes include old and obsolete equipment, congestion lack of modernization.

The delays in infrastructure investments have exacerbated transport costs and trade facilitation support including logistics, thus making the regions products uncompetitive. The inefficient institutions and related trade logistics, knowledge gap on markets and products on demand; brings out the challenges of overlapping memberships with contradicting obligations and commitments, incoherence of national and regional policies.

Since Kenya is a transit corridor for its neighbours, it must mobilize enough resources to support a transit infrastructure. The development of a modern up to-date serviceable infrastructure for transiting cars, trucks, trains, airplanes or ships would add value. Being a transit country also creates jobs and a logistics economy, with distribution centers, warehouses and technical and processing facilities.

Rail transport is the second most important mode of transport for both freight and passengers and comprises around 2 778 km of track. Kenya Railways (KR) also handles transit traffic to and from other countries in the region. Competitiveness and service delivery were expected to be improved following the granting of a 25-year concession to Rift Valley Railways in November 2006 to manage the Kenyan and Ugandan Railways. The consortium had intended to invest in the system to upgrade it and reduce its inefficiencies. They would also generate a yearly

concession fee of 11.1% in each country for 25 years. The original consortium did not deliver on expectations and has since been revised with additional new shareholders in 2010. The new shareholders include Kenya's Prime Fuels (15%), Mirambo Holdings of Tanzania (10%), Comazar of South Africa (10%) and the CDIO Institute for Africa Development Trust of South Africa (4%).

There is a renewed interest in rail transportation, with very many proposed new projects, and the general expectation from governments and institutions that the systems will now be revived, upgraded and expanded with increased private sector participation. The reasons for this renewed interest, particularly in respect of transport services on the Northern and Central Corridors of East Africa is mainly driven by a number of factors. First, continued decline and poor state of the "old" railways, in spite of the private sector concessioning, may not be adequate to support expected economic growth, and that the better solution would be to modernize the network to higher capacity and speed, at standard gauge.

Second, increased heavy goods vehicle traffic on the roads has consequently increased road maintenance costs, which cannot be afforded or sustained on many of the routes – except on some high volume routes which can be operated as toll roads. Third, rail can better handle empty backhaul, because of lower variable costs. Fourth, rail is the natural mode for most large volumes of heavy bulk commodities, because of the ability to move heavy and large freight parcels. Fifth, a viable rail service is necessary to keep trucking competitive and sixth, the shift of bulk imports to road exacerbates the imbalance in full truck flows, resulting in higher costs.

2.6.2 Improving Access to Clean Energy and Supply Reliability

In addition to the short supply, energy costs in Kenya are relatively high compared to other countries in the region. These impact adversely on the competitiveness of the local industry. In order to access adequate and affordable energy, Kenya has opted for a regional approach to energy sourcing. Kenya pursues regional energy projects under the framework of the Eastern Africa Power Pool (EAPP) and the Southern Africa Power Pool (SAPP) to facilitate preparation of regional power master plans, the pooling of resources for joint power transmission, cross country interconnections and regulation. Under this framework, energy deficit countries can be supplied power by those with surplus supplies at relatively cheaper rates.

The EAPP covers the countries in the Eastern Africa Region including Burundi, DRC, Egypt, Ethiopia, Kenya, Rwanda, Sudan, Uganda and Tanzania whilst the SAPP was established in August 1995 and has a Coordinating Centre in Harare, Zimbabwe and covers 12 countries in the Southern Africa Region including DRC, Tanzania, Angola, Malawi, Zambia, Zimbabwe, Botswana, Mozambique, Namibia, Swaziland, Lesotho, and South Africa.

The priority energy areas of focus include green energy, geothermal electricity and hydro-power generation. The Policy, Protocols and Treaties governing the energy sector consist of:

a) the Regional Power Master Plan and Grid Code jointly developed by EAC and Eastern Africa Power Pool;

b) The Nile Equatorial Lakes Subsidiary Action Programme (NELSAP) coordinates power Interconnections for Kenya, Uganda and Tanzania;

c) Plans to establish East African Community Power Pool- MOU to be developed and signed;

d) Protocol for the establishment of the energy regulators of East Africa;

e) COMESA integrated Energy strategy.

Kenya and Ethiopia have signed an agreement for the construction of 1,000 kilometre power interconnection lines for Kenya to get an estimated 400MW of power from Ethiopia. Kenya is expected to construct 612 kilometre supply lines while Ethiopia will construct lines stretching for 443 kilometres. The power interconnection lines between the two states will have a load capacity of about 2,000 megawatts, and is expected to be financed by the World Bank and the African development Bank (ADB).

The government faces a major challenge to improve the power supply coverage, in particular in rural areas where only 5% of households are covered. The challenges include high oil prices and weak transmission and distribution infrastructure. Reforms are planned to foster competition in this sector, diversify energy sources and cut costs.

Besides the pipeline constituent components of the LAPSET project, other planned extensions of oil pipeline connectivity from Dar es Salaam and Mombasa into the rest of EAC countries constitutes an integral component of the overall east African energy master plan (EAC, 2011). The pipeline construction has also been prioritized for the transportation of liquid and gas fuels. In addition to reduction of costs, this enhances safety on the roads.

2.6.3 Improving ICT and Telecommunication Connectivity

ICT is increasingly becoming the priority area in pursuit of economic growth and social development among partner states in various RECs. It has also taken centre stage in political development in the region. Investments in landing stations and inland connections to international undersea broad band cables; promotion of *'open access'* policies; and stimulation of demand through broad band capacity purchase schemes for universities, health facilities and government to provide connectivity and improve viability of private investments in ICT infrastructure as well as service delivery. Some of the trade facilitation activities that have benefitted from ICT platforms include customs facilitation, clearing and forwarding, online trading, maintenance of international data bases.

In addition, ICT is considered as a channel through which milestones such as the common market will improve global access of the people and competitiveness of goods and services from

the region. Comparatively, Kenya has the largest mobile use and subscriptions standing at 25 million in 2010 followed by Uganda and Tanzania. Rwanda and Burundi recorded low but increasing internet use and mobile subscriptions.

One of the breakthrough innovations in the financial deepening initiatives in Kenya includes the introduction of mobile money transfer through the introduction of MPESA. This technology has been picked up in the whole region. However, the enabling legal and regulatory framework for these new financial products remains underdeveloped.

The telecommunications sector is continuing to expand strongly following extensive private sector investment, particularly in mobile telephony services, Internet service providers and radio and television operations. These have also generated new support businesses. Growth in the sub-sector is exemplified by the phenomenal growth from a few hundred subscribers in 1998 to 29 million subscribers in 2012 (CCK, 2012).

2.7 Agriculture and Rural Development, Environment and Water

The overarching importance of agriculture in the context of regional integration is food security and rural development as espoused in the constitutive treaties of the RECs and AU and the respective regional agricultural policies and strategies.

2.7.1 Agriculture

The AU-NEPAD CAADP, Compact 2009, underpins the framework for the restoration of agricultural growth, food security and rural development in Africa. The program activities are carried out by COMESA, EAC, IGAD, ECCAS, ECOWAS and SADC. Kenya is among the initial nine countries that have developed National Agriculture and Food Security Investment Plans (NAFSP) (GOK-ASDS, 2010. However, Kenya is yet to achieve the 10% budgetary allocation to agriculture sector. The other countries include Rwanda, Burundi, Ethiopia, Swaziland, Uganda, Malawi, Zambia and DRC.

Except for Djibouti, all the economies of the member states to the three RECs (EAC, COMESA, and IGAD) are agricultural based. The EAC Agricultural policy (2006) and strategy (2005-2030) is to be operationalized through the EAC Food Security Action Plan (2011). Apart from the cross border disease and trade aspects including benchmarking against international standards, the regional agricultural strategy is yet to be implemented. Each Partner state has pursed its national agricultural policies.

The East African Farmers Federation (EAFF) has been founded to rally farmer participation in regional policies. Nevertheless, the EAC CU and CM including the simplified trade regime opened up avenues for trade in agricultural products. Kenya as a net food importing country has benefitted from cross border regional trade in food. Kenya's key imports from the region include sugar, maize, rice, dairy and other animal products, fish, coconuts, vegetables among other food staffs (EAC, 2010). Agriculture accounts for less than 25% of the Kenyan economy.

In fisheries and environment development several programs are on course, including the Lake Victoria Management Project; Lake Victoria Fisheries Research Project and Lake Victoria Development and Management Program (LAVEMP II) and Wetlands management. .

These include policy development to facilitate production, trade, information management and disease control. This is especially in respect of the Pan-African (CAADP) and regional Agriculture and food security policies and strategies taking on board international commitments including (MDGs) form the basis of agricultural regional frameworks among the EAC and COMESA RECs. This is to be achieved through the promotion of competitive and sustainable agriculture, growth of viable cooperative subsector and sustainable management and development.

In order to raise the competitiveness of the COMESA region's agricultural sector, the COMESA Secretariat has in place a number of initiatives at different stages of implementation across the member countries. These initiatives include: cooperation, co-ordination and harmonisation of regional agricultural policies, food security responses, product marketing, research and development, plant and animal disease and pest control, training, irrigation development, and exploitation of marine and forestry resources. Other strategic interventions include development of markets, inputs, institutions and infrastructure. Complementary actions include harmonisation of systems and procedures across the region so as to create a conducive, transparent and facilitative environment for conducting regional agricultural trade with forward and backward linkages across the region from the farmer to the market.

Further, the COMESA agricultural approach aims to position the region as a reliable supplier of primary and processed agricultural goods to global markets and whose producers effectively and competitively respond to opportunities that arise in all external markets. Some of COMESA ongoing programs aimed at attaining sustainable food security, with a number being implemented in Kenya, is as follows:

a) Agricultural Market Promotion and Regional Integration Project (supported by the AfDB);
b) Irrigation Development in the COMESA Region (with the assistance of the Indian Government);
c) Regional Food Security/Food Reserve Initiative among member states; The Food Security Policy and Vulnerability Reduction Program (to be supported by the 9th EDF);
d) Coordinated Agricultural Research and Technology Interventions (supported by USAID) A Regional Approach Towards Biotechnology (supported by USAID);
e) The Pan African Tsetse and Trypanosomiasis Eradication Campaign (PATTEC) in collaboration with the AU;
f) Livestock Sector Development in collaboration with the AU and USAID;
g) Fisheries Sector Development in partnership with the Common Fund for Commodities;

h) Implementation of NEPAD's Comprehensive African Agricultural Development Programme (CAADP) in the Eastern and Central African (ECA) region;
i) Crop Crisis Control (C3) Project with the support of USAID;
j) The Action Plan for the Environment among member states;
k) Interventions to mitigate impacts of HIV/AIDS among smallholder farmers in the ESA region;
l) Marketing and information programmes including AGOA Link project supported by USAID, AfDB, WTO;
m) The Commodity Exchange Initiative;
n) Private Sector Development Strategy (PSDS) support.

IGAD central focus of the agricultural intervention programmes relate to livestock and the control of associated pastoralists conflicts due to shortage of pasture. Kenya's arid north economic activities are closely linked to the IGAD agricultural/livestock activities. Kenya's livestock exports are primarily to the Middle East. Other critical challenges which the IGAD agricultural programmes prioritise include marketing information (and infrastructure development. Others include social protection (EC); water harvesting (ADB), cross border trade, climate prediction (USAID/WMO).

2.7.2 Environment

The Kyoto protocol has set the world towards low carbon growth, with one of the main outcomes being a flexible carbon market regime to tackle climate change through the Clean Development Mechanism (CDM) and the Joint implementation (JI) mechanisms. The EAC protocol on environment and natural resource management EAC, 2006) was geared towards the attainment of sustainable development through efficient and effective management of the environment and natural resources. These include wildlife, genetic resources, biodiversity and biosafety, water resources, minerals, ecosystems, fisheries, pollution and hazardous waste management and related effects on climate change. Most partner states have as yet to ratify this protocol, making it difficult to operationalise the commitments (EAC, 2011).

COMESA approach on environment and natural resource management through biosafety and biotechnology commitments, most of which are at the discussion stage. Thus policies on environment management remain national in nature. The IGD commitments on environmental management are more pronounced given its fragile ecosystem.

Kenya has made great efforts to put in place a sound environmental legislative framework. The Environmental Management and Coordination Act (EMCA) came into force in 1999. The Act is administered by the National Environmental Council and implemented by the National Environmental Management Authority (NEMA). At national level the Ministry of the Environment and NEMA are directly responsible for dealing with environmental issues. Kenya

has developed the National Climate Change Response Strategy, 2010 (NCCRS) integrating climate change information into Government Policy. The strategy is dedicated to addressing the threats posed by climate change and ensuring that future climate change programs and projects will be developed in line with the Response Strategy and efforts towards the attainment of Vision 2030. Other institutions in charge of environment and natural resources management are the Department of Regional Center for Mapping Remote Sensing, Kenya Wild Life Services, Kenya Forestry research institute (KEFTRI) and the various district land boards.

Kenya is also making great efforts to implement IGAD's Conflict Early Warning and Response Mechanism (CEWRN) and Climate Prediction and Application Center (ICPA) that provides early warning response to the pastoral communities in the Horn of Africa. Through the International Shared Aquifer Resources Management (ISARM) and (AMESD), from AMSED headquarters in Nairobi, it provides policy and scientific network support and mapping of integrated aquifers resource management, land degradation mitigation and natural resources conservation and environmental severity assessment training in the IGAD sub region. It also provides climate information, prediction products and services, for early warning to reduce climate related risks for disaster management, environment management in support of sustainable development efforts of the member countries.

The East Africa Countries have already embarked on preparation and implementation of projects and programmes to address climate change. The projects/programmes focus on both adaptation and mitigation activities. Kenya's Climate Change Strategy spells out the priority areas for both adaptation and mitigation activities in the country. Furthermore, the other Partner States have also identified potential mitigation options which can be used to foster economic development in the region while contributing to globally efforts to reduce greenhouse gas emissions. The potentials in region range from geothermal along the Rift Valley, wind, cogeneration, hydropower, solar, sequestration use of natural gases and methane recovery from waste management in various areas of the region. So far 3 partner states, namely Tanzania, Kenya and Uganda have registered clean development projects. Initiatives are underway to ensure energy becomes readily available to region at affordable prices to the majority of the people in region.

The main environmental issues affecting Kenya are: loss of biodiversity in the country's main ecosystems, including wetlands, forests and marine ecosystems; and the socio-economic environment reflected by falling socio-economic indicators on health, access to water and access to education. Most of these environmental challenges are of a regional nature based on shared resources. Other trans-boundary environmental issues include: persistent organic pollutants; trans-boundary movements and disposal of hazardous wastes; reduction of substances that deplete the ozone layer; trade in endangered species; and wetlands of international importance.

The increased pressure on natural resources in the ASALs has led to degradation of these fragile ecosystems, increased erosion by wind and water and declining water sources. The increasing pressure on natural resources is leading to a marked recurrence of resource-based conflicts. Resource degradation has also been caused mainly by heightened pressure on limited land, water and energy, high dependence on agriculture and livestock for livelihoods and inadequate alternative job opportunities and population growth.

2.7.3 Water

The EAC water programmes and activities are closely linked to Lave Victoria and River Nile. The programmes include those of LVBC and LVFO. Kenya is party to these key regional programmes. In addition to resource management, in particular the shared resources, LVBC (2004) replicate most of the functions of the EAC treaty including trade. Key areas of intervention include management and coordination. The LVBC is managed through the Lake Basin Development Authority, Coast Development Authority, KEPHIS, PCPB, National Cereals and Produce Board, the Kenya Bureau of Standards, Meteorological Department, KEVEVAPI and KARI and the Lake Victoria Fisheries Organization (LVFO) and Kisumu Inland Fisheries Cluster. Other institutions include the National Irrigation Board (NIB) and Water Management Authority (WRMA).

Another water management programme of historic importance is the Nile Basin Initiative (1999), bringing together COMESA and EAC riparian countries within the Nile basin. The countries party to the Nile Basin consists of Egypt, Sudan, Ethiopia, Uganda, Kenya, Tanzania, Burundi, Rwanda, the Democratic Republic of Congo (DRC), with Eritrea as an observer. The Nile Basin Cooperative Framework Agreement (2010), though objected to by Egypt, provides an opportunity for upstream countries to sustainably use Nile water without seeking for permission from Egypt.

Kenya has actively participated in the management of the Nile Basin Initiative for equitable and sustainable management of shared water resources and water resource conflict resolution were adopted. The EAC Lake Victoria Water Release and Abstraction Policy have been finalized. IGAD on the other hand has set up a regional water Trust Fund, for ground water assessment in Ethiopia, Kenya Somali and Djibouti including capacity building in collaboration with COMESA in implementing the Disaster Risk Management (DRM) component of the *Regional Food and Risk Management Programme (*REFORM).

The programme focuses its activities to manage threats to food security in member states through capacity building, harmonization of policies and practices and information dissemination, vulnerability analysis and indigenous early warning and coping strategies at both regional, national and community levels to improve food security in the region. Kenya's Agricultural Sector Development Strategy, 2010-2020 (2010) implements sector priorities in Vision 2030.

Besides ensuring food and nutritional security for all Kenyans, the strategy aims at generating higher incomes as well as employment, especially in the rural areas. In order to commercialise the agriculture sector, the agricultural sector ministries are expected to ensure that farmers, producers, processors and marketers of agricultural produce employ the most contemporary methods and technologies. This has in part been speared through USAID support to the agricultural sectors.

2.8 Human Resource Development, Research, Innovation and Technology

The Abuja Treaty establishing the African Economic Community (AEC) committed African countries to cooperation in various sectors of their economies, including human resources development and labor markets. The key shared goals are: improving education systems, strengthening common institutions and developing new ones, promoting participation of the private sector in training and education and harmonizing and coordinating education policies. Building human capital through strengthening people's abilities as productive agents is a central objective of development policies which includes regional integration. A skilled, healthy, mobile, and educated force, combined with sufficient entrepreneurial capacity, is indispensable for sustainable development. Kenya assisted Rwanda and Burundi in rebuilding their institutional and human capital to facilitate their effective participation in regional integration.

Kenya and Rwanda have, at a bilateral level, led in the elimination of work permits between them as part of enhancing free movement of labour- a key freedom in promoting human capacity in the EAC region for social and economic transformation. An important element in the process of elimination of work permits, wholly or partially, is the conclusion of the *Mutual Recognition of Academic and Professional Qualifications.* Kenya and EAC in general, has, through its institution, the Inter-University Council of East Africa, reached an advanced stage in setting up a mechanism through quality assurance that will form the basis for determining such mutual recognition.

A related issue is mutual recognition of accreditation of higher education institutions which would remove the regulatory requirement of tertiary education institutions moving across borders applying for fresh accreditation. It should also be mentioned that the Kenya is leading in the harmonization of social security benefits in order to support the free movement of labour. Kenya is already at advanced negotiating stage in this area. Kenya is taking the lead in this.

The citizens of the EAC region have enjoyed free movement across their borders for years. The national passports and the East African passport travel documents are accepted and respected at border points without a visa requirement and six months' stay each time of entry is offered without hassle. This free movement will be further facilitated when all the five Partner States introduce Third Generation (Machine Readable) identity cards. Only Rwanda has such an ID in use. Kenya is in the process of introducing one. In the meantime, substantial cooperation exists in labour mobility and human resource development in the fields of education, health, hospitality

and finance. Kenya has the highest number of professionals working across the RECs they participate in.

There is a weak linkage between Kenyan universities/institutions of higher learning with industries in EAC especially in the area of research, science, technology and innovation. Indeed, a lot of research and innovation have been conducted in the Kenyan universities but with limited impact in the economies of the EAC. Further, the differences in education systems in the region, with Kenya pursuing the 8-4-4 system while the other EAC countries continue to operate on the 7-4-3; has reduced the transferability of students below university level.

2.9 Cross Cutting Challenges

Kenya has not benefited from regional integration as much as it should because most members of the RECs/RIGs, Kenya included, have not done as much to implement the regional programs and projects. This is attributed to a number of factors that include; heavy reliance on tariffs for fiscal revenue; lack of political commitment owing to fear of losing sovereignty and fears of possible skewed distribution of net benefits and costs; absence of a mutually agreed upon mechanism for compensating losers and sharing the benefits of regional integration and lack of sanctions against non-performance.

Kenya has nevertheless took the bold step of implementing the EAC CU through full liberalisation in 2005 while the other partner states were given a 5-year window of gradual elimination of internal tariffs. During the implementation of the EAC CM, Kenya is among the three countries that have opened up for employment opportunities without stringent work permit requirements.

Kenya has sometimes been seen as 'big brother' and one that is domineering given its relatively larger economy within the sub-region. The go-getting attitude of Kenya's private sector and lack of synergy within government on the regional integration agenda has in the past led to conflict not just within government but also with the private sector (KEPSA/KAM). Smoother working relationships would be needed to promote synergy and structure.

While joint implementation of projects/program between various RECs and national government has progressed well, a number of challenges remain. These challenges relate to a number of factors ranging from external and internal factors. The review of RECs operations, and interviews with implementers revealed that there are both internal and external factors and weaknesses in the internal organizations at both the RECs and country levels and these included the financing modalities of the RECs, poor coordination among the MDAs and inadequate funding among others, which if addressed, could enhance implementation of programs. These challenges are at the regional (RECs), country and project/program levels.

Kenya has had her share of challenges that have slowed down potential benefits relating to her regional integration initiatives. In particular, high staff turnover, has more often reduced benefits from leveraging past experience, since effective documentation culture is low.

The level of representation and preparations is also compromised, while in a number of cases resource wastage is prevalent due to duplication of efforts, and information sharing remains a handicap. Legislative involvement in economic and trade matters is low. Besides, national interests in the context of regional and global contexts are not well articulated, resulting at times in contradictory commitments. For example Kenya is presently participating in IGAD trade negotiations when it is already in an EAC-CM.

2.10 Conclusion

Kenya has been at the forefront in ratifying protocols and agreements in various RECs/RIGS. It was the first, for instance, to ratify the FTA and customs union protocol of COMESA. It was also the first to signing of the Customs union and the common market of EAC. The commencement of the operationalization of the EAC Common Market in July 2010 marked the beginning of the complex and long march towards transforming the EAC region into a Common or Single Market. Its ratification in record time is a milestone for the EAC as no other REC in Africa has achieved such milestone. It is a milestone that epitomises strong political will and firm commitment by all the EAC stakeholders in deepening and widening integration.

While Kenya's overall short-term trade and economic interests are for the moment best served by its membership of EAC and COMESA, it should be borne in mind that the most profound effects of regional integration are derived through a longer term engagement in deeper regional integration that involves pooling of sovereignty. The benefits come precisely of their irreversibility and the track record the commitments set. This could, however, not be combined with a short term orientation.

COMEA and EAC account for half of Kenya's trade as earlier indicated. Kenya's trade policy is underpinned by the EAC Customs union as well as common market. The proposed Tripartite FTA between SADC, COMESA and EAC brings the Republic of South Africa. In particular, the EAC bloc creates a market of close to 130 million people and a combined GDP of 80 billion dollars, making it one of the largest trading blocs in Africa with Kenya being a dominant player. The protocol opens door for the following freedoms and rights for Kenyan and citizens of the member states: Free movement of goods, free movement of persons, free movement of workers, free movement of services, free movement of capital and the right of establishment and residence.

The reviews carried out so far clearly indicate that regional integration remains the best option for ensuring the sustainable development of the Kenya and strengthening its global position. The scope of the design of the Kenyan regional integration strategy hinges on a coherent strategy of

engagement in the development of programmes that enhance co-operation and coordination in trade and investment facilitation; transport connectivity and improvement of communication links between Partner States and the rest of the world; energy supply and ICT development in the region; enhanced productive sectors; enforce governance, security and human rights and rule of law; human resource development; social and financial services development.

CHAPTER THREE

3.0 SWOT ANALYSIS OF KENYA'S REGIONAL INTEGRATION ACTIVITIES

3.1 Introduction

This chapter focuses on a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis of Kenya's position and activities with regards to regional integration. The objective is to identify Kenya's regional integration drivers (strengths) and weaknesses, as well as the opportunities and threats. The SWOT analysis will then be used in Chapter Four as a framework to guide the preparation of Kenya's regional integration strategy.

Strengths are those characteristics of Kenya that give it an advantage over other member countries of RECs/RIGs and can be developed further; while its weaknesses (or limitations) place Kenya at a disadvantage relative to others and need to be addressed. The benefits of further regional integration will be assessed in the context of external opportunities that can improve Kenya's' strategic interventions at a regional level and contribute to its development agenda, whilst taking into account the key threats that would need to be mitigated.

3.2 Strengths

3.2.1 Strategic geographical location as a gateway to East Africa

Kenya prides itself as East Africa's gateway and commercial hub, and serves up to seven landlocked neighbors in the East African and COMESA markets, including the newly independent South Sudan. In particular, Kenya is a regional hub and continental headquarters for numerous private sector and corporate organizations, including Coca Cola, General Electric, Cisco Systems, Heineken, Google, Nokia Research, Pricewaterhouse Cooper (EA), and Toyota. Nairobi also hosts the largest number of foreign correspondents in Africa, including CNN, Reuters, Voice of America, AP, AFP, Aljazeera, ABC, BBC, and Radio China.

Kenya is a signatory to the Vienna and Geneva General Conventions on diplomatic and consular relations and it adheres, as well as administers, the provisions of the conventions through its Protocol Department in the Ministry of Foreign Affairs. The Administration of the Diplomatic Privileges and Immunities is done in accordance with the relevant provisions of the Kenyan Law. As a result, this has made Nairobi the leading diplomatic capital of the East and Central African region.

Kenya is one of a few African countries that host United Nations offices on the continent. It also hosts regional hubs for other reputable institutions such as the African Development Bank, the World Bank's global hub for fragile states and the COMESA Monetary Institute (CMI).

3.2.2 Competitive Service Industries

3.2.2.1 Trade Logistics

Kenya has larger private sector logistics providers than other partner states in the region, and most of the service providers working in the region have a presence or connections with Kenya. For example, since Clearing & Forwarding Agents are intermediaries between a shipper and other logistics providers in the supply chain, their contributions are critical and vital to the flow of goods through Kenya and into the region. This is because most of the other EAC Partner States (Rwanda, Uganda and Burundi) are landlocked and have to rely on Kenyan facilities for their trade effectiveness.

In this respect, there are over 800 clearing and forwarding agents operating from Kenya. Among the top 40 agents are the Nairobi Clearing House, Mitchell Cotts Kenya, Victoria International Logistics Ltd, and Swiftlink Freight Services Ltd. Furthermore, web based processing, complemented by single window operations; stand to significantly improve business operations.

3.2.2.2 Financial Services

Kenyan firms have become successful exporters of business financial and distribution services to the EAC and COMESA regions. In order to sustain these businesses, Kenya-based banks have set up branches in countries where Kenyan businesses have interests. As a result, they are leading the regional integration of banking services in the EAC and COMESA regions.

There are four indigenous Kenyan banks with a total of 63 branches outside Kenya (including 16 in Tanzania, 31 in Uganda and 16 in Rwanda). These banks include Kenya Commercial Bank (KCB), Equity Bank, Fina Bank, and Commercial Bank of Africa. In addition, about 11 multinational and Kenyan owned banks use Kenya as a hub to expand their operations in the region. The rapid growth of Kenya's innovative M-Pesa or E-banking is another of Kenya's exports to the region.

There are also indigenous Kenyan insurance companies with branches throughout the EAC region. These include: APA Insurance, Insurance Company of East Africa (ICEA), Jubilee Insurance, Phoenix of East Africa, Real Insurance and UAP Insurance. The estimated number of Kenyan insurance company branches within the region is about 30. Similarly, several Kenyan stock broking firms have subsidiaries within the EAC region. These include Dyer and Blair Investment Bank (Uganda and Rwanda), Faida Securities (Rwanda), and Kingdom Securities (Rwanda).

Kenya has a strong capital market with a stock exchange that has significantly invested in modern trading and settlement infrastructure. The total capital market capitalization for cross listed shares in the EAC region stands at about US$ 3billion, with over 99% being taken up by the Nairobi Stock Exchange (NSE). All companies cross-listed and traded regionally are from

Kenya and the NSE leads in terms of market capitalization and number of listed companies in the region. The NSE also has a strong trading interest from institutional investors. Most of the other regional stock markets are, however, characterized by low listings and few products, which limits cross listing and limits the range of products to mainly equity.

Furthermore, Kenya's bond market is well developed, while those in most other EAC and COMESA countries are underdeveloped with derivatives virtually non-existent.

3.2.2.3 Retail Services

Kenyan supermarkets started penetrating the regional market in 2002. Currently, the three largest Kenyan supermarkets have a combined total of seven branches in Uganda and two in Rwanda. These are Uchumi, Tuskys and Nakumatt Holdings (Table 2.2). Investments up to US$ 22 million have been made in building these outlets (Nora Ditheli, 2011). These have also assisted in providing a unique outlet for a number of Kenyan manufactured products.

3.2.2.4 Business Services

Kenya has several world class firms that already provide export business services to the region and beyond. The subsectors with the greatest export turnover totals are insurance, accounting, non-banking financial and BPO services. Business services are generally provided on a private sector basis, and require a high level of skills that are usually certified and include accounting, architectural, engineering, and legal, BPO, ICT, and information communication technology enabled services (ITeS).

Other forms of service exports include government to government technical assistance and capacity building. Governments that have greatly benefitted from this level of support are Rwanda, Burundi and South Sudan, all of whom are members of both EAC and COMESA.

Furthermore, the competitiveness of both air and surface transport services and logistic services have in part been influenced by the common EAC and COMESA trade facilitating rules and procedures, including insurance cover from Zep-Re and ATIA which are both based in Kenya.

3.2.2.5 Air Transport Services

Kenya's capital Nairobi is in the middle of Africa and, as such, is only four hours away from most destinations across the entire continent. Thus, Jomo Kenyatta International airport (JKIA) is a transit hub for Africa and is also served by 49 airlines[3] with daily flights between Middle Eastern, European and Asian hubs. It is the largest airport in the East and Central African

[3] *Major international airlines such as the KLM, British Airways, Virgin, Emirates, South African Airways, and Ethiopian airlines, have daily scheduled flights from JKIA. Other international airlines include the Thai airlines, Aeroflot, Jet Airlines, Singapore Airlines, Qatar airlines among others.*

region, handling over 5 million passengers annually. Its closest rival, Addis Ababa Bole Airport, is the third busiest in Africa and handled close to four million passengers in 2011.

Kenya Airways, the national carrier, connects Kenya to 55 destinations around the globe and was voted Africa's leading Economy Airline by the World Travel Awards. 45 of the 55 destinations are within Africa and complement the government's efforts to grow bilateral trade and economic links with countries in Africa. Kenya Airways also has a code sharing with KLM on European routes, therefore, giving a wide choice for international connections. Cargo planes routinely collect fresh produce, cut flowers, fish and other goods for export to Europe.. With the current infrastructure development and upgrades, and construction of additional facilities such as railway lines to support air transport services, the centrality of Nairobi airport in the region and continent is expected to deepen.

Regarding domestic travel, Wilson Airport in Nairobi is one of the busiest in Africa operating both local and regional flights, and handling over 263,000 passengers (12.5%) of the total passengers in Kenya (KAA, 2011). It is mainly used by air charter companies for helicopters and light planes, which operate daily flights to major tourist destinations in Mombasa, Masai Mara, Amboseli, Samburu and the rest of East Africa.

3.2.2.6 Information and Communication Services

Kenya's strategic geographic location makes it an obvious EAC ICT hub, as most of the undersea cables land on its coastline. These include: TEAMS, SEACOM, LION, and EASSY. Kenya also has a well-established terrestrial fiber optic cable system, as well as well-structured ICT policies and regulatory framework. Both of these aspects have resulted in improved access of a large segment of the population to the IT platform, which has also facilitated and proliferated ICT-based services. In addition, the country has extensive and well-developed communication infrastructure, which facilitates worldwide access to information. This information and these technologies and its applications have created opportunities for Kenyans.

3.2.3 Well Developed Human Resources

Kenya has seven (7) public universities and twenty two (22) private universities operating from a number of campuses and constituent colleges across the country. To complement these universities there are a number of national polytechnics, 17 institutes of technology and 12 technical training institutes. Kenya also has a number of schools, including some international schools that incorporate international systems of education like the American, British, French and German. Students are often drawn from EAC and COMESA countries to these schools and universities. Kenyans also train in a number of universities in the EAC, COMESA and beyond the African continent.

With such a robust education sector, this contributes greatly to the country's capacity development, including that of member countries in the EAC and COMESA region. For example, the institutions providing a regional level of support include: Bandari College, Utalii College, several teacher training colleges, the Kenya Wildlife Service (KWS) College in Naivasha and several Medical Training Centres (MTCs) that offers specialised courses inn health and medical services. Students in these institutions are drawn from within and outside the region.

In general, Kenya has a relative abundance of professionals owing to its highly trained human resource base. At university level, Kenya produces over 15,000 graduates every year, with 40% in science and technology, while many more are trained in various artisan and craft skills.

Nairobi University is ranked among the top 100 universities internationally (2012 World University Web Ranking).Kenya also has in general a disciplined and hardworking labour force, with a strong entrepreneurial spirit, as well as significant international exposure. This is in part due to the extensive employment of Kenyan professionals in EAC and COMESA countries, as well as South Africa – predominantly in academia, ICT, banking and the tourism sectors.

3.2.4 Political Stability, Peace and Security

3.2.4.1 Political will

A major strength that supports Kenya's regional integration endeavours is its political stability. Except for the post-election political unrest in early 2008, Kenya has, since independence, maintained considerable stability despite changes in its political systems, from single party to multi-party politics in 1992, and political crises in neighbouring countries.

Kenya has in fact been home to refugees from Rwanda, Uganda, Burundi, Sudan and Somalia who had to flee their home countries due to political instability. Kenya's Defense Forces (KDF), working under the umbrella of AMISOM (African Mission in Somalia), are currently on a successful mission to bring peace to Somalia.

3.2.4.2 Constitutional Reforms

The 2008 post-election crisis led to far reaching constitutional reforms that entrenches transparency and accountability in the governance and political landscape, ensures the independence of institutions in dispensing their core functions, and gives prominence to human, civil, political and property rights. In particular, the competitive recruitment of high level public officials, with the public's involvement in the vetting processes, is a virtue that is likely to have far reaching implications for the region in terms of regional policy making and institutional issues.

This will complement the freedoms gained with the re-emergence of multiparty democracy, including freedom of speech, the press, and assembly. Kenya is now a multiparty democracy and has held general elections every five years.

Furthermore, as provided for in the Constitution, the oversight role of Parliament on international commitments creates the opportunity of harmonising trade related commitments in the different RECs that Kenya participates in. Kenya can also share her experiences with other regional countries during the review of their constitutions. This would potentially harmonise regional human rights and governance standards.

3.2.4.3 Strong Judicial System

Kenya has established a strong and effective judicial system that protects civil liberties and enforcement of contracts. Following the enactment of the new constitution, adequate and credible judicial institutions have been put in place to address major challenges facing the country.

The Kenyan legal regime is based on English common law. The new constitutional dispensation will also provide a mechanism for improved governance and the promotion of peace; both factors that give investors' confidence. Overall, Kenya's policy, legal, regulatory and institutional structures are comparatively well developed and with better capacity as compared to other partner states, especially in the EAC.

3.2.5 Relatively Diversified Export Base

Kenya has a relatively diversified export base outside its traditional commodities of horticulture, tea and coffee. This has boosted earnings and created more jobs in the economy, while reducing the risks of reliance on the traditional commodities. The country's total export items stood at 222 in 2009 compared to the 151 tariff lines in 2000, representing a growth of about 50 per cent (Economic Survey, 2000; 2010).

Agricultural and manufactured goods (including tea, horticultural, coffee, fish, leather, steel, cement, footwear and petroleum products) are Kenya's key regional export products. This may not amount to diversification in global terms, but, to the extent that the export basket contains limited value added products hitherto not traded in, it does create new possibilities. With sustained and deeper regional integration, Kenya stands to build its participation in the regional value chains, thus enhancing exportation of intermediate products.

The ratio of exports to GDP (*Table 3.1*) is relatively small, less than 20% for all the five EAC countries[4]. However, Kenya's low natural resource/mineral endowment leaves the bulk of its non-traditional exports to be accounted for by manufacturers.

Table 3.1: EAC Partner States Exports to GDP 2005-2010 (%)

Country	2005	2006	2007	2008	2009	2010
Uganda	14	15	19	20	23	21
Tanzania	11.9	12.2	12	12.2	15.7	18.4
Kenya	…	15.6	15.0	16.3	14.6	16.1
Rwanda	10.0	10.0	10.0	15.0	9.0	….
Burundi	7.6	6.4	6.0	6.0	5.1	6.8

Source: EAC, 2010

The share of Kenya's exports as percentage of GDP is likely to rise in the near future as discoveries of significant natural resources, including oil and gas, have recently been made. The country thus has great potential for natural resource exploitation. In addition, ongoing efforts to undertake an airborne geophysical survey are likely to result in further discoveries of minerals in Kenya.

3.2 Weaknesses

3.2.1 Institutional Framework and Mechanisms

3.2.1.1 Disjointed Coordination of Regional Integration Activities

There is a lack of coherence in coordination among Ministries and Departments, and between the public and private sector, on regional integration matters and this has resulted in less than optimal benefits from Kenya's regional integration initiatives. The current silo based management arrangement results in segmented regional integration activities that inhibit cross REC programme partnerships and information sharing among implementers and beneficiaries. Further, the lack of coordination among key stakeholders results in limited dialogue and involvement in the programme cycle of regional integration activities.

This is compounded by the frequent staff transfers in key Ministries and Agencies, which undermines institutional memory and downgrades the capacity and competences on regional integration. In the process, less than optimal preparations are subsequently made for regional meetings and negotiations. The leadership at senior management levels also lacks the requisite competences to champion regional integration issues. The lack of a regional integration policy

[4] *The ratio is also less than 20% for COMESA countries (KIPPRA, 2004; UNCTAD, 2011)*

in Kenya could be responsible for these weaknesses. There is also no clear articulation of the national interest in regional integration activities by various players in Kenya.

3.2.1.2 Limited Role of the Kenyan Parliament in Regional Integration

The engagement of the Kenyan parliament in regional integration matters has generally been weak. The Kenyan Parliament has often relegated the process and progress of integration, and is largely uninformed about regional developments. The Kenyan Executive arm of government has often assumed ownership of treaty obligations. The result is that the integration process is seen as being purely government-to-government and not carrying the people or their elected representatives along. The ownership of the integration process by the people is therefore lost.

Correspondently, the Kenyan parliament does not have much role on matters relating to COMESA, yet a lot of commitments have been made. Kenya now hosts the COMESA Monetary Institute (CMI), which is a precursor of the future monetary union of COMESA. Kenya's representatives in the East Africa Legislative Authority (EALA) are directly elected by the people, therefore raising again the issue of ownership and participation in the integration process. Even though the Kenyan parliament now elects Kenya's representatives to EALA, the nomination process of parties is often driven by nomination of candidates with party loyalties rather than competencies and interest in regional integration matters. There are currently no set standards for nominations into these parliaments, i.e. relating to gender, opposition party representation, and representation of ethnic minorities.

3.2.1.3 Capacity Limitations

Like other developing countries, Kenya still lacks capacity in the formulation of trade policy. There are no internal champions who can become trainers – indicating the need to train trainers for capacity transfer and consolidation within both the public and private sectors. Inadequate capacity in trade policy formulation is compounded by the intricacy of trying to harmonize the various multi-level multi-sector trade agreements. Negotiating skills are underdeveloped and documentation of positions for follow up is often lacking. This is further compounded by low awareness of key issues, priorities and policy objectives across most of the stakeholders (parliament, CSO, citizenry, public sector) due to a lack of knowledge, low research skill competences and the ability to make evidence based decisions.

While Kenya has signed bilateral trade agreements, including double taxation agreements with both developed and developing countries (as well as EAC partners) that are crucial for cross border trade and investment, the requisite capacity to implement them does not exist. The media also lacks the competence to effectively, consistently and independently articulate regional integration issues for the general awareness and education of the public on international trade relationships and the implications of proposed processes.

The absence of horizontal partnerships and formal information sharing networks impairs the consolidation of a national stock of knowledge, across all the MDA and sub-committees, on issues arising under each thematic area in the different RECs and WTO processes. This creates a situation where the coordinating Ministries often retain a substantial monopoly over the knowledge and information. Information dissemination would need to become a more structured and embedded practice if Kenya's regional integration endeavours are to be more effective. Otherwise, information silos will continue to drive Kenya's national engagement with international trade issue, and, thereby lower the overall impact of the national response to external trade policy and events. In addition, the lack of follow up and monitoring of the impact of integration programmes often leads to delayed programme implementation and regional integration commitments not being fully mainstreamed into national development planning.

3.2.1.4 Informal, Incoherent and Inconsistent Participation of Non State Actors (NSAs)

While it is acknowledged that there has been a positive shift in involving NSAs in regional integration issues, this is still generally poor and often done on an ad hoc basis. This inevitably limits the level and depth of consultation on major policy developments relating to regional integration. In particular, there are no principles and standards for quality assurance and control, either within the framework of consultation standards or other participation procedure. This is further compounded by weak networks, research and analysis to inform positions. Further, the weak governance/accountability processes among the NSAs also limits their oversight competences.

3.2.2 Trade Facilitation

3.2.2.1 Plethora of NTBs

The EAC Partner States often complain of the wide imposition of NTBs by Kenya. While NTBs may be justified on account of health, safety, security, protection of infant industries and revenue protection, their management may impact negatively on businesses.

Most of the NTBs that Kenya is often accused of imposing include: (i) cumbersome customs and administrative documentation procedures, (ii) demanding immigration procedures, (iii) cumbersome inspection requirements, (iv) police road blocks, (v) varying trade regulations, (vi) varying, cumbersome and costly transiting procedures, (vii) duplicated functions of agencies involved in verifying quality, quantity and dutiable value of imports and export cargo, and (viii) business registration and licensing.

These measures restrict the free flow of trade across many sectors, particularly metals, machinery and food. Even for food, where Kenya has a major deficit, the country is imposing too many restrictions, which end up raising domestic prices and hurting consumers (World Bank, 2012). Further delays in the domestication and enforcement of regional laws are in themselves major NTBs.

Road blocks, weigh bridges, inspection of transit cargo and unilateral application of national standards constitute another major group of NTBs in Kenya. Queues can take between one to two hours at each of the six weighbridges along the northern corridor. As a result, there is a clear incentive for truck drivers to pay bribes in order to skip the queues. These challenges raise the cost of doing business and impede factor mobility, as well as investment.

Although Kenya has responded to these NTBs by trying to simplify procedures, use of IT platforms in the clearing and payment of duties, reduction of licenses and road blocks, and a lot more effort is still required.

3.2.2.2 Export Products, Processes and System

Trade facilitation in Kenya is also constrained by problems inherent in Kenya's export system. These include: a weak export supply base, low value addition to Kenya's export products, low investment in the export sector, a narrow product range, lack of market information and weak market development promotion and support structures. This is further compounded by the limited Kenyan private sector investment in the research and development of products. In spite of some investment in the SME sectors, their lack of clear linkage to regional and global value chains curtails them access to regional markets.

Although a common market has been adopted in the EAC, numerous barriers continue to limit the mobility of Kenyan professionals. In addition, skills mismatches and skills shortages, pose a significant challenge to many Kenyan service exporters. Another factor that constrains service providers from exporting is a widespread lack of knowledge about exporting opportunities, markets, and processes, and a lack of awareness, on how to acquire such knowledge. Very often, Kenyan service providers – especially smaller ones - lack international networks, and find it very difficult to obtain market intelligence on foreign markets. Finally, difficulties in penetrating foreign markets also come from Kenya's low international brand equity, as a business service provider. Thus with the appropriate legal and regulatory reforms supported by harmonised regional policies and institutions, Kenyans stand to benefit from the implementation of the freedoms of movement of factors of production.

3.2.3 Infrastructure Challenges

3.2.3.1 Delays and congestion at Mombasa Port

Low productivity at the port is due mainly to yard congestion; traffic jams inside the terminal, equipment shortages and breakdowns, lack of a modern Terminal Operating System (TOS), poor customs clearance coordination and low labour motivation. As a result, berth productivity is 13–14 moves/berth–hour (EAC, 2011), as compared to performance data taken from the Port of San Antonio in central Chile where the average berth productivity was 63 moves/berth-hour, Port of St. Vicente in southern Chile, berth productivity was 40 moves/berth-hour, Lagos' terminals achieved 22 moves/berth–hour and Accra (Tema Port), the berth productivity was 23

moves/berth–hour. This leads to an excessive dwell time of up to 9 days in Mombasa in contrast to Rotterdam port with a dwell time of 4 days (*http://databank.worldbank.org, government of India)*, Singapore port with a dwell time of 0.6 days; and Jurong port with a dwell time of 0.8 days. This difference results in higher costs and lower reliability. For example, it costs US$ 2350 and an average of 624 hours to complete the process to import a light (20ft) container here in Kenya, it costs US$ 439 and an average of 96 hours in Singapore, in China it costs US$ 615 and an average of 576 hours, and it costs US$ 975 and average of 144 hours in Netherlands.

3.2.3.2 High Road Transport Costs

Road transport costs are high due to lack of backhauls, congestion around major urban centres and poor road conditions. In addition, the plethora of NTBs, as well as corruption, also collectively impact negatively on transport costs. On the Northern Corridor, the most expensive road segment is between Nairobi and Eldoret, which is the result of a combination of difficult terrain and congestion.

Land transport (road or rail) represents the most significant element from a price point of view (50-80 percent of total logistics cost), while the port represents 60-80 percent of total time to destination. Extra inventory costs, due to delays and inefficiencies in the road corridors, also make a significant impact on the total cost of goods, accounting for 10-25 percent of the total logistics cost. In Kenya, vehicles licensed for transit cannot carry domestic cargo and must use prescribed transit routes. This has the effect of creating many return trips with the vehicles being empty.

3.2.3.3 Poor Railway Network

The Northern Corridor railway operates within Kenya and Uganda as a narrow gauge (1,000 mm) system that was built over one hundred years ago. Since independence, however, very little has been added to the system and the lines are old and in need of rehabilitation. As a result, both rail freight tonnage and passenger kilometers travelled have been declining steadily over the years. Although the bulk of the mainline fleet is old, it remains serviceable and suitable for rehabilitation and upgrading. These would include the 39 mainline (Class 93/94) diesel electric locomotives that RVR inherited from KRC, which form the core of the mainline fleet.

From the Northern Corridor, there are several spurs. The most important being the line to Kisumu on Lake Victoria and the spur to the Magadi Soda Lake to the south of Nairobi, whose potentials have not been exploited fully because of the poor transport system. Finally, the rail link to Tanzania is closed, because of low traffic demand.

3.2.3.4 Perennial Energy Shortages

Accelerating economic growth and sustaining it at a high level requires an ample supply of energy at competitive prices. At present, however, such a situation does not exist in Kenya. With less than one-in–five Kenyan accessing electricity, the current power generation capacity is

grossly inadequate to meet the projected demand of 1520 MW (Vision 2030; GoK, 2011; 3rd Annual Progress Report, 2012).

The delays in the completion of Sangoro hydo-energy and Turkana wind power projects contribute to a short fall of 321 MWs. To help bridge this supply gap, the Government has, since 2006, been importing rental (emergency) generation units, although these units are very expensive and require large subsidies. Nevertheless, even with this emergency capacity, and even if normal hydropower is restored, the reserve margin would still be less than be 10% (102 MW excess capacity during peak demand), which is far below the recommended level of 30% target of 460MW excess capacity at peak period (GoK, 2011).

Moreover, the current electricity tariffs for industrial and commercial users (*Table 3.2 below*), at 15.90 US cents-5.13/kWh (UPDEA, 2009) are much higher than those in COMESA (Egypt: 8.02 US cents; Ethiopia: 7.69 US cents) and SADC countries (RSA: 3.64 US cents), who Kenya competes with for private investment. This is mainly because Kenya has had to shift towards expensive private-funded thermal (oil) generation (IPP), as a result of having exploited virtually all viable hydro power potential. Finally, although geothermal is a low cost energy source, investment to date in Kenya's geothermal potential has been grossly inadequate.

Table 3.2: COMPARATIVE TARIFF (cents US/kWh)

		(EGYP	(RWAND	(LIBY	(KENYA)	(ETHIOPI	(RSA)	(TANZA
Social tariff	1kW	1,34	13,99	1,52	9,70	4,25	4,62	6,4
Single phase domestic usage	2kW	1,56	13,99	1,52	13,50	5,09	4,62	8,8
(E=200kWh/month)	4kW	1,56	13,99	1,52	13,50	5,09	4,62	8,88
Triphase domestic usage	6kW	2,50	13,99	1,52	15,40	6,26	4,12	8,40
(E=600kWh/month)	10kW	2,50	13,99	1,52	15,40	6,26	4,12	8,40
Commercial usage	12kW	8,02	13,99	3,64	15,90	7,69	3,64	10,61
(E=1 800kWh/month)	15kW	8,02	13,99	3,64	15,90	7,69	3,64	11,84
Semi-Industrial & motive power	20kW	8,33	13,99	3,18	8,45	6,42	3,38	10,00
(E=2 500kWh/month)	25kW	8,33	13,99	3,18	8,45	6,42	3,55	11,48
Medium voltage (E=35 000kWh/month)	250kW	3,20	13,99	2,35	7,25	4,54	2,81	9,91

Source: Comparative study of electricity tariffs used in Africa – December 2009

3.2.3.5 Low ICT Connectivity in Rural Areas

Internet access remains limited in Kenya, especially in rural areas. Indeed, low levels of access were responsible for Kenya's ranking of 116th globally (10th in Africa) on the International Telecommunications Union's 2009 ICT Development Index. While Kenya has been connected

via the East Africa Submarine Cable System (EASSy) and The East Africa Marine System (TEAMS), the additional bandwidth has not translated into widespread internet access in homes, businesses, internet cafes and on mobile phones across the country.

3.2.3.6 Delays in the implementing the Yamoussoukro Declaration

Kenya, like the other African countries, has been slow in implementing the Yamoussoukro Declaration concerning the liberalization of access to air transport markets as decided by African Ministers in charge of air transport in November 1999 (AU, 2000). This translated to poor connectivity in the region, with Kenyan carrier, Kenya Airways, losing out on business. Further, sustained differentials in rules and regulations with bilateral agreements underpinning service provisions translates into reduced competitiveness and quality of services on intra-African routes and high cost of air travel. As such regional integration, in the context of air transport, has an insignificant impact on socio-economic development of the majority of African populations.

The objectives of the Declaration with regard to internal market liberalisation to promote fair competition are still valid, but implementation has been slow and cautious in Kenya, including the absence of an appropriate legal framework. These impacts negatively on air transport safety, security and environmental issues.

3.2.4 Business and Regulatory Environment

The World Bank Doing Business 2012 survey ranks Kenya 109th out of 183 economies, with an overall score that has declined by 3 points compared to 2011 (reflecting lower scores for six of the indicators). According to the latest Enterprise Survey (2007), the top three obstacles to running a business in Kenya include: Tax Rates, Access to Finance and the negatives effects of Practices of a large Informal Sector-resulting in high failure rates, unfair competition and access to productive resources (KCA, 2009). In addition, Kenya still restricts foreign ownership in more sectors (telecommunications, ports, natural resources, media) than most other economies in Africa. For example, foreign capital participation in telecommunications is limited to a maximum of 70% of the investment capital. However, the law provides foreign investors with a grace period of 3 years to build up the required domestic capital contribution of 30% of the investment requirements.

Although the Kenyan business environment fares unfavorably globally, it has still improved substantially as a result of the significant business regulatory reforms undertaken with over 1,300 business licenses and fees reviewed, more than 300 business licenses eliminated, and the remainder now hosted in a new entity called the Electronic Regulatory Registry, which is based in the Business Regulatory Reform Unit at the Ministry of Finance. Further improvements include the replacement of the paper based customs administration with an electronic data system, which enables business people to electronically submit their customs declarations and pay customs duty on-line. In addition, under the e-government initiative, government services

are increasingly being offered on-line, including services such as completion of tax returns and application for passports.

More needs to be done, however, particularly with regards to NTBs and service delivery efficiencies. This could build on the public service reforms already undertaken in all Government Ministries and Departments including: the implementation of performance contracts (PC), service delivery charters, and results based management (RBM) frameworks. The Government should also continue with reforms that aim to address the general status of the Kenyan macro-economic environment. Some of these include the enactment of key pieces of legislation which will have significant impact on the business environment, including: tax administration and the implementation of Special Economic Zones.

3.2.5 Immigration

Most Partner States in the region have got national immigration laws that allow immigrants from other member countries in the RECs they participate in. Work permits no longer apply for EAC nationals within the framework of the EAC CM. However, those of COMESA and IGAD are subjected to less stringent immigration laws compared to those of other countries outside the RECs Kenya participates in.

The increasing number of Chinese in East Africa's major capital cities engaging in small business is becoming a threat to the implementation of the Common Market Protocol among the EAC Partner States. Chinese investments in small retail outlets usually known as China shops have been very corrosive to local economies, threatening prospects of retaining even existing job opportunities.

Chinese construction projects in Africa are often carried out by Chinese workers. In some countries, the awarding of government tenders to Chinese construction companies have had an adverse effect on the local industry and has been widely seen as unfair competition, especially when Chinese companies paid their workers well below the required minimum wage. Cheap consumer goods from China have negatively affected local traders, as well as local manufacturers who cannot withstand Chinese competition. As a result, thousands of jobs are lost.

3.3 Opportunities

3.3.1 Bigger Market Access and Investment Areas

The African region now has a solid market within which to develop intra-regional trade and investment. With a population of 1 billion (2010), 60 percent of whom are below the age of 30, great potential lies in the abundance of a growing labour force, as well as the capacity to develop a huge consumer market. This is a significant opportunity that Kenya should look to exploit in order to spur growth and provide jobs for its rising population. The focus on trade and investment is even more appropriate because, as the African continent moves away from a

dependency on aid to a focus on development, trade will be a critical component of this new development trajectory.

Opportunities for Kenya have already arisen from the adoption of the common market in EAC and the customs union in COMESA. This expanded market has also enlarged following the declaration of the independent state of South Sudan. The proposed COMESA, EAC and SADC tripartite arrangement and formation of a greater free trade area (FTA) will also provide opportunities for Kenyan exports in goods and services. The wide range of Kenyan exports in services include: banking and finance, distribution, transport and logistics, telecoms, air transport, tourism, education, professional services like management consultancy and other knowledge services including ICT.

Increasingly, FDI inflows into the African region, Kenya included, are already on the increase and will be spurred on by more integrated markets. In addition, efforts being made to reduce production and transport costs, as a result of implementing the regional infrastructure programmes, is a big attraction to potential investors. Kenya can also offer a youthful and relatively well educated labour force to support both inward and outward FDI.

Already, Kenya's positive growth in regional trade over the last ten years has been attributed mainly to the deepening of integration initiatives within RECs like COMESA and EAC. Although intra-African trade is still actually very low, accounting for about 10 per cent of the value of total exports, Kenya has enjoyed a significant share of this. Nearly half of Kenya's exports (about US$ 5.3 million in 2010) were destined to African countries, with 85% of this going to COMESA and/or EAC member countries.

The key export products included: re-exportation of fuel and lubricants (1.7%), food and beverages (41%), transport equipment and passenger vehicles (1.7%), and industrial products like cement and soda ash (30%) (Economic Survey, 2012). Ultimately, these RECs provide Kenya with bigger market access opportunities for a diversified product and service range. While Kenya trades with virtually every member of the COMESA and EAC regions, trade restrictions, on account of NTBs etc., limit the opportunities. As a result, rationalisation of the trade regimes across the different RECs would create even more market access opportunities.

Private sector participation has also been stepped up in cross-border investments, which includes participation in capital markets. Kenya is now the second highest source of FDI into Tanzania, Uganda and Rwanda *(Table 3.3)*:

Table 3.3: Foreign Direct Investment Flows in EAC region, 2006 – 2008 (USD millions)

Country	Source of FDI	2006	2007	2008
	Tanzania	0.31	8.571	1.429
	Uganda	1.43	4.825	0.571
	Rwanda	0	0	0
	Burundi	0	0	0
	ROW	1235.26	2044.144	4555.142
Kenya	Total	**1237**	**2057.142**	4557.142
	Kenya	35.30	45.80	28.57
	Uganda	2.3	2.80	25.00
	Rwanda	1.8	1.7	50.00
	Burundi	1.56	0.58	0
	ROW	5,836.30	5,664.70	(46.71)
Tanzania	Total	**5,877.26**	**5,715.58**	(39.94)
	Tanzania	2.17	3.99	9.00
	Kenya	148.05	30.88	133.48
	Rwanda	0	0	0
	Burundi	0	6.00	0
	ROW	487.99	519.80	1,111.71
Uganda	Total	**638.21**	**560.67**	**1,254.19**
	Tanzania	0	0.36	0
	Kenya	12.94	33.9	17.56
	Uganda	0	0.9	0
	Burundi	0	0	0
	ROW	106.8	195.3	311.96
Rwanda	Total	119.74	230.46	329.52
	Tanzania	…	…	…
	Kenya	…	…	…
	Rwanda	…	…	…
	Uganda	…	…	…
	ROW	…	…	…
Burundi	Total	…	…	…

Source: EAC, 2011 and Partner State Investment Authorities

Kenya's currency convertibility has laid the basis for diversifications into new and upcoming economic activities, particularly those in the financial sector and service industries. In fact, all five EAC countries operate government debt markets at different stages of development and their Central Banks hold auctions under different frameworks (*Table 3.4*) to sell treasury bills and bonds. In this respect, Kenya raises the highest amount of debt (27.3% of GDP) and corporate bonds (2.4% of GDP) in its securities market.

Table 3.4: EAC: Treasury Bills and Bonds Outstanding at End-2010 (USD, millions)

Product	Burundi	Kenya	Rwanda	Tanzania	Uganda
Treasury bills	N/A	2,046	94	445	544
Treasury Bonds	N/A	6,566	25	1,635	686
Corporate Bonds	N/A	743.8	1.7	51.6	44.3
As % of GDP	N/A				
Treasury bills	N/A	6.5	1.7	2.2	3.6
Treasury Bonds	N/A	20.8	0.5	8.1	4.5
Corporate bonds	N/A	2.4	0.03	0.26	0.29

Source: EAC central banks; IMF, World Economic Outlook

3.3.2 Jobs and Employment Creation

With the entry of the EAC CM, it is expected that there will be substantial mobility of professional staff subject to EAC specific countries meeting their obligations of gradually liberalising the agreed service sectors. Kenya stands to benefit from concerted efforts in a number of selective sectors in finance, transport, ICT, education and related service sectors.

With Kenya's relatively well established health infrastructure and referral hospitals, and with its strong linkage to reputable medical institutions around the world, Kenya could diversify by offering its health services throughout the region. Already, Nairobi Hospital, Aga Khan Hospital, AMREF and AAR provide services at the regional level.

3.3.3 Shared Management And Approach To Common/Public Goods

Natural resources and trade related issues are trans-boundary in nature requiring large outlay of financial and technical support. Effective management requires a regional, continental or global approach. Kenya in its participation in regional integration stands a better chance of implementing such commitments on a regional basis. Some of the programmes that could benefit from region approach include disease control, management of Natural /environmental disasters (drought, floods, trans-boundary diseases); loss of biodiversity and deforestation; and rising temperatures, increasing Gas emissions and carbon sequestering. Others include joint approaches to water scarcity, conflict and environmental degradation and loss of biodiversity and solid waste disposal.

3.4 Threats:

3.4.1 Increased Global and Regional Competition

A major threat arising from further regional integration is increased competition for the Kenyan private sector – particularly from COMESA countries such as Egypt. In addition, with the proposed COMESA, EAC and SADC tripartite arrangement and the introduction of a Free Trade Area (FTA), competition from especially South African products and services will also intensify. A more local example is that of Ethiopia, which has about 8 million hectares of fertile arable land located largely in the Southern and South-Western parts of the country; in areas covering the southern Gambella region, the Omo River Basin regions of Kefa and Gamo Gofa, and spreading to the Afar regions. Ethiopia has also initiated an irrigation settlement scheme for 15,000 households on the border with Kenya. Both these factors, large arable land and huge water resources, give Ethiopia a comparative advantage within its southern region as compared to the harsh and dry conditions in Kenya's Northern and North-Eastern regions.

At a global level the world economy has also become increasingly more competitive, which has led to diminishing opportunities for trade and exports. In addition, markets such as Europe, that

once absorbed a large share of products from developing countries, are not showing any import growth and are currently only importing selectively due to the recurrent global economic crises that have affected their spending capacities. Kenya also faces a proliferation of RTAs that exacerbates the shrinking market opportunities for its products.

Although efforts are being made to develop and enhance the value of Kenyan exports, the country's imports have continued increasing at a higher level. This has resulted in an ever increasing trade deficit and pressure on the country's net foreign currency position. In addition, Kenya experiences unemployment and under capacity utilization even in export sectors that once thrived. These include the cotton and textile industry, leather and leather products, among others.

3.4.2 External Shocks and Events

3.4.2.1 New Markets and Products

Within the globalizing arrangements, consumers are constantly informed of the new products and services in the market. Consumer tastes, particularly for technology based products, are constantly changing. Products are now characterized by short PLC cycles, thus requiring constant investment in innovations. However, with new fragmented production systems, New investors can locate anywhere globally on basis of costs or markets. This will allow new investors to move direct into the new product lines at least cost. There is the likelihood of firms relocating outside the African region and yet be able to sell the final products into the regional market.

3.4.2.2 Terrorism, Piracy and Insecurity

Rising insecurity is one of the top threats to regional integration and the EAC region is already under pressure to deal with increasing cases of piracy, cyber-crime, terrorism, human trafficking and money laundering. Kenya's close political ties with the U.S. and other western governments, as well as support from Israel, also makes it a target for terrorism. For example, the threat of Al-Shabaab terrorism spreading from militia bases operating in Somalia has forced Kenya to engage militarily in Somalia. This has put pressure on the country's budgetary position, due to the financial commitment from supporting the war. In addition, it questions the value in opening up borders and freeing up the moment of people and products across the region.

3.4.2.3 Political Instability and Civil Unrest

Poverty, bad governance, high youth unemployment, and lack of adequate opportunities for economic empowerment through legitimate means are key factors that continue to fuel political instability in Africa and, unfortunately, do not create conditions conducive to regional integration. The Horn of Africa and the IGAD region in particular, remain particularly volatile in

this respect. Further unrest in Sudan and Somalia will also result in more human displacement and a resultant destabilization of potential markets. Internally, Kenya remains watchful of the upcoming elections in 2013. A repeat of the 2007 post-election crisis will again erode investor confidence, which will reverse many of the gains over the last five years that were built on a decade where the country performed largely well.

3.4.3 Nationalistic Tendencies

Occasional nationalistic tendencies and the continued divergent economic structures of potential partner states are obstacles to reaping the maximum benefits from regional integration. As a result, there is a need for stronger emphasis on communication, information dissemination, and education with respect to RI issues. Kenya has also been seen as the 'big brother' by some partner states and one that could potentially dominate given its relatively larger economy within the sub-region. The go-getting attitude of Kenya's private sector and the lack of synergy within Government on regional integration have in the past led to conflict both within Government, but also with the private sector (KEPSA/KAM), on the goals, direction and pace of regional integration.

3.5 Conclusion

While the EAC on the basis of the depth of the regional integration agenda constitutes the natural REC on which Kenya can and should anchor its regional integration agenda; the different RECs in which Kenya participates provide unique anchors for the realisation of Vision 2030 and beyond. EAC in 2011 accounted for over 55% of Kenyan exports into the African region while COMESA accounted for 35%. Besides, some of the lucrative markets include Congo DRC, Sudan, Ethiopia and Somalia. The cross border investment opportunities have provided job placements for Kenyan professionals. Regionalisation of energy access has opened up new sources of energy from Ethiopia, South Africa including potentials from Congo among others.

In this regard, Kenya's regional integration strategy shall leverage the country's strengths while managing the threats while containing weaknesses to take advantage of the emerging regional opportunities arising from its strategic geographical location as a gateway to the wider regional markets, human resource competences, political stability and a relatively diversified export base.

CHAPTER 4

4.0 KENYA's REGIONAL INTEGRATION STRATEGY

This chapter covers the guiding key principles that will enable Kenya attain a strategic leadership position in the region as well a foothold in the world at large. Building on the state of play and SWOT analysis in chapters two and three, this chapter also presents the elements of Kenya's regional integration strategy.

4.1 Principles

Kenya's interests in regional integration are multi-faceted. For this reason, the regional integration strategy must be guided by certain principles. This section therefore provides key principles to guide the regional integration strategy.

4.1.1 Market Access for Economic Advancement and Development

Kenya's interests at the regional level are and shall continue to be driven by the quest to expand market access and investment opportunities. This will be achieved through implementation of regional agreements, protocols and other decisions taken on the implementation of projects and programmes under regional integration that will improve Kenya's competitiveness in the region while maintaining its traditional core principles and norms of non-alignment, non-interference in internal affairs of other states, good neighbourliness, peaceful settlement of disputes and adherence to the charters of the UN and African Union, .

Kenya shall thus seek advantages in neighbouring territories[5] within the ongoing CES tripartite negotiations, including access to raw materials, markets and trade routes that it cannot achieve through ordinary diplomacy. This will be done via 'spheres of influence' especially with respect to the following:

i) Promoting joint economic development corridors with its neighbours as a means to

   a) secure infrastructure development and energy supply;

   b) facilitate trade;

   c) guaranteeing food security;

   d) utilization and management of shared water resources, and,

   e) joint resource mobilization;

[5] Kenya though a member of COMESA, it cannot participate in the latter's Customs Union. However, the ongoing negotiations under the CES grand FTA will offer the opportunity to rationalize the COMESA-EAC-SADC trade regimes and help countries harmonise their commitments in situations of multiple memberships.

ii) Promoting and protecting of Kenya's investments within the region in manufacturing, agricultural production and agro-processing, livestock, tourism, education and pharmaceuticals, etc;

iii) Securing destination for Kenya's expertise in various fields including education, tourism and medicines;

iv) Ensuring full implementation of the agreed/signed bilateral arrangements among African countries.

Beyond the aforementioned will be a myriad of objectives that the government will espouse including: supporting friends and allies, promoting human rights, environmental regulations, the development of international institutions, values and regulations, schemes for regional integration and security collaboration.

4.1.2 National Security and Sovereignty

In the context of the globalising environment, security issues are trans-boundary. Nevertheless, national interest should always form part and parcel of regional integration activities. This entails the use of economic, diplomatic and political power projection in such a way as to maintain the survival of the Kenyan state while pursuing regional integration activities. This is particularly the case given the plethora of 'new' security threats including terrorism, inflows of illegal migrants and refugees, international crime syndicates, illicit small and light arms trade, money laundering schemes, narcotics trafficking, environmental degradation, the spread of communicable diseases and trans-border crime.

The preservation of national integrity and sovereignty within secure borders shall therefore be one way of advancing national interests. Thus, Kenya's quest for regional and continental stability via peacemaking, building, keeping and enforcement shall be a key guiding principal. In this regard, matters of terrorism, piracy and human trafficking will be addressed within both regional and international conventions. This is well demonstrated through the combined AU and international efforts in securing peace in S. Sudan and the routing out of the *Al Shabaab* out of Kismayu. Security in this sense will be an encompassing condition in which the Kenyan individual citizens shall be guaranteed to live in freedom, peace and safety. Further, Kenya will leverage the diversified regional culture and its worth ethics for the mutual benefit of the region.

This vision of Africa at peace with itself and the world also finds expression in the policy documents of the AU and the New Partnership for Africa's Development (NEPAD) of which Kenya was a chief architect. Sustained greater market access shall be assured through regional peace and stability.

4.1.3 Solidarity and Mutual Benefit

Kenya subscribes to the principle of solidarity- a fundamental principle based on sharing both the prosperity and the burdens equally and justly among members of the RECs that Kenya is a

member of. This solidarity has implications for the various rights concerned with employment, industrial relations and social protection in the Charters of the RECs/RIGs that Kenya is a member of. Implementation of the solidarity principle will help in building a bridge between social and economic rights and justifiable civil and political rights such as trade union freedom of association, information and consultation, collective bargaining and collective action.

The principle of Mutual Benefit implies regional integration should not be seen in terms of competitiveness or a process for Kenya to negotiate and manipulate systems to get a better deal than its neighbours in the region. In this respect, Kenya shall continue to embrace an integrative negotiation process where countries develop a framework for mutual benefit and where all partner states would have a win-win situation. Towards this end future negotiations shall be underpinned by the EAC REC.

This will ensure that the region benefits from economies of scale not just in economic terms but also in political and diplomatic power both within Africa and at international forums. This implies that the kind of integration that Kenya has adopted is not just about improving its competiveness but also would involve it surrendering a portion of its sovereignty in order for it to benefit from partnership with its neighbours in the EAC and COMESA which are bigger and stronger economic environments.

Beyond the aforementioned will be a myriad of objectives that the government will espouse including: supporting friends and allies, promoting human rights and values, environmental regulations, the development of international institutions, regulations, schemes for regional integration and security collaboration.

4.1.4 Compliance with International Requirements

In addition to universally acceptable principles of good governance, democracy, the rule of law; Kenya's regional integration strategy and its implementation plan shall conform to international market requirements including standards and business best practices. In particular, there will be need to leverage the WTO enabling provisions on RTA and SDT to take full advantage of market access opportunities within the regional and bilateral integration frameworks.

4.1.5 Wide Stakeholder Involvement

In order to entrench ownership of regional integration initiatives, wide stakeholder engagement through structured consultative processes shall underpin the regional integration agenda. The stakeholder's shall be drawn from the national level, counties, regional parliaments, civil society and private sectors. Stakeholders will continue to be involved in planning, and implementation, to provide feedback on perceived effectiveness and needed course adjustments in light of stakeholders. The wide stakeholder consultation will facilitate formulation of national positions that are in the nation's best interest and that is sustainable. The consultations further take on board diverse views to bring out, manage, respond and possibly alleviate concerns while avoiding abuse by powerful lobby groups and needs to involve the less powerful in society.

With the current technological advancements of instant communication, consumers have to be sensitised on global trends shaping consumer tastes. This may also create a window for the consumers to voice their concerns with regard to the operational business environment, quality and process of goods and services. In the end, all products and services are produced for the end consumers. Trade is not done simply for being able to export, but also to import cheaper.

4.2 Elements of Kenya's Regional Integration Strategy

This section identifies the key strategic issues that Kenya needs to address in order to further mainstream regional integration in the country's development agenda.

4.2.1 Institutional Framework for Coordination and Collaboration

As documented in earlier chapters, Kenya's multiple and overlapping membership in various RECs has created a complicated web of competing committees domiciled in different ministries, which in effect undermine the coherence of the integration process. The duplication of programs has often led to more time being spent in meetings and negotiations and double use of human resources. All these are costly and inefficient for both the government and the private sector.

In order to address this matter, the following institutional structure for coordinating regional integration activities is proposed:

4.2.1.1 Domiciling Regional Integration Function in a Single Ministry

In order to improve coordination and hence coherence, the Kenya government will create a ministry that will deal with the implementation of programs and projects of EAC, COMESA, IGAD and other RECs. This will be done within the context of the new constitutional dispensation that limits ministries to betwen14 and 22.

One of these ministries can be formed out of the current ministries of trade, industry and the EAC and be called the *Ministry for Regional Integration*. Its main role will be to promote and enlarge Kenya's economic interests region in economic growth, trade and investments within the region. Alternatively, the Ministries of trade, industry, foreign affairs and the EAC may have to be combined into a single ministry, which may be named the *Ministry of Foreign Affairs and Regional Integration*.

Consistent with its constitutionally mandated responsibilities on foreign trade, the Ministry of Foreign Affairs & Regional Integration will exist to promote and protect the interest of Kenya and its citizens abroad and to enhance Kenya's security and prosperity through, among others:

i) Promoting friendly relations and economic Integration between Kenya and other countries and enhancing Kenya's image abroad;

ii) Promoting Kenyan exports, tourism potential, attracting foreign investment and enhancing scientific, technological and cultural links between Kenya and other States;

iii) Providing economic, political and security information and advice to Government.

4.2.1.2 Establishment of the Office of the Chief Trade Negotiator (CTN)

Kenya's trade policy is aimed at creating market access regionally and internationally. In this respect, Kenya shall establish an office of the Chief Trade Negotiator (CTN) under either the ministry in charge of regional integration or foreign affairs. Its main responsibility will be to develop and coordinate Kenya's regional and international trade and investment policy in addition to overseeing negotiations with other countries. The CTN will be headed by a Principal Secretary who will serve as the principal trade advisor, negotiator, and spokesperson on trade issues.

The CTN shall coordinate trade policy, resolve disagreements, and frame issues for government and parliamentary decision. He shall provide trade policy leadership and negotiating expertise in its major areas of responsibility, including: bilateral, regional and multilateral trade and investment issues and expansion of market access for Kenyan goods and services. The CTN shall work hand-in-hand with the ministry responsible for regional integration function as well as Kenya's parliament, including through frequent consultations with Members and staff of the House Committee on regional integration committee.

The CTN shall have a strong provate sector representation in order to formulate negotiating positions supportive of continued private sector investments.

4.2.1.3 Oversight role of Office of the President

Coordination is the means through which coherence is pursued and achieved. Thus, whereas, each of our ministries and agencies will be directed by their respective mandates, it is as important that the whole-of-government attains requisite coherence in terms of consistency of policies and actions by the different government agencies in respect of regional integration matters.

The Office of the President shall therefore perform the role of coordinator and supervisor of government affairs including regional integration activities. The office of the president will manage critical interdependencies within government and, in particular, allow for the development of an overarching national strategic framework for regional integration.

In order to comply with the constitutional requirement, the Oversight role from the Office of the President has to be institutionalized to facilitate the Presidents annual briefing to Parliament. This can be effected through the Cabinet sub-committee on regional integration under NESC.

The Office of the president, will work to design a Monitoring and evaluating (M&E) framework on regional integration activities by government and provide feedback for improving decision-making and negotiations with members of RECs. The M&E will take into account the development strategies of the various RECs that Kenya is a member of.

4.2.1.4 Institutionalize the Parliament's Legislative and Oversight role in RI

As stated earlier, the Kenyan Executive arm of government has often assumed ownership of treaty obligations. The result is that the regional integration process has remained purely a government-to-government affair and thus not carrying the people or their elected representatives along. The ownership of the integration process by the people is therefore lost.

In order to strengthen the role of Kenya's Parliament on regional integration matters, it is proposed that the *Ratification of Treaties Bill, 2012* currently before parliament be revised in such a way as to entrench the legislative and oversight roles of Parliament on regional integration affairs. This will entail undertaking the following:

i) Creation of a Regional Integration Affairs Committee in the Kenya Parliament

The functions of the committee shall be to:

a) Enhance the role and involvement of the House in intensification and development of the integration process in the East African Community and the greater African region;

b) Manage and coordinate regional integration affairs i.e. inter- and intra-government engagement on regional integration;

c) Inquire into and examine any other matter relating to regional integration generally requiring action by the National Parliament;

d) Report and make recommendations to the House on any of the matters examined or considered by the Committee;

e) Monitor the records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly;

f) Examine the Bills introduced in the East African Legislative Assembly and Acts of the East African Community to ascertain content and context of regional integration;

g) Examine the records of all the relevant debates and resolutions of the meetings of the Pan African Parliament, the African, Caribbean and Pacific–European Union Joint Parliamentary Assembly and other regional integration bodies.

ii) Revise the Standing Orders of the Kenya Parliament

The revision of the standing orders of the Kenya Parliament will:

a) Facilitate interface between national and regional Parliamentarians – i.e. Kenya's MPs in EALA and representatives in regional bodies to institutionally interact with the regional affairs committee;

b) Create a framework for members of the National Assembly to directly access and contribute to bills before the EALA, especially through a special consideration and through the regional integration Committee of the National Assembly. This will assist in the fulfillment of the provisions of Article49 (2)(a) of the Treaty for the Establishment of the East African Community as signed on 30th November 1999; This will however require EAC Partner States to take a common resolution for national Parliaments to make contributions on bills on the floor of EALA.

c) Establish a permanent instrument of political cooperation between parliamentarians from both the regional Parliament and National Parliament to deal with important issues affecting parliaments in the process of regional policy-making and institution-building;

d) Create a seamless interface between the Kenya Parliament and regional bodies by allowing Kenyan Members of the East African Legislative Assembly (EALA) to participate in proceedings of the National Assembly of the Kenya Parliament, especially those of the Committee specifically tasked to oversee regional integration;

e) Build and strengthen the institutional capacity of the Kenya Parliament through capacity building for Parliamentarians and staff on regional integration issues, strengthening the oversight powers of Parliament and creation of a cost effective regional integration e-resource base for the Parliament;

f) Institutionalize regional integration requirements and commitments in the Senate and County governments to avoid unnecessary litigations arising from national commitments at national level;

g) Lead to enactment of a law that institutionalize the legitimacy of Kenya's representation to elective regional bodies;

h) Increase information access through:

- Development of an e-resource unit on regional integration in the Kenya Parliament linked to the ministry in charge of regional integration ;
- Creation of a regional integration policy/legislative e-resource base for MPs akin to the EP's IPEX (Inter-parliamentary EU Information Exchange).

i) Creation of a cost effective regional integration e-resource base for the Parliament in order to build capacity on matters of regional integration;

j) Lead to benchmarking against international best practice in jurisdiction such as the Commonwealth and the European Parliament.

4.2.1.5 Enhancing Non-State Actors (NSA) Stakeholder Participation

Promoting stakeholder dialogue engagement on regional integration is paramount as it offers one of the most important mechanisms for improving the policy and regulatory framework. Stakeholder dialogues are particularly useful mechanisms in the process of drafting laws and regulations to ensure that they are conducive to a good business climate. Further dialogue would also generate good feed-back on programme outcomes.

Against this background, efforts will made to broaden representation of the NSA in the regional integration structures and institutionalize the legal status of NSA in regional integration-to ensure structured engagement. The following will therefore be undertaken:

a) Support institutional capacity strengthening to the civil society through, for instance, the East Africa Civil Society Forum (EACSOF) in order to enhance effective participation of the civil sector in the regional integration processes.

b) Establish a database for NSA that will act as a virtual interative platform for networking and information sharing. Maintaining data bases of NSAs would be more useful if they clustered around the corresponding sectors of competences as follows:
   - Social and economic players – e.g. consumer organizations;
   - NGOs – including Environmental Organisations, Human Rights organizations, Charities, Educational and Training Institutions;
   - CBOs – Youth/Women/Family – all of which are crucial structures for participation in local and County life;
   - Religious Communities;
   - Labour market players – trade unions/employer federations – also known as social Partners.

c) Establish partnerships and networks to strengthen dialogue mechanisms –through appropriate clusters;

d) Seek out alternate initiatives for resourcing of the CSOs;

e) Strengthen documentation competences;

f) Adopt hybrid and adaptive method of representation to maximize on dialogue while taking into account professionalism in the representations and managed by government department;

g) Wider and institutionalised participation of Youth Volunteer Corps in both the public sector and business community as a way of preparing them to leverage opportunities in the regional markets.

By increasing communication between the private and public sectors, bottlenecks can be more easily identified and joint solutions found. The government will, in this respect, work with development partners, to establish dialogue platforms on key issues affecting trade such as;

a) non –tariff barriers along the key transport corridors;

b) harmonization of labour and employment laws;
c) mutual recognition, and the harmonization of pension and social security for increased mobility of labour and professionals across the region .

4.2.1.6 Deepening Economic & Commercial Diplomacy

In order to deal with the problem of shrinking exports, Kenya will employ economic and commercial diplomacy that defines the country's collective framework, as guided by international foreign trade laws, protocols, treaties and agreements, for increased expansion and consolidation of exports and investments beyond national borders and in close collaboration with the private sector. The main objective of Kenya's economic and commercial diplomacy is to use carefully crafted strategies, political influence and networks to promote the country's economic and commercial interests in regional and international markets. These include:

- Affirmative export promotion strategies;
- Attracting foreign investments; enabling private sector participation;
- Strengthening of the manufacturing sector and supporting international ambitions of Kenya companies; coherent and synchronized foreign trade policies and programmes;
- Availability of an all-purpose vehicle and legal instruments that support the promotion of international cooperation; and
- Adaptation of global best practices particularly from jurisdictions that have successfully used economic and commercial diplomacy to turn around their economies using available institutional and organizational models.

While it is essential to reduce operational costs of Kenya's missions abroad, it is of critical importance that Kenya strengthens and expands its diplomatic presence within the region and abroad, and focuses more sharply on increasing bilateral investment. In this respect, Kenya will employ all available political tools, including lobbying and diplomatic demarches to secure Kenya's interest of ensuring compliance by Partner States in the various RECs. In particular, Kenya's High Commissions and Embassies in Partner States will in addition to being staffed with staff with economic and business grounding, be used to provide the Government with key information about what is happening 'on the ground' in regional Partner States markets in relation to compliance with commitments, including the passage of key legislation of various RECs. The embassies will also monitor global events to facilitate Kenya respond accordingly.

4.2.1.7 Underpin Regional Integration on EAC Framework

Future Kenya's international commitments shall be underpinned by EAC RI. This is more so given the regional aspirations of ultimately entering a political federation.

4.2.2 Peace, Security and Trans-boundary Resource Management

All the RECs/RIGS that Kenya is a member of have peace and security as the pre-requisites to social and economic development within the respective Community and vital to the achievement of the objectives of the Community. In this regard, Kenya will continue to foster and maintain an atmosphere that is conducive to peace and security through co-operation and consultations on issues pertaining to peace and security of the Partner States with a view to prevention, better management and resolution of disputes and conflicts between Kenya and them or between regions in Kenya. Kenya will particularly engage in the following:

4.2.2.1 Regional Peace Keeping

Kenya shall continue to encourage Partner States to establish common mechanisms for the management of refugees as well as enhance co-operation in the handling of cross border crime, provision of mutual assistance in criminal matters including the arrest and repatriation of fugitive offenders and the exchange of information on national mechanisms for combating criminal activities. To this end, Kenya shall lead Partner States in adopting the following measures for maintaining and promoting security in their territories to:

i) Enhance the exchange of criminal intelligence and other security information between the Partner States' central criminal intelligence information centres;
ii) Enhance joint operations such as hot pursuit of criminals and joint patrols to promote border security;
iii) Establish common communication facilities for border security;
iv) Adopt the United Nations model law on mutual assistance on criminal matters;
v) Conclude EAC Protocol on Combating Illicit Drug Trafficking;
vi) Enhance the exchange of visits by security authorities;
vii) Exchange training programs for security personnel;
viii) Establish common mechanisms for the management of refugees.

The achievement of Kenya's development goals, to a very large extent, depends on the stability of its neighbours. To realize this, Kenya, will through the Ministry of Foreign Affairs, undertake the following diplomatic initiatives with a view to fostering regional peace and stability:

i) Promotion of peaceful means of conflict resolution;
ii) Creation of regional capacity to support peace process through training by the Foreign Service Institute;
iii) Working with other African countries to strengthen the conflict prevention capacity of regional institution like EAC, IGAD, COMESA and the African Union;

iv) Support for peace initiatives by the African Union and the United Nations through contribution of troops and provide leadership in peace keeping missions;
v) Mobilization of support and resources for peace consolidation and development in African countries emerging from conflicts.

4.2.2.2 Combating Terrorism

Combating terrorism is also high on the agenda of the IGAD member states, and the IGAD Heads of State and Government meeting at the 9th Summit in Khartoum in January 2002 passed a Resolution on Regional Cooperation to Combat Terrorism.

Towards this end, Kenya will move fast to enact relevant regulations to facilitate the implementation of the Prevention *of Terrorism Act, 2012* that has just been assented to by the H.E. President Mwai Kibaki. Persons who engage in terrorism[6] or help terrorists now risk life in jail or up to 30 years imprisonment without the option of a fine. Under the new law, those convicted for assisting in the commission of terrorists' acts or found in possession of property intended for the commission of terrorist acts can be jailed for up to 20 years.

The Act also provides stiff penalties for membership to terrorist groups, and recruiting, training and directing of terrorist groups and persons. The Act also amends two extradition laws, making it legal to send terror suspects abroad for trial. The illegal rendition of suspects has been a major bone of contention with human rights activists in the past.

4.2.2.3 Food Security and Sustainable Livelihoods

Kenya has and shall continue to take concerted measures to foster co-operation in the:

- joint and efficient management and sustainable utilization of natural resources within the region;
- improved water resources management;
- environmental conservation and mitigation of effects of climate;
- promotion of agricultural productivity and value addition for increased and sustainable food security; and
- improvement of meteorological services in the region.

4.2.2.3.1 Food Security

Kenya has and shall continue in the promotion of agricultural productivity and value addition for increased and sustainable food security in the region. In addition to promoting cross border food

[6] *Kenyans have been victims of terrorism for decades, with major attacks in 1975, 1980, 1998 and 2002. The first bombs to strike independent Kenya exploded in 1975 in the then famous Starlight nightclub and the OTC bus station, both in Nairobi. The 1998 attack on the American embassy remains the deadliest. The last year has seen many smaller attacks courtesy of Somalia's Al Shabaab and their Kenyan sympathisers. Police have, however, had a hard time proving accomplices of known terrorists are involved.*

trade, Kenya shall also prioritize technology adoption including biotechnology in production, preservation and distribution; water harvesting for irrigation agriculture, and subscribing to international conventions.

As part of the rural development, the government has put in place the *Agriculture Sector Development Strategy (ASDS)-2010-2020,* aimed at addressing food security, poverty reduction, commercialization of agriculture, efficient input markets, taking into account regional and international initiatives including CAADP and MDGs. The ACTESA strategy 2015 is aligned to the COMESA Medium Term Strategic Plan (MTSP) ACTESA.

Kenya shall fast track the adoption of dry-land agricultural research and technology (DART) to combat the severe and recurrent droughts that hit the region with a view to enhancing food security especially in the dryer parts. This will entail promoting sustainable production of drought tolerant high yielding crop varieties through research and extension, and water harvesting techniques.

Kenya shall also move quickly to embrace Dry-Land Technology Transfer(DART) program of IGAD that provides capacity building for the ASALs agricultural research and extension, dry-land technology transfer and linkages among dry-land research institutions to enhance food security in the dryer parts of the IGAD region through cooperation, integration and exchange of technologies and information on production. Kenya shall provide maximum support to IGAD's Climate Prediction and Application Centre (ICPAC) based in Nairobi.

Ethiopia's growing agricultural productivity, particularly in its Southern region, has immense potential in enhancing Kenya's food security particularly given that most of the fertile lands are spread along the borderline and of which only 12% of the arable land is already under productive use. Kenya will therefore propose to Ethiopia, Special Status Arrangements (SSA) for Kenyan investors to invest in large scale agriculture involving massive production of food such as maize, cereals, fruits, vegetables, livestock and other agricultural products for the Kenyan market.

However, in order to develop the joint economic corridor, Kenya should support the establishment of credit line in banking and value addition agro-processing in the production areas which will also reduce costs of transport while encouraging transfer of technology and creation of employment, thus fulfilling Ethiopia's strategic interests. Through the SSA, Kenya will therefore propose the following;

i) Joint management and utilization of shared water resources particularly the Omo River and Daua River Basins;

ii) Collective measures for development of sustainable livelihoods for the border communities. The utilization of the shared water resources to boost food security and support alternative livelihoods for the nomadic populations in Northern Kenya is of particular national strategic

interests to Kenya. The proposed Lake Turkana Basin Integrated Development Programme (LTBIDP) is a case in point.

iii) Harmonization of development policies for key economic activities in Southern Ethiopia and Northern Kenya including agriculture, livestock and animal health management;

iv) Joint investments in developing the livestock sector through establishment of: Joint livestock markets, Leather factories and tanneries, Abattoirs and Meat processing facilities and Commodities exchange.

4.2.2.3.2 Sustainable Resource Management

Natural resources are trans-boundary in nature. Sustainable utilization requires co-operation in the joint and efficient management. In this regard, harmonization of environment policies and awareness campaigns and adherence to international conventions is a prerequisite to national level natural resource management. Kenya will, in this respect, continue to leverage the provisions of NEMA Act and the ,NBSAP Policy,2000, on *Sustainable management of natural and mineral Resources* addressing the fundamental concerns of biodiversity management such as agricultural biodiversity and research and best practices in biodiversity management.

Kenya is endowed with a wealth of natural resources, and yet it is ranked as one of the low income countries in Africa especially in respect of mineral resources..Kenya has significant of minerals such as; soda ash, Fluorspar, Titanium, Gold, Coal, Iron ore, Manganese ore, Diatomite, Vermiculite, Gypsum, Natural carbon dioxide, gemstones and oil. Yet all these minerals together with quarrying constitute less than one percent of GDP.

Geological surveys in the 1970s suggested Kenya had none of the mineral potential of neighbours such as gold-rich Tanzania, while mining legislation dates back to the 1940s, before the country's independence. The few minerals being mined in Kenya such gemstones, soda ash and fluorspar constitute less than one percent of GDP. Yet Kenya's mineral wealth potential is known to be high.

Against this background, efforts will be made to undertake a nationwide airborne geophysical survey to map sites with potential minerals and thus push Kenya to become one of the leading mining countries in the world. Efforts will also be made to put in place a robust framework to ensure resource spoils are prudently managed and equitably distributed. This will make Kenya avoid the risks of falling under the "resource curse" owing to influx of hard currency that is likely to make exports uncompetitive and exacerbate corruption. Thus, in order to avoid being caught off-guard when the time comes for big production, Kenya will with the assistance of development partners such as the ADB adopt best practices in natural resource management. Efforts will also be made to fast track the enactment of a new mineral legislation.

Mainstreaming climate change into agriculture and environment and developing national adaptation programs and adherence to international conventions are therefore important for sustained growth and development. As a consequence, a number EAC and COMESA members including Kenya have developed an adaptation and mitigation strategy to integrate climate information, adaptation and mitigation issues into government Policy to mitigate the effects of climate change and programs of Action in order to cushion the productive sectors against the impacts of climate change. These include Vision 2030 flagship projects covering conservation and protection of management of water catchment areas; conservation of wildlife corridors, pollution and solid waste management and land use mapping initiatives.

The regional integration efforts currently underway could be extended to the mining sector to create a distinctive competitive advantage for the region. Towards this end, Kenya shall rally Policy makers to develop a legal and policy framework that is common to member states of the EAC, COMESA and, the larger Tri Partite Free Trade Area (EAC, COMESA and SADC). This could include incentive schemes on the export and movement, within these regional economic groups, of mining equipment and the development of infrastructure corridors. Additionally, Kenya wills fast track the undertaking of an airborne geophysical survey to establish the potential for Kenya's mining sector.

Kenya's other natural resources such as forests, wetlands, dry-land, aquatic and marine resources are under stress and stimulated by a variety of forces. Population pressure, deforestation, coastal modification, ongoing degradation of eco-systems as well as unsustainable use and poor governance of these resources threaten vulnerable habitats and biodiversity and, for a large proportion of Kenyans, livelihoods and long-term food security.

Against this background, the Government of Kenya shall designed policies and institutional frameworks to address environmental management and thus improve economic growth and reduce poverty. Regional integration programs will thus include programs on conservation of natural resources, pollution and waste management, high-risk disaster zone management, environmental planning and governance, and climate change adaptation

4.2.3 Cross-Border Connectivity and Regional Infrastructure Development

Cross-border infrastructure such as transport, energy, and telecommunications are essential to move goods, services, people, and information across borders and can reduce high penalties currently imposed on Kenya's competitiveness. Such linkages also expand market access; reduce economic distance; and facilitate trade, investment and labour mobility. The resulting intensification of cross-border economic activities can help to generate employment, particularly in labour-intensive sectors, thereby providing additional opportunities to the poor. This will be achieved through improved cross-border physical connectivity thus enlarging regional markets in

addition to promoting economic diversification besides reducing costs of transport, energy, and communications. Improvements in roads and railways can reduce transport and logistics costs.

The priority infrastructure interventions are drawn from respective REC (EAC, COMESA, and AU) infrastructure master plans. These will be complemented with related software that includes harmonization of regulations, procedures, and standards to remove any barriers to trade. Developing financial infrastructures also can increase capital mobility in a neighbourhood, which is vital when national finance al systems are small and lack instruments and systems for cross-border transactions. Below is a summary of infrastructure interventions that Kenya shall undertake in order to deepen its gains from regional integration:

4.2.3.1 Ports

The priority interventions shall target the ports of Mombasa and Lamu. Reliable and cheap connectivity to Kenya's ports of Lamu and Mombasa is critical to the exploitation of the inherent economic potentials of agriculture and natural resources in the region. .

The required interventions at the port of Mombasa include modernization to improve on efficiency and reduce dwelling time, enhance IT connectivity to trade facilitating institutions and rationalise the number players at the port through the adoption of a single window system for efficient customs service delivery.

Complementary initiatives include multimodal transport connectivity from the port to the northern corridor to ease congestion. Other priority interventions in marine transport include modernizing shipping and inland waterways transport and container depots in Nairobi, Kisumu and Eldoret to decongest road transport.

4.2.3.2 Roads

With transport costs accounting for the highest share of the shelf price of processed food stuffs, efficient road transport infrastructure enhances competitiveness of originating and transiting goods for the benefit of the economy. Efficient road infrastructure accelerates the movement of goods and people and reduces related transport costs. The priority intentions in the roads sector include:

i) Dueling of the northern corridor and connection of Mombasa mainland to the South Coast;

ii) Expediting the completion of the LAPSSET project to open up new markets in Ethiopia, S. Sudan and added connectivity with the northern corridor as well as access to new economic activities (tourism, minerals-oil, coal, iron ore, , industry, agricultural products, etc);

iii) Competing the missing links connecting to the northern corridor;

iv) Decongesting the urban centres by completion of the three by-passes in Nairobi (Northern, Eastern and Southern) and Mombasa by-pass connecting the mainland with South Coast at the Likoni Ferry, the new container terminal as well as necessary infrastructure for the development of the free port;

v) Other by-passes include connections from Miritini Township in Changamwe mainland, Likoni-Diani and the Mombasa-Nairobi highways and Malindi-Mombasa-Lunga Lunga Road running along the East African coastline and links with Tanzania to improve the transport linkage that has a rich tourism and agricultural (horticultural) potential;

vi) Strengthening maintenance of existing road structures.

4.2.3.3 Railways

Rail service, while improving is still unreliable service especially at transfer points and locomotive exchange points. The current metre-gauge railway lines being used in East Africa has become obsolete resulting in high operation costs and minimal returns for business men. This has also put a strain on roads as traders opt for trucks to move their cargo.

In order to address this problem, efforts will be made to fast track the construction of a new standard railway lines within the LAPPSET. These will include two SG railway lines running from the coastal town of Lamu to Juba and Addis Ababa. One of the railway lines will connect the northern border town of Garissa with the Ethiopian capital while the other will connect Lamu to Juba through Garissa.

Current efforts by Kenya and Uganda relating to the joint negotiations with development partners to fund the construction of a new standard gauge railway will be stepped up replacing the existing line build in 1901. The new rail line will facilitate the shifting of traffic from roads to high-speed trains that are more efficient in the movement of goods from Mombasa port to several destinations across the country as well neighboring nations. Once completed, the new line would take up about 70 per cent of the total cargo being moved by railway. The rest of the cargo would be moved through the current line that is jointly operated by the Kenya Railways Corporation (KRC) and Rift Valley Railways (RVR), which is refurbishing the railway line from Mombasa to Nairobi.

Transport accounts for close to 40 per cent of the total cost of doing business in Kenya according to the Kenya Ministry of Transport (GOK, 2011). A revamped railway will enhance overall efficiency of rail operations and increase quality and quantity of rolling stock. The upgrading of the railway will increase line speeds from the current 25 to 30 kilometres per hour to 70 kilometres per hour.

Thus, in order to cut down transport costs drastically, the key railway infrastructure interventions include:

i) Modernizing the existing railway network including construction of the missing links;

ii) Expediting the railway line along the LAPSSET project;

iii) Review Concessionaire agreements for future use in infrastructure development and operations.

4.2.3.4 Airports

Kenya's civil aviation is the fastest growing arm of Kenya's transport sector and it plays an increasingly important role in providing connectivity within Africa. The projections for both passenger and cargo traffic growth, coupled with the deficient and lagging airport and allied Infrastructure, calls for an urgent need to build and augment Kenya's Aviation Infrastructure.

In this respect, Kenya will need to, as a matter of urgency, have world-class gateway Airports providing aviation services and passenger/cargo facilities of global standards, in a safe and secure environment. The government will therefore put in place a program for directing investments in the Airport infrastructure – through both internal resource mobilizations, as well as through private sector participation in modernizing specific Airports. Substantial progress has been made in modernising, maintaining and expanding Mombasa Nairobi airport network.

Hitherto, several policy measures that would build world-class airport infrastructure in Kenya have been initiated. A Model Concession Agreement is being developed for standardizing and simplifying the PPP transactions for airports including existing ones in Nairobi, Kisumu and Mombasa.

Further investments in the air and telecommunication sectors with the associated facilitating frameworks and institutions will ease access and reduce costs, with the resultant positive effect on competitiveness. For faster movement of high value cargo and perishable products, reforms in air transport need to target:

- Implementation of open skies especially within and across the RECs;
- Enhancing anti-terrorism and safety arrangements;
- Expanding cargo handling capacities;
- Construction of cold storage infrastructure.

4.2.3.5 Energy

The economic difficulties being faced by Kenya are compounded by the continued high energy costs and severe shortages of energy supply. The textile industry, for instance, shed more than one half of its employees over the last few years, as many of the factories have relocated to

Egypt and other competing countries in the region. Other industries – and households -- are equally hurting from the high energy costs.

The private sector has been instrumental in meeting energy short falls in the short run. Some of the potential investors include a consortium of Dutch companies following up on the wind energy and the American firm, General Electric who have also expressed interest in wind energy and the World Bank/AfDB power interconnector between Kenya and Ethiopia. The energy projects include Wind power project in Turkana, additional investments in geothermal projects in Olkaria, and a host of other smaller power generators. This nevertheless does not cope with existing demand.

The energy situation is expected to worsen over the coming period as the growth in the country's installed capacity has not matched demand, mainly due to delays in implementing committed capacity projects, which are by their nature very capital intensive. The demand by Independent Power Producers (IPPs) for payment securities from Kenya's only utility company- the Kenya Power and Lighting Company (KPLC) in form of Letters of Credit covering a number of monthly payments for power deliveries has continued to contribute substantially to delays in implementation of planned projects.

Recent submissions received from some of the Investors are that they are unable to undertake projects at the set tariff regimes, citing increase in cost of generation equipment and financing. This is manifested by lack of sufficient number of Developers who are able to reach financial close for their projects. Yet it is not possible for Government Issue guarantees as it will compromise debt sustainability benchmarks.

Against this background, the Kenya government will work with the World Bank and other development partners to provide partial risk guarantees in order to raise private sector participation in energy generation. Within the context of the regional power pools Kenya shall also undertake the following:

i) Diversify energy sources to include green energy, wind and solar- in the northern frontier;
ii) Connectivity to regional power pools – priorities construction of transmission lines;
iii) Invest in the oil refinery to support processing of the regional oil resources;
iv) Modernize the existing oil pipeline in preparation to support the regions exports;

Construction of extensions of the pipeline to the land locked countries -to facilitate oil exports in the region and reduce pressure on the roads. Kenya is positioned on Africa's east coast, which could be a hub serving fast-growing Asian markets through its Mombasa port and the Lamu port, now in the initial stages of construction. Kenya and its neighbours in East Africa as well as the Horn of the continent have become a hot spot for oil and gas exploration in recent years, spurred by new finds.

Kenya has just announced its first oil discovery in the northern part of the country and is now checking on the commercial viability of the find. Ethiopia is also known to have oil deposits. In this respect, the Kenya should seek to achieve the following among the neighboring countries like Ethiopia, Uganda and South Sudan's:

- Development of a petrochemical complex corridor;
- Establishment of a petroleum engineering training facility in preparation for future oil exploration.

4.2.4 Trade Facilitation and Business Environment

In order to capture the potential benefits of increased market access opportunities generated by regional integration, Kenya needs competitive enterprises that are able to produce goods and services at a cost and quality required by the market. It also needs to have efficient mechanisms in place to ensure that these goods and services can reach regional markets within the time and cost required to stay competitive. Thus, Kenya shall combine measures to enhance the productive capacity of its enterprise sectors with measures to facilitate cross-border trade, thereby further reducing the cost of conducting regional trade.

To improve enterprise competitiveness, Kenya shall endeavour to create a business climate that allows companies to operate as efficiently as possible, thereby contributing to growth and employment generation, while at the same time ensuring sustainability in terms of the well-being of people and protection of the environment. In addition to competitive cost of production of quality products, a firm's competitiveness is also determined by its ability to bring these goods or services to markets at the lowest possible cost and within the required time. As such, transaction costs, in form of information and contracting costs (including control and enforcement costs); Financing costs; Transport costs and Administrative and procedural costs. Further, firm's competitiveness is also determined by selective markets and products. Against this background, Kenya shall strive to ensure that it creates a good business climate by undertaking the following:

4.2.4.1 Policy, Legal and Regulatory Environment

In order to strengthen the quality of the overall policy and regulatory framework, a fundamental determinants for trade, investment and economic growth, there will be need to align regulatory policies that enhance competition, support contract enforcement, protect property rights and reduce regulatory costs are other important measures to increase efficiency and innovation. Transparency can help to ensure that laws and regulations are applied in a coherent and fair manner. Consequently, the urgency to:

i) Fast track formulation of the legal and regulatory environment to eliminate NTBs;
ii) Benchmark changes in the business environment-e.g. e-commerce platforms;
iii) Streamline emergent issues in trade e.g. environment requirements; labour laws,
iv) Align immigration laws with common market commitments;
v) Apply technology platforms to enhance transparency and accountability;
vi) Alignment and harmonization of trade and investment regimes across the different RECs.

In order to harmonise national and regional policy and regulatory environment, there will be need to:

- Domesticate regional commitments- national plans (Vision 2030, MTPs);
- Manage multiple memberships thru liberalization in the TFTA (CES);
- Commit to Regional Convergence Benchmarks and timelines.

In addition, IT facilitated business operations, simplified customs procedures, compliance with standardized market requirements, financial sector reforms including cyber-laws, and protection of regional investments.

4.2.4.2 Strengthening ICT Infrastructure

ICT has and continues to play a leading role in stimulating Kenya's economy and that of other countries in the region. ICT can lift our economies, and provide smart, high-end jobs for the next generation. Given that a large percentage of the population within the region is unbanked, Kenya can leverage its mobile payments innovation to drive the economies of the region.

Additionally, there will be need to reduce trade information costs in order to lay the foundation for effective competition. These include information on markets and market requirements, governance related issues in particular those pertaining to maintaining peace and security. It is expected that such information sharing will create awareness of export services requirements to upscale the mobility of professional.

Supply-side information costs of exporting include market research and marketing expenditures, such as identifying potential markets and customers and contacting them. Reducing information and contracting costs typically requires policies that ensure a healthy level of competition in the telecommunication sector and improve access to ICT. Towards this end, efforts will be made to Integrate Kenya's ICT agenda into local and international communication including policy, political and diplomatic initiatives to promote Kenya's innovation including Konza Technology City.

Efforts will also be made to pursuit strategic partnerships with local, regional and international private sector in order to actualize the strengthening the ICT backbone infrastructure. This will facilitate/promote information sharing which is key to business and regional integration.

Besides reviewing contract laws and regulations, Kenya will, in collaboration with chambers of commerce and other private sector associations, also strengthen trade promotion organizations such as the Export Promotion Council (EPC) to as to reduce the costs associated with identifying and reaching foreign markets.

Furthermore, Kenya will support measures to harmonize at regional level and benchmarked to international best practice the facilitation of platforms for new economic activities and technology. This will facilitate Kenya to diversify its economic activities into the service sectors which hitherto received low attention.

Kenya shall also through the regional economic communities pursue policies and regulatory frameworks that facilitate cross border - private sector participation, encourage high technology applications, including policies that can track changing consumer tastes. This will call for financial reforms to deepen the financial product range and improve access to trade finance.

4.2.4.3 Maintaining Macroeconomic Stability

Kenya shall continue to implement prudent macroeconomic policies in order to provide a predictable overall climate for investment business decisions, thus lowering the risk of doing business. Reducing trade (export and import) financing costs requires the development of a national trade finance infrastructure able to provide access to a wide array of specialized trade finance and risk management services such as export credit insurance, hedging and forfeiting.

This will necessitate the establishment of specialized trade finance institutions such as export-import banks and export credit agencies can then be considered to further enhance access to trade finance tools and instruments. This will require strengthening and facilitating regional institutions- ATIA, PTA Bank, EADB, CASSOA, to provide the necessary intermediation. With further trade liberalisation, there will be need to build alternative revenue streams to move away from dependency on customs duties and prepare for eventual MU.

4.2.4.4 Leveraging on Complementary Service Providers within and Outside the Region

Technical market requirements in the market place facilitate both regional and global trade. Kenya can leverage a number of these specialized regional and international organisations, in accessing the requisite services of inspection and certification in order to benefit fully from regional integration.

More elaborate arrangements shall be put in place to leverage the expertise from development partners, other regional and international players on the policy analysis front include UNCTAD, UNIDO, WCO, WTO, UNECA, TRALAC, ESAMI supporting developing countries acquire adequate the requisite capacities. Key services are internationalized with global rules underpinning them. These include among others ICAO.

4.2.5 Integrating SMEs into Local, Regional and Global Value Chains

The business environment shall benefit from deliberate initiatives targeting diversification of products and markets, moving up the value chain in the traditional and new natural resource based products and services, integrating SMEs into local, regional value chains and management of the informal sector.

While acknowledging that SMEs are the backbone of the economies of the region and provide the greatest potential for people empowerment, wealth creation and employment particularly in agro-processing and agricultural and livestock sectors, Kenya should therefore propose the following;

a) Policy and programme coherence for affirmative promotion of SMEs

b) Build partnerships between SMEs of the member countries to share know-how, skills, technology and innovation for transformative growth;

c) Provide preferential access to affordable credit for start-up, expansion and growth of SMEs in strategic sectors within the economic development corridor;

d) Establishment of sub-contracting exchanges for SMEs;

e) Create joint incubation centres for SMEs within the economic development corridor;

f) Establishment of joint programmes for internship and attachments.

The potentials of the SME sector shall be exploited with consistent and targeted investments on infrastructure, energy, ICT, investment and business environment and productivity. Key interventions include continuous reforms of the business environment, identification of regional and global value chains for SME participation, and participation in international data bases. Others include structured dialogue between the public and private sectors, access to trade finance, further exploration to consolidate linkages to the export markets.

4.2.6 Human Resource Development

A key factor in reduction of costs is productivity. In addition to retooling of worker skills, effort will be made to promote modern technology production techniques. Human resource development is critical for the effective performance of the labour market; in the form of technical competences, coordination, management, negotiation capacity, and trade/investment facilitation.

To the extent that Kenya resource endowment lies in its people, substantial investments shall be required to attune the labour skills to the contemporary market requirements, technological driven and globally interdependent economies. This will entail strengthening Human Resource Competences for Programme Implementation and Export to Regional Markets.

Promotion of a research culture among both public and private sector employees will enhance analytical and negotiation competences, legal drafting and priority setting in the context of national interest. This will prepare the Kenyan youth to take advantage of the available regional and international market opportunities, in particular those from RECs in which Kenya is

participating. The implementation of the EAC CM expands employment opportunities outside Kenya. These will accreditation of higher education institutions.

The world economies are generally slowing down and experiencing employment contractions. However, the job market underpinned by technological developments is experiencing a paradigm shift to ICT platforms for enhanced connectivity of operators. Entrepreneurial skills in locating the niche in a globalized environment for the different national and global players and establishing the link thereof are becoming more critical in the global labour markets. There will also be the need in the context of the offer/request proposals at the WTO to target the elimination of the discriminatory labour laws in the north through reciprocity.

More important is to strategize on the preferential treatment of labour in the RECs in common market arrangements against those from the north. Further, there will be need to leverage the work ethics of the Chinese in order to transfer such skills to the citizens of the region. Building on the current realities where informal sector provides employment opportunities in Kenya, concerted effort should be taken to skill and retool employees for today's labour market. Consequently, the need to review the labour laws to ensure they conform to the policy scenarios of the day including entrenching affirmative action in consistence.

The level of education is of fundamental importance, not only for the development of society in general, but also for the development of enterprises. A higher educational level increases the possibility of further building capacities in managerial and technical skills, which is of crucial importance for the creation of competitive enterprises as well as for the possibility of attracting FDI. Notwithstanding the importance of both infrastructure and the general level of education, further discussion of these topics lies beyond the scope of this paper. It will also be prudent to staff the implementing agencies adequately to ensure timely action on all commitments that the country enters into.

Human capital is vital resource for Kenya. It is noted that the quality and diversity of the Kenya Diaspora presents a resource with huge untapped potential. In light of this, the ministry will expand its linkage with the Kenyan Diaspora and harness this resource by:

i) Facilitating its integration into the national agenda;
ii) Collaborating with Kenyan financial and other institutions for investment instruments and products that are customized for the Diaspora;
iii) Lobbying for employment opportunities overseas and in international organizations;
iv) Promoting the creation and structured management of Diaspora organizations ;
v) Sourcing scholarships from universities and tertiary institutions in foreign countries;
vi) Promoting more efficient and cost-effective transfers of remittances.

4.2.7 Special Agreements to Secure Kenyans Working Outside the Region

In order to take full advantage of the opportunities from the CM provisions, there is need to strengthen capacity building programmes for heightened:

- Skills development- e.g. provide scholarships to support training across the region
- Collaborations of capacity building institutions to upgrade competences in the region
- Technical support to the private sector
- Effective participation in the formulation of standards
- Contract/agreement formulation

Kenya stands to benefit by seeking to invest growing economies of the region such as Ethiopia's and in negotiating preferential investment terms in selected sectors. There are opportunities for Kenyan investors in the following sectors, in terms of provision of expertise/human skills and through investments;

- ✓ ICT and telecommunications;
- ✓ Banking and financial services;
- ✓ Tourism and hospitality;
- ✓ Medical fields;
- ✓ Agro-chemical and pharmaceuticals;
- ✓ Education, science and technology.

In order to open avenues for Kenya's investors Kenya will propose as a matter of priority a framework on:

i) Expeditious conclusion of Agreements on Promotion and Protection of Investments, Avoidance of Double Taxation, Customs Support Agreements as well as the Border Trade Protocol;

ii) Establishment of Joint ICT platforms and development of telecommunication support services including mobile banking.

iii) Establish a Joint Private Investment Council (JPIC) between the respective national investment agencies responsible for promotion of investments in the agreed sectors with emphasis on joint ventures in the designated economic development corridor.

4.2.8 Targeted Capacity and Training of Regional Integration Implementers

4.2.8.1 Trade Negotiation Skills

Kenya will undertake measures to support capacity building in trade negotiation skills. Adequate training on regional trade and integration issues will be undertaken every year. The training workshop will equip the delegates with proper understanding of the need to understand the previous agreements, the implementation implications, interplay between the old and the new agreements being negotiated as well as other obligations before undertaking or concluding new

ones. Member States need to obtain satisfactory terms for their trade with the emerging trade partners such as China, India and Brazil

4.2.8.2 Training Resource for MPs and Parliament Staff on Regional Integration

The capacity building programmes for the MPs and Parliament staff shall target institutional and human resource competences in research and information access. The specific programmes aim at:

i) increasing the capacity and effectiveness of Members of Parliament in their oversight work on regional integration activities;

ii) increasing the capacity and effectiveness of parliamentary staff in supporting and providing technical support for Members of Parliament in their oversight work on regional integration activities;

iii) Equipping parliamentary staff with tools to better assists MPs and parliamentary committees in their legislative and oversight roles;

iv) Testing the developed training material for phase two on the participants in order to get input on its relevance, usefulness and accessibility; the existence of information gaps; and on how to improve it in order to reflect their needs better.

4.2.8.3 Training Media Fraternity on Regional Integration issues

In order to sustain information dissemination to a wider audience, there will be need for regular sensitization of the media fraternity and other NSA on issues under negotiation and implementation. These will be complemented with capacity building of the related stakeholders on topical issues of national interest.

Towards this end, regular information sharing from research findings shall be in build into the regular consultation processes. There will be need to leverage the new constitution to invoke harmonious coexistence at national level. The sustenance of regional peace and security shall take into account collective regional and global responses to emergent destabilizing elements.

4.2.8.4 Training existing staff on the National regional Integration Strategy and Policy

Effective migration from the current disjointed structure of managing RI will require concerted efforts to change the mindsets of the implementers. Towards this end extensive capacity building and sensitization programmes have to be mounted at both the central and county governments.

4.2.8.5 Regular Staff Updates for regional integration implementing agencies

There should be refresher courses for staff managing RI programmes to ensure awareness on emergent issues while newer staff should be taken through in-depth sensitisation sessions. More importantly are the research and analytical competences through use of appropriate analytical models to ensure informed policy advice and negotiation positions.

4.2.9 Exploring Alternative Sources of Financing Infrastructure

4.2.9.1 Promoting Strategic Public Private Partnerships (PPPs)

Private sector is critical in the delivery of a number of critical transport and energy infrastructure projects that have already been prioritize. In this regard therefore, PPPs and concessioning for access to resources and technical expertise shall be employed where appropriate in infrastructure development. In other cases, particularly railway infrastructure, joint intergovernmental efforts bring to fruition such projects at a much faster rate.

The private sector is the main beneficiary of regional integration. To ensure integration of their interests, in particular those of expansion of supply capacities, strategic partnerships wing the public sector in country as well cross border partnerships shall be upheld. The legal and regulatory frameworks shall be reformed to strengthen partnerships within and outside the region and to entrench competitive culture among the Kenyan private sector.

Kenya will also pursue Partnerships in mobilizing technical, financial and productive capacities to take advantage of regional and global markets in its development initiatives. This is more applicable in today's fragmented production systems, and technology facilitates service delivery. Consequently, the government shall promote outreach promotions of moving up the value chains of the productive sectors of agriculture, tourism, environment, natural resources for sustainability. In this regard investment protection laws shall constitute the operational frameworks of the CM arrangements and any RTAs that may be concluded outside RECs.

4.2.9.2 The Public Sector Investment Programme (PSIP)

In line with the MTEP for Vision 2030, Kenya shall adopt a PSIP- a five-year rolling programme for guiding public investments especially those that promote regional integration. The PSIP will be a major step towards adopting a strategic and coherent approach for investment planning and financing in Kenya. It will be a useful instrument that will enable Government to translate the national economic vision and sectoral policies into distinct investment projects that are necessary to meet the infrastructure gap and ensure sustainable development in the context of the regional integration strategy.

The PSIP will cover the investment program of the General Government sector, the Statutory Bodies, State Owned Companies, the Local Authorities. It will be a rolling investment plan which will be reviewed on a quarterly basis against the strategic objectives of government taking into account, inter-alia, resource availability, state of preparedness of investment projects and

implementation capacity. The PSIP will be a major step towards adopting a strategic and coherent approach for investment planning and financing. It will also be a useful instrument that will enable Government to translate the national economic vision and sectoral policies into distinct investment projects that are necessary to meet the infrastructure gap and ensure sustainable development.

This program will be an integral part of the overall investment strategy of Government aimed at overcoming the supply side constraints through massive investment in physical infrastructure and creating the dynamics to achieve the growth target of 10 percent per annum. The presence of PSIP would provide a framework for planning and scheduling investment in line with long-term government objectives and short-term macroeconomic constraints. It will also act as a screening mechanism for verifying that projects to conform to government objectives and overarching policy and strategy.

4.2.9.3 *Communication* Strategy on Regional Integration

With the regional integration increasingly taking a central role in Kenya's economic activities, there will be need to keep all Kenyans informed. In this regard, there will be need to build on the EAC communication strategy under preparation.

CHAPTER FIVE

5.0 SECTORAL IMPLEMENTATION PLANS AND COORDINATION MECHANISMS

5.1 Introduction

The regional integration strategy for Kenya outlined in the preceding chapter seeks to ensure that all regional integration initiatives being pursued by Kenya are more effective and efficient and thus contribute to more towards Kenya's vision of becoming a middle-income country by 2030.

The successful implementation of the strategy will to a large extent be predicated on the existing capacity and proposed strategic interventions. To this end, the implementations plans underpin the success of the strategy.

It is important to underscore the fact that the environment within which the RIS will be implemented may change continuously. In some cases, RIS interventions may be overtaken by events due to initiatives that Member States and/or Cooperating Partners may have undertaken. In other cases, new or unforeseen circumstances may come to the fore. Maintaining the RIS focus, while allowing for flexibility and adaptability, poses a key challenge. The RIS needs to be seen as a "living" document that should be updated on a regular basis to keep it in line with prevailing reality.

5.2 Sectoral Implementation Plans

Strategic priority issues and actions of the strategic interventions have been highlighted in Annex 1. Concrete time bound and costed activities/programmes/projects will be developed and clearly spelt out in the sector specific MTPs, 2013-2017.

5.3 Monitoring and Evaluation Framework

The Monitoring and Evaluation system and institutional frameworks for the Kenya's RIS shall form the constituent part of NIMES. The M&E system will assess progress towards the agreed milestones; act as an early warning system in cases where targets seem unlikely to be achieved; and provide regular information to all stakeholders on the performance of implementation of the Development Strategy. The feedback from monitoring and evaluation will be used to ensure continuous sharpening and focusing of interventions at all stages of implementation of the development strategy.

Starting with the regional integration Activity Matrix, the sector ministries and agencies will develop a comprehensive M & E System for monthly, quarterly, semi-annual and annual reporting, as appropriate. Short periodicity monitoring, up to -annual reviews will be executed internally by the MDAs. Each MDA will establish M&E departments/units.

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
PART I – Institutional Framework for Coordination and Collaboration						
1.	Government wide approach to regional integration **I Integration in Vision 2030 development blueprint**	**a) Domiciling Regional Integration Function in a Single Ministry** i. Consolidating ministries coordinating trade issues in EAC, COMESA, WTO, ii. Sessional paper on regional integration iii. Informing new government structure after 2013 elections iv. Integrate RI issues into County governments	Sector MTPs and work plans County government reports on regional integration Sessional paper on regional integration Budgetary allocations Government structure and organisation	May 2013	Ministries of Trade, EAC, Industry, Planning, OP, Foreign Affairs National parliament State Law Office	To be determined in consultation with the line ministries and MDAs
		b) Establishment of the Office of the Chief Trade Negotiator (CTN) i. Formulation of negotiating positions	Chief Negotiators Office Hansard reports from Parliament	May 2013		

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		ii. Advise to President on international trade issues iii. Government spokes person				
		c) Institutionalizing the Oversight role of Office of the President i. NESC sub-Cabinet committee on regional integration ii. M&E framework for tracking foreign trade issues	OP reports to Parliament	May 2013	National and regional parliaments and the senate	
		d) Institutionalisation of Regional Integration Affairs in the Kenya Parliament, Senate and regional Parliaments i. Review of the Treaties Bill 2012 to integrate RI issues ii. Creation of a Regional Integration Affairs Committee in the Kenya Parliament iii. Revise the standing orders	Revised Parliamentary Standing Orders Senate reports	May 2013	National and regional parliaments and the senate	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		of the Kenya Parliament iv. Integrate RI into the senate				
		e) Diversifying NSA roles in regional integration i. Diversify range of stakeholder involvement at different levels ii. Establish mechanisms for stakeholder involvement iii. Extend support to existing NSA dialogue structures for wider involvement iv. Establish NSA databases for enhanced networking on topical issues v. Institutionalizing volunteer youth corps on RI matters vi. Explore alternative mechanisms for resourcing NSAs	Stakeholder reports NSA data bases and networks Alternative mechanisms for mobilising resources for NSAs	2013	Min responsible for RI, NSAs	
		f) Appointing Commercial representatives i. Revised foreign policy ii. Strengthen foreign diplomatic missions to attract investment and expand trade iii. Formulation of appropriate strategies for the different source and destination markets iv. Design of all-purpose	Government Policy for commercial representation Foreign Commercial representation strategy Trade and investment statistics	2014	Min responsible for RI and Foreign Affairs and Commercial representatives	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		vehicle and legal instruments that support the promotion of international cooperation v. Intelligence gathering in host markets				
2.	Peace, Security and Trans-boundary Resource Management					
	Strengthen Kenya's regional integration agenda for enhanced connectivity, economic development, social welfare and political stability	***a)Regional Peace Keeping*** i. Security information exchange ii. Establish common communication facilities for border security; iii. Adopt the United Nations model law on mutual assistance on criminal matters; iv. Conclude EAC Protocol on Combating Illicit Drug Trafficking; v. Enhance the exchange of visits by security authorities; vi. Exchange training programs for security personnel; vii. Establish common mechanisms for the management of	Peace keeping missions No of joint patrol missions Regional Policy on refugee management EAC Protocol on Combating Illicit Drug Trafficking Anti-terrorism laws Information exchange reports	2013-2017	Office of the President/Office of the Prime Minister	To be determined in consultation with the line ministries and MDAs

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		refugees				
		b) Food Security and Sustainable Livelihoods i. SSA with Ethiopia in cross border agriculture investments ii. Joint Kenya Ethiopia management Ormo water resources and other agricultural/livestock policy frameworks iii. Lake Turkana Basin Integrated Development	Cross border food Trade statistics Agriculture research reports on productivity Special status agreement with Ethiopia for Kenyan investors in large scale agriculture Water management agreement Joint cross border agriculture/livestock policy frameworks between Kenya/Ethiopia	2013-2017		

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		Programme (LTBIDP)	Diversified trade in agricultural products			
		c) Natural resource management i. Air borne geophysical survey to map potential minerals sites ii. Policy on benefit sharing with communities iii. Preparation of mineral policy iv. Mainstreaming climate change into agriculture and environmental management	Integrating regional and international commitments and frameworks into national environment policies Mineral resource policy and regulatory framework	May 2014		
	3. Regional Infrastructure Development					
	Support for Cross-Border Connectivity and Regional Infrastructure Development	a) Development of Transport corridors: • Ports- maintenance and expansion for handling increased trade • Roads-dueling northern corridor with Mombasa connectivity to South Coast and by-passes in • Rails- • Ports- upgrading Mombasa	LAPSSET including Lamu port Northern Corridor Reduced dwell time at the ports Dry land depots in Nairobi, Kisumu and Eldoret Transport regulations, procedures and standards	2012-2017	Ministries, Agencies and Departments in Finance, Roads, Transport and energy sectors and State Law Office	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		port, Lamu port and other inland waterways ports to expand cargo handling capacities				
		• Pipelines- for transportation of liquids and gas	Model Concessioning Agreement			
		• Airports expansion and upgrading to meet open sky policies				
		i. multi modal transport connectivity to reduce congestion	Simplified PPP transactions frameworks			
		ii. construction of new container terminal in Mombasa port, and upgrading those in Kisumu, Nairobi and Eldoret				
		iii. integrated harmonization of transport regulations, procedures, and standards to remove any barriers to trade				
		iv. Infrastructure resource mobilization instruments				
		v. Infrastructure management				

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		b) Telecommunications	Enhanded connectivity to the rural areas			
		c) Energy i. Negotiate Partial guarantees to energy investors with support of World Bank and AfDB ii. Diversify energy sources to include green energy, wind and solar- in the northern frontier; iii. Connectivity to regional power pools – priorities construction of transmission lines; iv. Invest in the oil refinery to support processing of the regional oil resources; v. Modernize the existing oil pipeline in preparation to support the regions exports vi. Oil and gas explorations vii. Establishment of a petroleum engineering training facility in preparation for future oil exploration	Partial Risk Guarantees Agreements Turkana wind project Olkaria Geothermal Project Energy imports from Ethiopia Transmission lines Oil Refinery and pipeline Petrochemical complex corridor Petroleum engineering facility	2012-2017		
4	***Trade Facilitation and Business Environment***					
	Improve access to business support services through a predictable business environment	***a) Policy, Legal and Regulatory Environment reforms to mainstream***		2012-2015	Ministries of Foreign Affairs, Finance, Trade, EAC as well as	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		regional integration			Central Bank of Kenya and Capital Markets Authority	
		i. Mainstreaming regional integration into sector programmes	**Sector MTPs**			
		ii. formulation of the legal and regulatory environment to eliminate NTBs	Law on NTBs			
		ii. Alignment and harmonization of trade and investment regimes across the different RECs.	CES protocol			
		v. Streamline emergent issues in trade e.g. environment requirements; labour laws,	Regional investment protection laws			
		v. Align immigration laws with common market commitments;	Contract legislation			
		vi. Strengthened protection of regional investments				
		ii. Review of contract laws				
		ii. Strengthened PPPs				
		b) Customs administration	Customs Procedures and laws		Ministries of Finance, Trade, EAC and KRA	
		i. simplified customs procedures,		2012-2015		

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		ii. Compliance with standardized market requirements				
		c)financial sector reforms i. financial product range ii. Payment systems iii. Strengthen Banking regulation and supervision v. Improve cross- border connectivity and expand trade and investment. vi. Positioning Kenya as a Regional Financial and Services Hub	**Capital market laws** Payment systems Reduction of transaction costs	2012-2014	Ministries of Finance, Central Bank of Kenya and Capital Markets Authority	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		d) Productivity enhancement i. Strategic Partnerships for enhanced investments and transfer of technology ii. Diversification and value addition in products and services iii. High technology applications	**FDIs** Statistics on new economic activities			
		e) Export promotion i. Market surveys ii. Promotion events iii. Promotion of service sectors trade iv. Surveys to track changing consumer tastes	**Survey reports** Trade statistics	2013-2015	Ministries of Foreign Affairs, Finance, Trade, EAC	
		f) Access to competitively priced quality support services i. Trade finance infrastructure			Ministries of Finance, Trade, EAC and trade facilitating agencies in public and private sector	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		ii. Technical support services iii. Risk management tools				
		g) Strengthening ICT Infrastructure i. Benchmark changes in the business environment- e.g. e-commerce platforms ii. Integration Kenyan business systems to regional and international systems iii. Apply technology platforms to enhance transparency and accountability iv. cyber-laws enactment	IT facilitated business operations, e-platforms Information disclosures Range of Information accessed Cyber Laws		Ministries of Finance, Trade, EAC, Transport and Communications	
		h) Maintaining Macroeconomic Stability i. Commit to Regional Convergence Benchmarks and	***Domesticated economic convergence criteria*** Export credit schemes		Ministries of, Finance Central Bank of Kenya and Capital Markets Authority	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		timelines ii. Establishment of specialized trade finance institutions such as export-import banks and export credit agencies iii. Explore new intermediation agencies iv. Specialized Risk management services in trade finance-export credit insurance, hedging and forfeiting	Export/Import banks and agencies Export insurance schemes Proportion of customs duties in national revenue sources			
		i) Leveraging on Complementary Service Providers within and Outside the Region ***i) TA from regional and international organizations***	**TAs**		Ministries of Foreign Affairs, Trade, EAC and trade facilitating institutions in public and private sector	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
5	**Role of SMEs into the Regional and Global Value Chains**					
	Integration of SMEs into the regional and global value chains	a)Enabling environment for SME development, investment and trade facilitation; i. Continuous reforms of the business environment, ii. Identification of regional and global value chains for SME participation iii. SME Participation in international data bases iv. Seeking structured dialogue between the public and private sectors v. More effective, efficient and coherent SME and FDI policies; i. vi. More effective, efficient and coherent trade and customs policies; vii. Harmonization of e-commerce legal and regulatory systems;	Reformed business support services SME Data bases Trade Policies Expanded employment opportunities	2013-2015	Ministries of Foreign Affairs, Finance, Trade, Industry EAC,	
		b) Policy and programme coherence for affirmative promotion of SMEs	SME promotion policy	2014	Ministries of Finance, Trade, Industry EAC, Labour,	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		c) Build partnerships between SMEs of the member countries to share know-how, skills, technology and innovation for transformative growth	Institutional mechanisms for SME partnerships	2014	Ministries of Finance, Trade, Industry EAC, Labour	
		d) Provide preferential access to affordable credit for start-up, expansion and growth of SMEs in strategic sectors within the economic development corridor	Special purpose credit schemes for SME	2015	Ministries of Finance, Trade, Industry, EAC, Labour	
		e) Establishment of sub-contracting exchanges for SMEs	Sub-contracting agreements	2013	Ministries of Finance, Trade, Industry, EAC, Labour	
		f) Create joint incubation centres for SMEs within the economic development corridor;	Incubation centres	2015	Ministries of Finance, Trade, Industry, EAC, Labour	
		g) Establishment of joint programmes for internship and attachments	Internship policy No of interns	2013-2017	Ministries of Trade, Industry, EAC, Labour	
6	***Human Resource Development***					
	Retooling of worker skills to promote modern technology production techniques to manage globally interdependent	a) Strengthen human resource competences and skills to manage requirements in the import and export marketing i. labour skills to the contemporary market requirements,	Technical training syllabi Research reports Policy reviews	2013-2016	Ministries of Education, Science and Technology,, Trade, Industry, EAC, Labour	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
	economies	technological driven production and trade systems ii. Promote research to inform decision making iii. Strengthen negotiating and drafting skills iv. Negotiate at the WTO for elimination of discriminatory labour laws	Review of labour laws			
		b) Staffing implementing agencies with suitably qualified staff	No of staff	2013=2017	Ministries of Foreign Affairs,, Trade, Industry, EAC, Labour	
		c) Leveraging diaspora competences by: i. Facilitating their integration into the national agenda; ii) Collaborating with Kenyan financial and other institutions for investment instruments and products that are customized for the Diaspora; iii) Lobbying for employment opportunities overseas and in international organizations; iv) Promoting the creation and structured management of Diaspora organizations ; v) Sourcing scholarships from universities and tertiary institutions in foreign countries; vi) Promoting more efficient and cost-effective transfers of remittances	No of diaspora collaborating with national stakeholders	2014	Ministries of Foreign Affairs,, Trade, Industry, EAC, Labour	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
7	*Natural Resource Management*					
	Natural resource management for sustained development	a) Policies and institutional frameworks to address environmental management and thus improve economic growth and reduce poverty.	Policies and regulatory frameworks for natural resource management	2015	Ministries of Environment,,, Trade, Industry, EAC, Labour	
		b) Programs on conservation of natural resources, pollution and waste management, high-risk disaster zone management, environmental planning and governance, and climate change adaptation	Waste management policies and programmes	2015-2017	Ministries of Environment,,, Trade, Industry, EAC, Labour	
8	*Special Agreements to Secure Kenyans Working Outside the Region*					
	Expansion of employment opportunities in the region through targeted actions	a) Skills development- eg provide scholarships to support training across the region i. ICT and telecommunications; ii. Banking and financial services; iii. Tourism and hospitality; iv. Medical fields; v. Agro-chemical and pharmaceuticals; vi. Education, science and technology.	Curricula for different fields	2015	Ministries of Environment,,, Trade, Industry, EAC, Labour, Banking,	
		b) Collaborations of capacity building institutions to upgrade	Training partnerships	2013-2017	Ministries of Education, Science	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		competences in the region			and Technology, Trade, Industry, EAC, Labour	
		c) Contract/agreement formulation	Sample contract agreement No of Agreements concluded	2013-2017	Ministries of Education, Science and Technology, Trade, Industry, Finance, EAC, Labour	
		d) Technical support to the private sector	No of TA to private sector Productivity improvement	2013-2017	Ministries of, Trade, Industry, Finance, EAC, Labour	
		e) Effective participation in the formulation of standards	No of standards adopted	2013-2017	Ministries of, Trade, Industry, EAC, trade support institutions	
		f) conclusion of Agreements on Promotion and Protection of Investments, Avoidance of Double Taxation, Customs Support Agreements as well as the Border Trade Protocol;	Double taxation agreements Investment protection legislation	2014	Ministries of, Trade, Industry, EAC, trade support institutions	
		g) Establishment of Joint ICT platforms and development of telecommunication support services including mobile banking.	IT service facilitated platforms	2014	Ministries of, Trade, Industry, Communications, EAC, trade support institutions	
		h) Establish a Joint Private Investment Council (JPIC)	JPIC Council	2015	Ministries of, Trade, Industry, EAC, trade support institutions	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
9	***Targeted Capacity and Training of Regional Integration Implementers***					
	Human resource development for enhanced productivity	***a) Trade negotiation skills*** ***i. Research and analytical skills***	No of staff trained in trade negotiations	2013-2017	Ministries of, Trade, Industry, EAC ,Foreign Affairs, trade support institutions	
		b) *Training Resource for MPs and Parliament Staff on Regional Integration* i. *Increased capacity of MPs for oversight roles* ii. Increasing capacity of parliamentary staff in providing technical support to MPs iii. Equipping parliamentary staff with appropriate tools for effective analysis iv. Designing training materials for further Parliamentary capacity building	No of MPs trained Hansard reports No of debates on regional integration	2013-2017	Ministries of, Trade, Industry, EAC ,Parliament, senate,	
		c) Training Media Fraternity on Regional Integration issues *i. Sensitization on new topical issues* *ii. Leveraging provisions of new constitution to inform all stakeholders* *iii. Sensitization of the media on*	No of media personnel trained Media reports on regional integration issues	2013-2017	Ministries of, Trade, Industry, EAC ,Media	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		regional and global responses to emergent destabilizing elements				
		d) Regular Staff Updates for regional integration implementing agencies *i. Refreshers for existing staff* *ii. Sensitization of existing staff on new trade/investment issues* *iii. Training of new staff on RI*	No of staff receiving regular updates on regional integration Status of RI programme implementation	2013-2017	Ministries of, Trade, Industry, EAC	
10	*Exploring Alternative Sources of Financing for Infrastructure*					
	Diversified resource mobilization for development	***a) Promoting Strategic Public Private Partnerships (PPPs)*** i. Private sector interventions ii. PPP iii. Joint intergovernmental interventions	Intergovernmental agreements No of private sector engagements No of PPPs for development	2013-2017	Ministries of, Trade, Industry, EAC, Finance, State Law office	
		b) Legal framework for PPPs	PPP revised regulatory framework	2014	Ministries of, Trade, Industry, EAC, Finance, State Law office	
		c) Public Sector Investment Programme (PSIP i. 5-year MTP rolling	MTPs	2013-2017	Ministries of, Trade, Industry, EAC, Planning	

Annex 1: Implementation Plan For Kenya's Regional Integration Strategy

No.	Strategic Objectives	Strategic Interventions	Performance Indicators	Timeline	Responsibility	Budget
		programme				
11	M&E Framework					
	Tracking programme implementation for impact assessment	a) Sectoral Implementation Plans	MTP Implementation Plans	2013-2017	Ministries of, Trade, Industry, EAC, Planning	
		b) NIMES	Integrated M&E reports		Ministries of, Trade, Industry, EAC, Planning	
		c) Impact assessment studies	Impact assessment Report	2016	Ministries of, Trade, Industry, EAC, Planning	

Annex 2: Macroeconomic Convergence criteria for COMESA and EAC regions for 2005 to 2015

REC/Period	Primary Criteria	Secondary Criteria
COMESA, 2005-2010	• Overall budget deficit/gross domestic product (GDP) ratio (excluding grants) of not more than 5%; • Annual inflation rate not exceeding 5%; • Minimize central bank financing of budget deficit towards 0% target; and • External reserves of equal to or more than 4 months of imports of goods and non-factor services.	Achieve and maintain stable real exchange rates; Achieve and maintain market based positive real interest rates; Achieve sustainable growth rates of real GDP of not less than 7%; Sustained pursuit of debt reduction initiative on domestic and foreign debt (i.e. reduction of debt as a ratio of GDP to a sustainable level); Total domestic revenue to GDP ratio of not less than 20% ; Reduction of current account deficit (excluding grants) as a ratio of GDP to a sustainable level; and Achieve and maintain domestic investment rate of at least 20%.
EAC		
Stage 1: 2007-2010	• Overall Budget Deficit to GDP Ratio (excluding grants) of not more than 6.0%, • Overall Budget Deficit to GDP Ratio (including grants) of not more than 3.0%; • Annual Average Inflation Rate not exceeding 5%; • External Reserves of more than 4 months of imports of goods and non-factor Services.	• Achievement and maintenance of Stable Real Exchange Rates; • Achievement and maintenance of Market Based Interest Rates; • Achievement of sustainable Real GDP Growth Rate of not less than 7.0%; • Sustained pursuit of debt reduction initiative on domestic and foreign debt i.e. • reduction of total debt as a ration of GDP to s sustainable level; • National Savings to GDP Ratio of not less than 20%; • Reduction of Current Account Deficit (Excluding grants) as a % of GDP to sustainable level • consistent with debt sustainability; Implementation of the 25 Core Principles of Bank Supervision and Regulation based on agreed Action Plan for Harmonization of Bank Supervision
Stage II (2011-2014)	• Overall Budget Deficit to GDP Ratio (excluding grants) not exceeding 5%; and • Overall Budget deficit to GDP Ratio (including grants) not exceeding 2%;	• Maintenance of Market Based Interest Rates; • Maintenance of high and sustainable rate of real GDP growth of not less than 7.0%; • Sustained pursuit of debt sustainability; • Domestic Savings to GDP Ratio of at least 20%; and • Maintenance of sustainable level of Current Account Deficit (excluding grants) as % of GDP.

	• Annual Average Inflation Rate of not more than 5%; • External Reserves of more than 6 months of imports of goods and non-factor services.	
Stage III (2015)	Introduction and circulation of a single East African Currency	

Annex 3: Sector Working Groups (SWGs) for Kenya's MDAs

Sector	Sector Ministries and SAGAs
1. Trade, tourism, Finance and industry sector	**Ministries** 1. Trade, 2. East African Community, 3. National Heritage and 4. Culture, Tourism and 5. Industrialization 6. Office of the Deputy Prime Minister and Ministry for Finance **Autonomous Government Agencies (AGAs)** 7. Insurance Regulatory Authority* 8. Capital Markets Authority (CMA) 9. Central Bank of Kenya* 10. Kenya Revenue Authority (KRA) 11. Industrial and Commercial Development Corporation (ICDC) 12. Kenya National Trading Corporation (KNTC) 13. Kenya Wines Agencies Ltd (KWAL) 14. East African Portland Cement Company (EAPCC) 15. IDB Capital Ltd **Semi-Autonomous Government Agencies (SAGAs)** 16. Export Promotion Council (EPC) 17. Export Processing Zones Authority (EPZA) 18. Non-Governmental Organizations Coordination Board 19. National Museums of Kenya (NMK) 20. Kenya National Library Service (KNLS) 21. Kenya Cultural Centre. (KCC) 22. Kenya Tourist Board (KTB) 23. Kenya Tourist Development Corporation (KTDC). 24. Kenya Utalii College (KUC) 25. Catering and Tourism Development Levy Trustees (CTDLT)

Sector	Sector Ministries and SAGAs
	26. Bomas of Kenya (BoK) 27. Kenyatta International Conference Centre (KICC) 28. Kenya Industrial Research and Development Institute (KIRDI) 29. Kenya Industrial Estates (KIE) 30. Kenya Bureau of Standards (KEBS) 31. Kenya Industrial Property Institute (KIPI) 32. Numerical Machining Complex (NMC) 33. Anti-Counterfeit Agency
2. Public administration and international relations & Special programmes sector	1. Public Service Commission of Kenya, 2. Office of the Prime Minister, 3. Ministry of State for Public Service, 4. Office of the Deputy Prime Minister and Ministry for Finance, 5. The Presidency and Cabinet Affairs Office, 6. Office of the Prime Minister and Ministry of Planning , National Development and Vision 2030 , 7. State House 8. The Ministry of Foreign Affairs. 9. Regional Development Authorities; 10. Gender, 11. Children and social Development; 12. Special Programmes; 13. Youth Affairs and Sports; and 14. Development of Northern Kenya & other Arid Lands. 15. Kenya National Bureau of Statistics(KNBS)* 16. Kenya Institute of Public Policy Research and Analysis(KIPPRA)* 17. Community Development Trust Fund (CDTF) 18. Poverty Eradication Commission 19. New Partnership for Africa's Development (NEPAD) Secretariat 20. Constituency Development Fund (CDF) Board 21. Vision 2030 Delivery Secretariat 22. National Coordinating Agency for Population and Development (NCAPD)

Sector	Sector Ministries and SAGAs
	23. Kenya Institute of Administration 24. Insurance Regulatory Authority* 25. Capital Markets Authority (CMA) 26. Central Bank of Kenya* 27. Kenya Revenue Authority (KRA) 28. Kenya institute of supplies management 29. Kenya Investment Authority 30. Public Procurement and Oversight Authority (PPOA). 31. Privatization Commission 32. Tana and Athi Rivers Development Authority (TARDA) 33. Kerio Valley Development Authority (KVDA) 34. Lake Basin Development Authority (LBDA) 35. Ewaso Ng'iro North Development Authority(ENNDA) 36. Ewaso Ng'iro South Development Authority (ENSDA) 37. Coast Development Authority (CDA) 38. Women Enterprise Fund(WEF) 39. National Commission for Gender and Development (NCG&D) 40. National Council for Persons with Disabilities 41. National Council for Children Services (NCCS) 42. National AIDS Control Council (NACC) 43. Youth Enterprise Development Fund (YEDF) 44. Sports Stadia Management Board (SSMB)SAGAS
3. Physical infrastructure	**Sector ministries are**: 1. Roads; 2. Public Works; 3. Transport; 4. Energy; 5. Local Government; 6. Nairobi Metropolitan Development and 7. Housing sub sectors.

Sector	Sector Ministries and SAGAs
	Roads Sub-sector a) The Kenya National Highways Authority (KeNHA): b) The Kenya Rural Roads Authority (KeRRA): c) Kenya Urban Roads Authority (KURA): d) The Kenya Wildlife Service (KWS) e) The Kenya Roads Board f) Mechanical and Transport Department g) Materials Testing and Research Department: h) Kenya Institute of Highways and Building Technology (KIHBT) **Transport Sub-sector** a) Kenya Civil Aviation Authority (KCAA) b) Kenya Airports Authority (KAA) c) Kenya Ports Authority (KPA) d) Kenya Ferry Services (KFS) e) Kenya National Shipping Line (KNSL) f) Kenya Railways Corporation (KRC) **Energy Sub-sector** a) Kenya Power and Lighting Company Limited (KPLC) b) Energy Regulatory Commission (ERC) c) Rural Electrification Authority (REA) d) Energy Tribunal e) Kenya Pipeline Company (KPC) f) National Oil Corporation of Kenya (National Oil) g) Kenya Electricity Generating Company (KenGen) h) Geothermal Development Company (GDC) i) Kenya Electricity Transmission Company (KETRACO) **Local Government Sub-sector**

Sector	Sector Ministries and SAGAs
	a) Local Government Loan Authority (LGLA) b) Local Authority Provident Fund (LAPF) c) Kenya Local Government Staff Superannuation Fund d) National Urban and Metropolitan Area
4. Human resource development, Research, innovation and technology sector (R.I.T)	1. Ministry of Education, 2. Ministry of Labour, 3. Ministry of Medical Services and 4. Ministry of Public Health and Sanitation. 5. Ministry of Higher Education, Science and Technology (MoHEST) 6. Ministry of Information and Communications (MOIC) **SAGAs and Autonomous Government Agency** 1. Teachers Service Commission (TSC) 2. Kenya Institute of Education (KIE) 3. Kenya National Examinations Council (KNEC) 4. Kenya Education Staff Institute (KESI) 5. Kenya Institute of Special Education (KISE) 6. Centre for Mathematics, Science and Technology in Africa (CEMASTEA) 7. National Commission for UNESCO 8. National Social Security Fund (NSSF) 9. Kenyatta National Hospital (KNH) 10. Moi Teaching and Referral Hospital (MT&RH) 11. Kenya Medical Training College (KMTC) 12. Kenya Medical Supplies Agency (KEMSA) 13. National Hospital Insurance Fund (NHIF) 14. Kenya Medical Research Institute (KEMRI) 15. Radiation Protection Board **The Departments are;** 16. Department of Resource Surveys and Remote Sensing 17. Directorate of E-government 18. Government Information and Technology Services

Sector	Sector Ministries and SAGAs
	19. Integrated Population Registration System, Ministry of Immigration and 20. Registration of Persons 21. Kenya National Bureau of Statistics **Research institutions are;** 22. Coffee Research Foundation (CRF) 23. Kenya Agricultural Research Institute (KARI) 24. Kenya Forestry Research Institute (KEFRI) 25. Kenya Institute Of Public Policy Research And Analysis (KIPPRA) 26. Kenya Industrial Research And Development Institute (KIRDI) 27. Kenya Marine And Fisheries Research Institute (KMFRI) 28. Kenya Medical Research Institute (KEMRI) 29. Kenya Sugar Research Foundation (KESREF) 30. National Crime Research Centre (NCRC) 31. Tea Research Foundation of Kenya(TRFK)
5. Governance, justice, law and order sector (GJLOS)	**Sub–Sectors:** 1. National Assembly 2. State Law Office 3. The Judiciary 4. Kenya National Audit Office (KENAO) 5. Ministry of Justice, National Cohesion and Constitutional Affairs (MOJNCCA) 6. Provincial Administration and & Internal Security 7. Interim Independent Electoral Commission (IIEC) 8. Kenya Anti-Corruption Commission (KACC) 9. Ministry of Immigration and 10. Office of the Vice President and Ministry of Home Affairs 11. Interim Independent Boundaries Review Commission (IIBRC) **SAGAs include:** 1. National Campaign Against Drug Abuse Authority (NACADAA) 2. Kenya National Commission on Human Rights (KNCHR),

Sector	Sector Ministries and SAGAs
	3. Kenya School of Law (KSL). 4. National Council for Law Reporting. 5. The Kenya Law Reform Commission (KLRC)
6. Agriculture and Rural Development, Environment, Water And Irrigation Sector Report	**Three ministries namely:** 1. Ministry of Agriculture 2. Ministry of Environment and Mineral Resources (MEMR), 3. Ministry of Water and Irrigation (MWI) and 4. Ministry of Forestry and Wildlife (MFW). **SAGAs** 1. Water Appeals Board (WAB); 2. Water Services Regulatory Board (WASREB), 3. Water Resources Management Authority (WRMA), 4. Water Services Trust Fund (WSTF), Regional Water Services Boards, The National Water Conservation and Pipeline 5. Corporation (NWCPC), Kenya Water Institute (KEWI), National Irrigation Board (NIB), 6. National Environment Management Authority (NEMA), Kenya Wildlife Service (KWS), Kenya 7. Forest Service (KFS), Kenya Forest Research Institute (KEFRI), Wildlife Clubs of Kenya (WCK). 8. **Financial Corporations:** 1. Agricultural Finance Corporation; 2. Coffee Development Fund. **Commercial/Manufacturing Corporations:** 1. Agrochemical and Food Company Limited; 2. Sony Sugar Company; 3. Nzoia Sugar Company;

Sector	Sector Ministries and SAGAs
	4. Chemelil Sugar Company; 5. Kenya Seed Company; 6. Nyayo Tea Zones Development Corporation; 7. Pyrethrum Board of Kenya; 8. National Cereals and Produce Board; 9. Miwani Sugar Company (in receivership); 10. Muhoroni Sugar Company (in receivership). **Service Corporations:** 1. Agricultural Development Corporation. **Regulatory Corporations:** 1. Coffee Board of Kenya; 2. Tea Board of Kenya; 3. Horticultural Crops Development Authority; 4. Kenya Sisal Board; 5. Cotton Development Authority; 6. Kenya Sugar Board; 7. Kenya Plant Health Inspectorate Service; 8. Pest Control Products Board; 9. Kenya coconut Development Authority. **Training Institution:** 1. Bukura Agricultural College. **Statutory Boards:** 1. Central Agricultural Board; 2. Agricultural Information Resource Centre; 3. Sugar Arbitration Tribunal; 4. Seed Tribunal. 5. Cooperative Development & Marketing 6. Cooperative College of Kenya;

Sector	Sector Ministries and SAGAs
	7. SACCO Societies Regulatory Authority (SASRA); 8. New Kenya Cooperative Creameries (New KCC) **Livestock Development** 1. Kenya Dairy Board; 2. Kenya Meat Commission; 3. Central Artificial Insemination Station; 9. Kenya Veterinary Board

References

AfDB, 2011. Southern Africa Development Strategy Paper (2011-2015)

AICD, 2010. Country Report: Kenya's Infrastructure: A Continental Perspective

AU, 2000. Abuja Treaty. Treaty establishing the African Economic Community

AU, 2000. Implementing Yamoussoukro Declaration of Open Skies

CCK, 2012. Mobile subscribers Lists

CES Tripatite 2010

COMESA Treaty, 194

EAC Treaty, 2000

EAC, ... Protocol on Environment and Natural Resource Management

EAC, 2006. EAC Agricultural policy and strategy (2005-2030)

EAC, 2010. EAC Trade Report (2019)

EAC, 2011. EAC Port Development Strategy

EAC, 2011. EAC Food Security Action Plan

GoK, 2000. Economic Survey, 2000

GoK, 2007. Vision 2030.

GoK, 2010. Economic Survey, 2010

GoK, 2010. The Agricultural Sector Development Strategy (ASDS) (2010-2020)

GoK, 2010. 1st Annual Progress Report, On the Implementation of the 1st MTP (2008-2012)

GoK, 2011. 2nd Annual Progress Report, On the Implementation of the 1st MTP (2008-2012)

GOK, 2011. Updated Least Cost Power development Plan (2011-2013)

GOK, 2011. Scaling up renewable energy programmes, Investment Plan for Kenya

GoK, 2012. 3rd Annual Progress Report, 2012, On the Implementation of the 1st MTP (2008-2012)

GoK, 2012. Ratification of Treaties Bill, 2012

http://databank.worldbank.org. retrieved on 13th November, 2012

IDA, 2009. IDA Mid-Term Review of Regional Programmes

IGAD, 2006. Agreement Establishing IGAD

ITU, 2009. International Telecommunications Union's 2009 on ICT Development Index

KAA, 2011. Airport Statistics

KCA, 2009. Management of Business Challenges among Small and Micro Enterprises in Nairobi-Kenya

KIPPRA, 2004. Kenya Economic Report

KIPPRA, 2004. Implications of the COMESA Free Trade Area and the Proposed Customs Union: An Empirical Investigation

Odhiambo W., Paul Kamau P., and McCormick D, 2012. Managing the Challenges of WTO

UCTAD, 2005. Investment Policy Review Kenya

UNCTAD, 2011 . Export dependence and export concentration

UNCTAD, 2011. Export Dependence and Export Concentration

World Bank, 2007. Enterprise Survey (2007),

World Bank, 2011, Global Competitiveness Report

EuropeAid

Consolidated version of the ACP-EC Partnership Agreement

Signed in Cotonou on 23 June 2000

Revised in Luxembourg on 25 June 2005

Revised in Ouagadougou on 22 June 2010

Information for readers

The latest modifications (2010) are in **blue.** Any provision already present in the 2005 consolidated version is in black, even if differently located in the text.

As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, **references to "the European Community" in the text of the Agreement are, where appropriate, to be read as "the European Union".**

Please note that only the text of the Agreement amending the Partnership Agreement published in the paper edition of the Official Journal of the European Union is deemed authentic.

O.J. L 317, 15 December 2000

O.J. L 297, 22 September 2004

O.J. L 209, 11 August 2005

O.J. L 287, 28 October 2005

O.J. L 247, 09 September 2006

O.J. L 287, 04 November 2010

LIST OF COUNTRIES SIGNATORIES OF THE ACP-EC AGREEMENT AMENDING THE PARTNERSHIP AGREEMENT

IN OUAGADOUGOU ON 22 JUNE 2010

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF ROMANIA,

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

THE PRESIDENT OF THE SLOVAK REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union, hereinafter referred to as "the Member States",

and

THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the EU",

of the one part, and

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

THE HEAD OF STATE OF BARBADOS,

HER MAJESTY THE QUEEN OF BELIZE,

THE PRESIDENT OF THE REPUBLIC OF BENIN,

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,

THE PRESIDENT OF BURKINA FASO,

THE PRESIDENT OF THE REPUBLIC OF BURUNDI,

THE PRESIDENT OF THE REPUBLIC OF CAMEROON,

THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,

THE PRESIDENT OF THE UNION OF THE COMOROS,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,

THE PRESIDENT OF THE REPUBLIC OF CONGO,

THE GOVERNMENT OF THE COOK ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,

THE PRESIDENT OF THE DOMINICAN REPUBLIC,

THE PRESIDENT OF THE STATE OF ERITREA,

THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,

THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,

THE PRESIDENT OF THE GABONESE REPUBLIC,

THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,

THE PRESIDENT OF THE REPUBLIC OF GHANA,

HER MAJESTY THE QUEEN OF GRENADA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,

THE PRESIDENT OF THE REPUBLIC OF HAITI,

THE HEAD OF STATE OF JAMAICA,

THE PRESIDENT OF THE REPUBLIC OF KENYA,

THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,

HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,

THE PRESIDENT OF THE REPUBLIC OF LIBERIA,

THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,

THE PRESIDENT OF THE REPUBLIC OF MALAWI,

THE PRESIDENT OF THE REPUBLIC OF MALI,

THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,

THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,

THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,

THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,

THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,

THE GOVERNMENT OF THE REPUBLIC OF NAURU,

THE PRESIDENT OF THE REPUBLIC OF NIGER,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,

THE GOVERNMENT OF NIUE,

THE GOVERNMENT OF THE REPUBLIC OF PALAU,

HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA,

THE PRESIDENT OF THE REPUBLIC OF RWANDA,

HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

HER MAJESTY THE QUEEN OF SAINT LUCIA,

HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,

THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE,

THE PRESIDENT OF THE REPUBLIC OF SENEGAL,

THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,

THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,

HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,

THE PRESIDENT OF THE REPUBLIC OF SURINAME,

HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,

THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,

THE PRESIDENT OF THE REPUBLIC OF CHAD,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,

THE PRESIDENT OF THE TOGOLESE REPUBLIC,

HIS MAJESTY THE KING OF TONGA,

THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,

HER MAJESTY THE QUEEN OF TUVALU,

THE PRESIDENT OF THE REPUBLIC OF UGANDA,

THE GOVERNMENT OF THE REPUBLIC OF VANUATU,

THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

which States are hereinafter referred to as "ACP States",

of the other part,

HAVING REGARD to the Treaty on the Functioning of the European Union, on the one hand, and the Georgetown Agreement establishing the Group of African, Caribbean and Pacific States (ACP), on the other;

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, as first amended in Luxembourg on 25 June 2005, (hereinafter referred to as "the Cotonou Agreement");

CONSIDERING that Article 95(1) of the Cotonou Agreement lays down that the duration of the Agreement shall be 20 years, commencing on 1 March 2000;

CONSIDERING that the Agreement amending the Cotonou Agreement for the first time was signed in Luxembourg on 25 June 2005 and entered into force on 1 July 2008;

HAVE DECIDED to sign this Agreement amending the Cotonou Agreement for the second time and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF ROMANIA,

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

THE PRESIDENT OF THE SLOVAK REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

THE EUROPEAN UNION,

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

THE HEAD OF STATE OF BARBADOS,

HER MAJESTY THE QUEEN OF BELIZE,

THE PRESIDENT OF THE REPUBLIC OF BENIN,

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,

THE PRESIDENT OF BURKINA FASO,

THE PRESIDENT OF THE REPUBLIC OF BURUNDI,

THE PRESIDENT OF THE REPUBLIC OF CAMEROON,

THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,

THE PRESIDENT OF THE UNION OF THE COMOROS,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,

THE PRESIDENT OF THE REPUBLIC OF CONGO,

THE GOVERNMENT OF THE COOK ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,

THE PRESIDENT OF THE DOMINICAN REPUBLIC,

THE PRESIDENT OF THE STATE OF ERITREA,

THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,

THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,

THE PRESIDENT OF THE GABONESE REPUBLIC,

THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,

THE PRESIDENT OF THE REPUBLIC OF GHANA,

HER MAJESTY THE QUEEN OF GRENADA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,

THE PRESIDENT OF THE REPUBLIC OF HAITI,

THE HEAD OF STATE OF JAMAICA,

THE PRESIDENT OF THE REPUBLIC OF KENYA,

THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,

HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,

THE PRESIDENT OF THE REPUBLIC OF LIBERIA,

THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,

THE PRESIDENT OF THE REPUBLIC OF MALAWI,

THE PRESIDENT OF THE REPUBLIC OF MALI,

THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,

THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,

THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,

THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,

THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,

THE GOVERNMENT OF THE REPUBLIC OF NAURU,

THE PRESIDENT OF THE REPUBLIC OF NIGER,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,

THE GOVERNMENT OF NIUE,

THE GOVERNMENT OF THE REPUBLIC OF PALAU,

HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA,

THE PRESIDENT OF THE REPUBLIC OF RWANDA,

HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

HER MAJESTY THE QUEEN OF SAINT LUCIA,

HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,

THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE,

THE PRESIDENT OF THE REPUBLIC OF SENEGAL,

THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,

THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,

HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,

THE PRESIDENT OF THE REPUBLIC OF SURINAME,

HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,

THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,

THE PRESIDENT OF THE REPUBLIC OF CHAD,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,

THE PRESIDENT OF THE TOGOLESE REPUBLIC,

HIS MAJESTY THE KING OF TONGA,

THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,

HER MAJESTY THE QUEEN OF TUVALU,

THE PRESIDENT OF THE REPUBLIC OF UGANDA,

THE GOVERNMENT OF THE REPUBLIC OF VANUATU,

THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

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

Revised in Luxembourg on 25 June 2005

Revised in Ouagadougou on 22 June 2010

Table of Contents

PREAMBLE 15

PART 1GENERAL PROVISIONS 17
TITLE I OBJECTIVES, PRINCIPLES AND ACTORS 17
TITLE II THE POLITICAL DIMENSION 20
PART 2 INSTITUTIONAL PROVISIONS 30
PART 3 COOPERATION STRATEGIES 33
TITLE I DEVELOPMENT STRATEGIES 33
TITLE II ECONOMIC AND TRADE COOPERATION 48
PART 4 DEVELOPMENT FINANCE COOPERATION 61
TITLE I GENERAL PROVISIONS 61
TITLE II FINANCIAL COOPERATION 66
TITLE III TECHNICAL COOPERATION 77
TITLE IV PROCEDURES AND MANAGEMENT SYSTEMS 79
PART 5 GENERAL PROVISIONS FOR THE LEAST DEVELOPED, LANDLOCKED AND ISLAND ACP STATES (LDLICS) 80
PART 6 FINAL PROVISIONS 82

ANNEXES

ANNEX I FINANCIAL PROTOCOL 90
ANNEX Ia MULTI-ANNUAL FINANCIAL FRAMEWORK OF COOPERATION UNDER THIS AGREEMENT 92
ANNEX Ib MULTI-ANNUAL FINANCIAL FRAMEWORK FOR THE PERIOD 2008 TO 2013 93
ANNEX II TERMS AND CONDITIONS OF FINANCING 95
ANNEX III INSTITUTIONAL SUPPORT, CDE AND CTA 106
ANNEXE IV IMPLEMENTATION AND MANAGEMENT PROCEDURES 110
ANNEX V TRADE REGIME APPLICABLE DURING THE PREPARATORY PERIOD REFERRED TO IN ARTICLE 37(1) 136
ANNEX VI LIST OF THE LEAST DEVELOPED LANDLOCKED AND ISLAND ACP STATES (LDLICS) 136
ANNEXE VII POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS, DEMOCRATIC PRINCIPLES AND THE RULE OF LAW 141

PROTOCOLS

PROTOCOL 1 On the operating expenditure of the joint institutions 144
PROTOCOL 2 On privileges and immunities 145
PROTOCOL 3 On South Africa 149

FINAL ACT 154

PREAMBLE

HAVING REGARD TO the Treaty establishing the European Community, on the one hand, and the Georgetown Agreement establishing the Group of African, Caribbean and Pacific States (ACP), on the other;

AFFIRMING their commitment to work together towards the achievement of the objectives of poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy;

ASSERTING their resolve to make, through their cooperation, a significant contribution to the economic, social and cultural development of the ACP States and to the greater well being of their population, helping them facing the challenges of globalisation and strengthening the ACP-EU Partnership in the effort to give the process of globalisation a stronger social dimension;

REAFFIRMING their willingness to revitalise their special relationship and to implement a comprehensive and integrated approach for a strengthened partnership based on political dialogue, development cooperation and economic and trade relations;

ACKNOWLEDGING that a political environment guaranteeing peace, security and stability, respect for human rights, democratic principles and the rule of law, and good governance is part and parcel of long term development; acknowledging that responsibility for establishing such an environment rests primarily with the countries concerned;

ACKNOWLEDGING that sound and sustainable economic policies are prerequisites for development;

REFERRING to the principles of the Charter of the United Nations, and recalling the Universal Declaration of Human Rights, the conclusions of the 1993 Vienna Conference on Human Rights, the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all forms of Discrimination against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the 1949 Geneva Conventions and the other instruments of international humanitarian law, the 1954 Convention relating to the status of stateless persons, the 1951 Geneva Convention relating to the Status of Refugees and the 1967 New York Protocol relating to the Status of Refugees;

CONSIDERING the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the African Charter on Human and Peoples' Rights and the American Convention on Human Rights as positive regional contributions to the respect of human rights in the European Union and in the ACP States;

REAFFIRMING that the most serious crimes of concern to the international community must not go unpunished and that their effective prosecution must be ensured by taking measures at national level and by enhancing global collaboration;

CONSIDERING that the establishment and effective functioning of the International Criminal Court constitute an important development for peace and international justice;

RECALLING the declarations of the successive Summits of the Heads of State and Government of ACP States;

CONSIDERING that the Millennium Development Goals emanating from the Millennium Declaration adopted by the United Nations General Assembly in 2000, in particular the eradication of extreme poverty and hunger, as well as the development targets and principles agreed in the United Nations Conferences, provide a clear vision and must underpin ACP-EC cooperation within this Agreement; **acknowledging that the EU and the ACP States need to make a concerted effort to accelerate progress towards attaining the Millennium Development Goals;**

SUBSCRIBING to the aid effectiveness agenda started in Rome, pursued in Paris and further developed in the Accra Agenda for Action;

PAYING particular attention to the pledges made **and objectives agreed at major UN and other international conferences** and acknowledging the need for further action to be taken in order to achieve the goals and implement the action programmes which have been drawn up in those fora;

AWARE of the serious global environmental challenge posed by climate change, and deeply concerned that the most vulnerable populations live in developing countries, in particular in Least Developed Countries and Small Island ACP States, where climate-related phenomena such as sea level rise, coastal erosion, flooding, droughts and desertification are threatening their livelihoods and sustainable development;

ANXIOUS to respect basic labour rights, taking account of the principles laid down in the relevant conventions of the International Labour Organisation;

RECALLING the commitments within the framework of the World Trade Organisation,

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

PART 1

GENERAL PROVISIONS

TITLE I

OBJECTIVES, PRINCIPLES AND ACTORS

CHAPTER 1

OBJECTIVES AND PRINCIPLES

ARTICLE 1

Objectives of the partnership

The Community and its Member States, of the one part, and the ACP States, of the other part, hereinafter referred to as the "Parties" hereby conclude this Agreement in order to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment.

The partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.

These objectives and the Parties' international commitments**, including the Millennium Development Goals,** shall inform all development strategies and shall be tackled through an integrated approach taking account at the same time of the political, economic, social, cultural and environmental aspects of development. The partnership shall provide a coherent support framework for the development strategies adopted by each ACP State.

Sustained economic growth, developing the private sector, increasing employment and improving access to productive resources shall all be part of this framework. Support shall be given to the respect of the rights of the individual and meeting basic needs, the promotion of social development and the conditions for an equitable distribution of the fruits of growth. Regional and sub regional integration processes which foster the integration of the ACP countries into the world economy in terms of trade and private investment shall be encouraged and supported. Building the capacity of the actors in development and improving the institutional framework necessary for social cohesion, for the functioning of a democratic society and market economy, and for the emergence of an active and organised civil society shall be integral to the approach. Systematic account shall be taken of the situation of women and gender issues in all areas - political, economic and social. The principles of sustainable management of natural resources and the environment**, including climate change,** shall be applied and integrated at every level of the partnership.

ARTICLE 2

Fundamental principles

ACP-EC cooperation, underpinned by a legally binding system and the existence of joint institutions, shall be **guided by the internationally agreed aid effectiveness agenda regarding ownership, alignment, harmonisation, results-oriented aid management and mutual accountability,** exercised on the basis of the following fundamental principles:

- equality of the partners and ownership of the development strategies: for the purposes of implementing the objectives of the partnership, the ACP States shall determine the development strategies for their economies and societies in all sovereignty and with due regard for the essential **and fundamental** elements described in Article 9; the partnership shall encourage ownership of the development strategies by the countries and populations concerned; **EU development partners shall align their programmes with these strategies;**

- participation: apart from central government as the main partner, the partnership shall be open **to ACP parliaments, and local authorities in ACP States and** different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life;

- the pivotal role of dialogue and the fulfilment of mutual obligations **and accountability:** the obligations assumed by the Parties in the framework of their dialogue shall be central to their partnership and cooperation relations; **the Parties shall work closely together in determining and implementing the necessary processes of donor alignment and harmonisation, with a view to securing a key role for ACP States in these processes;**

- differentiation and regionalisation: cooperation arrangements and priorities shall vary according to a partner's level of development, its needs, its performance and its long term development strategy. Particular emphasis shall be placed on the regional dimension. Special treatment shall be given to the least developed countries. The vulnerability of landlocked and island countries shall be taken into account. **Particular emphasis shall be put on regional integration, including at continental level.**

ARTICLE 3

Achievement of this Agreement's objectives

The Parties shall, each as far as it is concerned in the framework of this Agreement, take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising from this Agreement and to facilitate the attainment of the objectives thereof. They shall refrain from any measures liable to jeopardise these objectives.

CHAPTER 2
THE ACTORS OF THE PARTNERSHIP

ARTICLE 4
General approach

The ACP States shall determine the development principles, strategies and models of their economies and societies in all sovereignty. They shall establish, with the Community, the cooperation programmes provided for under this Agreement. However, the parties recognise the complementary role of and potential for contributions by non State actors, **ACP national parliaments** and local decentralised authorities to the development process, **particularly at the national and regional levels.** To this end, under the conditions laid down in this Agreement, non-State actors, **ACP national parliaments** and local decentralised **authorities,** shall, where appropriate:

- be informed and involved in consultation on cooperation policies and strategies, on priorities for cooperation especially in areas that concern or directly affect them, and on the political dialogue;

- **be provided with capacity-building support in critical areas in order to reinforce the capabilities of these actors, particularly as regards organisation and representation, and the establishment of consultation mechanisms including channels of communication and dialogue, and to promote strategic alliances.**

Non-State actors and local decentralised authorities shall, where appropriate:

-be provided with financial resources, under the conditions laid down in this Agreement in order to support local development processes;

-be involved in the implementation of cooperation project and programmes in areas that concern them or where these actors have a comparative advantage;

ARTICLE 5
Information

Cooperation will support operation to provide more information and create greater awareness of the basic features of ACP-EU Partnership.

Cooperation will also:

-encourage partnership and build links between ACP and EU actors;

-strengthen networking and exchange of expertise and experience among the actors.

ARTICLE 6
Definitions

1. The actors of cooperation will include:

a) State (local, regional and national), **including ACP national parliaments;**

b) ACP regional organisations and the African Union. For the purpose of this Agreement the notion of regional organisations or levels shall also include sub-regional organisations or levels;

c) Non-State:

- private sector;

- economic and social partners, including trade union organisations;

- civil Society in all its forms according to national characteristics.

2. Recognition by the parties of **non-State** actors shall depend on the extent to which they address the needs of the population, on their specific competencies and whether they are organised and managed democratically and transparently.

ARTICLE 7
Capacity building

The contribution of civil society to development can be enhanced by strengthening community organisations and non-profit non-governmental organisations in all spheres of cooperation. This will require:

-encouraging and supporting the creation and development of such organisations;

-establishing arrangements for involving such organisations in the design, implementation and evaluation of development strategies and programmes.

TITLE II
THE POLITICAL DIMENSION

ARTICLE 8
Political dialogue

1. The Parties shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides.

2. The objective of this dialogue shall be to exchange information, to foster mutual understanding, and to facilitate the establishment of agreed priorities and shared agendas, in particular by recognising existing links between the different aspects of the relations between the Parties and the various areas of cooperation as laid down in this Agreement.

The dialogue shall facilitate consultations **and strengthen cooperation** between the Parties within international fora **as well as promote and sustain a system of effective multilateralism.** The objectives of the dialogue shall also include preventing situations arising in which one Party might deem it necessary to have recourse to the consultation procedures envisaged in Articles 96 and 97.

3. The dialogue shall cover all the aims and objectives laid down in this Agreement as well as all questions of common, general **or** regional interest**, including issues pertaining to regional and continental integration.** Through dialogue, the Parties shall contribute to peace, security and stability and promote a stable and democratic political environment. It shall encompass cooperation strategies**, including the aid effectiveness agenda,** as well as global and sectoral policies, including environment, **climate change**, gender, migration and questions related to the cultural heritage. **It shall also address global and sectoral policies of both Parties that might affect the achievement of the objectives of development cooperation.**

4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs, organised crime or **child labour, or discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.** The dialogue shall also encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance.

5. Broadly based policies to promote peace and to prevent, manage and resolve violent conflicts shall play a prominent role in this dialogue, as shall the need to take full account of the objective of peace and democratic stability in the definition of priority areas of cooperation. **The dialogue in this context shall fully involve the relevant ACP regional organisations and the African Union, where appropriate.**

6. The dialogue shall be conducted in a flexible manner. Dialogue shall be formal or informal according to the need, and conducted within and outside the institutional framework, including the ACP Group, the Joint parliamentary Assembly, in the appropriate format, and at the appropriate level including **national, regional, continental or all-ACP level.**

7. Regional organisations as well as representatives of civil society organisations shall be associated with this dialogue**, as well as ACP national parliaments, where appropriate.**

8. Where appropriate, and in order to prevent situations arising in which one Party might deem it necessary to have recourse to the consultation procedure foreseen in Article 96, dialogue covering the essential elements shall be systematic and formalised in accordance with the modalities set out in Annex VII.

ARTICLE 9

Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance

1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.

Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

2. The Parties refer to their international obligations and commitments concerning respect for human rights. They reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. Human rights are universal, indivisible and inter related. The Parties undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In this context, the Parties reaffirm the equality of men and women.

The Parties reaffirm that democratisation, development and the protection of fundamental freedoms and human rights are interrelated and mutually reinforcing. Democratic principles are universally recognised principles underpinning the organisation of the State to ensure the legitimacy of its authority, the legality of its actions reflected in its constitutional, legislative and regulatory system, and the existence of participatory mechanisms. On the basis of universally recognised principles, each country develops its democratic culture.

The structure of government and the prerogatives of the different powers shall be founded on rule of law, which shall entail in particular effective and accessible means of legal redress, an independent legal system guaranteeing equality before the law and an executive that is fully subject to the law.

Respect for human rights, democratic principles and the rule of law, which underpin the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of this Agreement.

3. In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.

Good governance, which underpins the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute a fundamental element of this Agreement. The Parties agree that serious cases of corruption, including acts of bribery leading to such corruption, as **referred to** in Article 97 constitute a violation of that element.

4. The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.

These areas will be an important subject for the political dialogue. In the context of this dialogue, the Parties shall attach particular importance to the changes underway and to the continuity of the progress achieved. This regular assessment shall take into account each country's economic, social, cultural and historical context.

These areas will also be a focus of support for development strategies. The Community shall provide support for political, institutional and legal reforms and for building the capacity of public and private actors and civil society in the framework of strategies agreed jointly between the State concerned and the Community.

The principles underlying the essential and fundamental elements as defined in this Article shall apply equally to the ACP States on the one hand, and to the European Union and its Member States, on the other hand.

ARTICLE 10

Other elements of the political environment

1. The Parties consider the following elements as contributing to the maintenance and consolidation of a stable and democratic political environment:

-sustainable and equitable development involving, inter alia, access to productive resources, essential services and justice;

- greater involvement of **ACP national parliaments, local decentralised authorities, where appropriate, and of** an active and organised civil society and the private sector.

2. The Parties recognise that the principles of the **social** market economy, supported by transparent competition rules and sound economic and social policies, contribute to achieving the objectives of the partnership.

ARTICLE 11

Peace building policies,
conflict prevention and resolution, response to situations of fragility

1. The Parties acknowledge that without development and poverty reduction there will be no sustainable peace and security, and that without peace and security there can be no sustainable development. The Parties shall pursue an active, comprehensive and integrated policy of peace building and conflict prevention and resolution, **and human security, and shall address situations of fragility** within the framework of the Partnership. This policy shall be based on the principle of ownership **and** shall in particular focus on building **national**, regional **and continental** capacities, and on preventing violent conflicts at an early stage by addressing their root-causes, **including poverty**, in a targeted manner, and with an adequate combination of all available instruments.

The Parties acknowledge that new or expanding security threats need to be addressed, such as organised crime, piracy and trafficking of, notably, people, drugs and weapons. The impacts of global challenges like international financial market shocks, climate change and pandemics also need to be taken into account.

The Parties emphasize the important role of regional organisations in peace building and conflict prevention and resolution and in tackling new or expanding security threats with, in Africa, a key responsibility for the African Union.

2. **The interdependence between security and development shall inform the activities in the field of peace building, conflict prevention and resolution which shall combine short and long-term approaches, which encompass and go beyond crisis management. Activities to tackle new or expanding security threats shall, inter alia, support law enforcement, including cooperating on border controls, enhancing the security of the international supply chain, and improving air, maritime and road transport safeguards.**

Activities in the field of peace building, conflict prevention and resolution shall in particular include support for balancing political, economic, social and cultural opportunities among all segments of society, for strengthening the democratic legitimacy and effectiveness of governance, for establishing effective mechanisms for the peaceful conciliation of group interests, **for active involvement of women,** for bridging dividing lines among different segments of society as well as support for an active and organised civil society. **In this respect, particular attention shall be paid to developing early warning systems and peace-building mechanisms that would contribute to the prevention of conflicts.**

3. Relevant activities shall also include, inter alia, support for mediation, negotiation and reconciliation efforts, for effective regional management of shared, scarce natural resources, for demobilisation and reintegration of former combatants into the society, for addressing the problems of child soldiers **and of violence against women and children. Suitable action shall be taken** to set responsible limits to military expenditure and arms trade, including through support for the promotion and application of agreed standards and codes of conduct**, as well as to combat activities that fuel conflict**.

3a **P**articular emphasis shall be given to the fight against antipersonnel landmines **and explosive remnants of war** as well as to addressing **the illicit manufacture, transfer, circulation and accumulation** of small arms and light weapons **and their ammunition, including inadequately secured and poorly managed stocks and stockpiles and their uncontrolled spread.**

The Parties agree to coordinate, observe and fully implement their respective obligations under all relevant international conventions and instruments, and, to this end, they undertake to cooperate at the national, regional and continental levels.

3b. The Parties also undertake to cooperate in the prevention of mercenary activities in accordance with their obligations under **all relevant** international conventions and instruments, and their respective legislations and regulations.

4. **In order to address situations of fragility in a strategic and effective manner, the Parties shall share information and facilitate preventive responses combining diplomatic, security**

and development cooperation tools in a coherent way. They shall agree on the best way to strengthen capabilities of States to fulfil their core functions and to stimulate political will for reform while respecting the principle of ownership. In situations of fragility, political dialogue is especially important and shall be further developed and reinforced.

5. In situations of violent conflict the Parties shall take all suitable action to prevent an intensification of violence, to limit its territorial spread, and to facilitate a peaceful settlement of the existing disputes. Particular attention shall be paid to ensuring that financial resources for cooperation are used in accordance with the principles and objectives of the Partnership, and to preventing a diversion of funds for belligerent purposes.

6. In post conflict situations, the Parties shall take all suitable action to **stabilise the situation during the transition in order to** facilitate the return to a non violent, stable and **democratic** situation. The Parties shall ensure the creation of the necessary links between emergency measures, rehabilitation and development cooperation.

7. In promoting the strengthening of peace and international justice, the Parties reaffirm their determination to:

-share experience in the adoption of legal adjustments required to allow for the ratification and implementation of the Rome Statute of the International Criminal Court; and

-fight against international crime in accordance with international law, giving due regard to the Rome Statute.

The Parties shall seek to take steps towards ratifying and implementing the Rome Statute and related instruments.

ARTICLE 11A

Fight against terrorism

The Parties reiterate their firm condemnation of all acts of terrorism and undertake to combat terrorism through international cooperation, in accordance with the Charter of the United Nations and international law, relevant conventions and instruments and in particular full implementation of UN Security Council Resolutions 1373 (2001) and 1456 (2003) and other relevant UN resolutions. To this end, the Parties agree to exchange:

- information on terrorist groups and their support networks; and

-views on means and methods to counter terrorist acts, including in technical fields and training, and experiences in relation to the prevention of terrorism.

ARTICLE 11B

Cooperation in countering the proliferation of weapons of mass destruction

1. The Parties consider that the proliferation of weapons of mass destruction and their means of delivery, both to State and non-State actors, represents one of the most serious threats to international stability and security.

The Parties therefore agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation treaties and agreements and other relevant international obligations.

The Parties agree that this provision constitutes an essential element of this Agreement.

2. The Parties furthermore agree to cooperate and to contribute to the objective of non proliferation by:

-taking steps to sign, ratify or accede to, as appropriate, and fully implement all other relevant international instruments;

-the establishment of an effective system of national export controls, controlling the export as well as transit of weapons of mass destruction related goods, including a weapons of mass destruction end-use control on dual use technologies and containing effective sanctions for breaches of export controls.

Financial and technical assistance in the area of cooperation to counter the proliferation of weapons of mass destruction will be financed by specific instruments other than those intended for the financing of ACP-EC cooperation.

3. The Parties agree to establish a regular political dialogue that will accompany and consolidate their cooperation in this area.

4. If, after having conducted a strengthened political dialogue, a Party, informed in particular by reports by the International Atomic Energy Agency (IAEA), the Organisation for the Prohibition of Chemical Weapons (OPCW) and other relevant multilateral institutions, considers that the other Party has failed to fulfil an obligation stemming from paragraph 1, it shall, except in cases of special urgency, supply the other Party and both the ACP and the EC Councils of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation.

5. The consultations shall be conducted at the level and in the form considered most appropriate for finding a solution.

The consultations shall begin no later than 30 days after the invitation and shall continue for a period established by mutual agreement, depending on the nature and gravity of the violation. In no case shall the dialogue under the consultation procedure last longer than 120 days.

6. If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them no longer prevail.

ARTICLE 12

Coherence of Community policies and their impact on the implementation of this Agreement

The Parties are committed to addressing policy coherence for development in a targeted, strategic and partnership-oriented way, including strengthening dialogue on issues of policy coherence for development. The Union acknowledges that Union policies, other than development policy, can support the development priorities of ACP States in line with the objectives of this Agreement. On this basis the Union will enhance the coherence of those policies with a view to attaining the objectives of this Agreement.

Without prejudice to Article 96, where the Community intends, in the exercise of its powers, to take a measure which might affect the interests of the ACP States, as far as this Agreement's objectives are concerned, it shall inform in good time the **ACP Group** of its intentions. Towards this end, the Commission shall **regularly inform the Secretariat of the ACP Group of planned proposals and** communicate simultaneously its proposal for such measures. Where necessary, a request for information may also take place on the initiative of the ACP States.

At their request, consultations shall be held promptly so that account may be taken of their concerns as to the impact of those measures before any final decision is made.

After such consultations have taken place, the ACP States **and the ACP Group** may, in addition, transmit their concerns in writing to the Community as soon as possible and submit suggestions for amendments indicating the way their concerns should be met.

If the Community does not accede to the ACP States' submissions, it shall advise them as soon as possible giving its reasons.

The ACP **Group** shall also be provided with adequate information on the entry into force of such decisions, in advance whenever possible.

ARTICLE 13

Migration

1. The issue of migration shall be the subject of in depth dialogue in the framework of the ACP-EU Partnership.

The Parties reaffirm their existing obligations and commitments in international law to ensure respect for human rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.

2. The Parties agree to consider that a partnership implies, with relation to migration, fair treatment of third country nationals who reside legally on their territories, integration policy aiming at granting them rights and obligations comparable to those of their citizens, enhancing non discrimination in economic, social and cultural life and developing measures against racism and xenophobia.

3. The treatment accorded by each Member State to workers of ACP countries legally employed in its territory, shall be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals. Further in this regard, each ACP State shall accord comparable non discriminatory treatment to workers who are nationals of a Member State.

4. The Parties consider that strategies aiming at reducing poverty, improving living and working conditions, creating employment and developing training contribute in the long term to normalising migratory flows.

The Parties will take account, in the framework of development strategies and national and regional programming, of structural constraints associated with migratory flows with the purpose of supporting the economic and social development of the regions from which migrants originate and of reducing poverty.

The Community shall support, through national and regional Cooperation programmes, the training of ACP nationals in their country of origin, in another ACP country or in a Member State of the European Union. As regards training in a Member State, the Parties shall ensure that such action is geared towards the vocational integration of ACP nationals in their countries of origin.

The Parties shall develop cooperation programmes to facilitate the access of students from ACP States to education, in particular through the use of new communication technologies.

5.

a) In the framework of the political dialogue the Council of Ministers shall examine issues arising from illegal immigration with a view to establishing, where appropriate, the means for a prevention policy.

b) In this context the Parties agree in particular to ensure that the rights and dignity of individuals are respected in any procedure initiated to return illegal immigrants to their countries of origin. In this connection the authorities concerned shall extend to them the administrative facilities necessary for their return.

c) The Parties further agree that:

i) -each Member State of the European Union shall accept the return of and readmission of any of its nationals who are illegally present on the territory of an ACP State, at that State's request and without further formalities;

-each of the ACP States shall accept the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without further formalities.

The Member States and the ACP States will provide their nationals with appropriate identity documents for such purposes.

In respect of the Member States of the European Union, the obligations in this paragraph apply only in respect of those persons who are to be considered their nationals for the Community purposes in accordance with Declaration No 2 to the Treaty establishing the European Community. In respect of ACP States, the obligations in this paragraph apply only in respect of those persons who are considered as their nationals in accordance with their respective legal system.

ii) at the request of a Party, negotiations shall be initiated with ACP States aiming at concluding in good faith and with due regard for the relevant rules of international law, bilateral agreements governing specific obligations for the readmission and return of their nationals. These agreements shall also cover, if deemed necessary by any of the Parties, arrangements for the readmission of third country nationals and stateless persons. Such agreements will lay down the details about the categories of persons covered by these arrangements as well as the modalities of their readmission and return.

Adequate assistance to implement these agreements will be provided to the ACP States.

iii) for the purposes of this point (c), the term "Parties" shall refer to the Community, any of its Member States and any ACP State.

PART 2
INSTITUTIONAL PROVISIONS

ARTICLE 14
The joint institutions

1. The **joint** institutions of this Agreement are the Council of Ministers, the Committee of Ambassadors and the Joint Parliamentary Assembly.

2. The joint institutions and the institutions set up under the Economic Partnership Agreements, without prejudice to the relevant provisions of existing or future Economic Partnership Agreements, shall endeavour to ensure coordination, coherence and complementarity, as well as an effective and reciprocal flow of information.

ARTICLE 14A
Meetings of Heads of State or Government

The Parties shall meet at the level of Heads of State or Government, upon joint agreement, in an appropriate format.

ARTICLE 15
The Council of Ministers

1. The Council of Ministers shall comprise, on the one hand, the members of the Council of the European Union and members of the Commission of the European Communities and, on the other, a member of the government of each ACP State.

The office of the President of the Council of Ministers shall be held alternately by a member of the Council of the European Union and a member of the government of an ACP State.

The Council shall meet as a rule once a year on the initiative of the President and whenever it seems necessary, in a form and a geographical composition appropriate to the issues to be addressed. **Such meetings will provide for high-level consultations on matters which are of specific concern to the Parties, complementing the work that is being done in the Joint Ministerial Trade Committee, as set out in Article 38, and in the ACP-EC Development Finance Cooperation Committee, as set out in Article 83, which feed into the annual regular Council of Ministers meetings.**

2. The functions of the Council of Ministers shall be to:

a) conduct the political dialogue;

b) adopt the policy guidelines and take the decisions necessary for the implementation of the provisions of this Agreement, in particular as regards development strategies in the specific areas provided for by this Agreement or any other area that should prove relevant, and as regards procedures;

c) examine and resolve any issue liable to impede the effective and efficient implementation of this Agreement or present an obstacle to achieving its objectives;

d) ensure the smooth functioning of the consultation mechanisms.

3. The Council of Ministers shall take its decisions by common agreement of the Parties. The proceedings of the Council of Ministers shall be valid only if half the members of the Council of the European Union, one member of the Commission and two thirds of the members representing the governments of the ACP States are present. Any member of the Council of Ministers unable to attend may be represented. The representative shall exercise all the rights of that member.

It may take decisions that are binding on the Parties and frame resolutions, recommendations and opinions, **during the annual regular meeting, or by written procedure. It shall report annually to the Joint Parliamentary Assembly on the implementation of this Agreement.** It shall examine and take into consideration resolutions and recommendations adopted by the Joint Parliamentary Assembly.

The Council of Ministers shall conduct an ongoing dialogue with the representatives of the social and economic partners and other actors of civil society in the ACP and the EU. To that end, consultations may be held alongside its meetings.

4. The Council of Ministers may delegate powers to the Committee of Ambassadors.

5. The Council of Ministers shall adopt its rules of procedure within six months of the entry into force of this Agreement.

ARTICLE 16
The Committee of Ambassadors

1. The Committee of Ambassadors shall comprise, on the one hand, the permanent representative of each Member State to the European Union and a representative of the Commission and, on the other, the head of mission of each ACP State to the European Union.

The office of Chairman of the Committee of Ambassadors shall be held alternately by a Permanent Representative of a Member State designated by the Community, and a head of mission representing an ACP State, designated by the ACP States.

2. The Committee shall assist the Council of Ministers in the fulfilment of its tasks and carry out any mandate entrusted to it by the Council. In this context, it shall monitor implementation of this Agreement and progress towards achieving the objectives set therein.

The Committee of Ambassadors shall meet regularly, in particular to prepare the Council sessions and whenever it proves necessary.

3. The Committee shall adopt its rules of procedure within six months of the entry into force of this Agreement.

ARTICLE 17
The Joint Parliamentary Assembly

1. The Joint Parliamentary Assembly shall be composed of equal numbers of EU and ACP representatives. The members of the Joint Parliamentary Assembly shall be, on the one hand, members of the European Parliament and, on the other, members of parliament or, failing this, representatives designated by the parliament of each ACP State. In the absence of a parliament, the attendance of a representative from the ACP State concerned shall be subject to the prior approval of the Joint Parliamentary Assembly.

2. The role of the Joint Parliamentary Assembly, as a consultative body, shall be to:

-promote democratic processes through dialogue and consultation;

-facilitate greater understanding between the peoples of the European Union and those of the ACP States and raise public awareness of development issues;

-discuss issues pertaining to development and the ACP-EU Partnership, **including the Economic Partnership Agreements, other trading arrangements, the European Development Fund and Country and Regional Strategy Papers. To this end, the Commission shall transmit such Strategy Papers for information to the Joint Parliamentary Assembly;**

-discuss the annual report of the Council of Ministers on the implementation of this Agreement, and adopt resolutions and make recommendations to the Council of Ministers with a view to achieving the objectives of this Agreement;

-advocate for institutional development and capacity building of national parliaments in accordance with Article 33(1) of this Agreement.

3. The Joint Parliamentary Assembly shall meet twice a year in plenary session, alternately in the European Union and in an ACP State. With a view to strengthening regional integration and fostering cooperation between national parliaments, meetings between EU and ACP members of parliament **shall** be arranged at regional level.

Such meetings at regional level will be organised in pursuance of the objectives laid down in Article 14(2) of this Agreement.

4. The Joint Parliamentary Assembly shall adopt its rules of procedure within six months of the entry into force of this agreement.

PART 3
COOPERATION STRATEGIES

ARTICLE 18

The cooperation strategies shall be based on development strategies and economic and trade cooperation which are interlinked and complementary. The Parties shall ensure that the efforts undertaken in both aforementioned areas are mutually reinforcing.

TITLE I
DEVELOPMENT STRATEGIES

CHAPTER 1
GENERAL FRAMEWORK

ARTICLE 19
Principles and objectives

1. The central objective of ACP-EC cooperation is poverty reduction and ultimately its eradication; sustainable development; and progressive integration of the ACP countries into the world economy. In this context, cooperation framework and orientations shall be tailored to the individual circumstances of each ACP country, shall promote local ownership of economic and social reforms and the integration of the private sector and civil society actors into the development process.

2. Cooperation shall refer to the conclusions of United Nations Conferences and to the objectives, targets and action programmes agreed at international level and to their follow up as a basis for development principles. Cooperation shall also refer to the international development cooperation targets and shall pay particular attention to putting in place qualitative and quantitative indicators of progress. **The Parties will make concerted efforts to accelerate progress towards the attainment of the Millennium Development Goals.**

3. Governments and non-State actors in each ACP country shall initiate consultations on country development strategies and community support thereto.

ARTICLE 20
The Approach

1. The objectives of ACP-EC development cooperation shall be pursued through integrated strategies that incorporate economic, social, cultural, environmental and institutional elements that must be locally owned. Cooperation shall thus provide a coherent enabling framework of support to the ACP's own development strategies, ensuring complementarity and interaction between the various elements, **in particular at, and between, the national and regional levels.** In this context and within the framework of development policies and

reforms pursued by the ACP States, ACP-EC cooperation strategies **at national and, where appropriate, at regional levels** shall aim at:

a) achieving rapid and sustained job-creating economic growth, developing the private sector, increasing employment, improving access to productive economic activities and resources**;**

(aa) fostering regional cooperation and integration;

b) promoting human and social development helping to ensure that the fruits of growth are widely and equitably shared and promoting gender equality;

c) promoting cultural values of communities and specific interactions with economic, political and social elements;

d) promoting institutional reforms and development, strengthening the institutions necessary for the consolidation of democracy, good governance and for efficient and competitive market economies; and building capacity for development and partnership; and

e) promoting environmental sustainability, regeneration and best practices, and the preservation of natural resource base.

2. Systematic account shall be taken in mainstreaming into all areas of cooperation the following thematic or cross-cutting themes: **human rights,** gender issues, **democracy, good governance, environmental sustainability, climate change, communicable and non-communicable diseases** and institutional development and capacity building. These areas shall also be eligible for Community support.

3. The detailed texts as regards development cooperation objectives and strategies, in particular sectoral policies and strategies shall be incorporated in a compendium providing operational guidelines in specific areas or sectors of cooperation. These texts may be revised, reviewed and/or amended by the Council of Ministers on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee.

CHAPTER 2
AREAS OF SUPPORT

SECTION 1
ECONOMIC DEVELOPMENT

ARTICLE 21
Investment and private sector development

1. Cooperation shall support the necessary economic and institutional reforms and policies at national and/or regional level, aiming at creating a favourable environment for

investment, and the development of a dynamic, viable and competitive private sector. Cooperation shall further support:

a) the promotion of public-private sector dialogue and cooperation;

b) the development of entrepreneurial skills and business culture;

c) privatisation and enterprise reform; and

d)development and modernisation of mediation and arbitration systems.

2. Cooperation shall also support improving the quality, availability and accessibility of financial and non-financial services to private enterprises, both formal and informal; by:

a) catalysing and leveraging flows of private savings, both domestic and foreign, into the financing of private enterprises by supporting policies for developing a modern financial sector including a capital market, financial institutions and sustainable microfinance operations;

b) development and strengthening of business institutions and intermediary organisations, associations, chambers of commerce and local providers from the private sector supporting and providing non-financial services to enterprises such as professional, technical, management, training and commercial support services; and

c) supporting institutions, programmes, activities and initiatives that contribute to the development and transfer of technologies and know how and best practices on all aspects of business management.

3. Cooperation shall promote business development through the provision of finance, guarantee facilities and technical support aimed at encouraging and supporting the creation, establishment, expansion, diversification, rehabilitation, restructuring, modernisation or privatisation of dynamic, viable and competitive enterprises in all economic sectors as well as financial intermediaries such as development finance and venture capital institutions, and leasing companies by:

a) creating and/or strengthening financial instruments in the form of investment capital;

b) improving access to essential inputs such as business information and advisory, consultancy or technical assistance services;

c) **enhancing** export activities, in particular through capacity building in all trade-related areas; and

d) encouraging inter-firm linkages, networks and cooperation including those involving the transfer of technology and know-how at national, regional and ACP EU levels, and partnerships with private foreign investors which are consistent with the objectives and guidelines of ACP-EC Development cooperation.

4. Cooperation shall support microenterprise development through better access to financial and non-financial services; an appropriate policy and regulatory framework for their

development; and provide training and information services on best practices in microfinance.

5. Support for investment and private sector development shall integrate actions and initiatives at macro, meso and micro economic levels **and promote the search for innovative financing mechanisms, including the blending and leveraging of private and public sources for development funding.**

6. Cooperation shall support investments in basic infrastructure by the public sector aimed at private sector development, economic growth and poverty eradication.

ARTICLE 22

Macroeconomic and structural reforms and policies

1. Cooperation shall support ACP efforts to implement:

a) macroeconomic growth and stabilisation through disciplined fiscal and monetary policies that result in the reduction of inflation, and improve external and fiscal balances, by strengthening fiscal discipline, enhancing budgetary transparency and efficiency, improving the quality, the equity and composition of fiscal policy; and

b) structural policies designed to reinforce the role of the different actors, especially the private sector and improve the environment for **enhanced domestic resource mobilisation and** increases in business, investment and employment, as well as:

i) liberalise trade and foreign exchange regimes and current account convertibility, having regard to the particular circumstances of each country;

ii) strengthen labour and product-market reforms;

iii) encourage financial systems reforms which help to develop viable banking and non-banking systems, capital markets and financial services, including micro finance;

iv) improve the quality of private and public services; and

v) encourage regional cooperation and progressive integration of macroeconomic and monetary policies.

2. The design of macroeconomic policies and structural adjustment programmes shall reflect the socio political background and institutional capacity of the countries concerned, ensure a positive impact on poverty reduction and social services access and shall be based on the following principles:

a) the ACP States shall bear primary responsibility for the analysis of the problems to be solved, the design and the implementation of the reforms;

b) support programmes shall be adapted to the different situation in each ACP State and be sensitive to the social conditions, culture and environment of these States;

c) the right of the ACP States to determine the direction and the sequencing of their development strategies and priorities shall be recognised and respected;

d) the pace of reforms shall be realistic and compatible with each ACP State's capacities and resources; and

e) strengthening the communication and the information of populations on economic and social reforms and policies.

ARTICLE 23
Economic sector development

Cooperation shall support sustainable policy and institutional reforms and the investments necessary for equitable access to economic activities and productive resources, particularly:

a) the development of training systems that help increase productivity in both the formal and the informal sectors;

b) capital, credit, land, especially as regards property rights and use;

c) development of rural strategies aimed at establishing a framework for participatory decentralised planning, resource allocation and management;

(d) **the development of strategies with a view to enhancing agricultural production and productivity in ACP States by providing, in particular, the necessary financing for agricultural research, agricultural inputs and services, supportive rural infrastructure, and risk reduction and management. Support shall include public and private investments in agriculture, encouragement to develop agricultural policies and strategies, strengthening of farmer and private sector organisations, management of natural resources, and development and functioning of agricultural markets. The agricultural production strategies shall reinforce national and regional food-security policies and regional integration. In this context, cooperation shall support ACP efforts to enhance the competitiveness of their commodity exports and to adapt their commodity export strategies in the light of evolving trade conditions;**

e) sustainable development of water resources, **based on integrated water resources management principles, ensuring equitable and sustainable distribution of shared water resources between their different uses;**

f) sustainable development of aquaculture and fisheries which include both inland fisheries and marine resources within the economic exclusive zones of the ACP States;

g) economic and technological infrastructure and services, including transport, telecommunication systems, communication services and the development of information society;

h) development of competitive industrial, mining and energy sectors, while encouraging private sector involvement and development;

i) trade development, including the promotion of fair trade;

j) development of business, finance and banking; and other service sectors;

k) tourism development; and

l) development of scientific, technological and research infrastructure and services; including the enhancement, transfer and absorption of new technologies;

m) the strengthening of capacities in productive areas, especially in public and private sectors;

n) the promotion of traditional knowledge.

(o) development and implementation of specific adaptation strategies addressing the impact of preference erosion, possibly including activities mentioned in points (a) to (n) above.

ARTICLE 23A
Fisheries

Recognising the key role that fisheries and aquaculture play in ACP countries through their positive contribution to employment creation, revenue generation, food security, and livelihoods of rural and coastal communities, and hence to poverty reduction, cooperation shall aim at further developing the aquaculture and fisheries sectors of ACP countries in order to increase the associated social and economic benefits in a sustainable manner.

Cooperation programmes and activities shall support, inter alia, the development and implementation of sustainable aquaculture and fisheries development strategies and management plans in ACP countries and regions; the mainstreaming of aquaculture and fisheries into national and regional development strategies; the development of the infrastructure and technical know-how necessary to enable ACP countries to yield maximum sustainable value from their fisheries and aquaculture; capacity building of ACP countries to overcome external challenges that hinder them from taking full advantage of their fisheries resources; and the promotion and development of joint ventures for investment in the fisheries and aquaculture sectors of ACP countries. Any fishery agreement that may be negotiated between the Community and the ACP States shall give due consideration to consistency with the development strategies in this area.

High-level consultations, including at ministerial level, may be held upon joint agreement with a view to developing, improving and/or strengthening ACP-EU development cooperation in sustainable aquaculture and fisheries.

ARTICLE 24
Tourism

Cooperation will aim at the sustainable development of the tourism industry in ACP countries and sub regions, recognising its increasing importance to the growth of the services sector in ACP countries and to the expansion of their global trade, its ability to stimulate other sectors of economic activity, and the role it can play in poverty eradication.

Cooperation programmes and projects will support the efforts of ACP countries to establish and improve the countries legal and institutional framework and resources for the development and implementation of sustainable tourism policies and programmes, as well as inter alia, improving the competitive position of the sector, especially small and medium-sized enterprises (SMEs), investment support and promotion, product development including the development of indigenous cultures in ACP countries, and strengthening linkages between tourism and other sectors of economic activity.

SECTION 2
SOCIAL AND HUMAN DEVELOPMENT

ARTICLE 25
Social sector development

1. Cooperation shall support ACP States' efforts at developing general and sectoral policies and reforms which improve the coverage, quality of and access to basic social infrastructure and services and take account of local needs and specific demands of the most vulnerable and disadvantaged, thus reducing the inequalities of access to these services. Special attention shall be paid to ensuring adequate levels of public spending in the social sectors. In this context, cooperation shall aim at:

a) improving education and training **at all levels, working towards recognition of tertiary education qualifications, establishment of quality assurance systems for education, including education and training delivered on-line or through other non-conventional means,** and building technical capacity and skills;

b) improving health systems, **in particular equitable access to comprehensive and quality health care services,** and nutrition, eliminating hunger and malnutrition, ensuring adequate food supply and security, **including through supporting safety nets;**

c) integrating population issues into development strategies in order to improve reproductive health, primary health care, family planning; and prevention of female genital mutilation;

d) promoting the fight against:

-HIV/AIDS, ensuring the protection of sexual and reproductive health and rights of women;

- other poverty-related diseases, particularly malaria and tuberculosis;

e) increasing the security of household water and improving access to safe water and adequate sanitation;

f) improving the availability of affordable and adequate shelter for all through supporting low cost and low income housing programs and improving urban development; and

g) encouraging the promotion of participatory methods of social dialogue as well as respect for basic social rights.

Cooperation shall also support capacity-building in social areas such as programmes for training in the design of social policies and modern methods for managing social projects and programmes; policies conducive to technological innovation and research; building local expertise and promoting partnerships; and round-table discussions at national and/or regional level.

Cooperation shall promote and support the development and implementation of policies and of systems of social protection and security in order to enhance social cohesion and to promote self help and community solidarity. The focus of the support shall, inter-alia, be on developing initiatives based on economic solidarity, particularly by setting-up social development funds adapted to local needs and actors.

ARTICLE 26
Youth issues

Cooperation shall also support the establishment of a coherent and comprehensive policy for realising the potential of youth so that they are better integrated into society to achieve their full potential. In this context, cooperation shall support policies, measures and operations aimed at:

a) protecting the rights of children and youth, especially those of girl children;

b) promoting the skills, energy, innovation and potential of youth in order to enhance their economic, social and cultural opportunities and enlarge their employment opportunities in the productive sector;

c) helping community-based institutions to give children the opportunity to develop their physical, psychological, social and economic potential;

d) reintegrating into society children in post conflict situations through rehabilitation programmes; and

e) promoting the active participation of young citizens in public life and fostering student exchanges and interaction of ACP and EU youth organisations.

ARTICLE 27
Culture and development

Cooperation in the area of culture shall aim at:

a) integrating the cultural dimension at all levels of development cooperation;

b) recognising, preserving and promoting cultural values and identities to enable inter cultural dialogue;

c) recognising, preserving and promoting **the value of cultural heritage; supporting the development of capacity in this sector;**

d) developing cultural industries and enhancing market access opportunities for cultural goods and services.

(e) recognising and supporting the role of cultural actors and cultural networks, and their contribution to sustainable development; and

(f) promoting the cultural dimension in education and the participation of youth in cultural activities.

SECTION 3
REGIONAL COOPERATION AND INTEGRATION

ARTICLE 28
General approach

1. ACP-EU cooperation shall provide effective assistance to achieve the objectives and priorities which the ACP States have set themselves in the context of regional **cooperation and integration.**

2. In conformity with the general objectives set out in Articles 1 and 20, ACP-EU cooperation shall aim to:

(a) promote peace and stability, as well as conflict prevention and resolution;

(b) enhance economic development and economic cooperation through the build-up of larger markets, the free movement of persons, goods, services, capital, labour and technology among ACP countries, the accelerated diversification of the economies of the ACP States, the promotion and expansion of trade among ACP countries and with third countries and the gradual integration of the ACP States into the world economy;

(c) promote the management of sustainable development challenges with a transnational dimension through, inter alia, coordination and harmonisation of regional cooperation policies.

3. Under the conditions set out in Article 58, cooperation shall also support inter-regional and intra-ACP cooperation such as that involving:

(a) one or several ACP regional organisations, including at continental level;

(b) European Overseas Countries and Territories (OCTs) and outermost regions;

(c) non-ACP developing countries.

ARTICLE 29

ACP-EU cooperation in support of regional cooperation and integration

1. In the area of stability, peace and conflict prevention, cooperation shall support:

(a) the promotion and development of a regional political dialogue in areas of conflict prevention and resolution; human rights and democratisation; exchange, networking, and promotion of mobility between the different actors of development, in particular in civil society;

(b) the promotion of regional initiatives and policies on security-related issues, including arms control, action against drugs, organised crimes, money laundering, bribery and corruption.

2. In the area of regional economic integration, cooperation shall support:

a) the participation of Least Developed Countries (LDC) ACP States in the establishment of regional markets and sharing the benefits there from**;**

b) the implementation of sectoral **economic** reform policies at regional level;

c) the liberalisation of trade and payments;

d) the promotion of cross border investments both foreign and domestic, and other regional or sub regional economic integration initiatives;

e) the mitigation of the effects of net transitional costs of regional integration on budget revenue and balance of payment**s; and**

(f) infrastructure, particularly transport and communications and safety thereof, and services, including the development of regional opportunities in the area of Information and Communication Technologies (ICT).

3. In the area of regional policies for sustainable development, cooperation shall support the priorities of ACP regions and, in particular:

a) the environment **and the sustainable management of natural resources, including water and energy, and addressing climate change;**

(b) food security and agriculture;

(c) health, education and training;

(d) research and technological development; and

(e) regional initiatives for disaster preparedness and mitigation **as well as post-disaster reconstruction.**

ARTICLE 30

Capacity building in support of ACP regional cooperation and integration

With a view to realising the effectiveness and efficiency of regional policies, cooperation shall develop and strengthen the capacities of:

(a) regional integration institutions and organisations set up by the ACP States and those with ACP State participation that promote regional cooperation and integration;

(b) national governments and parliaments in matters of regional integration**; and**

(c) non-State actors, including the private sector.

SECTION 4
THEMATIC AND CROSS-CUTTING ISSUES

ARTICLE 31

Gender issues

Cooperation shall help strengthen policies and programmes that improve, ensure and broaden the equal participation of men and women in all spheres of political, economic, social and cultural life. Cooperation shall help improve the access of women to all resources required for the full exercise of their fundamental rights. More specifically, cooperation shall create the appropriate framework to:

a) integrate a gender-sensitive approach and concerns at every level of development cooperation including macroeconomic policies, strategies and operations; and

b) encourage the adoption of specific positive measures in favour of women such as:

i)participation in national and local politics;

ii)support for women's organisations;

iii)access to basic social services, especially to education and training, health care and family planning;

iv) access to productive resources, especially to land and credit and to labour market; and

v) taking specific account of women in emergency aid and rehabilitation operations.

ARTICLE 31a
HIV/AIDS

Cooperation shall support the efforts of ACP States to develop and strengthen across all sectors policies and programmes aimed at addressing the HIV/AIDS pandemic and preventing it from hampering development. It shall support ACP States in scaling up towards and sustaining universal access to HIV/AIDS prevention, treatment, care and support and shall in particular aim at:

(a) supporting the development and implementation of comprehensive multi-sectoral strategies and plans for HIV/AIDS as a priority in national and regional development plans;

(b) involving, in national responses to HIV/AIDS, all appropriate development sectors and ensuring a broad mobilisation of stakeholders at all levels;

(c) strengthening national health systems and addressing shortages in human resources for health as the basis for ensuring universal access to, and the effective integration of, HIV/AIDS prevention, treatment and care and other health services;

(d) addressing gender inequality, gender-based violence and abuse, as drivers of the HIV/AIDS pandemic and intensifying efforts to safeguard women's and girls' rights, develop effective gender sensitive HIV/AIDS programmes and services for women and girls, including those related to sexual and reproductive health and rights, and to support the full involvement of women in planning and decision making related to HIV/AIDS strategies and programmes;

(e) developing supportive legal and policy frameworks and removing punitive laws, policies, practices, stigma and discrimination that undermine human rights, increase vulnerability to HIV/AIDS and inhibit access to effective HIV/AIDS prevention, treatment, care and support, including medicines, commodities and services for people living with HIV/AIDS and for the populations most at risk;

(f) scaling up access to evidence-based, comprehensive HIV/AIDS prevention, which address the local drivers of the epidemic and the specific needs of women, young people and the populations most at risk; and

(g) ensuring universal and reliable access to safe, high-quality and affordable medicines, and to health commodities, including sexual and reproductive health commodities.

ARTICLE 32
Environment and natural resources

1. Cooperation on environmental protection and sustainable utilisation and management of natural resources shall aim at:

a) mainstreaming environmental sustainability into all aspects of development cooperation and support programmes and projects implemented by the various actors;

b) building and/or strengthening the scientific and technical human and institutional capacity for environmental management for all environmental stakeholders;

c) supporting specific measures and schemes aimed at addressing critical sustainable management issues and also relating to current and future regional and international commitments concerning mineral and natural resources such as:

i) tropical forests, water resources, coastal, marine and fisheries resources, wildlife, soils, biodiversity;

ii) protection of fragile ecosystems (e.g. coral reef);

iii) renewable energy sources notably solar energy and energy efficiency;

iv) sustainable rural and urban development;

v) desertification, drought and deforestation;

vi) developing innovative solutions to urban environmental problems; and

vii) promotion of sustainable tourism.

d) Taking into account issues relating to the transport and disposal of hazardous waste.

2. Cooperation shall also take account of:

a) the vulnerability of small island ACP countries, especially to the threat posed by climate change;

b) the worsening drought and desertification problems especially of least developed and land locked countries; and

c) Institutional development and capacity building

ARTICLE 32A

Climate change

The Parties acknowledge that climate change is a serious global environmental challenge and a threat to the achievement of the Millennium Development Goals requiring adequate, predictable and timely financial support. For these reasons, and in accordance with the provisions of Article 32, and particularly of point (a) of paragraph 2 thereof, cooperation shall:

(a) recognise the vulnerability of ACP States and in particular of small islands and low-lying ACP States to climate-related phenomena such as coastal erosion, cyclones, flooding and environmentally induced displacements, and in particular of least developed and landlocked ACP States to increasing floods, drought, deforestation and desertification;

(b) strengthen and support policies and programmes to mitigate and adapt to the consequences of, and threat posed by, climate change including through institutional development and capacity building;

(c) enhance the capacity of ACP States in the development of, and the participation in, the global carbon market; and

(d) focus on the following activities:

(i) integrating climate change into development strategies and poverty reduction efforts;

(ii) raising the political profile of climate change in development cooperation, including through appropriate policy dialogue;

(iii) assisting ACP states to adapt to climate change in relevant sectors such as agriculture, water management and infrastructure, including through transfer and adoption of relevant and environmentally sound technologies;

(iv) promoting disaster risk reduction, reflecting that an increasing proportion of disasters are related to climate change;

(v) providing financial and technical support for mitigation action of ACP states in line with their poverty reduction and sustainable development objectives, including reducing emissions from deforestation and forest degradation and reducing emissions in the agricultural sector;

(vi) improving weather and climate information and forecasting and early warning systems; and

(vii) promoting renewable energy sources, and low-carbon technologies that enhance sustainable development.

ARTICLE 33

Institutional development and capacity building

1. Cooperation shall pay systematic attention to institutional aspects and in this context, shall support the efforts of the ACP States to develop and strengthen structures, institutions and procedures that help to:

a) promote and sustain democracy, human dignity, social justice and pluralism, with full respect for diversity within and among societies;

b) promote and sustain universal and full respect for and observance and protection of all human rights and fundamental freedoms;

c) develop and strengthen the rule of law; and improve access to justice, while guaranteeing the professionalism and independence of the judicial systems; and

d) ensure transparent and accountable governance and administration in all public institutions.

2. The Parties shall work together in the fight against bribery and corruption in all their societies.

3. Cooperation shall support ACP States' efforts to develop their public institutions into a positive force for growth and development and to achieve major improvements in the efficiency of government services as they affect the lives of ordinary people. In this context, cooperation shall assist the reform, rationalisation and the modernisation of the public sector. Specifically, cooperation support shall focus on:

a) the reform and modernisation of the civil service;

b) legal and judicial reforms and modernisation of justice systems;

c) improvement and strengthening of public finance and fiscal management **with a view to developing economic activities in ACP countries and increasing their tax revenues, whilst fully respecting the sovereignty of the ACP States in this area.**

Measures may include:

(i) enhancing capacities for domestic revenue management, including the building of effective, efficient and sustainable tax systems;

(ii) promoting the participation in international tax cooperation structures and processes with a view to facilitating the further development of and effective compliance with international standards;

(iii) supporting implementation of international best practices in tax matters, including the principle of transparency and exchange of information, in those ACP countries that have committed to them;

d) accelerating reforms of the banking and financial sector;

e) improvement of the management of public assets and reform of public procurement procedures; and

f) political, administrative, economic and financial decentralisation.

4. Cooperation shall also assist to restore and/or enhance critical public sector capacity and to support institutions needed to underpin a market economy, especially support for:

a) developing legal and regulatory capabilities needed to cope with the operation of a market economy, including competition policy and consumer policy;

b) improving capacity to analyse, plan, formulate and implement policies, in particular in the economic, social, environmental, research, science and technology and innovation fields;

c) modernising, strengthening and reforming financial and monetary institutions and improving procedures;

d) building the capacity at the local and municipal levels which is required to implement decentralisation policy and to increase the participation of the population in the development process; and

e) developing capacity in other critical areas such as:

i) international negotiations; and

ii) management and coordination of external aid.

5. Cooperation shall span all areas and sectors of cooperation to foster the emergence of non State actors and the development of their capacities; and to strengthen structures for information, dialogue and consultation between them and the national authorities, including at regional level.

TITLE II
ECONOMIC AND TRADE COOPERATION

CHAPTER 1
OBJECTIVES AND PRINCIPLES

ARTICLE 34
Objectives

1. Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.

2. The ultimate objective of economic and trade cooperation is to enable the ACP States to play a full part in international trade. In this context, particular regard shall be had to the need for the ACP States to participate actively in multilateral trade negotiations. Given the current level of development of the ACP countries, economic and trade cooperation shall be directed at enabling the ACP States to manage the challenges of globalisation and to adapt progressively to new conditions of international trade thereby facilitating their transition to the liberalised global economy. **In this context, close attention should be paid to many ACP countries' vulnerability resulting from their dependency on commodities or a few key products, including value-added agro-industry products, and the risk of preference erosion.**

3. To this end economic and trade cooperation shall aim, **through national and regional development strategies as defined in Title I,** at enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment. It shall further aim at creating a new trading dynamic between the Parties, at strengthening the ACP countries trade and investment policies, **at reducing their dependency on commodities, at promoting more diversified economies** and at improving the ACP countries' capacity to handle all issues related to trade.

4. Economic and trade cooperation shall be implemented in full conformity with the provisions of the WTO, including special and differential treatment, taking account of the Parties' mutual interests and their respective levels of development. **It shall also address the effects of preference erosion in full conformity with multilateral commitments.**

ARTICLE 35
Principles

1. Economic and trade cooperation shall be based on a true, strengthened and strategic partnership. It shall further be based on a comprehensive approach which builds on the strengths and achievements of the previous ACP-EC Conventions.

2. Economic and trade cooperation shall build on regional integration initiatives of ACP States. **Cooperation in support of regional cooperation and integration as defined in Title I and economic and trade cooperation shall be mutually reinforcing. Economic and trade cooperation shall address, in particular, supply and demand side constraints, notably interconnectivity of infrastructure, economic diversification and trade development measures as a means of enhancing ACP States' competitiveness. Appropriate weight shall therefore be given to the corresponding measures in the ACP States' and regions' development strategies, which the Community shall support, in particular through the provision of aid for trade.**

3. Economic and trade cooperation shall take account of the different needs and levels of development of the ACP countries and regions. In this context, the Parties reaffirm their attachment to ensuring special and differential treatment for all ACP countries and to maintaining special treatment for ACP LDCs and to taking due account of the vulnerability of small, landlocked and island countries.

CHAPTER 2
NEW TRADING ARRANGEMENTS

ARTICLE 36
Modalities

1. In view of the objectives and principles set out above, the Parties agree to **take all the necessary measures to ensure the conclusion of new WTO-compatible Economic Partnership Agreements,** removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.

2. The Economic Partnership Agreements, as development instruments, aim to foster smooth and gradual integration of the ACP States into the world economy, especially by making full use of the potential of regional integration and South-South trade.

3. The Parties agree that these new trading arrangements shall be introduced gradually.

ARTICLE 37
Procedures

1. During the negotiations of the Economic Partnership Agreements, capacity building shall be provided in accordance with the provisions of Title I and Article 35 to the public and private sectors of ACP countries, including the public and private sectors of ACP countries, including measures to enhance competitiveness, for strengthening of regional organisations and for support to regional trade integration initiatives, where appropriate with assistance to budgetary adjustment and fiscal reform, as well as for infrastructure upgrading and development, and for investment promotion.

2. The Parties will regularly review the progress **of negotiations as foreseen in Article 38.**

3. Negotiations of the **E**conomic **P**artnership **A**greements will be **pursued** with ACP countries which consider themselves in a position to do so, at the level they consider appropriate and in accordance with the procedures agreed by the ACP Group, **and with a view to supporting** regional integration process within the ACP.

4. Negotiations of the **E**conomic **P**artnership **A**greements shall aim notably at establishing the timetable for the progressive removal of barriers to trade between the Parties, in accordance with the relevant WTO rules. On the Community side trade liberalisation shall build on the acquis and shall aim at improving current market access for the ACP countries through inter alia, a review of the rules of origin. Negotiations shall take account of the level of development and the socio economic impact of trade measures on ACP countries, and their capacity to adapt and adjust their economies to the liberalisation process. Negotiations will therefore be as flexible as possible in establishing the duration of a sufficient transitional period, the final product coverage, taking into account sensitive sectors, and the degree of asymmetry in terms of timetable for tariff dismantlement, while remaining in conformity with WTO rules then prevailing.

5. The Parties shall closely cooperate and collaborate in the WTO with a view to defending the arrangements reached, in particular with regard to the degree of flexibility available.

6. The Parties shall discuss further how to simplify and review the rules of origin, including cumulation provisions that apply to their exports.

7. Once ACP States have concluded an Economic Partnership Agreement, those ACP States which are not Parties to such Agreement can seek accession at any time.

8. In the context of ACP-EU cooperation in support of ACP regional cooperation and integration as outlined in Title I, and in accordance with Article 35, the Parties shall pay particular attention to the needs arising from the implementation of the Economic Partnership Agreements. The principles outlined in Article 1 of Annex IV to this Agreement shall apply. To that effect, the Parties agree on the use of existing or new regional financing mechanisms through which resources from the multi-annual financial framework of cooperation and other additional resources could be channeled.

ARTICLE 37A

Other trading arrangements

1. In the context of the current trade policy trends aiming at greater liberalisation of trade the EU and the ACP States may take part in negotiations and implementation of agreements leading to further multilateral and bilateral trade liberalisation. Such liberalisation may lead to the erosion of the preferences granted to the ACP States and affect their competitive position in the EU market, as well as their development efforts, which the EU is concerned to support.

2. In accordance with the objectives of economic and trade cooperation, the EU shall endeavour to pursue measures to overcome possible negative impacts of liberalisation, with a view to maintaining significant preferential access within the multilateral trading system for ACP States for as long as is feasible and to ensure that any unavoidable reduction in preference is phased in over as long a period as possible.

ARTICLE 38

Joint Ministerial Trade Committee

1. A Joint ACP-EC Ministerial Trade Committee shall be established.

2. The Ministerial Trade Committee **shall discuss any trade-related issue of concern to all ACP States and, in particular, regularly monitor the negotiations and implementation of Economic Partnership Agreements. It** shall pay special attention to current multilateral trade negotiations and shall examine the impact of the wider liberalisation initiatives on ACP-EC trade and the development of ACP economies. It shall **report and** make **appropriate** recommendations **to the Council of Ministers, including on any supportive measures,** with a view to **enhancing** the benefits of the ACP-EC trading arrangements.

3. The Ministerial Trade Committee shall meet at least once a year. Its rules of procedure shall be laid down by the Council of Ministers. It shall be composed of representatives of the ACP States and of the Community.

ARTICLE 38A

Consultations

1. Where new measures or measures stipulated in programmes adopted by the Community for the approximation of laws and regulations in order to facilitate trade are likely to affect the interests of one or more ACP States, the Community shall, prior to adopting such measures, inform the Secretariat of the ACP Group and the ACP States concerned.

2. In order to enable the Community to take into consideration the interests of the ACP Group, consultations shall be held at the request of the latter in accordance with the provisions of Article 12 of this Agreement, with a view to reaching a satisfactory solution.

3. Where existing Community rules or regulations adopted in order to facilitate trade affect the interests of one or more ACP States or where these interests are affected by the interpretation, application or administration of such rules or regulations, consultations shall

be held at the request of the ACP States concerned in accordance with the provisions of Article 12 with a view to reaching a satisfactory solution.

4.With a view to finding a satisfactory solution, the Parties may also bring up within the Joint Ministerial Trade Committee any other problems relating to trade which might result from measures taken or envisaged by the Member States.

5. The Parties shall inform each other of such measures in order to ensure effective consultations.

6. The Parties agree that holding consultations within, and providing information through, the institutions of an Economic Partnership Agreement on matters within the scope of such agreements shall be deemed to also satisfy the provisions of this Article and of Article 12 of this Agreement, provided that the ACP States likely to be affected are all signatories to the Economic Partnership Agreement within which the consultations were held or information was provided.

CHAPTER 3
COOPERATION IN THE INTERNATIONAL FORA

ARTICLE 39
General Provisions

1. The Parties underline the importance of their active participation in the WTO as well as in other relevant international organisations by becoming members of these organisations and closely following their agenda and activities.

2. They agree to cooperate closely in identifying and furthering their common interests in international economic and trade cooperation in particular in the WTO, including participation in setting and conducting the agenda in future multilateral trade negotiations. In this context, particular attention shall be paid to improve access to the Community and other markets for products and services originating in the ACP countries.

3. They also agree on the importance of flexibility in WTO rules to take account of the ACP's level of development as well of the difficulties faced in meeting their obligations. They further agree on the need for technical assistance to enable the ACP countries to implement their commitments.

4. The Community agrees to assist the ACP States in their efforts, in accordance with the provisions set out in this Agreement, to become active members of these organisations, by developing the necessary capacity to negotiate, participate effectively, monitor and implement these agreements.

ARTICLE 40
Commodities

1. The Parties recognise the need to ensure a better operation of international commodity markets and to increase market transparency.

2. They confirm their willingness to step up consultations between them in the international fora and organisations dealing with commodities.

3. To this end, exchange of views shall take place at the request of either Party:

- regarding the operation of existing international agreements or specialised intergovernmental working parties with the aim of improving them and making them more effective, consistent with market trends;

- when it is proposed to conclude or renew an international agreement or set up a specialised intergovernmental working party.

The aim of such exchanges of views shall be to take account of the respective interest of each party. They may take place, where necessary, in the framework of the Ministerial Trade Committee.

CHAPTER 4
TRADE IN SERVICES

ARTICLE 41
General Provisions

1. The Parties underline the growing importance of services in international trade and their major contribution to economic and social development.

2. They reaffirm their respective commitments under the General Agreement on Trade in Services (GATS), and underline the need for special and differential treatment to ACP suppliers of services.

3. In the framework of the negotiations for progressive liberalisation in trade and services, as provided for in Article XIX of GATS, the Community undertakes to give sympathetic consideration to the ACP States' priorities for improvement in the EC schedule, with a view to meeting their specific interests.

4. The Parties further agree on the objective of extending under the economic partnership agreements, and after they have acquired some experience in applying the Most Favoured Nation (MFN) treatment under GATS, their partnership to encompass the liberalisation of services in accordance with the provisions of GATS and particularly those relating to the participation of developing countries in liberalisation agreements.

5. The Community shall support, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** the ACP States' efforts to strengthen their capacity in the supply of services. Particular attention shall be paid to services related

to labour, business, distribution, finance, tourism, culture and construction and related engineering services with a view to enhancing their competitiveness and thereby increasing the value and the volume of their trade in goods and services.

ARTICLE 42
Maritime Transport

1. The Parties acknowledge the importance of cost-effective and efficient maritime transport services in a safe and clean marine environment as the main mode of transportation facilitating international trade and thereby constituting one of the forces behind economic development and the development of trade.

2. They undertake to promote the liberalisation of maritime transport and to this end apply effectively the principle of unrestricted access to the international maritime transport market on a non discriminatory and commercial basis.

3. Each Party shall grant, inter alia, a treatment no less favourable than that accorded to its own ships, for ships operated by nationals or companies of the other Party, and for ships registered in the territory of either party, with respect to access to ports, the use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

4. The Community shall support, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** the ACP States' efforts to develop and promote cost effective and efficient maritime transport services in the ACP States with a view to increasing the participation of ACP operators in international shipping services.

ARTICLE 43
Information and Communication Technologies, and Information Society

1. The Parties recognise the important role of information and communication technologies, as well as the active participation in the Information Society, as a prerequisite for the successful integration of the ACP countries into the world economy.

2. They therefore reconfirm their respective commitments under existing multilateral agreements; in particular the protocol on Basic Telecommunications attached to the GATS, and invites those ACP countries, which are not yet members of these agreements, to accede to them.

3. They furthermore agree to participate fully and actively in any future international negotiation, which might be conducted in this area.

4. The Parties will therefore take measures that will enable inhabitants of ACP countries easy access to information and communication technologies, through, amongst other, the following measures:

-the development and encouragement of the use of affordable renewable energy resources;

-the development and deployment of more extensive low-cost wireless networks; and

-the development and encouragement of the use of local content for Information and Communication Technologies

5. The Parties also agree to step up cooperation between them in the area of information and communication technologies, and the Information Society. This cooperation shall, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** in particular be directed towards greater complementarity and harmonisation of communication systems, at national, regional and international level and their adaptation to new technologies.

CHAPTER 5
TRADE RELATED AREAS

ARTICLE 44
General Provisions

1. The Parties acknowledge the growing importance of new areas related to trade in facilitating progressive integration of the ACP States into the world economy. They therefore agree to strengthen their cooperation in these areas by establishing full and coordinated participation in the relevant international fora and agreements.

2. The Community shall support the ACP States' efforts, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** to strengthen their capacity to handle all areas related to trade, including, where necessary, improving and supporting the institutional framework.

ARTICLE 45
Competition Policy

1. The Parties agree that the introduction and implementation of effective and sound competition policies and rules are of crucial importance in order to improve and secure an investment friendly climate, a sustainable industrialisation process and transparency in the access to markets.

2. To ensure the elimination of distortions to sound competition and with due consideration to the different levels of development and economic needs of each ACP country, they undertake to implement national or regional rules and policies including the control and under certain conditions the prohibition of agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition. The Parties further agree to prohibit the abuse by one or more undertakings of a dominant position in the common market of the Community or in the territory of ACP States.

3. The Parties also agree to reinforce cooperation in this area with a view to formulating and supporting effective competition policies with the appropriate national competition agencies that progressively ensure the efficient enforcement of the competition rules by both private and state enterprises. Cooperation in this area shall, in particular, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** include assistance in the drafting of an appropriate legal framework and its administrative enforcement with particular reference to the special situation of the Least Developed Countries.

ARTICLE 46
Protection of Intellectual Property Rights

1. Without prejudice to the positions of the Parties in multilateral negotiations, the Parties recognise the need to ensure an adequate and effective level of protection of intellectual, industrial and commercial property rights, and other rights covered by TRIPS including protection of geographical indications, in line with the international standards with a view to reducing distortions and impediments to bilateral trade.

2. They underline the importance, in this context, of adherence to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) to the WTO Agreement and the Convention on Biological Diversity (CBD).

3. They also agree on the need to accede to all relevant international conventions on intellectual, industrial and commercial property as referred to in Part I of the TRIPS Agreement, in line with their level of development.

4. The Community, its Member States and the ACP States may consider the conclusion of agreements aimed at protecting trademarks and geographical indications for products of particular interest of either Party.

5. For the purpose of this Agreement, intellectual property includes in particular copyright, including the copyright on computer programmes, and neighbouring rights, including artistic designs, and industrial property which includes utility models, patents including patents for bio-technological inventions and plant varieties or other effective sui generis systems, industrial designs, geographical indications including appellations of origin, trademarks for goods or services, topographies of integrated circuits as well as the legal protection of data bases and the protection against unfair competition as referred to in Article 10a of the Paris Convention for the Protection of Industrial Property and protection of undisclosed confidential information on know how.

6. The Parties further agree to strengthen their cooperation in this field. Upon request, on mutually agreed terms and conditions, **and through national and regional development strategies as defined in Title I and in conformity with Article 35,** cooperation shall inter alia extend to the following areas: the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by right holders and the infringement of such rights by competitors, the establishment and reinforcement of domestic and regional offices and other agencies including support for

regional intellectual property organisations involved in enforcement and protection, including the training of personnel.

ARTICLE 47
Standardisation and Certification

1. The Parties agree to cooperate more closely in the field of standardisation, certification and quality assurance to remove unnecessary technical barriers and to reduce differences between them in those areas, so as to facilitate trade.

In this context, they reaffirm their commitment under the Agreement on Technical Barriers to trade, annexed to the WTO Agreement (TBT Agreement).

2. Cooperation in standardisation and certification, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** shall aim at promoting compatible systems between the Parties and in particular include:

-measures, in accordance with the TBT Agreement, to promote greater use of international technical regulations, standards and conformity assessment procedures, including sector specific measures, in accordance with the level of economic development of ACP countries,

-cooperation in the area of quality management and assurance in selected sectors of importance to the ACP States,

-support for capacity building initiatives in the ACP countries in the fields of conformity assessment, metrology and standardisation,

-developing functioning links between ACP and European standardisation, conformity assessment and certification institutions.

3. The Parties undertake to consider, in due course, negotiating mutual recognition agreements in sectors of mutual economic interest.

ARTICLE 48
Sanitary and Phytosanitary Measures

1.The Parties recognise the right of each Party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade, generally. To this end, they reaffirm their commitments under the Agreement on the Application of Sanitary and Phytosanitary Measures, annexed to the WTO Agreement (SPS Agreement), taking account of their respective level of development.

2. They further undertake to reinforce coordination, consultation and information as regards notification and application of proposed sanitary and phytosanitary measures, in accordance with the SPS Agreement whenever these measures might affect the interests of either Party.

They also agree on prior consultation and coordination within the CODEX ALIMENTARIUS, the International Office of Epizootics and the International Plant Protection Convention, with a view to furthering their common interests.

3. The Parties agree to strengthen their cooperation, **through national and regional development strategies as defined in Title I and in conformity with Article 35,** with a view to reinforcing the capacity of the public and the private sector of the ACP countries in this field.

ARTICLE 49
Trade and Environment

1.The Parties reaffirm their commitment to promoting the development of international trade in such a way as to ensure sustainable and sound management of the environment, in accordance with the international conventions and undertakings in this area and with due regard to their respective level of development. They agree that the special needs and requirements of ACP States should be taken into account in the design and implementation of environment measures**, including in relation to the provisions of Article 32a.**

2. Bearing in mind the Rio Principles and with a view to reinforcing the mutual supportiveness of trade and environment, the Parties agree to enhance their cooperation in this field. Cooperation shall in particular aim at the establishment of coherent national, regional and international policies, reinforcement of quality controls of goods and services related to the environment, the improvement of environment friendly production methods in relevant sectors.

3. The Parties agree that environmental measures should not be used for protectionist purposes.

ARTICLE 50
Trade and Labour Standards

1.The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant International Labour Organisation (ILO) Conventions, and in particular the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination in respect to employment.

2. They agree to enhance cooperation in this area, in particular in the following fields:

-exchange of information on the respective legislation and work regulation;

-the formulation of national labour legislation and strengthening of existing legislation;

-educational and awareness raising programmes;

-enforcement of adherence to national legislation and work regulation;

3. The Parties agree that labour standards should not be used for protectionist purposes.

ARTICLE 51

Consumer Policy and Protection of Consumer Health

1. The Parties agree to step up their cooperation in the area of consumer policy and consumer health protection, having due regard to domestic legislation to avoid barriers to trade.

2. Cooperation shall, in particular, aim**, through national and regional development strategies as defined in Title I and in conformity with Article 35,** at improving the institutional and technical capacity in this area, establishing rapid alert systems of mutual information on dangerous products, exchanging information and experiences on the establishment and operation of post market surveillance of products and product safety, improving information provided to consumers on prices, characteristics of products and services offered, encouraging the development of independent consumer associations and contacts between consumer interest representatives, improving compatibility of consumer policies and systems, notifying enforcement of the legislation and promoting cooperation in investigating harmful or unfair business practices and implementing exports prohibitions in the trade between the Parties of goods and services the marketing of which has been prohibited in their country of production.

ARTICLE 52

Tax Carve-out Clause

1. Without prejudice to the provisions of Article 31 of Annexe IV, the Most Favoured Nation treatment granted in accordance with the provisions of this Agreement, or any arrangement adopted under this Agreement, does not apply to tax advantages which the Parties are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

2. Nothing in this Agreement, or in any arrangements adopted under this Agreement, may be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

3. Nothing in this Agreement, or in any arrangements adopted under this Agreement, shall be construed to prevent the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

CHAPTER 6
COOPERATION IN OTHER AREAS

ARTICLE 53
Fishery Agreements

1. The Parties declare their willingness to negotiate fishery agreements aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP States.

2. In the conclusion or implementation of such agreements, the ACP States shall not discriminate against the Community or among the Member States, without prejudice to special arrangements between developing States ithin the same geographical area, including reciprocal fishing arrangements, nor shall the Community discriminate against ACP States.

ARTICLE 54
Food security

1. With regard to available agricultural products, the Community undertakes to ensure that export refunds can be fixed further in advance for all ACP States in respect of a range of products drawn up in the light of the food requirements expressed by those States.

2. Advance fixing shall be for one year and shall be applied each year throughout the life of this Agreement, it being understood that the level of the refund will be determined in accordance with the methods normally followed by the Commission.

3. Specific agreements may be concluded with those ACP States which so request in the context of their food security policies.

4. The specific agreements referred to in paragraph 3 shall not place in jeopardy production and trade flows in ACP regions.

PART 4
DEVELOPMENT FINANCE COOPERATION

TITLE I
GENERAL PROVISIONS

CHAPTER 1
OBJECTIVES, PRINCIPLES, GUIDELINES AND ELIGIBILITY

ARTICLE 55
Objectives

The objectives of development finance cooperation shall be, through the provision of adequate financial resources and appropriate technical assistance, to support and promote the efforts of ACP States to achieve the objectives set out in this Agreement on the basis of mutual interest and in a spirit of interdependence

ARTICLE 56
Principles

1. Development finance cooperation shall be implemented on the basis of and be consistent with the development objectives, strategies and priorities established by the ACP States, at both national, regional **and intra-ACP** levels. Their respective geographical, social and cultural characteristics, as well as their specific potential, shall be taken into account. **Guided by the internationally agreed aid effectiveness agenda, cooperation shall be based on ownership, alignment, donor coordination and harmonisation, managing for development results and mutual accountability.** In **particular**, cooperation shall:

a) promote local ownership at all levels of the development process;

b) reflect a partnership based on mutual rights and obligations;

c) emphasise the importance of predictability and security in resource flows, granted on highly concessional terms and on a continuous basis;

d) be flexible and appropriate to the situation in each ACP State as well as adapted to the specific nature of the project or programme concerned; and

e) ensure efficiency, coordination and consistency.

2. Cooperation shall ensure special treatment for LDC ACP countries and duly take into account the vulnerability of landlocked and island ACP countries. In addition, the specific needs of post-conflict countries shall also be addressed.

ARTICLE 57
Guidelines

1. Operations financed within the framework of this Agreement shall be implemented by the ACP States and the Community in close cooperation, the concept of equality between the partners being recognised.

2. The ACP States shall be responsible for:

a) defining the objectives and priorities on which the indicative programmes are based;

b) choosing projects and programmes;

c) preparing and presenting the dossiers of projects and programmes;

d) preparing, negotiating and concluding contracts;

e) implementing and managing projects and programmes; and

f) maintaining projects and programmes.

3. Without prejudice to the provisions above, eligible non State actors may also be responsible for proposing and implementing programmes and projects in areas concerning them.

4. The ACP States and the Community shall be jointly responsible for:

a) establishing, within the joint institutions, the guidelines for development finance cooperation;

b) adopting the indicative programmes;

c) appraising projects and programmes;

d) ensuring equality of conditions for participation in invitations to tender and contracts;

e) monitoring and evaluating the effects and results of projects and programmes; and

f) ensuring the proper, prompt and efficient execution of projects and programmes.

5. The Community shall be responsible for taking financing decisions on projects and programmes.

6. Unless otherwise provided for in this Agreement, all decisions requiring the approval of either Party shall be approved, or be deemed approved, within 60 days of notification by the other Party.

ARTICLE 58
Eligibility for financing

1. The following entities or bodies shall be eligible for financial support provided under the Agreement:

a) ACP States;

b) regional or inter-State bodies to which one or more ACP States belong, including **the African Union or other** bodies with non-ACP State members, which are authorised by those ACP States; and

c) joint bodies set up by the ACP States and the Community to pursue certain specific objectives.

2. Subject to the agreement of the ACP State or ACP States concerned, the following shall also be eligible for financial support:

a) national and/or regional public or semi-public agencies and departments of ACP States, including Parliaments, and, in particular, their financial institutions and development banks;

b) companies, firms and other private organisations and private operators of ACP States;

c) enterprises of a Community Member State to enable them, in addition to their own contribution, to undertake productive projects in the territory of an ACP State;

d) ACP or Community financial intermediaries providing, promoting and financing private **or public** investments in ACP States; and

e) local decentralised authorities from ACP States and the Community; and

f) developing countries that are not part of the ACP Group where they participate in a joint initiative or regional organisation with ACP States **in conformity with Article 6 of Annex IV to this Agreement.**

3. Non-State actors from ACP States and the Community which have a local character shall be eligible for financial support provided under this Agreement, according to the modalities agreed in the national and regional indicative programmes.

CHAPTER 2
SCOPE AND NATURE OF FINANCING

ARTICLE 59

Within the framework of the priorities established by the ACP State or States concerned at both national and regional levels, support may be given to projects, programmes and other forms of operations contributing to the objectives set out in this Agreement.

ARTICLE 60
Scope of Financing

The scope of financing may include, inter alia, depending on the needs and the types of operation considered most appropriate, support to:

a) measures which contribute to attenuate the debt burden and balance of payments problems of the ACP countries;

b) macroeconomic and structural reforms and policies;

c) mitigation of adverse **short-term** effects of **exogenous shocks, including** instability in export earnings **on socio-economic reforms and policies;**

d) sectoral policies and reforms;

e) institutional development and capacity building;

f) technical cooperation programmes; and

g) humanitarian and emergency assistance including assistance to refugees and displaced persons, **interventions linking short-term relief and rehabilitation with long-term development in crisis or post-crisis situations,** and disaster preparedness.

ARTICLE 61
Nature of Financing

1. The nature of financing shall, inter alia, include:

a) projects and programmes;

b) credit lines, guarantee schemes and equity participation;

c) budgetary support, either directly, for the ACP States whose currencies are convertible and freely transferable, or indirectly, from counterparts funds generated by the various Community instruments;

d) the human and material resources necessary for effective administration and supervision of projects and programmes;

e) sectoral and general import support programmes which may take the form of:

i) sectoral import programmes through direct procurement including financing of inputs in the productive system and supplies to improve social services;

ii) sectoral import programmes in the form of foreign exchange released in instalments for financing sectoral imports; and

iii) general import programmes in the form of foreign exchange released in instalments for financing general imports covering a wide range of products.

2. Direct budgetary assistance in support of macroeconomic or sectoral reforms shall be granted where:

(a) **well-defined poverty-focused national or sector development strategies are in place or under implementation;**

(b) well-defined **stability-oriented** macroeconomic policy established by the country itself and **positively assessed** by its main donors, **including where relevant the international financial institutions, is** in place **or under implementation**; and

(c) public **financial** management is sufficiently transparent, accountable and effective.

The Community shall align on the systems and procedures specific to each ACP country, monitor its budget support with the partner country and support efforts of partner countries to strengthen domestic accountability, parliamentary oversight, audit capacities and public access to information.

3. Similar direct budgetary assistance shall be granted gradually to sectoral policies in substitution for individual projects.

4. The instruments of import programmes or budgetary support defined above can also be used to support eligible ACP States implementing reforms aimed at intra-regional economic liberalisation which generate net transitional costs.

5. In the framework of the Agreement, **the funds earmarked under the multi-annual financial framework of cooperation under this Agreement,** own resources of the European Investment Bank (hereinafter referred to as the Bank) and where appropriate **other** resources drawn from the European Community's budget, shall be used to finance projects, programmes and other forms of operations contributing to the achievement of the objectives of this Agreement.

6. The funds provided under the Agreement may be used to cover the total costs of both the local and foreign expenditure of projects and programmes, including recurrent cost financing

TITLE II
FINANCIAL COOPERATION

CHAPTER 1
FINANCIAL RESOURCES

ARTICLE 62
Overall amount

1. For the purposes set out in this Agreement, the overall amount of the Community's financial assistance and the detailed terms and conditions of financing are provided for in the Annexes to this Agreement.

2. Should an ACP State fail to ratify this Agreement or denounce it, the Parties shall adjust the amounts of the resources provided for in the Financial Protocol set out in Annexe I. Adjustment of the financial resources shall also apply upon:

a) the accession to the Agreement of new ACP States which did not take part in its negotiation; and

b) the enlargement of the Community.

ARTICLE 63
Methods of financing

The methods of financing for each project or programme shall be determined jointly by the ACP State or States concerned and the Community by reference to:

a) the level of development, the geographical situation and economic and financial circumstances of these States;

b) the nature of the project or programme, its economic and financial return as well as its social and cultural impact; and

c) in the case of loans, factors guaranteeing their servicing.

ARTICLE 64
On lending operations

1. Financial assistance may be made available to or through the ACP States concerned or, subject to the provisions of this Agreement through eligible financial institutions or directly to any other eligible beneficiary. Where financial assistance is granted to the final recipient through an intermediary or directly to the final beneficiary in the private sector:

a) the terms and conditions on which the assistance may be made available by the intermediary to the final recipient or directly to the final beneficiary in the private sector shall be laid down in the financing agreement or loan contract; and

b) any financial benefit accruing to the intermediary from the on lending transaction or resulting from direct lending operations to the final beneficiary in the private sector, shall be used for development purposes on the conditions laid down in the financing agreement or the loan contract, after taking into account administrative costs, exchange and financial risks and the cost of technical assistance given to the final recipient.

2. Where the financing is undertaken through an on-lending body based and/or operating in the ACP States, it shall be the responsibility of that body to select and appraise individual projects and to administer the funds placed at its disposal under the conditions provided for in this Agreement and by mutual agreement between the Parties.

ARTICLE 65
Co-financing

1. The financial resources provided for in this Agreement may be applied, at the request of the ACP States, to co-financing undertaken in particular with development agencies and institutions, Community Member States, ACP States, third countries or international or private financial institutions, firms or export credit agencies.

2. Special consideration shall be given to the possibility of co-financing in cases where Community participation will encourage the participation of other sources of finance and where such financing may lead to an advantageous financial package for the ACP State concerned.

3. Co-financing may be in the form of joint or parallel financing. Preference shall be given in each case to the solution, which is more suitable from the point of view of cost effectiveness. In addition, measures shall be taken to coordinate and harmonise operations of the Community and those of other co-financing bodies in order to minimise the number of procedures to be undertaken by the ACP States and to render those procedures more flexible.

4. The process of consultation and coordination with other donors and co-financiers should be strengthened and developed, where possible, through the establishment of co-financing framework agreements and co-financing policies and procedures should be reviewed to ensure effectiveness and the best terms and conditions possible.

CHAPTER 2
DEBT AND STRUCTURAL ADJUSTMENT SUPPORT

ARTICLE 66
Support for debt relief

1. In order to attenuate the debt burden of the ACP States and their balance-of payment problems, the Parties agree to use the resources provided for **under the multi-annual financial framework of cooperation under** this Agreement to contribute to debt relief initiatives approved at international level for the benefit of ACP countries. The Community furthermore commits itself to examine how in the longer term other resources can be mobilised in support of internationally agreed debt relief initiatives.

2. At the request of an ACP State, the Community may grant:

a) assistance in studying and finding practical solutions to indebtedness including domestic debt, debt-servicing difficulties and balance of payments problems;

b) training in debt management and international financial negotiations as well as support for training workshops, courses and seminars in these fields; and

c) assistance to develop flexible techniques and instruments of debt management.

3. In order to contribute to the servicing of the debt resulting from loans from the Bank's own resources, special loans and risk capital, the ACP States may, in accordance with arrangements to be made on a case by case basis with the Commission, use the available foreign currency referred to in this Agreement for such servicing, as and when debt repayment falls due and up to the amount required for payments in national currency.

4. Given the seriousness of the international debt problem and its impact on economic growth, the Parties declare their readiness to continue to exchange views, within the context of international discussions, on the general problem of debt, and without prejudice to specific discussions taking place in the relevant fora.

ARTICLE 67
Structural adjustment support

1. The **multi-annual financial framework of cooperation under this** Agreement shall provide support for macroeconomic and sectoral reforms implemented by the ACP States. In this framework, the Parties shall ensure that adjustment is economically viable and socially and politically bearable. Support shall be given in the context of a joint assessment between the Community and the ACP State concerned on the reform measures being undertaken or contemplated either at macroeconomic or sectoral level, and permit an overall evaluation of the reform efforts. **To the extent possible the joint assessment shall be aligned on country**

specific arrangements and the support monitored on the basis of results achieved. Quick disbursement shall be an important feature of support programmes.

2. The ACP States and the Community recognise the necessity to encourage reform programmes at regional level ensuring that, in the preparation and execution of national programmes, due consideration is given to regional activities which have an influence on national development. To this end, support for structural adjustment shall also seek to:

a) incorporate, from the beginning of the diagnosis, measures to encourage regional integration and take account of the consequences of trans border adjustment;

b) support the harmonisation and coordination of macroeconomic and sectoral policies, including fiscal and customs areas, so as to fulfil the dual aim of regional integration and of structural reform at national level; and

c) take account of the effects of net transitional costs of regional integration on budget revenue and balance of payments, either through general import programmes or budgetary support.

3. ACP States undertaking or contemplating reform at the macroeconomic or sectoral level shall be eligible for structural adjustment assistance, giving consideration to the regional context, their effectiveness and the likely impact on the economic, social and political dimension of development and on economic and social hardships being experienced.

4. The ACP States undertaking reform programmes that are acknowledged and supported at least by the principal multilateral donors, or that are agreed with such donors but not necessarily financially supported by them, shall be treated as having automatically satisfied the requirements for adjustment assistance.

5. Structural adjustment support shall be mobilised in a flexible manner and in the form of sectoral and general import programmes or budgetary support.

6. The preparation, appraisal and financing decision for structural adjustment programmes shall be carried out according to the provisions on implementation procedures of this Agreement with due regard to the quick disbursing feature of structural adjustment programmes. On a case-by-case basis, retroactive financing of a limited part of imports of ACP-EC origin may be permissible.

7. The implementation of each support programme shall ensure that the eligibility of ACP economic operators for access to the resources of the programme is as wide and transparent as possible and that the procurement procedures accord with the administrative and commercial practices in the State concerned, while ensuring the best possible price/quality ratio on imported goods and the necessary consistency with the progress achieved internationally for harmonising the procedures for supporting structural adjustment.

CHAPTER 3
SUPPORT IN CASE OF EXOGENOUS SHOCKS

ARTICLE 68

1. The Parties recognise that **macroeconomic** instability **resulting from exogenous shocks** may adversely affect the development of the ACP States and jeopardise the attainment of their development requirements. A system of additional support in order to mitigate the **short-term** adverse effects **resulting from exogenous shocks, including the effects on export earnings**, is therefore set up within the **multi-annual financial framework of cooperation under this Agreement.**

2. The purpose of **this** support is to safeguard socio-economic reforms and policies that could be affected negatively as a result of a drop in revenue and to remedy the **short-term** adverse effects of **such shocks**.

3. The extreme dependence of the ACP States' economies on exports, in particular from the agricultural and mining sectors, shall be taken into account in the allocation of resources. In this context, the least developed, landlocked and island, post conflict and post natural disaster ACP States shall receive more favourable treatment.

4. The additional resources shall be provided in accordance with the specific modalities of the support mechanism as set out in Annexe II on Terms and Conditions of Financing.

5. The Community shall also provide support for market-based insurance schemes designed for ACP States seeking to protect themselves against **short-term effects of exogenous shocks**.

CHAPTER 4
SUPPORT FOR SECTORAL POLICIES

ARTICLE 69

1. Cooperation shall support, through the various instruments and modalities provided for in the Agreement:

a) social and economic sectoral policies and reforms;

b) measures to enhance productive sector activity and export competitiveness;

c) measures to expand social sector services; and

d) thematic and cross cutting issues.

2. This support shall be provided as appropriate through:

a) sectoral programmes;

b) budgetary support;

c) investments;

d) rehabilitation;

e) training;

f) technical assistance; and

g) institutional support.

CHAPTER 5
MICROPROJECTS AND DECENTRALISED COOPERATION

ARTICLE 70

In order to respond to the needs of local communities with regard to development, and to encourage all agents of decentralised cooperation which are in a position to contribute to the autonomous development of the ACP States to put forward and implement initiatives, cooperation shall support, within the framework laid down in the rules and national legislation of the ACP States concerned and the provisions of the indicative programme, such development operations. In this context, cooperation shall support:

a) micro projects at local level which have an economic and social impact on the life of the people, meet a demonstrated and observed priority need, and shall be undertaken at the initiative and with the active participation of the local community which shall benefit therefrom; and

b) decentralised cooperation, in particular where such operations combine efforts and resources of decentralised agents from the ACP States and their counterparts from the Community. This form of cooperation shall enable the mobilisation of capabilities, innovative operating methods and resources of decentralised agents for the development of the ACP State.

ARTICLE 71

1. Microprojects and decentralised cooperation operations may be supported from the financial resources of the Agreement. Projects or programmes under this form of cooperation may or may not be linked to programmes in the sectors of concentration of the indicative programmes, but may be a way of achieving the specific objectives of the indicative programme or the results of initiatives by local communities or decentralised agents.

2. Contributions for the financing of micro-projects and decentralised cooperation shall be made by the Fund, in which case the contribution shall not normally exceed three quarters

of the total cost of each project and may not exceed the limit set in the indicative programme. The remaining balance shall be provided:

a) by the local community concerned in case of micro-projects (either in kind or in the form of services or cash and adapted to its capacity to contribute);

b) by the agents of decentralised cooperation, provided that the financial, technical, material and other resources brought in by such agents shall not normally be less than 25% of the estimated cost of the project/programme; and

c) exceptionally by the ACP State concerned, either in the form of a financial contribution or through the use of public equipment or the supply of services.

3. The procedures applicable to projects and programmes financed within the framework of microprojects or decentralised cooperation shall be those laid down in the Agreement, in particular those referred to in multi-annual programmes.

CHAPTER 6
HUMANITARIAN, EMERGENCY AND POST-EMERGENCY ASSISTANCE

ARTICLE 72
General principle

1. Humanitarian, **emergency and post-emergency** assistance shall **be provided in situations of crisis. Humanitarian and emergency assistance shall aim to save and preserve life and to prevent and relieve human suffering wherever the needs arise. Post-emergency assistance shall aim at rehabilitation and linking the short-term relief with longer term development programmes.**

2. **Situations of crisis, including long-term structural instability or fragility are situations posing a threat to law and order or to the security and safety of individuals, threatening to escalate into armed conflict or to destabilise the country. Situations of crisis may also result from natural disasters, man-made crises such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, environmental degradation, access to energy and natural resources, or extreme poverty.**

3. The humanitarian, emergency **and post-emergency** assistance shall be maintained for as long as necessary to deal with the emergency needs resulting from these situations.

4. The Humanitarian assistance shall be granted exclusively according to the needs and interests of victims of **the crisis situation** and in line with the principles of international humanitarian law **and with respect to humanity, neutrality, impartiality and independence.** In particular, there shall be no discrimination between victims on grounds of race, ethnic origin, religion, gender, age, nationality or political affiliation and free access to and protection of victims shall be guaranteed as well as the security of humanitarian personnel and equipment.

5. The humanitarian, emergency and post-emergency assistance shall be financed under the multi-annual financial framework of cooperation under this Agreement, where such assistance cannot be financed from the Union's Budget. Humanitarian, emergency and post-emergency assistance shall be implemented in complementarity and coordination with the Member States' efforts and in accordance with best practice in aid effectiveness.

ARTICLE 72A
Objective

1. Humanitarian and emergency assistance shall aim to:

(a) safeguard human lives in crises and immediate post-crisis situations;

(b) contribute to the financing and delivery of humanitarian aid and to the direct access to it of its intended beneficiaries by all logistical means available;

(c) carry out short-term rehabilitation and reconstruction to enable the victims to benefit from a minimum of socio-economic integration and, as soon as possible, create the conditions for a resumption of development on the basis of long-term objectives set by the ACP countries and regions concerned;

(d) address the needs arising from the displacement of people (refugees, displaced persons and returnees) following natural or man-made disasters so as to meet, for as long as necessary, all the needs of refugees and displaced persons (wherever they may be) and facilitate action for their voluntary repatriation and re-integration in their country of origin; and

(e) assist the ACP State or region in setting up short term disaster prevention and preparedness mechanisms, including for prediction and early warning, with a view to reducing the consequences of disasters.

2. Assistance may be granted to ACP States or regions taking in refugees or returnees to meet acute needs not covered by emergency assistance.

3. Post-emergency action **shall aim** at physical and social rehabilitation consequent **to the results of the crisis concerned and may be undertaken to link the short-term relief and rehabilitation with the relevant longer term development programmes funded from the national, regional indicative programmes or the intra-ACP programme.** Such actions must **be necessary for** the transition from the emergency phase to the development phase, promoting the socio-economic reintegration of the parts of the population affected, removing as far as possible the causes of the crisis and strengthening institutions and the ownership by local and national actors of their role in formulating a sustainable development policy for the ACP country concerned.

4. Where appropriate, short-term disaster prevention and preparedness mechanisms as referred to in paragraph 1(e) will be coordinated with other disaster prevention and preparedness mechanisms in place.

The development and strengthening of national, regional and all-ACP disaster risk reduction and management mechanisms shall assist ACP States to build their resilience to the impact of disasters. All related activities may be pursued in cooperation with regional and

international organisations and programmes that have a proven track record in disaster risk reduction.

ARTICLE 73
Implementation

1. Assistance operations shall be undertaken either at the request of the ACP country or region affected by the crisis situation, **or at the initiative of** the Commission, **or on the advice of** international organisations or local or international non-State organisations.

2. The Community shall take adequate steps to facilitate speedy action, which is required to meet the immediate needs for which the assistance is needed. **The** assistance shall be administered and implemented under procedures permitting operations that are rapid, flexible and effective.

3. Underlining the developmental nature of the assistance granted in accordance with this Chapter, assistance may be used exceptionally together with the indicative programme at the request of the State or region concerned.

CHAPTER 7
INVESTMENT AND PRIVATE SECTOR DEVELOPMENT SUPPORT

ARTICLE 74

Cooperation shall, through financial and technical assistance, support the policies and strategies for investment and private sector development as set out in this Agreement.

ARTICLE 75
Investment promotion

The ACP States, the Community and its Member States, within the scope of their respective competencies, recognising the importance of private investment in the promotion of their development cooperation and acknowledging the need to take steps to promote such investment, shall:

a) implement measures to encourage participation in their development efforts by private investors who comply with the objectives and priorities of ACP-EC development cooperation and with the appropriate laws and regulations of their respective States;

b) take measures and actions which help to create and maintain a predictable and secure investment climate as well as enter into negotiations on agreements which will improve such climate;

c) encourage the EU private sector to invest and to provide specific assistance to its counterparts in the ACP countries under mutual business cooperation and partnerships;

d) facilitate partnerships and joint ventures by encouraging co financing;

e) sponsor sectoral investment fora to promote partnerships and external investment;

f) support efforts of the ACP States to attract financing, with particular emphasis on private financing, for infrastructure investments and revenue generating infrastructure critical for the private sector;

g) support capacity building for domestic investment promotion agencies and institutions involved in promoting and facilitating foreign investment;

h) disseminate information on investment opportunities and business operating conditions in the ACP States; and

i) promote national, regional and ACPEU private sector business dialogue, cooperation and partnerships, in particular through an ACP-EU private sector business forum. Support for operations of an ACP-EU private sector business forum shall be provided in pursuit of the following objectives:

i) to facilitate dialogue within the ACP/ EU private sector and between the ACP/EU private sector and the bodies established under the Agreement;

ii) to analyse and periodically provide the relevant bodies with information on the whole range of issues concerning relations between the ACP and EU private sectors in the context of the Agreement or, more generally, of economic relations between the Community and the ACP countries; and

iii) to analyse and provide the relevant bodies with information on specific problems of a sectoral nature relating to, inter alia, branches of production or types of products at regional or sub-regional level.

ARTICLE 76

Investment finance and support

1. Cooperation shall provide long-term financial resources, including risk capital, to assist in promoting growth in the private sector and help to mobilise domestic and foreign capital for this purpose. To this end, cooperation shall provide, in particular:

a)grants for financial and technical assistance to support policy reforms, human resource development, institutional capacity-building or other forms of institutional support related to a specific investment, measures to increase the competitiveness of enterprises and to strengthen the capacities of the private financial and non-financial intermediaries, investment facilitation and promotion and competitiveness enhancement activities;

b) advisory and consultative services to assist in creating a responsive investment climate and information base to guide and encourage the flow of capital;

c) risk capital for equity or quasi-equity investments, guarantees in support of domestic and foreign private investment and loans or lines of credit on the conditions laid down in Annexe II "Terms and Conditions of Financing" to this Agreement; and

d) loans from the Bank's own resources **and the Investment Facility, the terms and conditions of which are set out in Annex II to this Agreement. Such loans may also be used to finance public investment in basic infrastructure.**

2. Loans from the Bank's own resources shall be granted in accordance with its statute and with the terms and conditions laid down in Annexe II to this Agreement.

ARTICLE 77
Investment guarantees

1. Investment guarantees are an increasingly important tool for development finance as they contribute to reducing project risks and inducing private capital flows. Cooperation shall therefore ensure the increasing availability and use of risk insurance as a risk mitigating mechanism in order to boost investor confidence in the ACP States.

2. Cooperation shall offer guarantees and assist with guarantees funds covering risks for qualified investment. Specifically, cooperation shall provide support to:

a) reinsurance schemes to cover foreign direct investment by eligible investors; against legal uncertainties and the major risks of expropriation, currency transfer restriction, war and civil disturbance, and breach of contract. Investors may insure projects for any combination of the four types of coverage;

b) guarantee programmes to cover risk in the form of partial guarantees for debt financing. Both partial risk and partial credit guarantee shall be available; and

c) national and regional guarantee funds, involving, in particular, domestic financial institutions or investors for encouraging the development of the financial sector.

3. Cooperation shall also provide support to capacity-building, institutional support and participation in the core funding of national and/or regional initiatives to reduce the commercial risks for investors (inter alia guarantee funds, regulatory bodies, arbitration mechanisms and judiciary systems to enhance the protection of investments improving the export credit systems).

4. Cooperation shall provide such support on the basis of complementary and added value with respect to private and/or public initiatives and, whenever feasible, in partnership with private and other public organisations. The ACP and the EC will within the framework of the ACP-EC Development Finance Cooperation Committee undertake a joint study on the

proposal to set up an ACP-EC Guarantee Agency to provide and manage investment guarantee programmes.

ARTICLE 78
Investment protection

1. The ACP States and the Community and its Member States, within the scope of their respective competencies, affirm the need to promote and protect either Party's investments on their respective territories, and in this context affirm the importance of concluding, in their mutual interest, investment promotion and protection agreements which could also provide the basis for insurance and guarantee schemes.

2. In order to encourage European investment in development projects of special importance to, and promoted by the ACP States, the Community and the Member States, on the one hand and the ACP States on the other, may also conclude agreements relating to specific projects of mutual interest where the Community and European enterprises contribute towards their financing.

3. The Parties also agree to introduce, within the economic partnership agreements, and while respecting the respective competencies of the Community and its Member States, general principles on protection and promotion of investments, which will endorse the best results agreed in the competent international fora or bilaterally.

TITLE III
TECHNICAL COOPERATION

ARTICLE 79

1. Technical cooperation shall assist the ACP States in the development of national and regional manpower resources, the sustained development of the institutions critical for development success, including inter alia strengthening ACP consulting firms and organisations, as well as exchange arrangements involving consultants from both ACP and EU firms.

2. Furthermore, technical cooperation, shall be cost-effective and relevant to the need for which it is intended, and shall also favour the transfer of knowhow and increase national and regional capabilities. Technical cooperation shall contribute to the achievement of project and programme goals, including efforts to strengthen management capacity of the National and Regional Authorising Officers. Technical assistance shall:

a) be demand driven and thus made available only at the request of the ACP State or States concerned, and adapted to recipient needs;

b) complement and support ACP efforts to identify their own requirements;

c) be monitored and followed up to guarantee effectiveness;

d) encourage the participation of ACP experts, consultancy firms and educational and research institutions in contracts financed from the Fund and identify ways of employing qualified national and regional personnel on Fund projects;

e) encourage the secondment of ACP national cadres as consultants to an institution in their own country, or a

neighbouring country, or to a regional organisation;

f) aim at developing knowledge of national and regional manpower constraints and potential and establish a register of ACP experts, consultants and consultancy firms suitable for employment on projects and programmes financed from the Fund;

g) support intra ACP technical assistance in order to promote the exchange between the ACP States of technical assistance, management and professional expertise;

h) develop action programmes for long term institution building and staff development as an integral part of project and programme planning, account being taken of the necessary financial requirements;

i) support arrangements to enhance the capacity of the ACP States to build up their own expertise; and

j) give special attention to the development of the ACP States' capacities in project planning, implementation and evaluation, as well budget management.

3. Technical assistance may be provided in all areas of cooperation and within the limits of the mandate of this Agreement. The activities covered would be diverse in scope and nature, and would be tailored to meet the needs of the ACP States.

4. Technical cooperation may be either of a specific or a general nature. The ACPEC Development Finance Cooperation Committee shall establish the guidelines for the implementation of technical cooperation.

ARTICLE 80

With a view to reversing the brain drain from the ACP States, the Community shall assist ACP States which so request to facilitate the return of qualified ACP nationals resident in developed countries through appropriate re-installation incentives.

TITLE IV
PROCEDURES AND MANAGEMENT SYSTEMS

ARTICLE 81
Procedures

Management procedures shall be transparent, easy to apply and shall enable the decentralisation of tasks and responsibilities to the field. The implementation of ACP-EU development cooperation shall be open to non-State actors in areas that concern them. The detailed procedural provisions for programming, preparation, implementation and the management of financial and technical cooperation are laid down in Annexe IV on Implementation and Management Procedures. The Council of Ministers may review, revise and amend these provisions on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee.

ARTICLE 82
Executing agents

For the implementation of financial and technical cooperation under this Agreement, executing agents are designated. Detailed provisions for the responsibilities of the executing agents are laid down in Annexe IV on Implementation and Management Procedures.

ARTICLE 83
ACP-EC Development Finance Cooperation Committee

1. The Council of Ministers shall at least once a year examine whether the objectives of development finance cooperation are being attained and shall examine the general and specific problems resulting from the implementation of that cooperation. To this end, an ACP-EC Development Finance Cooperation Committee, hereinafter referred to as "the ACP-EC Committee", shall be set up within the Council of Ministers.

2. The ACP-EC Committee shall, inter alia:

a) ensure the overall achievement of the objectives and principles of development finance cooperation and establish general guidelines for their effective and timely implementation;

b) examine the problems arising from the implementation of development cooperation activities and propose appropriate measures;

c) review the annexes to the Agreement to ensure their continued relevance and recommend any appropriate amendments to the Council of Ministers for approval; and

d) examine the operations deployed within the framework of the Agreement to attain the objectives of promoting private sector development and investment and the operations of the Investment Facility.

3. The ACP-EC Committee, which shall meet every quarter, shall be composed, on a basis of parity, of representatives of the ACP States and of the Community, or their authorised representatives. It shall meet at ministerial level whenever one of the parties so requests and at least once a year.

4. The Council of Ministers shall lay down the ACP-EC Committee's rules of procedure, in particular the conditions for representation and the number of members of the Committee, the detailed arrangements for their deliberations and the conditions for holding the chair.

5. The ACP-EC Committee may convene meetings of experts to study the cause of any difficulties and bottlenecks, which may impede the efficient implementation of development cooperation. These experts shall make recommendations to the Committee on possible ways of removing such difficulties and bottlenecks.

PART 5
GENERAL PROVISIONS FOR THE LEAST DEVELOPED, LANDLOCKED AND ISLAND ACP STATES (LDLICS)

CHAPTER 1
GENERAL PROVISIONS

ARTICLE 84

1. To enable LDLICs to take full advantage of the opportunities offered by the Agreement so as to step up their respective rates of development, cooperation shall ensure special treatment for the least developed ACP countries and take due account of the vulnerability of landlocked and island ACP countries. It shall also take into consideration the needs of countries in post conflict situations.

2. Independently of the specific measures and provisions for the least-developed, landlocked and island countries in the different chapters of the Agreement, special attention shall be paid in respect of these groups as well as countries in post-conflict situations to:

a) the strengthening of regional cooperation;

b) transport and communications' infrastructure;

c) the efficient exploitation of marine resources and the marketing of products so produced and, in the case of landlocked countries, inland fisheries;

d) structural adjustment where account shall be taken of the level of development of these countries and equally, at the implementation stage, of the social dimension of adjustment; and

e) the implementation of food strategies and integrated development programmes.

CHAPTER 2
LEAST DEVELOPED ACP STATES

ARTICLE 85

1. The least developed ACP States shall be accorded a special treatment in order to enable them to overcome the serious economic and social difficulties hindering their development so as to step up their respective rates of development.

2. The list of least-developed countries is given in Annexe VI. It may be amended by a decision of the Council of Ministers where:

a) a third State in a comparable situation accedes to this Agreement; and

b) the economic situation of an ACP State changes considerably and durably to the extent that it needs to be included in the least developed category or its inclusion in that category is no longer justified.

ARTICLE 86

The provisions adopted in respect of the least-developed ACP States are contained in the following Articles: 2, 29, 32, 35, 37, 56, 68, 84, 85.

CHAPTER 3
LANDLOCKED ACP STATES

ARTICLE 87

1. Specific provisions and measures shall be established to support landlocked ACP States in their efforts to overcome the geographical difficulties and other obstacles hampering their development so as to enable them to step up their respective rates of development.

2. The list of landlocked ACP States is given in Annexe VI. It may be amended by decision of the Council of Ministers when a third State in a comparable situation accedes to the Agreement.

ARTICLE 88

The provisions adopted in respect of the landlocked ACP States are contained in the following Articles: 2, 32, 35, 56, 68, 84, 87.

CHAPTER 4
ISLAND ACP STATES

ARTICLE 89

1. Specific actions shall be pursued to support island ACP States in their efforts to halt and reverse their increasing vulnerability caused by new and severe economic, social and ecological challenges. These actions shall seek to advance the implementation of the small island developing States' priorities for sustainable development, while promoting a harmonised approach to their economic growth and human development.

2. The list of island ACP States is given in Annexe VI. It may be amended by decision of the Council of Ministers when a third State in a comparable situation accedes to the Agreement.

ARTICLE 90

The provisions adopted in respect of the island ACP States are contained in the following Articles: 2, 32, 35, 56, 68, 84, 89.

PART 6
FINAL PROVISIONS

ARTICLE 91

Conflict between this Agreement and other treaties

No treaty, convention, agreement or arrangement of any kind between one or more Member States of the Community and one or more ACP States may impede the implementation of this Agreement.

ARTICLE 92

Scope of territorial application

Subject to the special provisions regarding the relations between the ACP States and the French overseas departments provided for therein, this Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territories of the ACP States.

ARTICLE 93

Ratification and entry into force

1. This Agreement shall be ratified or approved by the signatory Parties in accordance with their respective constitutional rules and procedures.

2. The instruments of ratification or approval of this Agreement shall be deposited in the case of the ACP States, with the General Secretariat of the Council of the European Union and in the case of the Community and the Member States, with the General Secretariat of the ACP States. The Secretariats shall promptly notify the signatory States and the Community.

3. This Agreement shall enter into force on the first day of the second month following the date of deposit of the instruments of ratification of the Member States and of at least two thirds of the ACP States, and of the instrument of approval of this Agreement by the Community.

4. An ACP signatory State that has not completed the procedures set out in paragraphs 1 and 2 by the date on which this Agreement enters into force as provided for in paragraph 3 may do so only within the 12 months following that date, without prejudice to the provisions of paragraph 6.

For such States this Agreement shall become applicable on the first day of the second month following the completion of these procedures. These States shall recognise the validity of any measure taken to implement the Agreement after the date of its entry into force.

5. The rules of procedure of the joint institutions set up under this Agreement shall lay down the conditions under which the representatives of signatory States referred to in paragraph 4 may attend those institutions as observers.

6. The Council of Ministers may decide to accord special support to ACP States party to previous ACP-EC Conventions which, in the absence of normally established government institutions, have not been able to sign or ratify this Agreement. This support may concern institution building and economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. In this context, such countries will be able to draw on the funds provided for in Part 4 of this Agreement for financial and technical cooperation.

By way of derogation from paragraph 4, the countries concerned which are signatories to the Agreement may complete the ratification procedures within twelve months of the restoration of government institutions.

The countries concerned which have neither signed nor ratified the Agreement may accede to it by means of the accession procedure provided for in Article 94.

ARTICLE 94
Accession

1. Any request for accession to this Agreement made by an independent State whose structural characteristics and economic and social situation are comparable to those of the ACP States shall be presented to the Council of Ministers.

If the request is approved by the Council of Ministers, the State concerned shall accede to this Agreement by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send a certified copy to the ACP Secretariat and notify the Member States. The Council of Ministers may lay down any amending measures that might be necessary.

The State concerned shall enjoy the same rights and be subject to the same obligations as the ACP States. Its accession may not infringe on the benefits enjoyed by the ACP States signatory to this Agreement under the provisions on development cooperation financing. The Council of Ministers may lay down the conditions and specific arrangements for the accession of an individual State in a special protocol that shall form an integral part of the Agreement.

2. The Council of Ministers shall be advised of any request made by a third State to become a member of an economic grouping of ACP States.

3. The Council of Ministers shall be advised of any request made by a third State to become a member of the European Union. During the negotiations between the Union and the applicant State, the Community shall provide the ACP States with any relevant information and they in turn shall convey their concerns to the Community so that it can take them fully into account. The ACP Secretariat shall be notified by the Community of any accession to the European Union.

Any new Member State of the European Union shall become a Party to this Agreement from the date of its accession by means of a clause to that effect in the act of accession. If the act of accession to the Union does not provide for such automatic accession of the Member State to this Agreement, the Member State concerned shall accede by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send a certified copy to the ACP Secretariat and notify the Member States.

The Parties shall review the effects of the accession of new Member States on this Agreement. The Council of Ministers may decide on any transitional or amending measures that might be necessary.

ARTICLE 95
Duration of the agreement and revision clause

1. This Agreement is hereby concluded for a period of twenty years, commencing on 1 March 2000.

2. Financial protocols are defined for each five-year period.

3. The Community and the Member States, on the one hand, and the ACP States, on the other, shall notify the other Party not later than 12 months before the expiry of each five-year period of any review of the provisions they desire to make with a view to a possible amendment of the Agreement. Notwithstanding this time limit, if one Party requests the review of any provisions of the Agreement, the other Party shall have a period of two

months in which to request the extension of the review to other provisions related to those which were the subject of the initial request.

Ten months before the expiry of this five year period, the Parties shall enter into negotiations with a view to examining any possible amendments to the provisions that were the subject of the notification.

Article 93 shall also apply to the amendments made.

The Council of Ministers shall adopt any transitional measures that may be required in respect of the amended provisions until they come into force.

4. Eighteen months before the end of the total period of the Agreement, the Parties shall enter into negotiations in order to examine what provisions shall subsequently govern their relations.

The Council of Ministers shall adopt any transitional measures that may be required until the new Agreement comes into force.

ARTICLE 96

Essential elements: consultation procedure and appropriate measures as regards human rights, democratic principles and the rule of law

1. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

1a. Both Parties agree to exhaust all possible options for dialogue under Article 8, except in cases of special urgency, prior to commencement of the consultations referred to in paragraph 2(a) of this Article.

a) If, despite the political dialogue on the essential elements as provided for under Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annexe VII.

The consultations shall be conducted at the level and in the form considered most appropriate for finding a solution.

The consultations shall begin no later than 30 days after the invitation and shall continue for a period established by mutual agreement, depending on the nature and gravity of the

violation. In no case shall the dialogue under the consultations procedure last longer than 120 days.

If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them no longer prevail.

b) The term "cases of special urgency" shall refer to exceptional cases of particularly serious and flagrant violation of one of the essential elements referred to in paragraph 2 of Article 9, that require an immediate reaction.

The Party resorting to the special urgency procedure shall inform the other Party and the Council of Ministers separately of the fact unless it does not have time to do so.

c) The "appropriate measures" referred to in this Article are measures taken in accordance with international law, and proportional to the violation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement.

It is understood that suspension would be a measure of last resort.

If measures are taken in cases of special urgency, they shall be immediately notified to the other Party and the Council of Ministers. At the request of the Party concerned, consultations may then be called in order to examine the situation thoroughly and, if possible, find solutions. These consultations shall be conducted according to the arrangements set out in the second and third subparagraphs of paragraph (a).

ARTICLE 97

Consultation procedure and appropriate measures as regards corruption

1. The Parties consider that when the Community is a significant partner in terms of financial support to economic and sectoral policies and programmes, serious cases of corruption should give rise to consultations between the Parties.

2. In such cases either Party may invite the other to enter into consultations. Such consultations shall begin no later than 30 days after the invitation and dialogue under the consultation procedure shall last no longer than 120 days.

3. If the consultations do not lead to a solution acceptable to both Parties or if consultation is refused, the Parties shall take the appropriate measures. In all cases, it is above all incumbent on the Party where the serious cases of corruption have occurred to take the measures necessary to remedy the situation immediately. The measures taken by either Party must be proportional to the seriousness of the situation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. It is understood that suspension would be a measure of last resort.

4. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

ARTICLE 98
Dispute settlement

1. Any dispute arising from the interpretation or application of this Agreement between one or more Member States or the Community, on the one hand, and one or more ACP States on the other, shall be submitted to the Council of Ministers.

Between meetings of the Council of Ministers, such disputes shall be submitted to the Committee of Ambassadors.

a) If the Council of Ministers does not succeed in settling the dispute, either Party may request settlement of the dispute by arbitration. To this end, each Party shall appoint an arbitrator within thirty days of the request for arbitration. In the event of failure to do so, either Party may ask the Secretary General of the Permanent Court of Arbitration to appoint the second arbitrator.

b) The two arbitrators shall in turn appoint a third arbitrator within thirty days. In the event of failure to do so, either Party may ask the Secretary General of the Permanent Court of Arbitration to appoint the third arbitrator.

c) Unless the arbitrators decide otherwise, the procedure applied shall be that laid down in the optional arbitration regulation of the Permanent Court of Arbitration for International Organisations and States. The arbitrators' decisions shall be taken by majority vote within three months

d) Each Party to the dispute shall be bound to take the measures necessary to carry out the decision of the arbitrators.

e) For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

ARTICLE 99
Denunciation clause

This Agreement may be denounced by the Community and its Member States in respect of each ACP State and by each ACP State in respect of the Community and its Member States, upon six months' notice.

ARTICLE 100

Status of the texts

The Protocols and Annexes attached to this Agreement shall form an integral part thereof. Annexes Ia, Ib, II, III, IV and VI may be revised, reviewed and/or amended by the Council of Ministers on the basis of a recommendation from the ACP-EC Development Finance Cooperation Committee.

This Agreement, drawn up in two copies in the **Bulgarian**, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, **Romanian,** Slovak, Slovenian, Spanish and Swedish languages, all texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union and the Secretariat of the ACP States, which shall both transmit a certified copy to the government of each of the Signatory States.

ANNEXES TO THE AGREEMENT

ANNEX I
FINANCIAL PROTOCOL

1. For the purposes set out in this Agreement and for a period of five years commencing 1 March 2000, the overall amount of the Community's financial assistance to the ACP States shall be EUR 15 200 million.

2. The Community's financial assistance shall comprise an amount up to EUR 13 500 million from the 9th European Development Fund (EDF).

3. The 9th EDF shall be allocated between the instruments of cooperation as follows:

a) EUR 10 000 million in the form of grants shall be reserved for an envelope for support for long-term development. This envelope shall be used to finance national indicative programmes in accordance with Articles 1 to 5 of Annexe IV "Implementation and management procedures" to this Agreement. From the envelope for support for long term development:

i) EUR 90 million shall be reserved for the financing of the budget of the Centre for the Development of Enterprise (CDE);

ii) EUR 70 million shall be reserved for the financing of the budget of the Centre for the Development of Agriculture (CTA); and

iii) an amount not exceeding EUR 4 million shall be reserved for the purposes referred to in Article 17 of this Agreement (Joint Parliamentary Assembly).

b) EUR 1 300 million in the form of grants shall be reserved for the financing of support for regional cooperation and integration of the ACP States in accordance with Articles 6 to 14 of Annexe IV "Implementation and management procedures" to this Agreement.

c) EUR 2 200 million shall be allocated to finance the Investment Facility according to the terms and conditions set out in Annexe II "Terms and conditions of financing" to this Agreement without prejudice to the financing of the interest rate subsidies provided for in Articles 2 and 4 of Annexe II to this Agreement funded from the resources mentioned in paragraph 3(a) of this Annexe.

4. An amount of up to EUR 1 700 million shall be provided from the European Investment Bank in the form of loans made from its own resources. These resources shall be granted for the purposes set out in Annexe II "Terms and conditions of financing" to this Agreement in accordance with the conditions provided for by its statutes and the relevant provisions of the terms and conditions for investment financing as laid down in the aforementioned Annexe. The Bank may, from the resources it manages, contribute to the financing of regional projects and programmes.

5. Any balances remaining from previous EDFs on the date of entry into force of this Financial Protocol, as well as any amounts that shall be decommitted at a later date from ongoing projects under these Funds, shall be transferred to the 9th EDF and shall be used in accordance with the conditions laid down in this Agreement. Any resources thus transferred to the 9th EDF that previously had been allocated to the indicative programme of an ACP State or region shall remain allocated to that State or region. The overall amount of this Financial Protocol, supplemented by the transferred balances from previous EDFs, will cover the period of 20002007.

6. The Bank shall administer the loans made from its own resources, as well as the operations financed under the Investment Facility. All other financial resources of this Agreement shall be administered by the Commission.

7. Before the expiry of this Financial Protocol, the Parties shall assess the degree of realisation of commitments and disbursements. This assessment shall constitute the basis for re-evaluating the overall amount of resources as well for evaluating the need for new resources to support financial cooperation under this Agreement.

8. In the event of the funds provided for in any of the instruments of the Agreement being exhausted before the expiry of this Financial Protocol, the joint ACP-EC Council of Ministers shall take the appropriate measures.

9. By derogation from Article 58 of this Agreement, an amount of EUR 90 million shall be transferred to the intra ACP envelope under the 9th EDF. This amount may be allocated to finance devolution for the period 2006-2007, and shall be managed directly by the Commission.

ANNEX Ia
MULTI-ANNUAL FINANCIAL FRAMEWORK OF COOPERATION UNDER THIS AGREEMENT

1. For the purposes set out in this Agreement and for a period beginning on 1 March 2005, a multi-annual financial framework of cooperation shall cover commitments beginning on 1 January 2008 for a period of five or six years.

2. For this new period, the European Union shall maintain its aid effort to ACP States at least at the same level as that of the 9th EDF, not including balances; to this shall be added, based on Community estimates, the effects of inflation, growth within the European Union and enlargement to 10 new Member States in 2004.

3. Any required amendments to the multi-annual financial framework or relative parts of the Agreement shall be decided by the Council of Ministers by derogation from Article 95 of this Agreement.

ANNEX Ib

MULTI-ANNUAL FINANCIAL FRAMEWORK FOR THE PERIOD 2008 TO 2013 ([1])

1. For the purposes set out in this Agreement and for a period starting on 1 January 2008, the overall amount of the financial assistance for the ACP Group of States within this multiannual financial framework shall be EUR 23966 million, as specified in points 2 and 3.

2. The sum of EUR 21966 million under the 10th European Development Fund (EDF), shall be made available on entry into force of the multiannual financial framework. It shall be allocated between the instruments of cooperation as follows:

(a) EUR 17766 million to finance national and regional indicative programmes. This allocation will be used to finance:

(i) the national indicative programmes of the ACP Group of States in accordance with Articles 1 to 5 of Annex IV to this Agreement concerning implementation and management procedures;

(ii) the regional indicative programmes of support for regional and inter-regional cooperation and integration of ACP Group of States in accordance with Articles 6 to 11, 13(1) and 14 of Annex IV to this Agreement concerning implementation and management procedures;

(b) EUR 2700 million to finance intra-ACP and inter-regional cooperation with many or all of the ACP Group of States, in accordance with Articles 12, 13(2) and 14 of Annex IV to this Agreement concerning implementation and management procedures. This envelope shall include structural support to the joint institutions: the CDE and the CTA referred to and supervised in accordance with the rules and procedures set out in Annex III to this Agreement, and the Joint Parliamentary Assembly referred to in Article 17 of this Agreement. This envelope shall also cover assistance for the operating expenditures of the ACP Secretariat referred to in points 1 and 2 of Protocol 1 attached to this Agreement;

(c) EUR 1500 million to finance the Investment Facility in accordance with the terms and conditions set out in Annex II (Terms and conditions of financing) to this Agreement, comprising an additional contribution of EUR 1100 million to the resources of the Investment Facility, managed as a revolving fund, and EUR 400 million under the form of grants for the financing of the interestrate subsidies provided for in Articles 2 and 4 of that Annex over the period of the 10th EDF.

3. The operations financed under the Investment Facility, including the corresponding interestrate subsidies, shall be managed by the European Investment Bank (EIB). An amount of up to EUR 2000 million in addition to the 10th EDF shall be made available by the EIB in

---

[1] *O.J. L247, 09.09.2006, p. 22*

the form of loans from own resources. These resources shall be granted for the purposes set out in Annex II to this Agreement, in accordance with the conditions laid down in the statutes of the EIB and the relevant provisions of the terms and conditions for investment financing in that Annex. All other financial resources under this multiannual financial framework shall be administered by the Commission.

4. After 31 December 2007 or after the date of entry into force of this multiannual financial framework, whichever is the later, balances from the Ninth EDF or from previous EDFs and funds decommitted from projects under these EDFs shall no longer be committed, unless the Council of the European Union decides otherwise by unanimity, with the exception of the balances and funds decommitted after the date of entry into force resulting from the system guaranteeing the stabilisation of export earnings from primary agricultural products (STABEX) under the EDFs prior to the Ninth EDF, and the remaining balances and reimbursements of the amounts allocated for the financing of the Investment Facility, excluding the related interest rate subsidies. The funds possibly committed after 31 December 2007 until the entry into force of this Agreement, as referred to above, will be used exclusively to ensure the working ability of the EU administration and to cover the ongoing costs to sustain running projects until the 10th EDF comes into force.

5. The overall amount of this multiannual financial framework shall cover the period from 1 January 2008 to 31 December 2013. The funds of the 10th EDF, apart from amounts allocated to the Investment Facility, excluding the related interest rate subsidies, shall no longer be committed beyond 31 December 2013, unless the Council of the European Union decides otherwise by unanimity, on a proposal from the Commission.

6. The Committee of Ambassadors, acting on behalf of the ACP-EC Council of Ministers, may, within the overall amount of the multiannual financial framework, take appropriate measures in order to meet programming requirements under one of the allocations provided for in point 2, including the reassignment of funds between these allocations.

7. The Parties will conduct a performance review, assessing the degree of realisation of commitments and disbursements, as well as the results and impact of the aid provided. This review will be undertaken on the basis of a proposal prepared by the Commission in 2010. It shall contribute to a decision on the amount of the financial cooperation after 2013.

8. Any Member State may provide the Commission or the EIB with voluntary contributions to support the objectives of the ACP-EC Partnership Agreement. Member States may also co-finance projects or programmes, for example in the framework of specific initiatives to be managed by the Commission or the EIB. ACP ownership at the national level of such initiatives must be guaranteed.

ANNEX II
TERMS AND CONDITIONS OF FINANCING

CHAPTER 1
INVESTMENT FINANCING

ARTICLE 1

1. The terms and conditions of financing in relation to the operations of the Investment Facility (Facility), the loans from own resources of the European Investment Bank (Bank) and special operations shall be as laid down in this Chapter. These resources may be channelled to eligible enterprises, either directly or indirectly, through eligible investment funds and/or financial intermediaries.

2. Funds for interest rate subsidies, as provided for under this Annex, will be made available from the interest subsidy allocation specified in Annex Ib, paragraph 2(c), to this Agreement.

3. Interest subsidies may be capitalised or may be used in the form of grants. The amount of the interest rate subsidy, calculated in terms of its value at the times of disbursement of the loan, shall be charged against the interest subsidy allocation specified in Annex Ib, paragraph 2(c), and paid directly to the Bank. Up to 10 % of this allocation for interest rate subsidies may also be used to support project related technical assistance in ACP countries.

4. These terms and conditions are without prejudice to terms and conditions that may be imposed upon ACP countries subject to restrictive borrowing conditions under the Heavily Indebted Poor Countries ("HIPC") or other internationally agreed debt sustainability frameworks. Accordingly, where such frameworks require a reduction in the interest rate of a loan by more than 3 %, as permitted under Articles 2 and 4 of this Chapter, the Bank shall seek to reduce the average cost of funds through appropriate co-financing with other donors. Should this not be deemed possible, the interest rate of the Bank loan may be reduced by such amount as required to comply with the level arising from the HIPC initiative or any internationally agreed debt sustainability framework.

ARTICLE 2
Resources of the investment facility

1. The resources of the Facility may be used, inter alia, to:

a) provide risk capital in the form of:

i) equity participation in ACP enterprises, including financial institutions;

ii) quasi-capital assistance to ACP enterprises, including financial institutions; and

iii) guarantees and other credit enhancements which may be used to cover political and other investment-related risks, both for foreign and local investors or lenders.

b) provide ordinary loans.

2. Equity participation shall normally be for non-controlling minority holdings and shall be remunerated on the basis of the performance of the project concerned.

3. Quasi-capital assistance may consist of shareholders' advances, convertible bonds, conditional, subordinated and participating loans or any other similar form of assistance. Such assistance may consist in particular of:

a) conditional loans, the servicing and/or the duration of which shall be linked to the fulfilment of certain conditions with regard to the performance of the project; in the specific case of conditional loans for pre-investment studies or other project-related technical assistance, servicing may be waived if the investment is not carried out;

b) participating loans, the servicing and/or the duration of which shall be linked to the financial return of the project; and

c) subordinated loans, which shall be repaid only after other claims have been settled.

4. The remuneration of each operation shall be specified when the loan is made. However:

a) in the case of conditional or participating loans, the remuneration shall normally comprise a fixed interest rate of not more than 3% and a variable component related to the performance of the project; and

b) in the case of subordinated loans, the interest rate shall be market related.

5. Guarantees shall be priced so as to reflect the risks insured and the particular characteristics of the operation.

6. The interest rate of ordinary loans shall comprise a reference rate applied by the Bank for comparable loans with the same terms and conditions as to grace and repayment periods and a mark up determined by the Bank.

7. Ordinary loans **in countries not subject to restrictive borrowing conditions under the HIPC or other internationally agreed debt sustainability frameworks** may be extended on concessional terms and conditions in the following cases:

a) for infrastructure projects**, that are a prerequisite for private sector development** in the Least Developed Countries, in post-conflict countries and **in** post-natural disaster countries. In such cases, the interest rate of the loan will be reduced by **up to** 3%;

b) for projects which involve restructuring operations in the framework of privatisation or for projects with substantial and clearly demonstrable social or environmental benefits. In such cases, loans may be extended with an interest rate subsidy**,** the amount and form of which will be decided with respect to the particular characteristics of the project. However, the interest rate subsidy shall not be higher than 3%.

The final rate of loans falling under **point** (a) or (b) shall, in any case, never be less than 50% of the reference rate.

8. The funds to be provided for these concessional purposes will be made available from **interest subsidy allocation referred to in Annex Ib, paragraph 2(c), to this Agreement.**

9. Interest subsidies may be capitalised or may be used in the form of grants. Up to 10% of the budget for interest rate subsidies may be used to support project related technical assistance in ACP countries.

ARTICLE 3

Operations of the investment facility

1. The Investment Facility shall operate in all economic sectors and support investments of private and commercially run public sector entities, including revenue generating economic and technological infrastructure critical for the private sector. The Facility shall:

a) be managed as a revolving fund and aim at being financially sustainable. Its operations shall be on market-related terms and conditions and shall avoid creating distortions on local markets and displacing private sources of finances; and

b) support the ACP financial sector and have a catalytic effect by encouraging the mobilisation of long-term local resources and attracting foreign private investors and lenders to projects in the ACP States;

c) bear part of the risk of the projects it funds, its financial sustainability being ensured through the portfolio as a whole and not from individual interventions; and

d) seek to channel funds through ACP national and regional institutions and programmes that promote the development of small-and medium-sized enterprises (SMEs).

1a. The Bank shall be remunerated for the cost incurred in managing the Investment Facility. For the first two years after the entry into force of the second financial protocol, this remuneration shall be up to an amount of 2% p.a. of the total initial endowment of the Investment Facility. Thereafter, the remuneration of the Bank shall include a fixed component of 0,5% p.a. of the initial endowment and a variable component of an amount of up to 1,5% p.a. of the portfolio of the Investment Facility that is invested in projects in ACP countries. The remuneration shall be financed out of the Investment Facility.

2. On expiry of the Financial Protocol, and in the absence of a specific decision by the Council of Ministers, the cumulative net reflows to the Investment Facility shall be carried over to the next Protocol.

ARTICLE 4

Bank own resource loans

1. The Bank shall:

a) contribute, through the resources it manages, to the economic and industrial development of the ACP States on a national and regional basis; and to this end, finance as a priority productive projects and programmes or other investments aimed at promoting the private sector in all economic sectors;

b) establish close cooperation links with national and regional development banks and with banking and financial institutions of the ACP States and of the EU; and

c) in consultation with the ACP State concerned, adapt the arrangements and procedures for implementing development finance cooperation, as set out in this Agreement, if necessary, to take account of the nature of the projects and programmes and to act in accordance with the objectives of this Agreement, within the framework of the procedures laid down by its statute.

2. Loans from the Bank's own resources shall be granted under the following terms and conditions:

a) the reference rate of interest shall be the rate applied by the Bank for a loan with the same conditions as to currency and **the** repayment period on the day of signature of the contract or on the date of disbursement;

b) however**, for countries which are not subject to restrictive borrowing conditions under the HIPC or other internationally agreed debt sustainability frameworks:**

i) in principle, public sector projects shall be eligible for an interest rate subsidy of **up to** 3%;

ii) private sector projects falling into the categories specified in Article 2 (7)(b) shall be eligible for interest rate subsidies on **the terms specified in that provision.**

The final interest rate shall, in any **such** case, never be less than 50% of the reference rate.

c) the repayment period of loans made by the Bank from its own resources shall be determined on the basis of the economic and financial characteristics of the project. These loans shall normally comprise a grace period fixed by reference to the construction period of the project.

3. For investments financed by the Bank from its own resources in public sector companies, specific project-related guarantees or undertakings may be required from the ACP State concerned.

ARTICLE 5

Conditions for foreign exchange rate risk

In order to minimise the effects of exchange rate fluctuations, the problems of exchange rate risk shall be dealt with in the following way:

a) in the case of equity participation designed to strengthen an enterprise's own funds, the exchange rate risk shall, as a general rule, be borne by the Investment Facility;

b) in the case of ordinary loans and risk capital financing for small-and medium-sized enterprises (SMEs), the exchange rate risk shall, as a general rule, be shared by the Community, on the one hand, and by the other Parties involved, on the other. On average, the foreign exchange rate risk should be shared equally and;

c) where feasible and appropriate, particularly in countries characterised by macroeconomic and financial stability, the Facility will endeavour to extend loans in local ACP currencies, thus de facto taking the foreign exchange risk.

ARTICLE 6

Conditions for foreign exchange transfer

The ACP States concerned shall, in respect of operations under the Agreement, and in respect of which they have given their written approval within the framework of this Agreement:

a) grant exemption from all national or local duties, fiscal charges on interest, commission and amortisation of loans due in accordance with the law or laws of the ACP State or States concerned;

b) place at the disposal of the beneficiaries the currency necessary for the payment of interest, commission and the amortisation of loans due in terms of financing contracts granted for the implementation of projects and programmes on their territories; and

c) make available to the Bank the foreign currency necessary for the transfer of all sums received by it in national currency at the exchange rate applicable between the Euro or other currencies of transfer and the national currency at the date of the transfer. These include all forms of remuneration, such as, inter alia, interest, dividends, commissions and fees, as well as the amortisation of loans and the proceeds from the sale of shares due in terms of financing contracts granted for the implementation of projects and programmes on their territories.

ARTICLE 6A

Annual reporting on the Investment Facility

Representatives of the EU Member States responsible for the Investment Facility, Representatives of the ACP States, as well as the European Investment Bank, the European Commission, the EU Council Secretariat and the ACP Secretariat shall meet annually to discuss the operations, performance and policy questions concerning the Investment Facility.

ARTICLE 6B

Review of performance of the Investment Facility

The overall performance of the Investment Facility shall be subject to a joint review at the mid-term and end-term of a financial protocol. Such an exercise may include a recommendation on how to improve the implementation of the Facility.

CHAPTER 2
SPECIAL OPERATIONS

ARTICLE 7

1. Cooperation shall support from the grant allocation:

a) low-income housing to promote long-term development of the housing sector, including secondary mortgage facilities;

b) micro-finance to promote SMEs and micro-enterprises; and

c) capacity building to strengthen and facilitate the effective participation of the private sector in social and economic development.

2. The ACP-EC Council of Ministers shall, after the signature of this Agreement and on a proposal by the ACP-EC Development Finance Cooperation Committee, decide on the modalities and the amount of resources allocated from the long-term development envelope to attain these objectives.

CHAPTER 3
FINANCING FOR SHORT-TERM FLUCTUATIONS IN EXPORT EARNINGS

ARTICLE 8

1. The Parties recognise that losses of export earnings as a result of short-term fluctuations may jeopardise the development financing requirements and the implementation of macroeconomic and sectoral policies. The degree of dependence of an ACP State's economy

on the export of goods, and in particular from agricultural and mining products shall, therefore, be a criterion for determining the allocation of long-term development.

2. In order to mitigate the adverse effects of instability of export earnings and safeguard the development programme jeopardised by the drop in revenue, additional financial support may be mobilised from the programmable resources for the country's long-term development on the basis of Articles 9 and 10.

ARTICLE 9

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, 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 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. **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. 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 in Annexe 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. By agreement of both Parties the resources may be used to finance programmes included in national budget. However a part of the additional resources may also be set aside for specific sectors, **in particular to develop market-based insurance schemes offering protection against the risk of fluctuations in export earnings.**

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.

ARTICLE 10
Advances

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 11

The provisions in this Chapter shall be subject to review at the latest after two years of operation and subsequently at the request of either Party.

CHAPTER 4
OTHER PROVISIONS

ARTICLE 12
Current payments and capital movements

1. Without prejudice to paragraph 3 hereafter, the Parties undertake to impose no restrictions on any payments, in freely convertible currency, on the current account of balance of payments between residents of the Community and of the ACP States.

2. With regard to transactions on the capital account of balance of payments, the Parties undertake to impose no restrictions on the free movement of capital relating to direct investments made in companies formed in accordance with the law of the host country and investments made in accordance with this Agreement, and the liquidation or repatriation of these investments and of any profit stemming therefrom.

3. Where one or more ACP State or one or more Member State of the Community is in serious balance of payments difficulties, or under threat thereof, the ACP State, the Member State or the Community may, in accordance with the conditions established under the GATT, GATS and Article VIII and XIV of the Articles of Agreement of the International Monetary Fund, adopt restrictions on current transactions which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Party taking the measures shall inform the other Parties forthwith and shall submit to them as soon as possible a timetable for the elimination of the measures concerned.

ARTICLE 13
Qualification and treatment of business entities

As regards arrangements that may be applied in matters of establishment and provision of services, the ACP States, on the one hand, and the Member States, on the other, shall treat nationals and companies or firms of the ACP States and nationals and companies or firms of the Member States respectively on a non-discriminatory basis. However, if, for a given activity, an ACP State or a Member State is unable to provide such treatment, the ACP State or the Member State, as the case may be, shall not be bound to accord such treatment for that activity to the nationals and companies or firms of the State concerned.

ARTICLE 14
Definition of "companies and firms"

1. For the purpose of this Agreement, "companies or firms of a Member State or an ACP State" mean companies or firms constituted under civil or commercial law, including corporations, whether public or otherwise, cooperative societies and other legal persons and partnerships governed by public or private law, save for those which are non-profit-making, formed in accordance with the law of a Member State or an ACP State and whose statutory office, central administration or principal place of business is a Member State or an ACP State.

2. However, a company or firm having only its statutory office in a Member State or an ACP State must be engaged in an activity which has an effective and continuous link with the economy of that Member State or ACP State.

CHAPTER 5
INVESTMENT PROTECTION AGREEMENTS

ARTICLE 15

1. When implementing the provisions of Article 78 of this Agreement, the Parties shall take into account the following principles:

a) a Contracting State may request where appropriate, the negotiation of an investment promotion and protection agreement with another Contracting State;

b) the States party to such agreements shall practise no discrimination between Contracting States party to this Agreement or against each other in relation to third countries when opening negotiations for concluding, applying and interpreting bilateral or multilateral investment promotion and protection agreements;

c) the Contracting States shall have the right to request a modification or adaptation of the non-discriminatory treatment referred to above when international obligations or changed circumstances so necessitate;

d) the application of the principles referred to above does not purport to and cannot in practice infringe the sovereignty of any Contracting Party to the Agreement; and

e) the relation between the date of entry into force of any agreement negotiated, provisions for the settlement of disputes and the date of the investments concerned will be set out in the said agreement, account being taken of the provisions set out above. The Contracting Parties confirm that retroactivity shall not apply as a general principle unless Contracting States stipulate otherwise.

2. With a view to facilitating the negotiation of bilateral agreements on investment promotion and protection, the Contracting Parties agree to study the main clauses of a model protection agreement. The study, drawing on the provisions of the existing bilateral agreements between the States Parties, will give particular attention to the following issues:

a) legal guarantees to ensure fair and equitable treatment and protection of foreign investors;

b) the most-favoured-investor clause;

c) protection in the event of expropriation and nationalisation;

d) the transfer of capital and profits, and

e) international arbitration in the event of disputes between investor and host State.

3. The Parties agree to study the capacity of the guarantee systems to give a positive answer to the specific needs of small and medium sized enterprises of insuring their investments in ACP States. The studies referred to above shall be started as soon as possible after the

signing of the Agreement. The result of these studies shall be submitted, upon completion to the ACP-EC Development Finance Cooperation Committee for consideration and appropriate action.

ANNEX III
INSTITUTIONAL SUPPORT, CDE AND CTA

ARTICLE 1

Cooperation shall support the institutional mechanisms that provide assistance for businesses and enterprises and promote agriculture and rural development. In this context, cooperation shall help to:

a) strengthen and enhance the role of the Centre for the Development of Enterprise (CDE) so as to provide the private sector with the necessary support in the promotion of private sector development activities **in ACP countries and regions;** and

b) strengthen and reinforce the role of the **Technical Centre for Agricultural and Rural Cooperation** (CTA) in ACP institutional capacity development, particularly information management, in order to improve access to technologies for increasing agricultural productivity, commercialisation, food security and rural development.

ARTICLE 2
CDE

1. The CDE shall **promote a business environment which is conducive to private sector development and** support the implementation of private-sector development strategies in the ACP countries by providing non-financial services **including consultancy services,** to ACP companies and businesses and support to joint initiatives set up by economic operators of the Community and of the ACP States. **In this regard, due account shall be taken of the needs arising from the implementation of the Economic Partnership Agreements.**

2. The CDE shall aim to assist private ACP enterprises to become more competitive in all sectors of the economy. It shall in particular:

a) facilitate and promote business cooperation and partnerships between ACP and EU enterprises;

b) assist with the development of business support services through support for capacity building in private sector owned organisations or support for providers of technical, professional, management, commercial and training support services;

c) provide assistance for investment promotion activities, such as investment promotion organisations, organisation of investment conferences, training programmes, strategy workshops and follow-up investment promotion missions;

d) support initiatives that contribute to **fostering innovation** and transfer **of** technologies and know-how and best practices on all aspects of business management;

e) inform the ACP private sector about the provisions of the Agreement; **and**

f) provide information to European companies and private sector organisations on business opportunities and modalities in ACP countries.

3. The CDE shall also **contribute to the improvement of business environment at national and regional levels so as to support enterprises to take advantage of the progress in regional integration processes and trade opening. This shall include:**

(a) assisting enterprises in meeting existing and new quality and other standards introduced by progress in regional integration and the implementation of the Economic Partnership Agreements;

(b) diffusing information within the local ACP private sector about the product quality and standards required in external markets;

(c) promoting regional and national business environment reforms, including by facilitating the dialogue between private sector and public institutions; and

(d) enhancing the role and function of national and/or regional service-providing intermediaries.

4. The activities of the CDE shall be based on the concept of coordination, complementarity and added value in respect of any private sector development initiatives taken by public or private entities. **In particular, its activities shall be consistent with the national and regional development strategies as defined in Part 3 of this Agreement.** The CDE shall exercise selectivity **and ensure financial sustainability** in undertaking its tasks. **It shall ensure an appropriate division of tasks between its Headquarters and regional offices.**

5. Periodic evaluations of the activities undertaken by the CDE shall be carried out.

6. The Committee of Ambassadors shall be the supervisory authority of the Centre. It shall, after the signature of this Agreement:

a) lay down the statutes of the Centre;

(b) appoint the members of the Executive Board;

(c) appoint the management of the Centre on a proposal from the Executive Board; and

(d) monitor the overall strategy of the Centre and supervise the work **of the Executive Board.**

7. The Executive Board shall, according to the statutes of the Centre:

(a) lay down the financial and staff regulations and the rules of operation;

(b) supervise its work;

(c) adopt the programme and the budget of the Centre;

(d) submit periodic reporting and evaluations to the Supervisory Authority; and

(e) perform any other tasks allocated to it by the statutes of the Centre.

8. The budget of the Centre shall be financed in accordance with the rules laid down in this Agreement in respect of development finance cooperation.

ARTICLE 3
CTA

1. The mission of the CTA shall be to strengthen policy and institutional capacity development and information and communication management capacities of ACP agricultural and rural development organisations. It shall assist such organisations in formulating and implementing policies and programmes to reduce poverty, promote sustainable food security, preserve the natural resource base, and thus contribute to building self-reliance in ACP rural and agricultural development.

2. The CTA shall:

a) develop and provide information services and ensure better access to research, training and innovations in the spheres of agricultural and rural development and extension, in order to promote agriculture and rural development; and

b) develop and reinforce ACP capacities in order to:

(i) improve the formulation and management of agricultural and rural development policies and strategies at national and regional levels including improved capacity for data collection, policy research, analysis and formulation;

(ii) improve the information and communication management, in particular within the National Agricultural Strategy;

(iii) promote effective intra-institutional Information and Communication Management (ICM) for performance monitoring, as well as consortia with regional and international partners;

(iv) promote decentralised ICM at local and national levels;

(v) strengthen initiatives via regional cooperation; and

(vi) develop approaches for assessing the impact of policy on agricultural and rural development.

3. The Centre shall support regional initiatives and networks and shall progressively share capacity development programmes with appropriate ACP organisations. To this end, the Centre shall support decentralised regional information networks. Such networks shall be built up gradually and efficiently.

4. Periodic evaluations of the activities undertaken by the CTA shall be carried out.

5. The Committee of Ambassadors shall be the supervisory authority of the Centre. It shall, after the signature of this Agreement:

(a) lay down the statutes of the Centre;

(b) appoint the members of the Executive Board;

(c) appoint the management of the Centre on a proposal from the Executive Board; and

(d) monitor the overall strategy of the Centre and supervise the work of the **Executive Board.**

6. The Executive Board shall, according to the statutes of the Centre:

(a) lay down the financial and staff regulations and the rules of operation;

(b) supervise its work;

(c) adopt the programme and the budget of the Centre;

(d) submit periodic reporting and evaluations to the Supervisory Authority; and

(e) perform any other tasks allocated to it by the statutes of the Centre.

7. The budget of the Centre shall be financed in accordance with the rules laid down in this Agreement in respect of development finance cooperation.

ANNEXE IV
IMPLEMENTATION AND MANAGEMENT PROCEDURES

CHAPTER 1
PROGRAMMING (NATIONAL)

ARTICLE 1

Operations financed by grants within the framework of this Agreement shall be programmed at the beginning of the period covered by the **multi-annual financial framework of cooperation.**

Programming will be based on the principles of ownership, alignment, donor coordination and harmonisation, managing for development results and mutual accountability.

Programming for this purpose shall mean:

a) the preparation and development of **country, regional or intra-ACP strategy papers (SP) based on their own** medium-term development objectives and strategies, **and taking into account the principles of joint programming and division of labour among donors, which shall, to the extent possible, be a partner country or region led process;**

b) a clear indication from the Community of the indicative programmable financial allocation from which the country, **region or intra-ACP cooperation** may benefit during the **period covered by the multi-annual financial framework of cooperation under this Agreement** as well as any other relevant information, **including a possible reserve for unforeseen needs;**

c) the preparation and adoption of an indicative programme for implementing the **SP, taking into account commitments of other donors, and in particular of the EU Member States;** and

d) a review process covering the **SP**, the indicative programme and the volume of resources allocated to it.

ARTICLE 2
Country Strategy Paper

The **country strategy paper (CSP)** shall be prepared by the ACP State concerned and the EU. **It shall draw from prior consultation with a wide range of actors including non-State actors, local authorities and, where relevant, ACP Parliaments**, and shall draw on lessons learned and best practices. Each **CSP** shall be adapted to the needs and respond to the specific circumstances of each ACP State. The **CSP** shall be an instrument to prioritise activities and to build local ownership of cooperation programmes. Any divergences between the country's own analysis and that of the Community shall be noted. The **CSP** shall include the following standard elements:

a) an analysis of the political, economic and social**, and environmental** country context, constraints, capacities and prospects including an assessment of basic needs, such as income per capita, population size and social indicators, and vulnerability;

b) a detailed outline of the country's medium-term development strategy, clearly defined priorities and expected financing requirements;

c) an outline of relevant plans and actions of other donors present in the country, in particular including those of the EU Member States in their capacity as bilateral donors;

d) response strategies, detailing the specific contribution the EU can provide. These shall, to the extent possible, enable complementarity with operations financed by the ACP State itself and by other donors present in the country; and

e) an indication of the most appropriate support **and implementation mechanisms** to be applied in implementing the above strategies.

ARTICLE 3
Resource allocation

1. **The indicative** resource allocation **among ACP countries** shall be based on **standard, objective and transparent** needs and performance criteria. In this context:

a) needs shall be assessed on the basis of criteria pertaining to per capita income, population size, social indicators and level of indebtedness **and vulnerability to exogenous shocks.** Special treatment shall be accorded to the least developed ACP States, and the vulnerability of island and landlocked States shall duly be taken into account. In addition, account shall be taken of the particular difficulties of countries dealing with the aftermath of conflict or natural disaster; and

b) performance shall be assessed **on the basis of criteria pertaining to governance,** progress in implementing institutional reforms, country performance in the use of resources, effective implementation of current operations, poverty alleviation or reduction, **progress towards achieving the Millennium Development Goals,** sustainable development measures and macroeconomic and sectoral policy performance.

2. The allocated resources shall comprise:

a) **a programmable** allocation to cover macroeconomic support, sectoral policies, programmes and projects in support of the focal or non focal areas of Community assistance. **The programmable allocation** shall facilitate the long-term programming of Community aid for the country concerned. Together with **other** possible Community resources, these allocations shall be the basis for the preparation of the indicative programme for the country concerned; and

b) an allocation to cover unforeseen needs such as **those defined in Articles 66 and 68 and Articles 72, 72a and 73 of this Agreement, accessible under the conditions set out in those Articles, where such support cannot be financed from the Union's budget.**

3. Provision will be made **on the basis of the reserve for unforeseen needs** for those countries which, due to exceptional circumstances, can not access normal programmable resources.

4. Without prejudice to Article 5(7) concerning reviews, the Community may, in order to take account of special needs or exceptional performance, increase a country's programmable allocation **or its allocation for unforeseen needs:**

(a) new needs may result from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);

(b) exceptional performance is a situation in which, outside the mid-term and end-of-term reviews, a country's programmable allocation is totally committed and additional funding from the national indicative programme can be absorbed against a background of effective poverty-reduction policies and sound financial management.

ARTICLE 4
Preparation and adoption of the indicative programme

1. Upon receipt of the information referred to above, each ACP State shall draw up and submit to the Community a draft indicative programme on the basis of and consistent with its development objectives and priorities as expressed in the CSS. The draft indicative programme shall contain:

a) **general budget support and/or a limited number of** the focal sectors or areas on which support should be concentrated;

b) the most appropriate measures and operations for attaining the objectives and targets in the focal sector**(s)** or area(**s**);

c) the resources **possibly** reserved for **a limited number of** programmes and projects outside the focal sector(s) **or area(s)** and/or the broad outlines of such activities, as well as an indication of the resources to be deployed for each of these elements;

d) the types of non-State actors eligible for funding, in accordance with the criteria laid down by the Council of Ministers, the resources allocated for non-State actors and the type of activities to be supported, which must be not-for-profit;

e) proposals for **a possible participation in** regional programmes and projects; and

f) a **possible** reserve for insurance against possible claims and to cover cost increases and contingencies.

2. The draft indicative programme shall, as appropriate, contain the resources reserved to reinforce human, material and institutional ACP capacity for preparing and implementing

national and regional indicative programmes **and possible participations in programmes and projects funded from the regional indicative programmes** and for improving the management of the ACP States' public investment projects cycle.

3. The draft indicative programme shall be the subject of an exchange of views between the ACP State concerned and the Community. The indicative programme shall be adopted by common agreement between the Commission on behalf of the Community and the ACP State concerned. It shall, when adopted, be binding on both the Community and that State. This indicative programme shall be annexed to the **CSP** and shall in addition contain:

a) **an indication** of specific and clearly identified operations, especially those that can be committed before the next review;

b) **an indicative** timetable for implementation and review of the indicative programme, including commitments and disbursements of resources; and

c) **results oriented** criteria for the reviews.

4. The Community and the ACP State concerned shall take all necessary measures to ensure that the programming process is completed within the shortest possible time and, save in exceptional circumstances, within twelve months of the adoption of the **multi-annual financial framework of cooperation.** In this context, the preparation of the **CSP** and the indicative programme must be part of a continuous process leading to the adoption of a single document.

5. When an ACP State faces a crisis situation as the result of a war or other conflict, or exceptional circumstances with a comparable effect, preventing the National Authorising Officer from carrying out his duty, the Commission may itself manage the resources allocated to the State in question in accordance with Article 3 and use it for special support. Special support may concern peace building policies, conflict management and resolution, post-conflict support, including institution-building, economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population. The Commission and the ACP State concerned shall revert to normal implementation and normal management procedures as soon as the authorities responsible for managing cooperation are able to do so once more.

ARTICLE 5

Review process

1. Financial cooperation between the ACP State and the Community shall be sufficiently flexible to ensure that operations are kept constantly in line with the objectives of this Agreement and to take account of any changes occurring in the economic situation, priorities and objectives of the ACP State concerned. In this context, the National Authorising Officer and the Commission shall:

a) annually undertake an operational review of the indicative programme; and

b) undertake a mid-term and end-of-term review of the CSS and the indicative programme in the light of current needs and performance.

2. In exceptional circumstances **as referred to in Article 3(4), in order to take into account new needs or exceptional performance, an ad hoc** review can be carried out on the demand of either Party.

3. The National Authorising Officer and the Commission shall:

a) take all necessary measures to ensure adherence to the provisions of the indicative programme, including ensuring that the timetable of commitments and disbursements agreed at the time of programming is adhered to; and

b) determine any causes of delay in implementation and propose suitable measures to remedy the situation.

4. The annual operational review of the indicative programme shall consist of a joint assessment of the implementation of the programme and take into account the results of relevant activities of monitoring and evaluation. This review shall be conducted locally and shall be finalised between the National Authorising Officer and the Commission, **in consultation with the appropriate stakeholders, including non-State actors, local authorities and, where relevant, ACP parliaments. They** shall in particular cover an assessment of:

a) the results achieved in the focal sector(s) measured against the identified targets and impact indicators and sectoral policy commitments;

b) programmes and projects outside the focal sector(s)and/or in the framework of multi annual programmes;

c) the use of resources set aside for non State actors;

d) the effectiveness in implementation of current operations and the extent to which the timetable for commitments and payments have been respected; and

e) an extension of the programming perspective for the following years.

5. **The** Commission shall submit **once a year a synthesis** report on the conclusion of the annual **operational** review to the Development Finance Cooperation Committee, within 30 days of the completion of the operational review. The Committee shall examine the report in accordance with its responsibilities and powers under the Agreement.

6. In the light of the annual operational reviews, the National Authorising Officer and the Commission may at the mid-term and end-of-term reviews, and within the above time frames, review and adapt the **CSP**:

a) where operational reviews indicate specific problems; and/or

b) in the light of changed circumstances of an ACP State.

A change in the CSP may also be decided as a result of the ad hoc review process foreseen under paragraph 2.

The end-of-term review **may** also include **adaptation** for the new **multi-annual financial framework of cooperation** in terms of both resource allocation and preparation for the next programme.

7. Following the completion of the midterm and end-of-term reviews, the Commission may, on behalf of the Community, **increase or decrease** the resource allocation **of a country** in the light of current needs and performance of the ACP State concerned.

Following an ad hoc review as foreseen under paragraph 2, the Commission may, on behalf of the Community, also increase the resource allocation in the light of new needs or exceptional performance of the ACP State concerned, as defined in Article 3(4).

CHAPTER 2
PROGRAMMING AND PREPARATION (REGIONAL)

ARTICLE 6
Scope

1. Regional cooperation shall cover operations benefiting and involving:

a) two or more or all ACP States as well as any non-ACP developing countries participating in these operations, and/or

b) a regional body of which at least two ACP States are members, including those with members which are non-ACP countries.

2. Regional cooperation can also involve Overseas Countries and Territories and outermost regions. The funding to enable participation of these territories shall be additional to funds allocated to the ACP States under the Agreement.

3. Requests for financing of regional programmes shall be submitted by:

(a) a duly mandated regional body or organisation; or

(b) a duly mandated sub-regional body, organisation or an ACP State in the region concerned at the programming stage, provided that the operation has been identified in the **regional indicative programme** (RIP)**.**

4. The participation of non-ACP developing countries to regional programmes shall be envisaged only to the extent that:

(a) the centre of gravity of the projects and programmes funded under the multi-annual financial framework of cooperation remains in an ACP country;

(b) equivalent provisions exist in the framework of the Community's financial instruments; and

(c) the principle of proportionality is respected.

ARTICLE 7
Regional programmes

The ACP States concerned shall decide on the definition of geographical regions. To the maximum extent possible, regional integration programmes should correspond to programmes of existing regional organisations. In principle, in case the membership of several relevant regional organisations overlaps, the regional integration programme should correspond to the combined membership of these organisations.

ARTICLE 8
Regional programming

1. Programming shall take place at the level of each region. The programming shall be a result of an exchange of views between the Commission and the duly mandated regional organisation(s) concerned, and in the absence of such a mandate, the National Authorising Officers of the countries in that region. Where appropriate, programming may include a consultation with eligible non-State actors **represented at regional level and, where relevant, regional parliaments.**

2. The **regional strategy paper (RSP)** shall be prepared by the Commission and the duly mandated regional organisation(s) in collaboration with the ACP States in the region concerned, **on the basis of the principle of subsidiarity and complementarity, taking into account the programming of the CSP**.

3. The **RSP** will be an instrument to prioritise activities and to build local ownership of supported programmes. The **RSP** shall include the following standard elements:

a) an analysis of the political, economic and social **and enviromental** context of the region;

b) an assessment of the process and prospects of regional economic integration and integration into the world economy;

c) an outline of the regional strategies and priorities pursued and the expected financing requirements;

d) an outline of relevant activities of other external partners in regional cooperation;

e) an outline of the specific EU contribution towards achievement of the goals for regional cooperation and integration, complementary insofar as possible to operations financed by the ACP States themselves and by other external partners, particularly the EU Member States; **and**

(f) an indication of the most appropriate support and implementation mechanisms to be applied in implementing the above strategies.

ARTICLE 9
Resource allocation

1. The indicative resource allocation **among ACP regions** shall be based on **standard, objective and transparent** estimates of needs and the progress and prospects in the process of regional cooperation and integration.

2. The allocated resources shall comprise:

(a) a programmable allocation to cover support to regional integration, sector policies, programmes and projects in support of the focal or non-focal areas of Community assistance; and

(b) an allocation for each ACP region to cover unforeseen needs such as those defined in Articles 72, 72a and 73 of this Agreement where, given the cross-border nature and/or scope of the unforeseen need, such support can more effectively be provided at regional level. These funds shall be accessible under the conditions set out in Articles 72, 72a and 73 of this Agreement, where such support cannot be financed from the Union's budget. Complementarity between interventions provided for under this allocation and possible interventions at country level shall be ensured.

3. The programmable allocation shall facilitate the long-term programming of Community aid for the region concerned. In order to achieve an adequate scale and to increase efficiency, regional and national funds may be mixed for financing regional operations with a distinct national component.

A regional allocation for unforeseen needs may be mobilised to the benefit of the region concerned and of ACP countries outside the region where the nature of the unforeseen need requires their involvement and the centre of gravity of the projects and programmes envisaged remains on the region.

4. Without prejudice to Article 11 concerning reviews, the Community may, in order to take account of new needs or exceptional performance, increase a region's **programmable** allocation **or its allocation for unforeseen needs:**

(a) new needs are needs resulting from exceptional circumstances such as crisis and post-crisis situations or from unforeseen needs as referred to in paragraph 2(b);

(b) exceptional performance is a situation in which, outside the mid-term and end-of-term reviews, a region's allocation is totally committed and additional funding from the regional indicative programme can be absorbed against a background of effective regional integration and sound financial management.

ARTICLE 10
Regional indicative programme

1. On the basis of the resource allocation indicated above, the duly mandated regional organisation(s), and in the absence of such a mandate, the National Authorising Officers of

the countries in the region, shall draw up a draft Regional Indicative Programme. In particular, the draft programme shall specify:

a) the focal sectors and themes of Community aid;

b) the most appropriate measures and operations to achieve the objectives set for those sectors and themes; and

c) the programmes and projects enabling those objectives to be attained, insofar as they have been clearly identified as well as an indication of the resources to be deployed for each of these elements and a timetable for their implementation.

2. The Regional Indicative Programmes shall be adopted by common agreement between the Community and the **duly mandated regional organisation(s) or, in the absence of such a mandate, the** ACP States concerned.

ARTICLE 11
Review process

1. Financial cooperation between each ACP region and the Community shall be sufficiently flexible to ensure that operations are kept constantly in line with the objectives of this Agreement and to take account of any changes occurring in the economic situation, priorities and objectives of the region concerned. A mid-term and end-of-term review of the regional indicative programmes shall be undertaken to adapt the indicative programme to evolving circumstances and to ensure that they are correctly implemented. Following the completion of mid-term and end-of-term reviews, the Community may revise the resource allocation in the light of current needs and performance.

2. In exceptional circumstances as referred to in Article 9(4), in order to take into account new needs or exceptional performance, the review can be carried out on the demand of either Party. As a result of an ad hoc review, a change in the RSP may be decided by both Parties and/or the resource allocation increased by the Commission on behalf of the Community.

The end-of-term review may also include adaptation for the new multi-annual financial framework of cooperation in terms of both resource allocation and preparation for the next regional indicative programme.

ARTICLE 12
Intra-ACP cooperation

1. Intra-ACP cooperation shall, as an instrument of development, contribute to the objective of the ACP-EC Partnership. The Intra-ACP cooperation is a supra-regional cooperation. It aims to address the shared challenges facing ACP States through operations that transcend the concept of geographic location and benefit many or all ACP States.

2. In keeping with the principles of subsidiarity and complementarity, an intra-ACP intervention is envisaged when national and/or regional action proves impossible or less

effective, so as to provide added value in comparison to the operations carried out with other cooperation instruments.

3. When the ACP Group decides to contribute to international or inter-regional initiatives from the intra-ACP fund, appropriate visibility shall be ensured.

ARTICLE 12A
Intra-ACP strategy paper

1. The programming of the Intra-ACP cooperation shall be the result of an exchange of views between the Commission and the ACP Committee of Ambassadors, and shall be jointly prepared by the Commission services and the ACP Secretariat, following consultations with relevant actors and stakeholders.

2. The Intra-ACP strategy paper defines the priority actions of the Intra-ACP cooperation and actions necessary to build ownership of supported programmes. It shall include the following standard elements:

(a) an analysis of the political, economic, social and environmental context of the ACP Group of States;

(b) an assessment of Intra-ACP cooperation as to its contribution to achieving the objectives of this Agreement and lessons learnt;

(c) an outline of the Intra-ACP strategy and objectives pursued and the expected financing requirements;

(d) an outline of relevant activities of other external partners in the cooperation; and

(e) an indication of the EU contribution towards achievement of the objectives of the Intra-ACP cooperation and its complementarity to operations financed at the national and regional levels and by other external partners, particularly the EU Member States.

ARTICLE 12B
Requests for financing

Requests for financing of intra-ACP programmes shall be submitted:

(a) directly by the ACP Council of Ministers or the ACP Committee of Ambassadors; or

(b) indirectly by:

(i) at least three duly mandated regional bodies or organisations belonging to different geographic regions, or at least two ACP States from each of the three regions;

(ii) international organisations, such as the African Union, carrying out operations that contribute to the objectives of regional cooperation and integration, subject to prior approval by the ACP Committee of Ambassadors; or

(iii) the Caribbean or Pacific regions, in view of their particular geographic situation, subject to prior approval by the ACP Council of Ministers or the ACP Committee of Ambassadors.

ARTICLE 12C
Resource allocation

The indicative resource allocation shall be based on the estimates of needs and the progress and prospects in the process of Intra-ACP cooperation. It shall comprise a reserve of non-programmed funds.

ARTICLE 13
Intra-ACP indicative programme

1. The Intra-ACP indicative programme comprises the following main standard elements:

(a) focal sectors and themes of Community aid;

(b) the most appropriate measures and actions for achieving the objectives set for the focal sectors and themes; and

(c) the programmes and projects necessary to achieve the objectives identified, insofar as they have been clearly identified, as well as an indication of the resources to be allocated to each of them and an implementation timetable.

2. The Commission and the ACP Secretariat shall identify and appraise the corresponding actions. On this basis, the intra-ACP indicative programme shall be jointly prepared by the services of the Commission and the ACP Secretariat and presented to the ACP-EC Committee of Ambassadors. It shall be adopted by the Commission, on behalf of the Community and by the ACP Committee of Ambassadors.

3. Without prejudice to point (iii) of Article 12b(b), the ACP Committee of Ambassadors shall present each year a consolidated list of requests for financing of the priority actions foreseen in the Intra-ACP indicative programme. The Commission shall identify and prepare the corresponding actions with the ACP Secretariat as well as an annual action programme. To the extent possible and in consideration of the allocated resources, requests for financing of actions not foreseen in the Intra-ACP indicative programme shall be included in the annual action programme. In exceptional cases, these requests are adopted through a special financing decision of the Commission.

ARTICLE 14
Review process

1. Intra-ACP cooperation should be sufficiently flexible and reactive to ensure that its actions remain consistent with the objectives of this Agreement and to take account of any changes in the priorities and objectives of the ACP Group of States.

2. The ACP Committee of Ambassadors and the Commission shall undertake a mid-term and end-of-term review of the intra-ACP cooperation strategy and indicative programme to adapt it to current circumstances and ensure its correct implementation. If circumstances so require, ad hoc reviews may also be conducted to take account of new needs which may arise from exceptional or unforeseen circumstances, such as those arising from new challenges which are common to ACP countries.

3. The ACP Committee of Ambassadors and the Commission may, at the mid-term and end-of-term reviews, or after an ad hoc review, review and adapt the Intra-ACP cooperation strategy paper.

4. Following the mid-term and end-of-term review exercises, or ad hoc reviews, the ACP Committee of Ambassadors and the Commission may adjust the allocations within the intra-ACP indicative programme and mobilise the non-programmed Intra-ACP reserve.

CHAPTER 3
APPRAISAL AND FINANCING

ARTICLE 15
Identification, preparation and appraisal of programmes and projects

1. Programmes and projects that have been presented by the ACP State concerned **or the relevant organisation or body at regional or intra-ACP level** shall be subject to joint appraisal. The ACP-EC Development Finance Cooperation Committee shall develop the general guidelines and criteria for appraisal of programmes and projects. These programmes and projects are generally multi-annual and may incorporate a whole range of actions of a limited size in a particular area.

2. Programme and project dossiers prepared and submitted for financing must contain all information necessary for the appraisal of the programmes and projects or, where programmes and projects have not been completely defined, provide the broad outlines necessary for their appraisal.

3. Programme and project appraisal shall take due account of national human resource constraints and ensure a strategy favourable to the promotion of such resources. It shall also take into account the specific characteristics and constraints of each ACP State **or region**.

4. Programmes and projects to be implemented by non-State actors which are eli gible in accordance with this Agreement may be appraised by the Commission alone and give rise to the establishment, between the Commission and non-State actors, of grant contracts as defined in Article 19a. This appraisal shall comply with Article 4(1)(d) regarding the types of actors, their eligibility and the type of activity to be supported. The Commission, through the Head of Delegation, shall inform the **relevant Authorising Officer** of such allocated grants.

ARTICLE 16
Financing proposal and decision

1. The conclusions of the appraisal shall be summarised in a financing proposal, the final version of which shall be drawn up by the Commission in close collaboration with the ACP State concerned **or the relevant organisation or body at regional or intra-ACP level.**

2 [deleted]

3 [deleted]

4. The Commission, acting on behalf of the Community, shall communicate its financing decision to the ACP State concerned **or the relevant organisation or body at regional or intra-ACP level** within 90 days from the date on which the final version of the financial proposal is drawn up.

5. Where the financing proposal is not adopted by the Commission on behalf of the Community, the ACP State concerned **or the relevant organisation or body at regional or intra-ACP level** shall be informed immediately of the reasons for that decision. In such a case, the representatives of the ACP State concerned **or the relevant organisation or body at regional or intra-ACP level** may, within 60 days thereafter, request either:

a) that the matter be referred to the ACPEC Development Finance Cooperation Committee set up under this Agreement; or

b) that they be given a hearing by the Community's representatives.

6. Following such a hearing, a definitive decision to adopt or reject the financing proposal shall be taken by the Commission on behalf of the Community. Before any decision is taken, the ACP State concerned **or the relevant organisation or body at regional or intra-ACP level** may forward to the Commission any facts which may appear necessary to supplement the information available to it.

ARTICLE 17
Financing agreement

1. As a rule, programmes **and** projects financed by the **multi-annual financial framework of cooperation are subject to** a financing agreement drawn up **by** the Commission and the ACP **State or the relevant organisation or body at regional or intra-ACP level.**

2. The financing agreement shall be drawn up within 60 days **following the communication** of the **financing** decision taken by the Commission. The financing agreement shall:

(a) specify, in particular, the details of the Community's financial contribution, the financing arrangements and terms and the general and specific provisions relating to the programme or project concerned, **including expected outcomes and results;** and

(b) make adequate provision for appropriations to cover cost increases, contingencies, **audits and evaluations.**

3. Any unexpended balance left upon closure of the accounts of programmes and projects **within the timeframe for commitments of the multi-annual financial framework of cooperation from which the programmes and projects have been funded** shall accrue to the ACP State **or the relevant organisation or body at regional or intra-ACP level.**

ARTICLE 18
Cost over-runs

1. Once it appears that there is a risk of cost over-runs over and above the financing available under the financing agreement, the National Authorising Officer shall notify the Commission and request its prior approval on the measures which the **relevant** Authorising Officer intends to take in order to cover such cost over-runs, either by reducing the scale of the programme or project or by calling on national or other non Community resources.

2. If it is not possible to reduce the scale of the programme or project or to cover the over-runs with other resources, the Commission, acting on behalf of the Community, may, on the basis of a reasoned request from the **relevant** Authorising Officer, take an additional financing decision on resources from the indicative programme.

ARTICLE 19
Retroactive financing

1. In order to ensure early project start-up, avoid gaps between sequential projects and prevent delays, the ACP States **or the relevant organisation or body at regional or intra-ACP level may**, on completion of project appraisal and before the financing decision is taken, pre-finance activities linked to the start-up of programmes, preliminary and seasonal work, orders for equipment with long delivery lead times as well as some on-going operations. Such expenditure shall satisfy the procedures provided for in this Agreement.

2. Any expenditure referred to in paragraph 1 shall be mentioned in the financing proposal and shall be without prejudice to the financing decision taken by the Commission on behalf of the Community.

3. Expenditure made by the ACP State **or the relevant organisation or body at regional or intra-ACP level** under this Article shall be retroactively financed under the programme or project, once the financing agreement is signed.

CHAPTER 4
IMPLEMENTATION

ARTICLE 19A
Implementation measures

1. Implementation of programmes and projects financed from **the multi-annual financial framework of cooperation under this Agreement** shall consist chiefly of the following:

a) awarding of procurement contracts;

b) awarding of grants;

c) performance by direct labour;

d) direct payments as budgetary support, support for sectoral programmes, debt relief and support to **mitigate the adverse effects resulting from short-term exogenous shocks including** fluctuations of exports earnings.

2. In the context of this Annexe, procurement contracts are contracts for pecuniary interest concluded in writing in order to obtain, against payment of a price, the supply of movable assets, the execution of works or the provision of services.

3. In the context of this Annexe, grants are direct financial contributions awarded by way of a donation in order to finance:

a) either an action designed to help achieve an objective of this Agreement or of a programme or project adopted in accordance with this Agreement, or

b) the functioning of a body which pursues such an objective.

Grants shall be covered by a written contract.

ARTICLE 19B

Tender procedure with suspension clause

In order to ensure early project start-up, the ACP States **or the relevant organisation or body at regional or intra-ACP level** may, in all duly substantiated cases and in agreement with the Commission, issue invitations to tender for all types of contracts with a suspension clause, once project appraisal is completed but before the financing decision is taken. Such a provision must be mentioned in the financing proposal.

ARTICLE 19C

Awarding contracts, awarding grants and performing contracts

1. Except as provided for in Article 26, contracts and grants shall be attributed and implemented according to Community rules and, except in the specific cases provided for by these rules, according to the standard procedures and documentation set and published by the Commission for the purposes of implementing cooperation actions with third countries and in force at the time the procedure in question is launched.

2. In decentralised management, where a joint assessment shows that the procedures for awarding contracts and grants in the ACP State or the recipient region or the procedures approved by the fund providers are in accordance with the principles of transparency, proportionality, equal treatment and non-discrimination and preclude any kind of conflict of interest, the Commission shall use these procedures, in accordance with the Paris Declaration and without prejudice to Article 26, in full respect of the rules governing the exercise of its powers in this field.

3. The ACP State or the relevant organisation or body at regional or intra-ACP level shall undertake to check regularly that the operations financed from the multi-annual financial framework of cooperation under this Agreement have been properly implemented, to take

appropriate measures to prevent irregularities and fraud, and, if necessary, to take legal action to recover unduly paid funds.

4. In decentralised management, contracts are negotiated, established, signed and performed by the ACP States or the relevant organisation or body at regional or intra-ACP level. These States or the relevant organisation or body at regional or intra-ACP level may, however, call upon the Commission to negotiate, establish, sign and perform contracts on their behalf.

5. Pursuant to the commitment referred to in Article 50 of this Agreement, contracts and grants financed from resources from the multi-annual financial framework of cooperation with the ACP shall be performed in accordance with internationally recognised basic standards in the field of labour law.

6. An expert group of representatives of the Secretariat of the ACP Group of States and the Commission shall be set up to identify, at the request of one or other of the parties, any appropriate alterations and to suggest amendments and improvements to the rules and procedures referred to in paragraphs 1 and 2.

This expert group shall also submit a periodic report to the ACP-EC Development Finance Cooperation Committee to assist it in its task of examining the problems surrounding the implementation of development cooperation activities and proposing appropriate measures.

ARTICLE 20
Eligibility

Save where a derogation is granted in accordance with Article 22, and without prejudice to Article 26:

1. Participation in procedures for the awarding of procurement contracts or grants financed from the **multi-annual financial framework of cooperation under this Agreement** shall be open to:

(a) all natural persons who are nationals of, or legal persons who are established in, an ACP State, a Member State of the European Community, an official candidate country of the European Community or a Member State of the European Economic Area;

(b) all natural persons who are nationals of, or legal persons who are established in, a Least Developed Country as defined by the United Nations.

1a. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to all natural persons who are nationals of, or legal persons established in, any country other than those referred to in paragraph 1, where reciprocal access to external assistance has been established. Reciprocal access in the Least Developed Countries as defined by the United Nations shall be automatically granted to the OECD/DAC members.

Reciprocal access shall be established by means of a specific Commission decision concerning a given country or a given regional group of countries. The decision shall be adopted by the Commission in agreement with the ACP States and shall be in force for a minimum period of one year.

2. Services under a contract financed from the multi-annual financial framework of cooperation under this Agreement may be provided by experts of any nationality, without prejudice to the qualitative and financial requirements set out in the Community's procurement rules.

3. Supplies and materials purchased under a contract financed from the **multi-annual financial framework of cooperation under this Agreement** must originate in a State that is eligible under paragraphs 1 or 1a. In this context, the definition of the concept of "originating products" shall be assessed by reference to the relevant international agreements, and supplies originating in the Community shall include supplies originating in the Overseas Countries and Territories

4. Participation in procedures for the awarding of procurement contracts or grants financed from the **multi-annual financial framework of cooperation under this Agreement** shall be open to international organisations.

5. Whenever the **multi-annual financial framework of cooperation under this Agreement** finances an operation implemented through an international organisation, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraphs 1 or 1a, and to all natural and legal persons who are eligible according to the rules of the organisation, care being taken to ensure equal treatment of all donors. The same rules apply for supplies and materials.

6. Whenever the **multi-annual financial framework of cooperation under this Agreement** finances an operation implemented as part of a regional initiative, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraphs 1 or 1a, and to all natural and legal persons from a country participating in the relevant initiative. The same rules apply for supplies and materials.

7. Whenever the **multi-annual financial framework of cooperation under this Agreement** finances an operation co-financed with a third State, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons eligible under paragraphs 1 or 1a, and to all persons eligible under the rules of the above mentioned third State. The same rules apply for supplies and materials.

ARTICLE 21
Participation on equal terms

[Deleted]

ARTICLE 22
Derogation

1. In exceptional duly substantiated circumstances, natural or legal persons from third countries not eligible under Article 20 may be authorised to participate in procedures for the awarding of procurement contracts or grants financed by the Community **from the multi-annual financial framework of cooperation under this Agreement** at the justified request of the ACP States **or the relevant organisation or body at regional or intra-ACP level.** The ACP State **or the relevant organisation or body at regional or intra-ACP level** shall, on each occasion, provide the Commission with the information needed to decide on such derogation, with particular attention being given to:

a) the geographical location of the ACP State **or region** concerned;

b) the competitiveness of contractors, suppliers and consultants from the Member States and the ACP States;

c) the need to avoid excessive increases in the cost of performance of the contract;

d) transport difficulties or delays due to delivery times or other similar problems;

e) technology that is the most appropriate and best suited to local conditions;

f) cases of extreme urgency;

g) the availability of products and services in the relevant markets.

2. In the case of projects financed from the Investment Facility, the procurement rules of the Bank shall apply.

ARTICLE 23
Competition

[Deleted]

ARTICLE 24
Implementation by direct labour

1. In the case of direct labour operations, programmes and projects shall be implemented through public or semi-public agencies or departments of the ACP State or States concerned or by the legal person responsible for executing the operation.

2. The Community shall contribute to the costs of the department involved by providing the equipment and/or materials that it lacks and/or resources to allow it to acquire additional staff required in the form of experts from within the ACP States concerned or other ACP States. The Community's participation shall cover only costs incurred by supplementary

measures and temporary expenditure relating to execution that are strictly confined to the requirements of the programmes and projects in question.

3. Programme estimates implementing direct-labour operations must comply with the Community rules, procedures and standard documents laid down by the Commission, as applicable at the time of approval of the programme estimates.

ARTICLE 25
Emergency assistance contracts

[Deleted]

ARTICLE 26
Preferences

1. Measures shall be taken to encourage the widest participation of the natural and legal persons of ACP States in the performance of contracts financed by **multi-annual financial framework of cooperation under this Agreement** in order to permit the optimisation of the physical and human resources of those States. To this end:

a) for works contracts of a value of less than EUR 5 000 000, tenderers of the ACP States, provided that at least one quarter of the capital stock and management staff originates from one or more ACP States, shall be accorded a 10% price preference where tenders of an equivalent economic, technical and administrative quality are compared;

b) for supply contracts, irrespective of the value of the supplies, tenderers of the ACP States who offer supplies of at least 50% in contract value of ACP origin, shall be accorded a 15% price preference where tenders of equivalent economic, technical and administrative quality are compared;

c) in respect of service contracts, where tenders of equivalent economic and technical quality are compared, preference shall be given to:

i) experts, institutions or consultancy companies or firms from ACP States with the required competence;

ii) offers submitted by ACP firms, either individually or in a consortium with European partners; and

iii) offers presented by European tenderers with ACP sub-contractors or experts;

d) where subcontracting is envisaged, preference shall be given by the successful tenderer to natural persons, companies and firms of ACP States capable of performing the contract required on similar terms; and

e) the ACP State may, in the invitation to tender, propose to the prospective tenderers the assistance of other ACP States' companies or firms or national experts or consultants selected by mutual agreement. This cooperation may take the form either of a joint venture, or of a subcontract or of on the job training of trainees.

2. Where two tenders are acknowledged to be equivalent on the basis of the criteria stated above, preference shall be given:

a) to the tenderer of an ACP State; or

b) if no such tender is forthcoming, to the tenderer who:

i) allows for the best possible use of the physical and human resources of the ACP States;

ii) offers the greatest subcontracting possibilities for ACP companies, firms or natural persons; or

iii) is a consortium of natural persons, companies and firms from ACP States and the Community.

ARTICLE 27
Award of contracts

[Deleted]

ARTICLE 28
General regulations for contracts

[Deleted]

ARTICLE 29
General conditions for contracts

[Deleted]

ARTICLE 30
Settlement of disputes

Any dispute arising between the authorities of an ACP State **or the relevant organisation or body at regional or intra-ACP level** and a contractor, supplier or provider of services during the performance of a contract financed by the **multi-annual financial framework of cooperation under this Agreement** shall:

a) in the case of a national contract, be settled in accordance with the national legislation of the ACP State concerned; and

b) in the case of a transnational contract be settled either :

i) if the Parties to the contract so agree, in accordance with the national legislation of the ACP State concerned or its established international practices; or

ii) by arbitration in accordance with the procedural rules which will be adopted by decision of the Council of Ministers at the first meeting following the signing of this Agreement, upon the recommendation of the ACP-EC Development Finance Cooperation Committee.

ARTICLE 31
Tax and customs arrangements

1. The ACP States shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied by them to the most favoured States or international development organisations with which they have relations. For the purpose of determining the most-favoured-nation (MFN) treatment, account shall not be taken of arrangements applied by the ACP State concerned to other ACP States, or to other developing countries.

2. Subject to the above provisions the following shall apply to contracts financed by the Community:

a) the contract shall not be subject in the beneficiary ACP State to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the ACP State and a fee corresponding to the service rendered may be charged for it;

b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the ACP State concerned, provided that the natural or legal persons who realise such profit and/or income have a permanent place of business in that State, or that the performance of the contract takes longer than six months;

c) enterprises which must import professional equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the national legislation of the beneficiary ACP State in respect of the said equipment;

d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary ACP State or States in accordance with its national legislation free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;

e) imports under supply contracts shall be admitted into the beneficiary ACP State without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the ACP State concerned shall be concluded on the basis of the ex-works price of the supplies to which may be added such internal fiscal charges as may be applicable to those supplies in the ACP State;

f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the national legislation in force in the beneficiary ACP State; and

g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limit of the national legislation in force in the beneficiary ACP State.

3. Any matter not covered by the above provisions on tax and customs arrangements shall remain subject to the national legislation of the ACP State concerned.

CHAPTER 5
MONITORING AND EVALUATION

ARTICLE 32
Objectives

The objective of monitoring and evaluation shall consist in the regular assessment of development operations (preparation, implementation and subsequent operation) with a view to improving the development effectiveness of on-going and future operations.

ARTICLE 33
Modalities

1. Without prejudice to evaluations carried out by the ACP State **or the relevant organisation or body at regional or intra-ACP level** or the Commission, this work will be done jointly by the ACP State(s) **or the relevant organisation or body at regional or intra-ACP level** and the Community. The ACP EC Development Finance Cooperation Committee shall ensure the joint character of the joint monitoring and evaluation operations. In order to assist the ACPEC Development Finance Cooperation Committee, the Commission and the ACP General Secretariat shall prepare and implement the joint monitoring and evaluations and report to the Committee. The Committee shall, at its first meeting after the signature of the Agreement, fix the operational modalities aimed at ensuring the joint character of the operations and shall, on a yearly basis, approve the work programme.

2. Monitoring and evaluation activities shall notably:

a) provide regular and independent assessments of the Fund's operations and activities **funded from the multi-annual financial framework of cooperation under this agreement** by comparing results with objectives; and thereby

b) enable the ACP States **or the relevant organisation or body at regional or intra-ACP level** and the Commission and the joint institutions, to feed the lessons of experience back into the design and execution of future policies and operations.

CHAPTER 6
FUND-RESOURCE MANAGEMENT AND EXECUTING AGENTS

ARTICLE 34
The Commission

1. The Commission shall undertake the financial execution of operations carried out with **resources from the multi-annual financial framework of cooperation under this Agreement,** with the exception of the Investment Facility and interest-rate subsidies, using the following main methods of management:

a) centralised management;

b) decentralised management.

2. As a general rule, the financial execution of the Fund resources **from the multi-annual financial framework of cooperation under this Agreement** by the Commission shall be decentralised.

In this instance, the execution duties shall be carried out by the ACP States in accordance with Article 35.

3. In order to carry out the financial execution of the resources **from the multi-annual financial framework of cooperation under this Agreement,** the Commission shall delegate its executive powers within its own departments. The Commission shall inform the ACP States and the ACP-EC Development Finance Cooperation Committee of this delegation of tasks.

ARTICLE 35
National Authorising Officer

1. The Government of each ACP State shall appoint a National Authorising Officer to represent it in all operations financed from the resources **from the multi-annual financial framework of cooperation under this Agreement** managed by the Commission and the Bank. The National Authorising Officer shall appoint one or more deputy National Authorising Officers to replace him when he is unable to carry out his duties and shall inform the Commission of this appointment. Wherever the conditions regarding institutional

capacity and sound financial management are met, the National Authorising Officer may delegate his functions for implementation of the programmes and projects concerned to the body responsible within the national administration. The National Authorising Officer shall inform the Commission of any such delegation.

In the case of regional programmes and projects, the relevant organisation or body shall designate a Regional Authorising Officer whose duties correspond, mutatis mutandis, to those of the National Authorising Officer.

In the case of Intra-ACP programmes and projects, the ACP Committee of Ambassadors shall designate an Intra-ACP Authorising Officer, whose duties correspond, mutatis mutandis, to those of the National Authorising Officer. In the event that the ACP Secretariat is not the Authorising Officer, the Committee of Ambassadors shall be informed in conformity with the financing agreement of the implementation of programmes and projects.

When the Commission becomes aware of problems in carrying out procedures relating to management of resources **from the multi-annual financial framework of cooperation under this Agreement,** it shall, in conjunction with the relevant Authorising Officer, make all contacts necessary to remedy the situation and take any appropriate steps.

The **relevant** Authorising Officer shall assume financial responsibility only for the executive tasks entrusted to him.

Where Fund resources **from the multi-annual financial framework of cooperation under this Agreement,** are managed in a decentralised way and subject to any additional powers that might be granted by the Commission, the **relevant** Authorising Officer shall:

a) be responsible for the coordination, programming, regular monitoring and annual, mid-term and end-of-term reviews of implementation of cooperation, and for coordination with donors;

b) in close cooperation with the Commission, be responsible for the preparation, submission and appraisal of programmes and projects;

c) prepare tender dossiers and, where appropriate, the documents for calls for proposals;

d) submit tender dossiers and, where appropriate, documents for calls for proposals, to the Commission for approval before launching invitations to tender and, where appropriate, calls for proposals;

e) in close cooperation with the Commission, launch invitations to tender and, where appropriate, calls for proposals;

f) receive tenders and, if applicable, proposals, and transmit copies of tenders to the Commission; preside over the opening of tenders and decide on the results of their examination within the period of validity of the tenders, taking account of the time required for approval of contracts;

g) invite the Commission to the opening of tenders and, if applicable, proposals and notify the Commission of the results of the examination of tenders and proposals for approval of the proposals for the award of contracts and grants;

h) submit contracts and programme estimates and any addenda thereto to the Commission for approval;

i) sign the contracts and addenda thereto approved by the Commission;

j) clear and authorise expenditure within the limits of the funds assigned to him; and

k) during the execution operations, make any adaptation arrangements necessary to ensure the proper execution of approved programmes or projects from the economic and technical viewpoint.

2. The **relevant** Authorising Officer shall, during the execution of operations and subject to the requirement to inform the Commission, decide on:

a) technical adjustments and alterations to programmes and projects in matters of detail so long as they do not affect the technical solution adopted and remain within the limits of the reserve for adjustments provided for in the financing agreement;

b) changes of site for multiple-unit programmes or projects where justified on technical, economic or social grounds;

c) imposition or remission of penalties for delay;

d) acts discharging guarantors;

e) purchase of goods, irrespective of their origin, on the local market;

f) use of construction equipment and machinery not originating in the Member States or ACP States provided there is no production of comparable equipment and machinery in the Member States or ACP States;

g) subcontracting;

h) final acceptance, provided that the Commission is present at provisional acceptance, endorses the corresponding minutes and, where appropriate, is present at the final acceptance, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work; and

i) hiring of consultants and other technical assistance experts.

ARTICLE 36
Head of delegation

1. The Commission shall be represented in each ACP State or in each regional grouping which expressly so requests, by a delegation under the authority of a Head of Delegation, with the

approval of the ACP State or States concerned. Appropriate measures shall be taken in any case in which a Head of Delegation is appointed to a group of ACP States. The Head of Delegation shall represent the Commission in all spheres of its competence and in all its activities.

2. The Head of Delegation shall be the main contact for ACP States and bodies or organisations eligible for financial support under the Agreement. He shall cooperate and work in close cooperation with the National Authorising Officer.

3. The Head of Delegation shall have the necessary instructions and delegated powers to facilitate and expedite all operations under the Agreement.

4. On a regular basis, the Head of Delegation shall inform the national authorities of Community activities which may directly concern cooperation between the Community and the ACP States.

ARTICLE 37
Payments

1. For the purpose of effecting payments in the national currencies of the ACP States, accounts denominated in the currencies of the Members States or in euro may be opened in the ACP States by and in the name of the Commission with a national public or semi-public financial institution chosen by agreement between the ACP State and the Commission. This institution shall exercise the functions of National Paying Agent.

2. The National Paying Agent shall receive no remuneration for its services and no interest shall be payable by it on deposited funds. The local accounts shall be replenished by the Commission in the currency of one of the Member States or in euro, based on estimates of future cash requirements, which shall be made sufficiently in advance to avoid the need for pre-financing by ACP States **or the relevant organisation or body at regional or intra-ACP level** and to prevent delayed disbursements.

3. [deleted]

4. Payments shall be made by the Commission in accordance with the rules laid down by the Community and the Commission, where appropriate after the expenditure has been cleared and authorised by the **relevant** Authorising Officer.

5. [deleted]

6. The procedures for clearance, authorisation and payment of expenditure must be completed within a period of 90 days from the date on which the payment becomes due. The **relevant** Authorising Officer shall process and deliver the payment authorisation to the Head of Delegation not later than 45 days before the due date.

7. Claims for delayed payments shall be borne by the ACP State **concerned or the relevant organisation or body at regional or intra-ACP level** and by the Commission from its own resources, for that part of the delay for which each Party is responsible in accordance with the above procedures.

8. [deleted]

ANNEX V
TRADE REGIME APPLICABLE DURING THE PREPARATORY PERIOD REFERRED TO IN ARTICLE 37(1)

[Deleted]

ANNEX VI
LIST OF THE LEAST DEVELOPED LANDLOCKED AND ISLAND ACP STATES (LDLICS)

The following lists comprise ACP least-developed, landlocked and Island States

LEAST-DEVELOPED ACP STATES

ARTICLE 1

Under this Agreement, the following countries shall be considered least-developed ACP States:

Angola

Benin

Burkina Faso

Burundi

Republic of Cape Verde

Central African Republic

Chad

Comoro Islands

Democratic Republic of Congo

Djibouti

Ethiopia

Eritrea

Gambia

Guinea

Guinea (Bissau)

Guinea (Equatorial)

Haïti

Kiribati

Lesotho

Liberia

Malawi

Mali

Mauritania

Madagascar

Mozambique

Niger

Rwanda

Samoa

SâoTome and Principe

Sierra Leone

Solomon Islands

Somalia

Sudan

Tanzania

Tuvalu

Togo

Uganda

Vanuatu

Zambia

LANDLOCKED ACP STATES

ARTICLE 2

Specific measures and provisions have been made to support landlocked ACP States in their efforts to overcome the geographical difficulties and the other obstacles hampering their development so as to enable them to speed up their respective rates of growth.

ARTICLE 3

The landlocked ACP States are:

Botswana

Burkina Faso

Burundi

Central African Republic

Chad

Ethiopia

Lesotho

Malawi

Mali

Niger

Rwanda

Swaziland

Uganda

Zambia

Zimbabwe

ISLAND ACP STATES

ARTICLE 4

Specific measures and provisions have been made to support island ACP States in their efforts to overcome the natural and geographical difficulties and the other obstacles hampering their development so as to enable them to speed up their respective rates of growth.

ARTICLE 5

List of island ACP States:

Antigua and Barbuda

Bahamas

Barbados

Cape Verde

Comoros

Dominica

Dominican Republic

Fiji

Grenada

Haiti

Jamaica

Kiribati

Madagascar

Mauritius

Papua New Guinea

Saint Kitts and Nevis

Saint Lucia

Saint Vincent and the Grenadines

Samoa

São Tomé and Principe

Seychelles

Solomon Islands

Tonga

Trinidad and Tobago

Tuvalu

Vanuatu

ANNEXE VII
POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS, DEMOCRATIC PRINCIPLES AND THE RULE OF LAW

ARTICLE 1
Objectives

1. The consultations envisaged in Article 96(2)(a) will take place, except in cases of special urgency, after exhaustive political dialogue as envisaged in Article 8 and Article 9(4) of the Agreement.

2. Both Parties should conduct such political dialogue in the spirit of the Agreement and bearing in mind the Guidelines for ACP-EC Political Dialogue established by the Council of Ministers.

3. Political Dialogue is a process which should foster the strengthening of ACP-EC relations and contribute towards achieving the objectives of the Partnership.

ARTICLE 2
Intensified Political Dialogue preceding consultations under Article 96 of the Agreement

1. Political dialogue concerning respect for human rights, democratic principles and the rule of law shall be conducted pursuant to Article 8 and Article 9(4) of the Agreement and within the parameters of internationally recognised standards and norms. In the framework of this dialogue the Parties may agree on joint agendas and priorities.

2. The Parties may jointly develop and agree specific benchmarks or targets with regard to human rights, democratic principles and the rule of law within the parameters of internationally agreed standards and norms, taking into account special circumstances of the ACP State concerned. Benchmarks are mechanisms for reaching targets through the setting of intermediate objectives and timeframes for compliance.

3. The political dialogue set out in paragraphs 1 and 2 shall be systematic and formal and shall exhaust all possible options prior to consultations under Article 96 of the Agreement.

4. Except for cases of special urgency as defined in Article 96(2)(b) of the Agreement, consultations under Article 96 may also go ahead without preceding intensified political dialogue, when there is persistent lack of compliance with commitments taken by one of the Parties during an earlier dialogue, or by a failure to engage in dialogue in good faith.

5. Political dialogue under Article 8 of the Agreement shall also be utilised between the Parties to assist countries subject to appropriate measures under Article 96 of the Agreement, to normalise the relationship.

ARTICLE 3

Additional rules on consultation under Article 96 of the Agreement

1. The Parties shall strive to promote equality in the level of representation during consultations under Article 96 of the Agreement.

2. The Parties are committed to transparent interaction before, during and after the formal consultations, bearing in mind the specific benchmarks and targets referred to in Article 2(2) of this Annex.

3. The Parties shall use the 30-day notification period as provided for in Article 96(2) of the Agreement for effective preparation by the Parties, as well as for deeper consultations within the ACP Group and among the Community and its Member States. During the consultation process, the Parties should agree flexible timeframes, whilst acknowledging that cases of special urgency, as defined in Article 96(2)(b) of the Agreement and Article 2(4) of this Annex, may require an immediate reaction.

4. The Parties acknowledge the role of the ACP Group in political dialogue based on modalities to be determined by the ACP Group and communicated to the European Community and its Member States. **The ACP Secretariat and the European Commission shall exchange all required information on the process of political dialogue carried out before, during and after consultations undertaken under Articles 96 and 97 of this Agreement.**

5. The Parties acknowledge the need for structured and continuous consultations under Article 96 of the Agreement. The Council of Ministers may develop further modalities to this end

PROTOCOLS

PROTOCOL 1

On the operating expenditure of the joint institutions

1. The Member States and the Community, on the one hand, and the ACP States, on the other, shall be responsible for such expenditure as they shall incur by reason of their participation in the meetings of the Council of Ministers and its dependent bodies, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenses.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents, and the practical arrangements for meetings (such as premises, equipment and messengers) of the joint institutions of the present Agreement shall be borne by the Community or by one of the ACP States, according to whether the meetings take place in the territory of a Member State or in that of an ACP State.

2. The arbitrators appointed in accordance with Article 98 of the Agreement shall be entitled to a refund of their travel and subsistence expenditure. The latter shall be determined by the Council of Ministers.

One half of travel and subsistence expenditure incurred by the arbitrators shall be borne by the Community and the other half by the ACP States. Expenditure relating to any registry set up by the arbitrators, to preparatory inquiries into disputes, and to the organisation of hearings (such as premises, personnel and interpreting) shall be borne by the Community. Expenditure relating to special inquiries shall be settled together with the other costs and the Parties shall deposit advances as determined by an order of the arbitrators.

3. The ACP States shall set up a Fund, which will be managed by their General Secretariat, for the purpose of contributing to the financing of the expenses incurred by ACP participants at meetings of the Joint Parliamentary Assembly and the Council of Ministers.

The ACP States shall contribute to this Fund. With the aim of encouraging the active participation of all ACP States in the dialogue conducted within the ACPEC institutions, the Community shall make a contribution to this Fund as provided for in the Financial Protocol (EUR 4 million according to the First Financial Protocol).

To be eligible for the Fund expenses must comply with the following conditions as well as those laid down in paragraph 1:

-They must be incurred by parliamentarians or, in their absence, other such ACP representatives travelling from the country they represent in order to take part in sessions of the Joint Parliamentary Assembly, meetings of working parties or missions under their aegis, or as a result of the participation of these same representatives and representatives of ACP civil society and economic and social operators in consultation meetings held under Articles 15 and 17 of the Agreement.

-Decisions on the nature, organisation, frequency and location of meetings, missions and working groups must be taken in accordance with the rules of procedure of the Council of Ministers and the Joint Parliamentary Assembly.

4. Consultation meetings and meetings of ACP-EC economic and social operators shall be0 organised by the Economic and Social Committee of the European Union. In this specific instance, the Community's contribution to cover the participation of ACP economic and social operators shall be paid directly to the Economic and Social Committee.

The ACP Secretariat, the Council of Ministers and the Joint Parliamentary Assembly may, in agreement with the Commission, delegate the organisation of consultation meetings of ACP civil society to representative organisations approved by the Parties.

PROTOCOL 2
On privileges and immunities

THE PARTIES ,

DESIRING, by the conclusion of a Protocol on privileges and immunities, to facilitate the smooth functioning of the Agreement, the preparation of its work and implementation of the measures adopted for its application;

WHEREAS it is therefore necessary to specify the privileges and immunities which may be claimed by persons participating in work relating to the application of the Agreement and to the arrangements applicable to official communications connected with such work, without prejudice to the provisions of the Protocol on the privileges and immunities of the European Communities, signed in Brussels on 8 April 1965;

WHEREAS it is also necessary to lay down the treatment to be accorded to the property, funds and assets of the Council of ACP Ministers, and its staff;

WHEREAS the Georgetown Agreement of 6 June 1975 constituted the ACP Group of States and instituted a Council of ACP Ministers, and a Committee of Ambassadors; whereas the organs of the ACP Group of States are to be serviced by the Secretariat of the ACP States;

HAVE AGREED upon the following provisions, which shall be annexed to the Agreement

CHAPTER 1
PERSONS TAKING PART IN THE WORK OF THE AGREEMENT

ARTICLE 1

The representatives of the Governments of the Member States and of the ACP States and the Representatives of the Institutions of the European Communities, and also their advisers and experts and the members of the staff of the Secretariat of the ACP States taking part, in the territory of the Member States or of the ACP States, in the work either of the institutions

of the Agreement or of the coordinating bodies, or in work connected with the application of the Agreement, shall enjoy the customary privileges, immunities and facilities while carrying out their duties and while travelling to or from the place at which they are required to carry out such duties.

The preceding paragraph shall also apply to members of the Joint Parliamentary Assembly of the Agreement, to the arbitrators who may be appointed under the Agreement, to members of the consultative bodies of the economic and social sectors which may be set up, to the officials and employees of these institutions, and also to the members of the agencies of the European Investment Bank and its staff, and to the staff of the Centre for the Development of Enterprise and the Centre for the Development of Agriculture.

CHAPTER 2
PROPERTY, FUNDS AND ASSETS OF THE COUNCIL OF ACP MINISTERS

ARTICLE 2

The premises and buildings occupied by the Council of ACP Ministers for official purposes shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation.

Except when required for the purposes of investigating an accident caused by a motor vehicle belonging to the said Council or being used on its account, or in the event of an infringement of road traffic regulations or of an accident caused by such a vehicle, the property and assets of the Council of ACP Ministers shall not be the subject of any administrative or legal measures of constraints without the authorisation of the Council of Ministers set up under the Agreement.

ARTICLE 3

The archives of the Council of ACP Ministers shall be inviolable.

ARTICLE 4

The Council of ACP Ministers, its assets, income and other property shall be exempt from all direct taxes.

The host State shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Council of ACP Ministers makes, strictly for its official use, substantial purchases, the price of which includes taxes of this kind.

No exemption shall be granted in respect of taxes, charges, duties or fees which represent charges for services rendered.

ARTICLE 5

The Council of ACP Ministers shall be exempt from all customs duties, prohibitions and restrictions on imports in respect of articles intended for its official use; articles so imported

may not be sold or otherwise disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government or that country.

CHAPTER 3
OFFICIAL COMMUNICATIONS

ARTICLE 6

For their official communications and the transmission of all their documents, the European Community, the institutions of the Agreement and the coordinating bodies shall enjoy in the territory of the States party to the Agreement the treatment accorded to international organisations.

Official correspondence and other official communications of the European Community, the joint institutions of the Agreement and the coordinating bodies shall not be subject to censorship.

CHAPTER 4
STAFF OF THE SECRETARIAT OF THE ACP STATES

ARTICLE 7

1. The Secretary or Secretaries and Deputy Secretary or Deputy Secretaries of the Council of ACP Ministers and the other permanent members of the staff of senior rank as designated by the ACP States, of the Council of ACP Ministers shall enjoy, in the State in which the Council of ACP Ministers is established, under the responsibility of the Chairman-in-Office of the Committee of ACP Ambassadors, the advantages accorded to the diplomatic staff of diplomatic missions. Their spouses and their children under age living in their household shall be entitled, under the same conditions, to the advantages accorded to the spouses and children under age of such diplomatic staff.

2. Permanent ACP staff members not referred to in paragraph 1 shall be exempted by their host country from any taxes on salaries, emoluments or allowances paid to them by the ACP States from the day on which such income becomes subject to tax levied for the benefit of the ACP States.

The above provision shall not apply either to pensions paid the ACP Secretariat to its former staff members or their dependants, or to salaries, emoluments or allowances paid to its local staff.

The State in which the Council of ACP Ministers is established shall grant immunity from legal proceedings to permanent members of the staff of the Secretariat of the ACP States, apart from those referred to in paragraph 1 of Article 7, only in respect of acts done by them in the performance of their official duties. Such immunity shall not, however, apply to infringements of road traffic regulations by a permanent member of the staff of the Secretariat of the ACP States or to damage caused by a motor vehicle belonging to, or driven by, him or her.

ARTICLE 8

The State in which the Council of ACP Ministers is established shall grant immunity from legal proceedings to permanent members of the staff of the Secretariat of the ACP States, apart from those referred to in paragraph 1 of Article 7, only in respect of acts done by them in the performance of their official duties.

Such immunity shall not, however, apply to infringements of road traffic regulations by a permanent member of the staff of the Secretariat of the ACP States or to damage caused by a motor vehicle belonging to, or driven by, him or her.

ARTICLE 9

The names, positions and addresses of the Chairman-in-Office of the Committee of ACP Ambassadors, the Secretary or Secretaries and Deputy Secretary or Deputy Secretaries of the Council of ACP Ministers and of the permanent members of the staff of the Secretariat of the ACP States shall be communicated periodically by the President of the Council of ACP Ministers to the Government of the State in whose territory the Council of ACP Ministers is established.

CHAPTER 5
COMMISSION DELEGATIONS IN THE ACP STATES

ARTICLE 10

1. The Commission Head of Delegation and staff appointed to the Delegation, the Delegations, to the exception of locally recruited staff, shall be exempted from any direct taxes in the ACP State where they are in post.

2. Article 31(2)(g) of Annexe IV, chapter 4 shall also apply to the staff referred to in paragraph 1.

CHAPTER 6
GENERAL PROVISIONS

ARTICLE 11

The privileges, immunities and facilities provided for in this Protocol shall be accorded to those concerned solely in the interests of the proper execution of their official duties.

Each institution or body referred to in this Protocol shall be required to waive immunity wherever its consider that the waiver of such immunity is not contrary to its own interests.

ARTICLE 12

Article 98 of the Agreement shall apply to disputes relating to this Protocol.

The Council of ACP Ministers and the European Investment Bank may be party to proceedings during an arbitration procedure.

PROTOCOL 3
On South Africa

ARTICLE 1
Qualified Status

1. The participation of South Africa in this Agreement is subject to the qualifications set out in this Protocol.

2. The provisions of the bilateral Agreement on Trade, Development and Cooperation between the European Community, its Member States and South Africa **as amended by the Agreement signed on 11 September 2009,** hereinafter referred as the "TDCA", shall take precedence over the provisions of this Agreement.

ARTICLE 2
General Provisions, Political Dialogue and Joint Institutions

1. The general, institutional and final provisions of this Agreement shall apply to South Africa.

2. South Africa shall be fully associated in the overall political dialogue and participate in the joint institutions and bodies set out under this Agreement. However, in respect of decisions to be taken in relation to provisions that do not apply to South Africa under this Protocol, South Africa shall not take part in the decision-making process.

ARTICLE 3
Cooperation Strategies

The provisions on cooperation strategies of this Agreement shall apply to cooperation between the Community and South Africa.

ARTICLE 4
Financial Resources

1. The provisions of this Agreement on development finance cooperation shall not apply to South Africa.

2. However, in derogation from this principle, South Africa shall have the right to participate in ACP-EC development finance cooperation listed in Article 8 **of this Protocol, on the basis of the principles of reciprocity and proportionality,** understanding that South Africa's participation will be financed from the resources provided for under Title VII of the TDCA. Where resources from the TDCA are deployed for participation in operations in the

framework of ACP- EC financial cooperation, South Africa will enjoy the right to participate fully in the decision-making procedures governing implementation of such aid.

3. South African natural or legal persons shall be eligible for award of contracts financed from the financial resources provided for under this Agreement. In this respect, South African natural or legal persons shall, however, not enjoy the preferences accorded to natural and legal persons from ACP States.

4. For the purpose of the investment financing provided for in Annex II, Chapter 1, to this Agreement, investment funds and financial and non-financial intermediaries established in South Africa can be eligible.

ARTICLE 5
Trade Cooperation

1. The provisions of this Agreement on economic and trade cooperation shall not apply to South Africa.

2. Nonetheless, South Africa shall be associated as an observer in the dialogue between the Parties pursuant to Articles 34 to 40 of this Agreement.

3. This Protocol shall not prevent South Africa from negotiating and signing one of the Economic Partnership Agreements (EPA) provided for in Part 3, Title II of this Agreement if the other parties to that EPA so agree.

ARTICLE 6
Applicability of Protocols and Declarations

The protocols and declarations annexed to this Agreement that relate to parts of the Agreement that are not applicable to South Africa, shall not apply to South Africa. All other declarations and proto-cols shall apply.

ARTICLE 7
Revision Clause

This Protocol may be revised by decision of the Council of Ministers.

ARTICLE 8
Applicability

Without prejudice to the previous Articles, the table hereunder sets out those Articles of the Agreement and its Annexes which shall apply to South Africa and those which shall not apply.

Applicable	*Remarks*	*Not applicable*
Preamble		
Part I, Title I, Chapter 1: "Objectives, principles and actors" (Articles 1 to 7)		
Part I, Title II, "The political dimension"; Articles 8 to 13		
Part 2, "Institutional provisions"; Articles 14 to 17	In accordance with Article 1 of this protocol, South Africa shall not have voting rights in any of the joint institutions or bodies in areas of the Agreement which are not applicable to South Africa.	
Part 3, Title I, "Development strategies".		
	In accordance with Article 5 above, South Africa shall be associated as an observer in the dialogue between the Parties pursuant to Articles 34 to 40.	Part 3, Title II, Economic and Trade Cooperation.
Article 75(i) (Investment promotion, support for the ACP-EU private sector dialogue on regional level), Article 78 (Investment protection)	In accordance with Article 4 above, South Africa shall have the right to participate in certain areas of development finance cooperation on the understanding that such participation will be fully financed from the resources provided for under Title VII of the TDCA. In accordance with Article 2 above, South Africa may participate in the ACP-EC Development Finance Cooperation Committee provided for in Article 83, without enjoying voting rights in relation to provisions that do not apply to South Africa.	Part 4, Development Finance Cooperation
Part 5, General Provisions for the Least Developed, Landlocked and Island ACP States, Articles 84 to 90		
Part 6, Final Provisions, Articles 91 to 100		
		Annex I (Financial Protocol)
Annex II, Terms and conditions of Financing, Chapter 5 (link to Article 78 / investment protection)	In accordance with Article 4 above, South Africa shall have the right to participate in certain areas of development finance cooperation on the understanding that South Africa's participation will be fully financed from the resources provided for under Title VII of the	Annex II, Terms and conditions of Financing, Chapters 1, 2, 3 and 4

	TDCA.	
Annex III, Institutional Support (CDE and CTA)	In accordance with Article 4 above, South Africa shall have the right to participate in certain areas of development finance cooperation on the understanding that South Africa's participation will be fully financed from the resources provided for under Title VII of the TDCA.	
Annex IV, Implementation and Management Procedures: Articles 6 to 14 (Regional cooperation) Articles 20 to 32 (Competition and preference)	In accordance with Article 4 above, where resources from the TDCA are deployed for participation activities in the framework of ACP-EC financial cooperation, South Africa will enjoy the right to fully participate in the decision-making procedures governing implementation of such aid. South African natural and legal persons will moreover be eligible for participation in tenders for contracts financed from the financial resources of the Agreement. In this context, South African tenderers will not enjoy the preferences provided for tenderers from the ACP States.	Annex IV, Articles 1 to 5 (national programming); 15 to 19 (provisions relating to the project cycle), 27 (preference to ACP contractors) and 34 to 38 (Executing agents)
		Annex V / trade regime during the preparatory period.
Annex VI; List of Least Developed, island and landlocked ACP States.		

FINAL ACT

FINAL ACT

The Plenipotentiaries of:

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF ROMANIA,

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

THE PRESIDENT OF THE SLOVAK REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the Functioning of the European Union, hereinafter referred to as "the Member States",

and of THE EUROPEAN UNION, hereinafter referred to as "the Union" or "the EU",

of the one part, and

the Plenipotentiaries of:

THE PRESIDENT OF THE REPUBLIC OF ANGOLA,

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA,

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS,

THE HEAD OF STATE OF BARBADOS,

HER MAJESTY THE QUEEN OF BELIZE,

THE PRESIDENT OF THE REPUBLIC OF BENIN,

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,

THE PRESIDENT OF BURKINA FASO,

THE PRESIDENT OF THE REPUBLIC OF BURUNDI,

THE PRESIDENT OF THE REPUBLIC OF CAMEROON,

THE PRESIDENT OF THE REPUBLIC OF CAPE VERDE,

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC,

THE PRESIDENT OF THE UNION OF THE COMOROS,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF CONGO,

THE PRESIDENT OF THE REPUBLIC OF CONGO,

THE GOVERNMENT OF THE COOK ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF CÔTE D'IVOIRE,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI,

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA,

THE PRESIDENT OF THE DOMINICAN REPUBLIC,

THE PRESIDENT OF THE STATE OF ERITREA,

THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA,

THE PRESIDENT OF THE REPUBLIC OF THE FIJI ISLANDS,

THE PRESIDENT OF THE GABONESE REPUBLIC,

THE PRESIDENT AND HEAD OF STATE OF THE REPUBLIC OF THE GAMBIA,

THE PRESIDENT OF THE REPUBLIC OF GHANA,

HER MAJESTY THE QUEEN OF GRENADA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA,

THE PRESIDENT OF THE REPUBLIC OF GUINEA-BISSAU,

THE PRESIDENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA,

THE PRESIDENT OF THE REPUBLIC OF HAITI,

THE HEAD OF STATE OF JAMAICA,

THE PRESIDENT OF THE REPUBLIC OF KENYA,

THE PRESIDENT OF THE REPUBLIC OF KIRIBATI,

HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO,

THE PRESIDENT OF THE REPUBLIC OF LIBERIA,

THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR,

THE PRESIDENT OF THE REPUBLIC OF MALAWI,

THE PRESIDENT OF THE REPUBLIC OF MALI,

THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS,

THE PRESIDENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

THE PRESIDENT OF THE REPUBLIC OF MAURITIUS,

THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA,

THE PRESIDENT OF THE REPUBLIC OF MOZAMBIQUE,

THE PRESIDENT OF THE REPUBLIC OF NAMIBIA,

THE GOVERNMENT OF THE REPUBLIC OF NAURU,

THE PRESIDENT OF THE REPUBLIC OF NIGER,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA,

THE GOVERNMENT OF NIUE,

THE GOVERNMENT OF THE REPUBLIC OF PALAU,

HER MAJESTY THE QUEEN OF THE INDEPENDENT STATE OF PAPUA NEW GUINEA,

THE PRESIDENT OF THE REPUBLIC OF RWANDA,

HER MAJESTY THE QUEEN OF SAINT KITTS AND NEVIS,

HER MAJESTY THE QUEEN OF SAINT LUCIA,

HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES,

THE HEAD OF STATE OF THE INDEPENDENT STATE OF SAMOA,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE,

THE PRESIDENT OF THE REPUBLIC OF SENEGAL,

THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES,

THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE,

HER MAJESTY THE QUEEN OF SOLOMON ISLANDS,

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA,

THE PRESIDENT OF THE REPUBLIC OF SURINAME,

HIS MAJESTY THE KING OF THE KINGDOM OF SWAZILAND,

THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA,

THE PRESIDENT OF THE REPUBLIC OF CHAD,

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE,

THE PRESIDENT OF THE TOGOLESE REPUBLIC,

HIS MAJESTY THE KING OF TONGA,

THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO,

HER MAJESTY THE QUEEN OF TUVALU,

THE PRESIDENT OF THE REPUBLIC OF UGANDA,

THE GOVERNMENT OF THE REPUBLIC OF VANUATU,

THE PRESIDENT OF THE REPUBLIC OF ZAMBIA,

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE,

which States are hereinafter referred to as "ACP States",

of the other part,

meeting in Benin on the twenty-third day of June in the year two thousand for the signature of the ACP-EC Partnership Agreement, in Luxembourg on the twenty-fifth day of June in the year two thousand and five for the signature of the Agreement amending the ACP-EC Partnership Agreement and in Ouagadougou on the twenty-second day of June in the year two thousand and ten for the signature of the Agreement amending for the second time the ACP-EC Partnership Agreement, have adopted the following texts:

The Agreement amending for the second time the ACP EC Partnership Agreement, and the following Annexes and Protocols:

Annex I

Financial Protocol

Annex Ia

Multi-annual financial framework of cooperation under this Agreement

Annex Ib

Multi-annual financial framework of the period 2008 to 2013

Annex II

Terms and Conditions of Financing

Annex III

Institutional Support – CDE and CTA

Annex IV

Implementation and management procedures

Annex V

[Deleted]

Annex VI

List of the least developed, landlocked and island ACP States

Annex VII

Political dialogue as regards human rights, democratic principles and the rule of law

Protocol 1

on operating expenditure of the joint institutions

Protocol 2

on privileges and immunities

Protocol 3

on South Africa

The plenipotentiaries of the Member States and of the Community and the plenipotentiaries of the ACP States have adopted the texts of the declarations listed below annexed to this Final Act:

Cotonou, 23 June 2000 O.J. L 317, 15 December 2000

Declaration I

Joint Declaration on the actors of the Partnership (Article 6)

Declaration II

Declaration of the Commission and the Council of the European Union on the clause concerning the return and readmission of illegal immigrants (Article 13(5))

Declaration III

Joint Declaration on participation in the Joint Parliamentary Assembly (Article 17(1))

Declaration IV

Community Declaration on the financing of the ACP Secretariat

Declaration V

Community Declaration on the financing of the joint institutions

Declaration VI

Community Declaration relating to the Protocol on privileges and immunities

Declaration VII

Declaration by the Member States relating to the Protocol on privileges and immunities

Declaration VIII

Joint Declaration relating to the Protocol on privileges and immunities

Declaration IX

Joint Declaration on Article 49(2) on trade and environment

Declaration X

ACP Declaration on trade and environment

Declaration XI

Joint Declaration on the ACP cultural heritage

Declaration XII

Declaration by the ACP States on return or restitution of cultural property

Declaration XIII

Joint Declaration on copyright

Declaration XIV

Joint Declaration on regional cooperation and the outermost regions (Article 28)

Declaration XV

Joint Declaration on accession

Declaration XVI

Joint Declaration on accession of the overseas countries and territories referred to in Part Four of the EC Treaty

Declaration XVII

Joint Declaration on Article 66 (debt relief) of the Agreement

Declaration XVIII

EU Declaration on the Financial Protocol

Declaration XIX

Declaration by the Council and the Commission on the Programming Process

Declaration XX

Joint Declaration on the impact of Export Revenue Fluctuations on Vulnerable Small, Island and Landlocked ACP States

Declaration XXI

Community Declaration on Article 3 of Annex IV

Declaration XXII – [obsolete]

Declaration XXIII - [obsolete]

Declaration XXIV - [obsolete]

Declaration XXV - [obsolete]

Declaration XXVI - [obsolete]

Declaration XXVII - [obsolete]

Declaration XXVIII - Joint Declaration on cooperation between ACP States and the neighbouring overseas countries and territories and French overseas departments

Declaration XXIX - [obsolete]

Declaration XXX - [obsolete]

Declaration XXXI - [obsolete]

Declaration XXXII - [obsolete]

Declaration XXXIII - [obsolete]

Declaration XXXIV - [obsolete]

Declaration XXXV - [obsolete]

Declaration XXXVI - [obsolete]

Declaration XXXVII - [obsolete]

Declaration XXXVIII - [obsolete]

Declaration XXXIX - [obsolete]

Declaration XL - [obsolete]

Declaration XLI - [obsolete]

Declaration XLII - [obsolete]

Declaration XLIII - [obsolete]

Luxembourg, 25 June 2005 O.J. L 287, 28 October 2005

Declaration I

Joint Declaration on Article 8 of the Cotonou Agreement

Declaration II

Joint Declaration on Article 68 of the Cotonou Agreement

Declaration III

Joint Declaration on Annex Ia

Declaration IV

Joint Declaration on Article 3(5) of Annex IV

Declaration V

Joint Declaration on Article 9(2) of Annex IV

Declaration VI

Joint Declaration on Article 12(2) of Annex IV

Declaration VII

Joint Declaration on Article 13 of Annex IV

Declaration VIII

Joint Declaration on Article 19a of Annex IV

Declaration IX

Joint Declaration on Article 24(3) of Annex IV

Declaration X

Joint Declaration on Article 2 of Annex VII

Declaration XI

Community Declaration on Articles 4 and 58(2) of the Cotonou Agreement

Declaration XII

Community Declaration on Article 11a of the Cotonou Agreement

Declaration XIII

Community Declaration on Article 11b(2) of the Cotonou Agreement

Declaration XIV

Community Declaration on Articles 28, 29, 30 and 58 of the Cotonou Agreement and on Article 6 of Annex IV

Declaration XV

European Union Declaration on Annex Ia

Declaration XVI

Community Declaration on Articles 4(3), 5(7), 16(5) and (6) and 17(2) of Annex IV

Declaration XVII

Community Declaration on Article 4(5) of Annex IV

Declaration XVIII

Community Declaration on Article 20 of Annex IV

Declaration XIX

Community Declaration on Articles 34, 35 and 36 of Annex IV

Declaration XX

Community Declaration on Article 3 of Annex VII

Port Moresby, 1 and 2 June 2006, O.J. L 247, 09 September 2006

1. *EPAs:* EU Declaration

2. *Decommitted funds:*

Community Declaration

3. *Interest subsidies:*

Community Declaration

Ouagadougou, 22 June 2010, O.J. L 287, 04 November 2010

Declaration I

Joint Declaration on Support for Market Access in the ACP-EC Partnership

Declaration II

Joint Declaration on Migration and Development (Article 13)

Declaration III

European Union Declaration on Institutional Changes Resulting From the Entry into Force of the Treaty of Lisbon

COTONOU, 23 JUNE 2000 O.J. L 317, 15 DECEMBER 2000

DECLARATION I

Joint Declaration on the actors of the partnership (Article 6)

The Parties agree that the definition of civil society may differ significantly according to the socio economic and cultural conditions of each ACP country. However, they believe that this definition may include inter alia the following organisations: human rights groups and agencies, grassroots organisations, women's associations, youth organisations, child-protection organisations, environmental movements, farmers' organisations, consumers' associations, religious organisations, development support structures (NGOs, teaching and research establishments), cultural associations and the media.

DECLARATION II

Declaration of the Commission and the Council of the European Union on the clause concerning the return and readmission of illegal immigrants (Article 13(5))

Article 13(5) shall be without prejudice to the internal division of powers between the Community and its Member States for the conclusion of readmission agreements.

DECLARATION III

Joint Declaration on participation in the Joint Parliamentary Assembly (Article 17(1))

The Parties reaffirm the role of the Joint Parliamentary Assembly in promoting and defending democratic processes through dialogue between members of parliament, and agree that the participation of representatives who are not members of a parliament, as set out in Article 17, shall be allowed only in exceptional circumstances. Such participation shall be subject to the approval of the Joint Parliamentary Assembly before each session.

DECLARATION IV

Community Declaration on the financing of the ACP Secretariat

The Community shall contribute to the cost of running the ACP Secretariat from intra ACP cooperation resources

DECLARATION V

Community Declaration on the financing of the joint institutions

The Community, being aware that expenditure in connection with interpreting at meetings and the translation of documents is expenditure incurred essentially for its own requirements, is prepared to continue past practice and meet this expenditure both for meetings of the institutions of the Agreement which take place in the territory of a Member State and those which take place in the territory of an ACP State.

DECLARATION VI

Community Declaration relating to the Protocol on privileges and immunities

The Protocol on privileges and immunities is a multilateral act from the point of view of international law. However, any specific problems that may arise in the host State regarding the application of this Protocol should be settled by bilateral agreement with that State.

The Community has noted the ACP States' requests that certain provisions of Protocol 2 be modified, notably as regards the status of the staff of the ACP Secretariat, the Centre for the Development of Enterprise (CDE) and the Centre for the Development of Agriculture (CTA).

The Community is willing to seek jointly appropriate solutions in respect of the ACP States' requests with a view to establishing a separate legal instrument as referred to above.

In this context, the host country will, without derogating from the present benefits enjoyed by the ACP Secretariat, the CDE, the CTA and their staff:

1) Show understanding as regards the interpretation of the expression "staff of senior rank", such an interpretation to be arrived at by mutual agreement;

2) Recognise the powers delegated by the President of the Council of ACP Ministers to the Chairman of the ACP EC Committee of Ambassadors, in order to simplify implementation of Article 9 of the Protocol;

3) Agree to grant certain facilities to the staff of the ACP Secretariat, the CDE and the CTA to facilitate initial installation in the host country;

4) Examine in an appropriate way tax related questions concerning the ACP Secretariat, the CDE and the CTA and their staff.

DECLARATION VII

Declaration by the Member States relating to the Protocol on privileges and immunities

The Member States shall strive, in the context of their respective regulations, to facilitate throughout their respective territories, the movement in pursuit of their official duties of ACP diplomats accredited to the Community, members of the ACP Secretariat referred to in Article 7 of Protocol 2, whose names and positions shall be communicated in accordance with Article 9 of that Protocol, and the ACP executives of the CDE and the CTA.

DECLARATION VIII

Joint Declaration relating to the Protocol on privileges and immunities

Within the context of their respective regulations, the ACP States shall grant Commission delegations privileges and immunities similar to those granted to diplomatic missions so that they are able to carry out the functions incumbent on them under the Agreement in a satisfactory and effective manner.

DECLARATION IX

Joint Declaration on Article 49 (2)on trade and environment

Keenly aware of the specific risks attaching to radioactive waste, the Parties will refrain from any practice of discharging such waste which would encroach upon the sovereignty of States or threaten the environment or public health in other countries. They attach the greatest importance to developing international cooperation to protect the environment and public health against such risks. They accordingly affirm their determination to play an active part in the work being done in the IAEA to produce an internationally approved code of good practice. Council Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community defines the term "radioactive waste" as any material, which contains or is contaminated by radio nuclides and for which no use is foreseen. The Directive is applicable to shipments of radioactive waste between Member States and into and out of the Community whenever the quantities and concentration exceed the levels laid down in Article 3(2)(a) and (b) of the Council Directive 96/29/Euratom of 13 May 1996. The defined levels ensure basic safety standards for the protection of health of workers and the general public against the dangers arising from ionising radiation. Shipments of radioactive waste are subject to a system of prior authorisation as defined in Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community. Article 11(1)b of the Directive stipulates that the competent authorities of Member States shall not authorise shipments of radioactive waste to a State party to the Fourth ACP EEC Convention which is not a member of the Community, taking account, however, of Article 14. The Community ensures that Article 11 of Directive 92/3/Euratom will be revised to cover all Parties of this Agreement which are not members of the Community. Until then, the Community will act, as if the abovementioned parties would already be covered. The Parties shall make every effort to sign and ratify as quickly as

possible the Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as well as the1995 amendment to the Convention, as laid down in Decision III/1.

DECLARATION X

ACP Declaration on trade and environment

The ACP States are seriously concerned about environmental problems in general and the transboundary movement of hazardous, nuclear and other radioactive wastes in particular.

In interpreting and implementing the provisions of Article 32(1)(d) of the Agreement, the ACP States have expressed their determination to be guided by the principles and the provisions of the OAU Resolution on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in Africa as contained in AHG 182 (XXV).

DECLARATION XI

Joint Declaration on the ACP cultural heritage

1. The Parties express their common will to promote the preservation and enhancement of the cultural heritage of each ACP country, at the international, bilateral and private level and in the context of this Agreement.

2. The Parties acknowledge the need to facilitate the access of ACP historians and researchers to archives with a view to promoting the development of exchange of information on the cultural heritage of ACP States.

3. They acknowledge the usefulness of providing assistance for the appropriate activities conducted especially in the area of training, for the preservation, protection and exhibition of cultural properties, monuments and objects, including the promulgation and implementation of appropriate legislation.

4. They underpin the importance of undertaking common cultural activities, facilitating the mobility of ACP and European artists, as well as the exchanges of cultural objects which are symbolic of their cultures and civilisations with a view to enhancing mutual understanding and solidarity between their respective populations.

DECLARATION XII

Declaration by the ACP States on return or restitution of cultural property

The ACP States urge the Community and its Member States, insofar as they acknowledge the legitimate right of the ACP States to cultural identity, to promote the return or restitution of cultural prop-erty taken from ACP States and now to be found in Member States.

DECLARATION XIII

Joint Declaration on copyright

The Parties acknowledge that promotion of copyright protection is an integral part of cultural cooperation, the aim of which is to enhance all forms of human expression. Furthermore, such protection is a prerequisite for nurturing and developing production, dissemination and publishing activities.

Consequently, the two Parties shall, in the context of ACP EC cultural cooperation, seek to promote and foster respect for copyright and related rights.

In this context, and in accordance with the rules and procedures laid down by the Agreement, the Community may offer financial and technical support for disseminating copyright information, training economic operators in the protection of such rights and drafting national legislation for their better protection.

DECLARATION XIV

Joint Declaration on regional cooperation and the outermost regions (Article 28)

The reference to the outermost regions concerns the Spanish autonomous community of the Canary Islands, the four French overseas departments, namely Guadeloupe, Guyana, Martinique and Réunion, and the Portuguese autonomous regions of the Azores and Madeira.

DECLARATION XV

Joint Declaration on accession

Any accession of a third State to this Agreement shall be made in compliance with the provisions of Article 1 and the objectives of Article 2 laid down by the ACP Group in the Georgetown Agreement as amended in November 1992.

DECLARATION XVI

Joint Declaration on accession of the overseas countries and territories referred to in Part Four of the EC Treaty

The Community and the ACP States are prepared to allow the overseas countries and territories referred to in Part Four of the Treaty which have become independent to accede to this Agreement, if they wish to continue their relations with the Community in this form.

DECLARATION XVII

Joint Declaration on Article 66 (debt relief) of the Agreement

The Parties agree on the following principles:

a) In the longer term, the Parties will seek an improvement of the Heavily Indebted Poor Countries initiative and promote a deepening, broadening and speeding up debt relief to ACP Countries;

b) The Parties will also seek the mobilisation and establishment of support mechanisms for debt reduction in favour of ACP countries who are not yet eligible for the HIPC initiative

DECLARATION XVIII

EU Declaration on the Financial Protocol

Within the overall amount of EUR 13 500 million of the 9th EDF, EUR 12 500 million shall be made available immediately upon the entry into force of the Financial Protocol. The remaining EUR 1 000 million shall be released on the basis of the performance review referred to in paragraph 7 of the Financial Protocol that shall be undertaken in 2004.

In evaluating the need for new resources, full account shall be taken of this performance review as well as of a date beyond which the funds of the 9th EDF will not be committed.

DECLARATION XIX

Declaration by the Council and the Commission on the Programming Process

The Community and its Member States reaffirm their attachment to the agreement on a reform of the programming process for implementation of assistance financed from the 9th EDF.

In this context, the Community and its Member States regard a properly implemented review mechanism as the most important tool for successful programming. The review process that has been agreed for governing the implementation of the 9th EDF will ensure continuity in the programming process while allowing for regular adjustments of the Country Support Strategy to reflect developments in needs and performance of the ACP State concerned.

In order to reap the full benefits of the reform and ensure the efficiency of the programming process, the Community and its Member States reaffirm the political commitment to the following principles:

The reviews must as far as possible be carried out in the ACP State concerned. Localising the reviews shall not imply that the Member States or the Commission Headquarters shall be prevented from following and being involved in the programming process as appropriate.

The time frames that have been set for completion of the reviews shall be respected.

The reviews must not be an isolated event in the programming process. The reviews shall be regarded as management tools, which synthesise the results of the regular (monthly) dialogue between the National Authorising Officer and the Commission's Head of Delegation.

The reviews must not increase the administrative burden of either of the Parties concerned. The procedures and reporting requirements surrounding the programming process must therefore be managed in a disciplined manner. To this end, the respective roles of the Member States and the Commission in the decision making process will be reviewed and adapted.

DECLARATION XX

Joint Declaration on the Impact of Export Revenue Fluctuations on Vulnerable Small, Island and Landlocked ACP States

The Parties note the concern of ACP States that the modalities of the mechanism for additional support to countries suffering from fluctuation of export revenues may not provide sufficient support to vulnerable small, island and landlocked States subject to volatile export revenues.

From the second year of operation of the mechanism, and on request of one or more ACP States who have met with difficulties, the Parties agree to re examine the modalities of the mechanism on the basis of a proposal from the Commission, with a view, where necessary, to remedy the effects of such fluctuations

DECLARATION XXI

Community Declaration on Article 3 of Annexe IV

The notification of the indicative amount referred to in Article 3 of Annexe IV, will not apply to the ACP States with whom the Community has suspended its cooperation.

DECLARATION XXII

[Obsolete]

DECLARATION XXIII

[Obsolete]

DECLARATION XXIV

[Obsolete]

DECLARATION XXV
[Obsolete]

DECLARATION XXVI
[Obsolete]

DECLARATION XXVII
[Obsolete]

DECLARATION XXVIII
Joint Declaration on cooperation between ACP States and the neighbouring overseas countries and territories and French overseas departments

The Parties shall encourage greater regional cooperation in the Caribbean, the Pacific and the Indian Ocean involving ACP States and the neighbouring overseas countries and territories and French overseas departments.

The Parties call upon interested Parties to consult each other on the procedure for promoting such cooperation and, in this context, to take measures, in line with their respective policies and their specific situation in the region, which will permit initiatives in the economic field, including the development of trade, as well as in the social and cultural fields.

Where there are trade agreements involving French overseas departments, such agreements may provide for specific measures in favour of products from those departments.

Issues relating to cooperation in these different areas shall be brought to the attention of the Council of Ministers, so that it can be duly informed of the progress achieved.

DECLARATION XXIX
[Obsolete]

DECLARATION XXX
[Obsolete]

DECLARATION XXXI
[Obsolete]

DECLARATION XXXII
[Obsolete]

DECLARATION XXXIII
[Obsolete]

DECLARATION XXXIV
[Obsolete]

DECLARATION XXXV
[Obsolete]

DECLARATION XXXVI
[Obsolete]

DECLARATION XXXVII
[Obsolete]

DECLARATION XXXVIII
[Obsolete]

DECLARATION XXXIX
[Obsolete]

DECLARATION XL
[Obsolete]

DECLARATION XLI
[Obsolete]

DECLARATION XLII
[Obsolete]

DECLARATION XLIII
[Obsolete]

LUXEMBOURG, 25 JUNE 2005 O.J. L 287, 28 OCTOBER 2005

DECLARATION I
Joint declaration on
article 8 of the Cotonou agreement

In relation to dialogue at national and regional levels, for the purposes of Article 8 of the Cotonou Agreement, the 'ACP Group' shall be taken to mean the Troika of the ACP Committee of Ambassadors (CoA) and the Chairperson of the ACP Sub-committee on Political, Social, Humanitarian and Cultural Affairs (PSHCA); the Joint Parliamentary Assembly (JPA) shall be interpreted as the Co-Presidents of the JPA, or their designated nominees.

DECLARATION II

Joint declaration on article 68 of the Cotonou agreement

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 Annexe II thereof on short-term fluctuations in export earnings (FLEX).

DECLARATION III

Joint declaration on annexe Ia

Should the Agreement amending the Cotonou Agreement not have entered into force by 1 January 2008, cooperation shall be financed from the balances of the 9th EDF and from the previous EDFs.

DECLARATION IV

Joint declaration on article 3(5)of annexe IV

For the purposes of Article 3(5) of Annexe IV, 'special needs' are needs resulting from exceptional or unforeseen circumstances, such as post-crisis situations; 'exceptional performance' means a situation in which, outside the mid-term and end-of-term reviews, a country's allocation is totally committed and additional funding from the national indicative programme can be absorbed against a background of effective poverty-reduction policies and sound financial management.

DECLARATION V

Joint declaration on article 9(2) of annexe IV

For the purposes of Article 9(2) of Annexe IV, 'new needs' are needs resulting from exceptional or unforeseen circumstances, such as post-crisis situations; 'exceptional performance' means a situation in which, outside the mid-term and end-of-term reviews, a region's allocation is totally committed and additional funding from the regional indicative programme can be absorbed against a background of effective regional integration policies and sound financial management.

DECLARATION VI

Joint declaration on article 12(2) of annexe VI

For the purposes of Article 12(2) of Annexe VI, 'new needs' are needs which may arise from exceptional or unforeseen circumstances, such as those arising from new commitments to international initiatives or to address challenges which are common to ACP countries.

DECLARATION VI

Joint declaration on article 13 of annexe IV

In view of the particular geographic situation of the Caribbean and Pacific regions, the ACP Council of Ministers or the ACP Committee of Ambassadors may, notwithstanding Article 13(2)(a) of Annexe IV, present a specific funding request for one or the other of these regions.

DECLARATION VIII

Joint declaration on article 19a of annexe IV

In accordance with Article 100 of the Cotonou Agreement, the Council of Ministers will examine the provisions of Annexe IV concerning the awarding and performance of contracts with a view to adopting them before the Agreement amending the Cotonou Agreement enters into force.

DECLARATION VIII

Joint declaration on article 19a of annexe IV

In accordance with Article 100 of the Cotonou Agreement, the Council of Ministers will examine the provisions of Annexe IV concerning the awarding and performance of contracts with a view to adopting them before the Agreement amending the Cotonou Agreement enters into force

DECLARATION IX

Joint declaration on article 24(3) of annexe IV

The ACP States will be consulted, a priori, on any amendments to the Community rules referred to in Article 24(3) of Annexe IV

DECLARATION X

Joint declaration on article 2 of annexe VII

The internationally recognised standards and norms are those of the instruments referred to in the Preamble of the Cotonou Agreement.

DECLARATION XI

Community declaration on articles 4 and 58(2) of the Cotonou agreement

For the purpose of Articles 4 and 58(2), it is understood that the term 'local decentralised authorities' covers all levels of decentralisation including 'collectivités locales'.

Financial and technical assistance in the area of cooperation in the fight against terrorism will be financed by resources other than those intended for the financing of ACP-EC development cooperation.

DECLARATION XIII

Community declaration on article 11b(2) of the Cotonou agreement

It is understood that the measures set out in Article 11b(2) of the Cotonou Agreement will be undertaken within an adapted timeframe that takes into account each country specific constraints.

DECLARATION XIV

Community declaration on articles 28, 29, 30 and 58 of the Cotonou agreement and on article 6 of Annexe IV

The implementation of the provisions regarding regional cooperation where non-ACP countries are involved will be subject to the implementation of equivalent provisions in the framework of the Community's financial instruments on cooperation with other countries and regions of the world. The Community will inform the ACP Group upon the entry into force of these equivalent provisions.

DECLARATION XV

European Union declaration on annexe Ia

1. The European Union undertakes to propose at the earliest opportunity, if at all possible by September 2005, an exact amount for the multiannual financial framework for cooperation under the Agreement amending the Cotonou Agreement and its period of application.

2. The minimum aid effort referred to in paragraph 2 of Annexe Ia is guaranteed, without prejudice to the eligibility of the ACP countries for additional resources under other financial instruments which already exist or, potentially, may be created in support of actions in areas such as emergency humanitarian aid, food security, poverty-related diseases, support for the implementation of the Economic Partnership Agreements, support for the measures envisaged following the reform of the sugar market, and relating to peace and stability.

3. The deadline for the commitment of funds of the 9th EDF, fixed at 31 December 2007, could be reviewed if necessary.

DECLARATION XVI

Community declaration on articles 4(3), 5(7), 16(5) and (6) and 17(2) of annexe IV

These provisions are without prejudice to the role of the Member States in the decision making process.

DECLARATION XVII

Community declaration on article 4(5) of annexe IV

Article 4(5) of Annexe IV and the return to the standard management arrangements will be implemented by means of a Council decision based on a Commission proposal. This decision will be duly notified to the ACP Group.

DECLARATION XVIII

Community declaration on article 20 of annexe IV

The provisions of Article 20 of Annexe IV will be implemented in accordance with the principle of reciprocity with other donors.

DECLARATION XIX

Community declaration on articles 34, 35 and 36 of annexe IV

The detailed respective responsibilities of management and executing agents of Fund resources are included in a manual on procedures upon which ACP States will be consulted in accordance with Article 12 of the Cotonou Agreement. The manual will be made available to ACP States from the entry into force of the Agreement amending the Cotonou Agreement. Any amendments to the manual will be subject to the same procedure.

DECLARATION XX

Community declaration on article 3 of annexe VII

As regards the modalities foreseen in Article 3 of Annexe VII, the position to be taken by the Council of the European Union within the Council of Ministers will be based on a proposal by the Commission.

DECLARATIONS CONCERNING THE MULTI-ANNUAL FINANCIAL FRAMEWORK FOR THE PERIOD 2008 TO 2013 AGREED AT THE 31ST SESSION OF THE ACP-EC COUNCIL OF MINISTERS PORT MORESBY, PAPUA NEW GUINEA, 1 AND 2 JUNE 2006

1. *EPAs:* EU Declaration

The Economic Partnership Agreements, as development instruments, aim to foster smooth and gradual integration of the ACP States into the world economy, especially by making full use of the potential of regional integration and South-South trade.

The Commission reconfirms the importance of further steps towards coherent regional integration and sectoral policy reforms, and that the gradually arising needs from the implementation of EPAs will be taken into account in the programming dialogue with the ACP on the end of term review of the 9th EDF and on the resources of the 10th EDF, covering the time period after the entry into force on 1 January 2008.

Moreover, the European Union recalls its commitments to substantially increase Aid for Trade by 2010 in addition to the EDF resources.

2. *Decommitted funds:* Community Declaration

Based on the performance review in 2010 and a proposal by the Commission, the Council of the European Union will consider a decision by unanimity on the transfer of any funds decommitted from ACP projects funded out of the 9th and previous EDFs into the reserves of the 10th EDF. Given the important development objectives pursued by EPAs, the Council of the European Union will, in its consideration, also pay attention to giving further support to structural adjustment costs and other development needs in the implementation of EPAs.

3. *Interest subsidies:* Community Declaration

Acknowledging the high adaptation costs to which the sugar protocol countries are confronted as a result of the EC sugar reforms, the EIB shall endeavour to direct part of the resources of the investment facility and of its own resources towards investments in the sugar sector of the ACP sugar protocol countries. An amount of up to EUR 100 million shall be mobilised where applicable and on the basis of the eligibility criteria set out in Annexe II to the Cotonou Agreement from the envelope for grants for the financing of the interest rate subsidies foreseen in paragraph 2(c) of Annexe I(b) to the Cotonou Agreement.

Ouagadougou, 22 June 2010, O.J. L 287, 04 November 2010

DECLARATION I

Joint declaration on support for market access in the ACP-EC partnership

The Parties recognise the significant value of preferential market access conditions to ACP economies, specifically for the commodity and other agro-industry sectors which are of critical importance to the economic and social development of the ACP States and constitute a major contribution to employment, export earnings and Government revenue.

The Parties acknowledge that some sectors have been undergoing, with EU support, a process of transformation aimed at allowing ACP exporters concerned to compete in the EU and the international markets, including through the development of branded and other value added products.

They also recognise that additional support could be necessary where greater liberalisation of trade may lead to deeper alteration of market access conditions for ACP producers. To that end, they agree to examine all necessary measures in order to maintain the competitive position of the ACP States in the EU market. Such examination may include rules of origin, sanitary and phytosanitary measures and implementation of specific measures addressing supply side constraints in the ACP States. The objective will be to enable ACP States to exploit their existing and potential comparative advantage in the EU market.

When assistance programmes are developed and resources provided, the Parties agree to conduct periodic evaluations to assess progress and the results attained and decide on appropriate additional measures to be implemented.

The Joint Ministerial Trade Committee shall monitor the implementation of this Declaration and make appropriate reports and recommendations to the Council of Ministers.

DECLARATION II

Joint declaration on migration and development (Article 13)

The Parties agree to strengthen and deepen their dialogue and cooperation in the area of migration, building on the following three pillars of a comprehensive and balanced approach to migration:

1. Migration and Development, including issues relating to diasporas, brain drain and remittances;

2. Legal migration including admission, mobility and movement of skills and services; and

3. Illegal migration, including smuggling and trafficking of human beings and border management, as well as readmission.

Without prejudice to the current Article 13, the Parties undertake to work out the details of this enhanced cooperation in the area of migration.

They further agree to work towards the timely completion of this dialogue and to report about the progress made to the next ACP-EC Council.

DECLARATION III

European Union declaration on institutional changes resulting from the entry into force of the Treaty of Lisbon

As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the text of the Agreement are, where appropriate, to be read as "the European Union".

The European Union will propose to the ACP States an Exchange of Letters with the aim of bringing the Agreement into conformity with the institutional changes in the European Union resulting from the entry into force of the Treaty of Lisbon.