

LIST OF 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                       | Mozambique           |
| Benin                        | Niger                |
| Burkina Faso                 | Rwanda               |
| Burundi                      | Samoa                |
| Republic of Cape Verde       | SãoTome and Principe |
| Central African Republic     | Sierra Leone         |
| Chad                         | Solomon Islands      |
| Comoro Islands               | Somalia              |
| Democratic Republic of Congo | Sudan                |
| Djibouti                     | Tanzania             |
| Ethiopia                     | Tuvalu               |
| Eritrea                      | Togo                 |
| Gambia                       | Uganda               |
| Guinea                       | Vanuatu              |
| Guinea (Bissau)              | Zambia               |
| Guinea (Equatorial)          |                      |
| Haïti                        |                      |
| Kiribati                     |                      |
| Lesotho                      |                      |
| Liberia                      |                      |
| Malawi                       |                      |
| Mali                         |                      |
| Mauritania                   |                      |
| Madagascar                   |                      |

## 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                 | Mali      |
| Burkina Faso             | Niger     |
| Burundi                  | Rwanda    |
| Central African Republic | Swaziland |
| Chad                     | Uganda    |
| Ethiopia                 | Zambia    |
| Lesotho                  | Zimbabwe  |
| Malawi                   |           |

## 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 Príncipe

Seychelles

Solomon Islands

Tonga

Trinidad and Tobago

Tuvalu

Vanuatu

## 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 ACP-EC 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-EU economic and social operators shall be 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.

## 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 Annex 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.

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## 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 signed in Pretoria on 11 October 1999, 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 the areas of ACP-EC development finance cooperation listed in Article 8 below, on the understanding that South Africa's participation will be fully 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.

## 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.

## 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 protocols 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.

| <i>Applicable</i>                                                                                                                          | <i>Remarks</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <i>Not applicable</i>                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 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                                                                                      | <i>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.</i>                                                                                                                                                                                                                                                                                                                              |                                                          |
| Part 3, Title I, "Development strategies".                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                          |
|                                                                                                                                            | <i>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.</i>                                                                                                                                                                                                                                                                                                                                                                               | Part 3, Title II, <i>Economic and Trade Cooperation.</i> |
| Article 75(i) (Investment promotion, support for the ACP-EU private sector dialogue on regional level), Article 78 (Investment protection) | <i>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.</i><br><i>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.</i> | Part 4, <i>Development Finance Cooperation</i>           |

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Part 5, <i>General Provisions for the Least Developed, Landlocked and Island ACP States</i> , Articles 84 to 90                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                               |
| Part 6, Final Provisions, Articles 91 to 100                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                               |
|                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Annex I (Financial Protocol)                                                                                                                                                                                  |
| Annex II, <i>Terms and conditions of Financing</i> , Chapter 5 (link to Article 78 / investment protection)                                                           | <i>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.</i>                                                                                                                                                                                                                                                                                                   | Annex II, <i>Terms and conditions of Financing</i> , Chapters 1, 2, 3 and 4                                                                                                                                   |
| Annex III <i>Institutional Support (CDE and CTA)</i>                                                                                                                  | <i>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.</i>                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                               |
| Annex IV, <i>Implementation and Management Procedures</i> : Articles 6 to 14, ( <i>Regional cooperation</i> ) Articles 20 to 32 ( <i>Competition and preference</i> ) | <i>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.</i> | Annex IV, Articles 1 to 5 ( <i>national programming</i> ); 15 to 19 ( <i>provisions relating to the project cycle</i> ), 27 ( <i>preference to ACP contractors</i> ) and 34 to 38 ( <i>Executing agents</i> ) |
|                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Annex V / trade regime during the preparatory period.                                                                                                                                                         |
| Annex VI; List of Least Developed, island and landlocked ACP States.                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                               |