



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 June 2007**

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**PROPOSAL**

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from: European Commission

dated: 19 June 2007

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Subject: Proposal for a Council Decision on the position to be adopted by the Community within the ACP-EC Council of Ministers regarding the revision of the terms and conditions of financing for short-term fluctuations in export earnings (Chapter 3 of Annex II to the ACP-EC Partnership Agreement)

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Javier SOLANA, Secretary-General/High Representative.

Encl.: COM(2007) 337 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.6.2007  
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Proposal for a

**COUNCIL DECISION**

**on the position to be adopted by the Community within the ACP-EC Council of Ministers regarding the revision of the terms and conditions of financing for short-term fluctuations in export earnings (Chapter 3 of Annex II to the ACP-EC Partnership Agreement)**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

In the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2007<sup>1</sup> and revised in Luxembourg on 25 June 2005<sup>2</sup> (the Cotonou Agreement) the Parties recognised that the instability of export earnings could be prejudicial to the development of the ACP States and compromise the achievement of their development aims. A system of additional support (Flex) was therefore established in order to mitigate the adverse effects of any instability in export earnings, in accordance with Article 68(1) of the Cotonou Agreement.

However, Flex does not seem to be achieving all its objectives owing to various methodological and operational problems, and the ACP States submitted a proposal to amend it in January 2005<sup>3</sup>. Since this amendment was not dealt with in the framework of the five-year revision of the Cotonou Agreement, it was agreed that the Commission and the ACP Group would examine the proposal at a later date<sup>4</sup>.

The Commission agrees with the analysis that there are flaws in the Flex instrument (but not necessarily with the solutions advocated by the ACP Group) and a substantial revision is therefore needed in order to help achieve the objectives laid down in Article 68. This revision will embrace both the eligibility criteria and technical aspects with a view to clarifying the indicators used, the disbursement period and the counter-cyclical nature of Flex funding.

In accordance with Article 100 of the Cotonou Agreement, Annex II may be revised by decision of the ACP-EC Council of Ministers. In view of this, the Commission recommends that the Council and the Member States authorise the Commission to negotiate the revision of the Flex cooperation instrument with the ACP Group.

### **1. PURPOSE OF THE PROPOSED REVISION**

The purpose of the support in cases of short-term fluctuations in export earnings provided for in Article 68(2) of the Cotonou Agreement is: "*... to safeguard socio-economic reforms and policies that could be affected negatively as a result of a drop in [export] revenue and to remedy the adverse effects of instability of export earnings, in particular from agricultural and mining products ...*".

The Flex instrument is not, therefore, designed to compensate directly for losses of export earnings but to mitigate their adverse impact on economic potential and to protect expenditure in social sectors.

During the initial years of implementation of the Flex instrument a number of methodological and operational problems came to light. These problems significantly reduce the effectiveness of the instrument. In particular, Flex loses its counter-cyclical impact because implementation

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<sup>1</sup> OJ L 317, 15.12.2000.

<sup>2</sup> OJ L 287, 28.10.2005.

<sup>3</sup> "Proposed Amendments to the Cotonou Agreement under the FLEX", document ACP/85/017/04, Rev. 5 of 8 December 2004, submitted to DG DEV on 17 January 2005.

<sup>4</sup> Declaration II of the Final Act of the Agreement signed in Luxembourg on 25 June 2005 - 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 Annex II thereof on short-term fluctuations in export earnings."

takes a long time. In addition, Flex is financed from the B envelopes for unforeseen needs<sup>5</sup> which under the 9th EDF led to problems of access to Flex support when the B envelope was exhausted.

The three main factors that affect the implementation of Flex, namely the eligibility criteria, the method of calculating and mobilising Flex funds and the source of financing, must therefore be thoroughly revised.

## 2. ELIGIBILITY CRITERIA

Currently access to Flex is subject to two eligibility criteria that are applied cumulatively: one concerns the fluctuation in export earnings and the other the theoretical impact on the public budget deficit. There are problems in interpretation which justify updating both criteria, without, however, calling into question the underlying philosophy.

### 2.1. Greater number of countries enjoying special treatment

Currently, the first eligibility criterion for Flex runs as follows<sup>6</sup>:

*"- a 10% (2% in the case of least-developed, landlocked and island States) loss of export earnings from goods compared with the arithmetical average of the earnings in the first three years of the first four years preceding the application year;*

*or - a 10% (2% in the case of least-developed, landlocked and island States) loss of export earnings from the total of agricultural or mineral products compared with the arithmetical average of the earnings in the first three years of the first four years preceding the application year for countries where the agricultural or mineral export revenues represent more than 40 % of total export revenues from goods;"*

When the Cotonou Agreement was revised, the number of countries entitled to more favourable treatment at the 2% threshold was extended to include "post-conflict and post-natural disaster" countries (Article 68(3) of the Cotonou Agreement).

It is proposed to amend Article 9 of Annex II to the Cotonou Agreement to reflect the broadening of the definition of countries satisfying the criterion at the lower threshold to include post-conflict and post-natural disaster countries.

### 2.2. Reference period

The reference period currently used to calculate the fluctuation in export earnings is years N-4 to N-2. It is proposed **to include the last year preceding (N-1) the application year (N) in the reference period** since these figures have to be provided by the partner country in any case.

Moreover, given the recurrent nature of the fluctuations, the reference period may include "extreme" figures and so not reflect the trend.

Quantified examples for the years N-4, N-3, N-2, N-1, N:

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<sup>5</sup> Article 3(2)(b) of Annex IV to the Cotonou Agreement.

<sup>6</sup> Article 9(1)(a) of Annex II to the Cotonou Agreement.

- 50, 53, 92, 59, **62** = favourable trend but the country is eligible for Flex since the average in question (N-4, N-3, N-2) is 65, and the exports of the application year are less than 98% of this average.
- 50, 41, 53, 56, **48** = negative fluctuation with regard to the trend but the country is eligible for Flex since the average in question (N-4, N-3, N-2) is 48, and the exports of the application year are more than 98% of this average.

The ACP Group asked for a six-year reference period from which the greatest and smallest values would be excluded. This proposal puts more emphasis on structural trends against the instrument's focus on short-term fluctuations in the general trend.

It is proposed to amend Article 9 of Annex II to the Cotonou Agreement in order to take as the reference period the four years preceding the application year and to exclude from the calculation the year with the "most extreme" figures, i.e. the year with export earnings that are furthest from the average<sup>7</sup>.

### 2.3. Currency used

Hitherto the export losses have been systematically calculated in euro. Inflation and exchange-rate variations of countries that have a currency pegged to the American dollar or another reference currency and/or countries the bulk of whose trade is done in a reference currency other than the euro can, however, have a significant impact on the eligibility. For example, St Lucia's currency, the East Caribbean dollar, has had a fixed exchange rate with the American dollar for 30 years and most of its international trade is denominated in American dollars; it would not have been eligible in 2004 if the figures had been calculated in local currency.

It is proposed to analyse the fluctuations in export earnings in local currency corrected for inflation (consumer price index or gross domestic product deflator).

It is proposed to add a paragraph with a reference to the choice of currency to the new Article 9a of Annex II to the Cotonou Agreement.

### 2.4. Elimination of the second eligibility criterion

The second eligibility criterion for receiving additional resources is "*a 2% worsening in the programmed public deficit programmed for the year in question or forecast for the following year*"<sup>8</sup>. In order to calculate the theoretical impact of a loss of export earnings on the government budget, a simplified formula is adopted whereby exports contribute to the government budget in the same proportion as to GDP. The worsening of the public deficit following a loss of export earnings is thus calculated as follows:

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<sup>7</sup> To return to the first example, average export earnings in the years N-4 to N-1 are 63.6 and the extreme value in relation to this average is that of year N-2. If the average of years N-4, N-3 and N-1 is recalculated, a value of 54 is obtained and the country is logically no longer eligible for Flex. In the second example, the average N-4 to N-1 is 50, the extreme value is that of year N-3, and the average excluding the extreme value is 53, making the country eligible for Flex.

<sup>8</sup> Article 9(1)(b) of Annex II of the Cotonou Agreement. The deficit is defined in the Commission's guidelines as "the central government deficit (overall balance excluding grants)".

"Worsening of the public deficit = (value of export losses in year N) x (average ratio revenues/GDP in years N-4, N-3, N-2)" (operational guidelines for Flex, 2005).

The need for this criterion has been questioned by the ACP States and by the Commission in its 2004 proposal. There are several reasons for abandoning this criterion:

- the impact of losses of export earnings on government budgets (and therefore on a government's capacity to pursue its development policies) is difficult to establish. The structure (private/public, concentrated or not, etc.) and taxation of an export sector can vary widely from one country to the next. The loss of export earnings in N may have an impact on the budget in N or in N+1, depending on the tax system and at what point in the fiscal year the losses of export earnings materialise. Similarly, the quality of macroeconomic management and the grip on public finances will also influence the budgetary impact of an external shock such as a fluctuation in export earnings. The real impact of any instability of export earnings on the effective budgetary situation therefore varies considerably in relation to the country's circumstances, and the current approach might appear to offer an incentive to less rigorous management of public finances.
- the arbitrary choice of a 2% worsening of the deficit skews the results. A country which already has a substantial programmed deficit will, all things being equal, have more difficulty in gaining access to Flex than a country with a smaller programmed deficit<sup>9</sup>.
- the figures of the forecast deficits on which the eligibility calculation is based may be quite different from the final data.

It is therefore proposed **to delete the second eligibility criterion** in Article 9 of Annex II to the Cotonou Agreement.

## 2.5. Addition of a condition to the first eligibility criterion

In deleting the second allocation criterion, we must also take steps to avoid a proliferation of Flex awards for quite small amounts that do not affect the country's macroeconomic stability and its capacity to pursue its reforms and socio-economic policies.

In order to focus our aid on the countries most affected by losses in export earnings, it is proposed to amend Article 9 of Annex II to the Cotonou Agreement so as to restrict interventions to situations where the loss in export earnings is more than 0.7% of GDP<sup>10</sup>.

## 2.6. Number of successive years

Currently a country can have access to Flex for four successive years<sup>11</sup>.

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<sup>9</sup> For example, a country with a programmed deficit of 2% of GDP will be eligible if the worsening of the deficit following the loss of export earnings is calculated as equivalent to 0.04% of GDP. On the other hand, a country with a programmed deficit (excluding grants) of 20% would require a worsening equivalent to 0.4% of GDP to have the possibility of access to Flex. So in practice it is mostly countries with a small budget deficit (estimated) that are eligible.

<sup>10</sup> The threshold of 0.7% was calculated using the following assumption: loss in export earnings 2% and exports' share of GDP 35% (which corresponds to the ACP countries' average for 2000-2005). This threshold favours countries whose exports account for a bigger share of GDP and/or whose export earnings are the most volatile without penalising the poorest countries with a tax or parafiscal base that accounts for a very small percentage of GDP.

It is proposed to amend Article 9(2) of Annex II to the Cotonou Agreement in order to **restrict access to Flex to three successive years** in line with Article 68 of the Cotonou Agreement which refers to "*short-term fluctuations in export earnings*" and not to structural trends towards a fall in export earnings.

### 3. METHOD OF CALCULATING AND MOBILISING FLEX

#### 3.1. Budgetary impact

If an ACP country satisfies the eligibility criteria, the maximum financial support it can receive under Flex (subject to the availability of funds in the B envelope of the country concerned, see point 4) is currently equal to the estimated worsening of the programmed public deficit. Given the problem of the bias resulting from use of the "budget deficit" as reference point (see point 2.5), it would be wiser to refer to budgetary impact rather than deficit. In order to concentrate the FLEX intervention in the countries less well armed to face fluctuations in export earnings, and in particular countries with relatively weak central government revenue excluding grants, it is proposed to cap the interventions in the countries whose share of those revenues in GDP is above the ACP average.

It is proposed to add an Article 9a to Annex II to the Cotonou Agreement for the purpose of **reformulating the way support is calculated and limiting it to the theoretical budgetary impact**, defined as follows:

*"Theoretical budgetary impact = value of export losses in year N multiplied by the average of the "revenue/GDP ratio for the years N-4, N-3, N-2 and N -1, excluding the most extreme value and capping that ratio at 25%", where revenue is central government revenue, excluding grants.*

The value of the losses in export earnings is calculated in local currency corrected for inflation, as the difference between the earnings in year N and the arithmetical average of earnings for the years N-4, N-3, N-2, N-1, excluding the year with the most extreme value. The value of the losses in export earnings is then converted in euro at the exchange rate applicable to the year N.

#### 3.2. Methods of releasing financial support

Currently, the implementation of support varies, depending on whether the country concerned is eligible or not for budgetary support.

##### *(a) Countries in receipt of budgetary support*

The countries eligible for budgetary support receive financial support in the form of general budgetary support to compensate for losses of export earnings, which is in line with Flex objectives. However, the **disbursement period** could be shortened. There is already a system for advancing up to 80% of the potential amount of financial support<sup>12</sup>. This system of advances is currently insufficiently exploited, especially as the final statistics for export

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<sup>11</sup> Article 9(2) of Annex II to the Cotonou Agreement.

<sup>12</sup> Article 10 of Annex II to the Cotonou Agreement.

earnings generally differ little or not at all from the provisional statistics on basis of which these advances may be made.

It is proposed to amend Article 10 of Annex II to the Cotonou Agreement so that payment of an advance is the rule and to raise the maximum amount of the advance to 100% of the potential amount of financial support. Typical scenario: cut-off date for Flex requests in the first half of year N+1, decision submitted to the EDF Committee and disbursement in the second half of the same year or possibly beginning of year N+2 at the latest. Recovery at a later date of any overpayment (if final statistics show that the loss of export earnings was not as large as forecast) would then be effected by offsetting the amount against the next payment of budgetary support.

*(b) Country not in receipt of budgetary support*

For countries **where budgetary support is not planned**, the amount is added to the country's National Indicative Programme (NIP) for new projects and programmes or for topping up existing projects and programmes. For these countries Flex financial support does not contribute directly to macroeconomic stabilisation and is not truly counter-cyclical in nature. Given the complexity of managing advances for projects, extending the advances system to countries not eligible for budgetary support is not recommended; it is better to wait for the final statistics for export earnings before allocating Flex financial support.

However, efforts should be made to make more use of Flex to remedy the adverse effects of instability in export earnings and so encourage more systematic recourse to alternative mechanisms, as provided for in Article 68(5) of the Cotonou Agreement: "*The Community shall also provide support for market-based insurance schemes designed for ACP States seeking to protect themselves against the risk of fluctuations in export earnings.*"

It is proposed to amend Article 9 of Annex II to the Cotonou Agreement by adding a **reference to market-based insurance schemes offering protection against the risk of fluctuations in export earnings**.

### **3.3. Countries without Country Strategy Paper (CSP) and special cases**

Flex is above all designed to safeguard socio-economic reforms and policies that could be affected negatively as a result of a drop in export revenue. This assumes that such a drop in export earnings is of external origin and that there is a government in place pursuing a policy of reform designed to improve the well-being of the local population. In the case of countries deemed "**special**" cases (e.g. countries without a signed CSP, and countries subject to appropriate measures in application of Articles 96 and 97 of the Cotonou Agreement), this is not necessarily true. Access to Flex should be subject to the Council's political evaluation of the situation.

It is therefore proposed that Flex be systematically taken into account whenever the Council decides to take appropriate measures in respect of a partner country in the framework of the political dialogue provided for in the Cotonou Agreement.



#### 4. CREATION OF A FLEX ENVELOPE

In the past, the fact that the amount of Flex financial support was limited by the amount and availability of funds in the B envelopes had a significant impact on the scale of Flex interventions. In the 2004 application year only €10.6 million of a potential total of €193.6 million was paid out. The average coverage rate of potential requirements was 21.5% between 2003 and 2005, reaching a maximum of 28% in 2003 (€81.5 million paid out).

With the revision of the Cotonou Agreement it is now possible replenish the B envelopes in response to "special needs"<sup>13</sup>. The sums reserved for national cooperation under the 10th EDF are not enough, however, to cover Flex requirements up to the maximum theoretical budgetary impact (see point 3.1)<sup>14</sup>. This means that an objective, uniform and transparent method must be found to limit the share of B-envelope funds allocated to the Flex instrument.

The proposed solution is to **set a maximum annual Flex allocation for all the ACP States**, as proposed in the course of the end-term review of the 2005 and 2006 application years. Given the funds available for the B envelopes under the 10th EDF, it is proposed not to increase the level of Flex funding significantly under this Fund.

To take account of specific circumstances from one year to the next, it is proposed to allocate Flex a basic budget of €80 million, which may rise to €100 million if potential amounts of support look exceptionally high and the coverage rate were to fall below 33% of the potential amounts. This envelope corresponds to a coverage of about 35% to 45% of estimated effective needs over the last three years, close to the coverage rate of the estimated cost of the reform of the Community's sugar market for ACP signatories of the sugar protocol, and close to the maximum amount allocated to Flex under the 9th EDF.

If the potential amount of Flex support exceeded the annual allocation, countries would receive Flex financial support **in proportion to their potential eligibility**. So as not to slow down the whole process, it is proposed to notify in year N+1, using provisional statistics, an amount for countries eligible for budgetary support which could be disbursed quickly (see point 3.3). Amounts for other countries will be notified on the basis of final statistics.

It is proposed to include a paragraph in the new Article 9a of Annex II to the Cotonou Agreement providing for the creation of an overall annual envelope for Flex and the principle of its allocation in proportion to requirements.

The Commission therefore proposes that the Council adopts the attached decision.

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<sup>13</sup> Article 3(5) of Annex IV to the Cotonou Agreement.

<sup>14</sup> It was decided to reserve €1.8 billion for the B envelopes for unforeseen needs under the 10<sup>th</sup> EDF. This reserve should in particular cover emergency and humanitarian aid requirements under Articles 72 and 73 of the Cotonou Agreement (including aid for post-crisis countries without signed strategy papers), contributions to debt relief initiatives, and Flex. The requirements for humanitarian and emergency aid additional to budgetary aid are estimated at about €150 to 200 million a year on the basis of an extrapolation of operations financed under the 9th EDF. The balance available for Flex is not therefore sufficient to satisfy all potential requirements, which are estimated at about €200 million.

Proposal for a

## COUNCIL DECISION

### **on the position to be adopted by the Community within the ACP-EC Council of Ministers regarding the revision of the terms and conditions of financing for short-term fluctuations in export earnings (Chapter 3 of Annex II to the ACP-EC Partnership Agreement)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second subparagraph of Article 300(2) thereof,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000<sup>1</sup> and revised in Luxembourg on 25 June 2005<sup>2</sup> (hereinafter referred to as 'the ACP-EC Partnership Agreement'),

Having regard to the proposal from the Commission,

Whereas:

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

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<sup>1</sup> OJ L 317, 15.12.2000.

<sup>2</sup> OJ L 287, 28.10.2005.

<sup>3</sup> OJ L 297, 22.9.2004, p. 18.

<sup>4</sup> Declaration II, Joint declaration on Article 68 of the Cotonou Agreement, OJ L 287, 28.10.2005, p. 37.

- (5) The position of the Community within the ACP-EC Council of Ministers regarding the revision of Chapter 3 of Annex II to the ACP-EC Partnership Agreement covering the terms and conditions of financing for short-term fluctuations in export earnings needs to be established.

HAS DECIDED AS FOLLOWS:

*Sole Article*

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

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

Done at Brussels, [...]

*For the Council  
The President*

## ANNEX

Draft

### **DECISION OF THE ACP-EC COUNCIL OF MINISTERS**

#### **regarding the revision of the terms and conditions of financing for short-term fluctuations in export earnings (Chapter 3 of Annex II to the ACP-EC Partnership Agreement)**

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2007<sup>1</sup> and revised in Luxembourg on 25 June 2005<sup>2</sup> (hereinafter referred to as 'the ACP-EC Partnership Agreement'), and in particular Article 100 thereof,

Whereas:

- (1) The signatory countries of the ACP-EC Partnership Agreement, aware that the instability of export earnings could be prejudicial to the development of the ACP States, have set up a system of additional support to mitigate the adverse effects of any instability in export earnings, including those of the agricultural and mining sectors; they confirm that the aim of this support is to safeguard socio-economic reforms and policies that could be affected negatively as a result of a drop in export revenue and to remedy the adverse effects of instability of export earnings, in particular from agricultural and mining products<sup>3</sup>.
- (2) In accordance with Article 11 of Annex II to the ACP-EC Partnership Agreement, the provisions of Chapter 3 of that Annex covering the terms and conditions of the financing of short-term fluctuations in export earnings are subject to review at the latest after two years and subsequently at the request of either party.
- (3) The system of support to mitigate the adverse effects of any instability in export earnings was amended for the first time by Decision No 2/2004 of the ACP-EC Council of Ministers of 30 June 2004<sup>4</sup>.
- (4) At the signing of the revised ACP-EC Partnership Agreement in Luxembourg on 25 June 2005, the parties made a joint declaration that: "The ACP-EC Council of Ministers will examine, in application of the provisions contained in Article 100 of the Cotonou Agreement, the proposals of the ACP side concerning Annex II thereof on short-term fluctuations in export earnings"<sup>5</sup>.

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<sup>1</sup> OJ L 317, 15.12.2000, p. 3.

<sup>2</sup> OJ L 287, 28.10.2005, p. 1.

<sup>3</sup> Article 68 of the ACP-EC Partnership Agreement.

<sup>4</sup> OJ L 297, 22.9.2004, p. 18.

<sup>5</sup> Declaration II, Joint declaration on Article 68 of the Cotonou Agreement, OJ L 287, 28.10.2005, p. 37.

- (5) It is necessary to improve the functioning of the system of financing for short-term fluctuations in export earnings so as to respond more adequately to its objectives,

HAS DECIDED AS FOLLOWS:

*Article 1*

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

1. Article 9, paragraph 1 of the annex is replaced by the following:

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 arithmetical average 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 arithmetical average of the earnings in the four years preceding the application year, excluding the most extreme value for countries where the agricultural or mineral export revenues represent more than 40 % of total export revenues from goods;"

2. Article 9, paragraph 2 of the annex is replaced by the following:

"2. The loss of export earnings referred to in paragraph 1 must be 0.7% of GDP or more for there to be entitlement to additional support. Entitlement to additional support shall be limited to three successive years."

3. Article 9, paragraph 3 of the annex is replaced by the following:

"3. The additional resources shall be reflected in the public accounts of the country concerned. They shall be utilised in accordance with programming rules and methods, including the specific provisions of Annex IV "Implementation and management procedures", on the basis of agreements drawn up in advance between the Community and the ACP State concerned in the year following the application year. By agreement of both Parties the resources may be used to finance programmes included in the national budget. However, a part of the additional resources may 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."

4. An Article 9a is added to Chapter 3 of Annex II:

"1. The amount of additional financial support is 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 will 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 NIPs, the Commission will 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 set out in Article 9 exceeds the amount of that envelope, each ACP State's share will be established in proportion to the potential amount of its additional financial support expressed in euro. »

5. Article 10 of the annex is replaced by the following:

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

#### *Article 2*

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

Done at

*For the ACP-EC Council of Ministers  
The President*