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ECONOMIC PARTNERSHIP AGREEMENT BETWEEN  
EASTERN AND SOUTHERN AFRICA COUNTRIES  
ON ONE PART  
AND  
THE EUROPEAN COMMUNITY AND ITS MEMBER STATES  
ON THE OTHER PART

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BETWEEN  
THE EASTERN AND SOUTHERN AFRICA COUNTRIES  
ON ONE PART AND  
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ON THE OTHER PART

List of Countries Signatories of the ESA-EU for Economic Partnership Agreement  
(EPA)

THE PRESIDENT OF THE REPUBLIC OF BURUNDI  
THE PRESIDENT OF L'UNION DES COMORES  
[THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO]  
THE PRESIDENT OF REPUBLIC OF DJIBOUTI  
THE PRESIDENT OF THE STATE OF ERITREA  
THE PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA  
THE PRESIDENT OF THE REPUBLIC OF KENYA  
THE PRESIDENT OF THE REPUBLIC OF MADAGASCAR  
THE PRESIDENT OF THE REPUBLIC OF MALAWI  
THE PRESIDENT OF THE REPUBLIC OF MAURITIUS  
THE PRESIDENT OF THE REPUBLIC OF RWANDA  
THE PRESIDENT OF REPUBLIC OF SEYCHELLES  
THE PRESIDENT OF REPUBLIC OF SUDAN  
THE PRESIDENT OF REPUBLIC OF UGANDA  
THE PRESIDENT OF REPUBLIC OF ZAMBIA  
THE PRESIDENT OF REPUBLIC OF ZIMBABWE

Whose States are hereinafter referred to as "ESA Countries"

On the one Part and

HIS MAJESTY THE KING OF THE BELGIANS,  
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 THE HELLENIC REPUBLIC,  
HIS MAJESTY THE KING OF SPAIN,  
THE PRESIDENT OF THE FRENCH REPUBLIC,  
THE PRESIDENT OF IRELAND,  
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 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 establishing the European Community, hereinafter  
named "Community" and the States of the Community being hereinafter referred to as  
"Member States" and  
THE COUNCIL OF THE EUROPEAN UNION AND THE COMMISSION OF THE  
EUROPEAN COMMUNITY, on the other part

Have decided to conclude this Agreement and to this end have designated their  
Plenipotentiaries:

## PREAMBLE

We the ACP States of the Eastern and Southern African (ESA) region, constituted as the ESA Group and its individual member countries, on one hand, and the European Union, its Member States and the European Commission, on the other, herein referred to as “The Parties”;

Having regard to the Cotonou Partnership Agreement (CPA) signed on 23 June 2000, the COMESA Treaty signed: on 5 November 1993, the SADC Treaty and Protocol on Trade; the EAC Treaty, and the African Union Constitutive Act signed on.....,

Having regard to the Treaty Establishing the European Community (EC).

Having also regard to the decision of the 8<sup>th</sup> Summit of COMESA Authority of Heads of State and Government held in Khartoum, Sudan on 17<sup>th</sup> March 2003 on the establishment of the ESA configuration for the purpose of negotiation of an Economic Partnership Agreement (EPA) with the European Union;

Considering that the ESA States and the EU are agreed that their trade and economic cooperation shall aim at fostering the smooth and gradual integration of the ACP states into the world economy with due regard to their political choices, levels of development and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ESA countries;

Reaffirming their commitment to promote and expedite the economic, cultural and social development of the ESA Countries with a view to contributing to peace and security and to promoting a stable and democratic political environment conducive for sustainable national and regional development;

Reaffirming also that the EPA shall be consistent with the objectives and principles of the Cotonou Partnership Agreement and, in particular, with the provisions of Part III, Title II thereof

Reaffirming that the EPA must serve as an instrument of development and shall promote sustained growth, increase the production and supply-side capacity of ESA countries, foster structural transformation of ESA economies and their diversification and competitiveness and lead to the development of trade, attraction of investment, technology and creation of employment in ESA countries;

Reaffirming that economic and trade cooperation shall build on regional integration initiatives of the ESA countries;

Reaffirming the need for sustained peace and stability as crucial factors for the effective implementation of regional integration towards which the EPA is expected to contribute;

Recalling the commitments of the international community on the achievement of the Millennium Development Goals as contained in the UN Declaration of September 2000;

Reaffirming that advancing the development agenda requires genuine international cooperation and the full implementation of agreed commitments made at Conferences of Rio, Beijing, Copenhagen, Cairo and Monterrey, as well as in the Programmes of Action in favour of LDCs, LLDCs and SIDS respectively

BEARING in mind the rights and obligations of the Members of the WTO, the importance they attach to the principles and rules governing international trade and the need for a transparent, predictable, open and fair multilateral trading system

Whereas the Parties have agreed that EPAs shall take account of the differences in economic and social development levels of ESA countries and EU Member States, and that economic and trade cooperation shall be directed at enabling the ESA States to manage the challenges of globalization and to adapt progressively to new conditions of international trade and thereby facilitate their transition to the liberalised global economy.

Reiterating the need to ensure that particular emphasis shall be placed on regional integration and the provision of special and differential treatment to all ESA Countries, maintain special treatment for least developed ESA Countries, and take due account of the vulnerability of small economies, landlocked, island, coastal, drought prone and ESA Countries emerging from conflict.

Cognizant that substantial investments are required to uplift the standards of living of ESA countries;

Recalling the commitments of the Parties within the framework of the World Trade Organisation (WTO);

HAVE AGREED AS FOLLOWS

INTERPRETATION/DEFINITIONS (To be completed)

## PART I

### GENERAL PROVISIONS

#### TITLE I

#### OBJECTIVES AND PRINCIPLES

##### Article 1 Objectives

1. To promote and expedite the economic, cultural and social development of the ESA Countries, and with a view to contributing to peace and security and to promoting a stable and democratic political environment as well as regional integration.
2. The overall objective of EU-ESA Economic Partnership Agreement (EPA) shall be the attainment of sustainable development of ESA Countries, their smooth and gradual integration into the global economy and the eradication of poverty and diseases
3. The specific objectives of the EPA shall be to promote sustained growth, increase the production, supply and trading capacity of ESA Countries, as well as the capacity to attract investment and technology and create more employment, foster the structural transformation of ESA economies and their diversification, improve competitiveness and support regional integration initiatives in the ESA region.
4. The ultimate objective of economic and trade cooperation is to enable the ESA Countries to meaningfully participate in international trade. To this end, the Parties shall cooperate closely in identifying and furthering their common interests in international economic and trade cooperation in particular in the WTO.
5. The immediate objective of the EPA shall be to ensure effective market access for ESA countries' exports to the EU by addressing all forms of tariffs and NTBs that constrain ESA exports

##### Article 2 Principles

1. The ESA-EU Economic Partnership Agreement shall be underpinned by the following fundamental principles:
  - (a) The ESA countries shall determine their development models and strategies for their economies and societies in all sovereignty. The partnership shall encourage ownership of the development strategies by the countries and populations concerned;

- (b) The partnership shall be broad based to ensure ownership as well as economic political and social sustainability. In this regard EPA shall involve all stakeholders, including the private sector, civil society and parliamentarians.
- (c) Dialogue shall play a pivotal role in the fulfilment of mutual obligations and cooperation relations between the Parties; and
- (d) Cooperation arrangements and priorities as well as the capacity to assume obligations arising from this Agreement shall be in accordance with the Parties' level of development, needs and long-term development strategy.
- (e) The EU shall provide ESA Countries with the necessary development support with a view to achieve the above objectives.

2. The ESA-EU partnership shall be guided by the following specific principles:

- (a) The EPA shall be an instrument for development that contributes to fostering the smooth and gradual integration of the ESA countries into the world economy, with due regard to their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in ESA countries;
- (b) Economic reforms by ESA countries shall be based on stages of ESA countries' development within a specific time frame. The stages of development shall be identified by setting benchmarks that will be milestones that once achieved, a set of reforms including tariff dismantling shall take place. The benchmarks shall be derived from respective ESA countries national and regional development plans.
- (c) The EPA shall support and strengthen regional integration initiatives of ESA countries, by contributing to the regional harmonisation of rules
- (d) The EPA shall support regional integration initiatives existing within the ESA region and not undermine them. EPA shall be based on the integration objectives of the ESA region. EPA shall also contribute to reinforcing regional integration, in particular by contributing to the regional harmonisation of rules.
- (e) EPA shall therefore initially build and consolidate ESA market before progressively removing barriers to trade with the EU without undermining regional integration at the African Continental level.

- (f) The EPA shall maintain and improve the current level of preferential market access and ensure the preservation of Cotonou acquis;
- (g) The EPA shall, where applicable, be compatible with WTO rules prevailing at the time of entry into force of this Agreement; and shall take into account the evolutionary nature of the WTO rules
- (h) The EPA shall take account of the different needs and levels of development of the ESA countries;
- (i) The Parties reaffirm their commitment to maintaining and ensuring special treatment for ESA LDCs and to taking due account of the vulnerability and specificity of small, landlocked, island and ESA countries in conflict and post conflict situations as well as drought-prone ESA Countries;
- (j) The EPA shall address the needs and concerns of ESA net food-importing and heavily indebted non-LDCs, small economies and single commodity producers
- (k) ESA countries shall remove progressively barriers to trade on the basis of the principle of asymmetry taking into account their level of development as well as the ESA regional integration process and agenda; and
- (l) The implementation of the EPA shall be guided by the principle of regional preference.

## TITLE II

### GENERAL PROVISIONS FOR LDCs, LANDLOCKED, ISLAND AND COASTAL COUNTRIES

#### Article 3

1. To enable these categories of ESA Countries to take full advantage of the opportunities offered by this Agreement so as to step up their respective rates of development, cooperation shall ensure special treatment for least developed ESA countries and shall take due account of the vulnerability of landlocked, *coastal*, and island ESA countries. It shall also take into account the needs of countries in conflict and post conflict situations.

### TITLE III

#### SCOPE OF THE AGREEMENT

##### Article 4 Scope

1. The agreement shall cover trade cooperation, trade related issues, trade in services, fisheries, economic and development cooperation, development finance cooperation, institutional framework and final provisions, dispute settlement.
2. These provisions are concluded with a view to increasing production, supply and trading capacities of ESA countries through the enhancement of their capacity to attract investment and technology and create more employment and thus promote sustained growth and foster the structural transformation of ESA economies and their diversification, improve competitiveness and support regional integration and initiatives.

## PART II

### TRADE COOPERATION

#### TITLE I GENERAL PROVISIONS

##### Article 5 Objectives

1. The objectives of cooperation in the area of trade are;
  - (a) The provision of full duty free and quota free market access conditions for ESA goods into the EU market on a secure, long term and predictable basis with no restrictive measures introduced and exemption from all duties and charges of equivalent effect, including VAT, excise duties and fees and other charges ;
  - (b) The promotion of ESA trade and the acceleration of export led growth to enable the integration of ESA countries into the global economy;
  - (c) The complete liberalisation of the Community's market for ESA exports bearing in mind existing long-term agreements, and commodity protocols and the EBA the progressive and gradual liberalisation of goods market in ESA in accordance with the modalities established in this Agreement.
  - (d) The facilitation of market access for ESA goods into the Community market through simplification of rules of origin, strengthening of ESA capacity to meet standards, technical regulations and conformity assessment procedures, sanitary and phytosanitary measures, rules of origin compliance;
  - (e) The provision of support to ESA region in strengthening their capacity on trade related issues and improving the effective participation of ESA countries in international trade negotiations through capacity building and technical support
  - (f) safeguarding and guaranteeing the benefits under commodity protocols, taking into account the special legal status of the Sugar Protocol consistent with the CPA; and
  - (g) Preservation and improvement of preferences to ensure that all ESA Member States are better and not worse off.

##### Article 6 Common Clause

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade area or other arrangements between either of the Parties and third countries, insofar as they do not alter the rights and obligations provided for in this Agreement.

2. Consultations between the two parties concerning agreements establishing customs unions or free trade areas shall take place within the ESA EU Council and upon request on third parties issues relating to their national trade policy.

3. When the Community enters into new customs unions, free trade area agreements or any other trade arrangements with third parties that undermine the individual ESA country's benefits arising from this Agreement, the Community shall provide the affected country with appropriate compensation

#### Article 7 Scope

1. The provisions of this Chapter concerning elimination of duty, border and other measures shall apply to products originating in one Party and exported to the other party.

### TITLE II

#### FREE MOVEMENT OF GOODS

#### Article 8 Free Trade Area

1. The Parties shall gradually establish a free trade area over a transitional period of 25 years from date of entry of this agreement, according to the modalities set out in this Title.

#### Article 9 Classification of goods

1. The classification of goods traded between the Parties shall, on the Community side be on the basis of the Harmonised System and on the ESA side, shall be in terms of the COMESA Common Tariff Nomenclature

#### Article 10 Basic duty

1. The basic duty shall be the customs duty applied on the day of entry into force of the Agreement to which the successive reductions set out in this Agreement are to be applied in accordance with Art xxx.

2. The Parties shall communicate to each other their respective basic duties in accordance with the agreed derogations to these principles as set out in Annex XXXX.

3. On the part of ESA, basic duty shall be based on the proposed COMESA Common External Tariff structure and its phase-in schedule that provides for a ten year moratorium period.

4. In cases where the process of eliminating tariffs does not start at the entry into force of the Agreement, the duty to which successive reductions set out in this Agreement are to be applied shall be the basic duty as referred to in paragraph 1 of this article or the most favoured nation duty applicable at the starting day of the relevant tariff dismantlement schedule, whichever is lower.

#### Article 11 Customs duty

1. For the purposes of elimination of customs duties on imports, a customs duty shall include any duty or charge of a kind imposed in connection with the importation of goods, including any form of surtax or surcharge in connection with such importation, but does not include for the ESA:

- (a) non-discriminatory internal taxes levied on both imported and locally produced goods consistent with the provisions of Article XXX
- (b) anti-dumping or countervailing duties applied in accordance with the provisions of Article XXX
- (c) fees or other charges levied in accordance with the provisions of Article XXX

#### Article 12 Fees and other charges

1. Fees and other charges referred to in Article XXX, shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection for domestic products or a taxation of imports for fiscal measures. They shall be based on specific rates and correspond to the value of the service rendered.

#### Article 13 Tariff elimination by the EC

1. The Community including the OCTs shall provide full duty free quota free market access for all products originating in the ESA region from 1 January 2008 taking into account the benefits under existing commodity protocols.

2. Imports from the ESA into the OCTs and overseas departments shall in addition to the provisions of Art 13.1 be exempted from any additional duties or charges of equivalent effect, including the “ octroi de mer”

3. Exports from the ESA into the Community shall be exempted from internal taxes, including value added tax and excise duty and fees or other charges of equivalent effect to customs duties.

Article 14  
Tariff elimination by ESA

1. Customs duties applicable to Community imports into ESA of goods listed in Annex XXX, (capital goods and raw materials), shall be abolished ten (10) years after the entry into force of this agreement .

2. Customs duties on products listed in Annex XXX (intermediate goods) shall be eliminated in accordance with the following schedule starting in year eleven (XI) so that the customs duties are completely eliminated by year twenty (XX) from date of entry into force of this agreement.

Products listed in Annex XXX (intermediate goods)

Category	Yr XI	Yr XIV	Yr XVII	Yr XX
Percentage reduction of duty	25%	50%	75%	100%

3. Customs duties on products listed in Annex XXX (finished goods) shall be eliminated in accordance with the following schedule starting in year sixteen (XVI) so that the customs duties are completely eliminated by year twenty- five (XXV) from date of entry into force of this Agreement

Products listed in Annex XXX (finished goods imports)

Category	Yr XVI	Yr XVII	Yr XVIII	Yr XIX	Yr XX	Yr XXI	Yr XXII	Yr XXIII	Yr XXIV	Yr XXV
Percentage reduction of duty	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%

Article 15  
Sensitive products

1. Products in Annex ----- will be excluded from liberalisation and will be reviewed.

Article 16  
Exceptions clause

1. Notwithstanding provisions set out in Article 13, customs duties may be introduced or increased pursuant to the derogation as set out in Annex XXX of this Agreement.
2. [Taking into consideration the special status of the LDCs under the EBA initiative and the WTO arrangements, ESA LDC States are exempted from any reduction of tariffs.]

Article 17  
Regional preferences

1. Where ESA countries maintain regional preferences among themselves, they shall not be obliged to extend these to the EU

Article 18  
Special Arrangements

1. Market access for products in Annex ----- shall be subject to special arrangements with a view to maintaining the benefits and guarantees of the Cotonou Agreement commodity protocols with respect to:
  - i) Protocol on Sugar and SPS and its guarantees
  - ii) Protocol on Beef
  - iii) Protocol on Bananas
2. Binding and contractual arrangements shall be accorded to ESA LDCs as provided under the EBA arrangements

Article 19  
Development Benchmarks and Review Clause

1. The parties agree to regularly review progress in the implementation of this Title within the relevant institution and will propose as appropriate any remedial measures.
2. Every five years the ESA-EU EPA Council shall undertake a formal and comprehensive review in order to:

- i) assess the contribution of Parts XXXX and XXXX towards the achievement of development benchmarks as set out in annex XXXX which shall be derived from ESA national development programs
  - ii) ascertain if the development benchmarks have been attained by the individual ESA countries as well as determine whether the Community's trade and development policies and assistance have contributed to individual ESA countries achieving the development benchmarks
  - iii) monitor policies and the release of resources towards financing activities aimed at building the ESA regional market based on the regional integration agendas
3. Notwithstanding Article 14 ( Tariff Elimination) of this agreement, in the event a specific country has not attained the development benchmarks, it may apply for the derogation of tariff reductions set out in this Title and make provisions for corrective measures
4. In the event that, after each review, the Community is not meeting its obligations under this agreement, it shall provide corrective measures

#### Article 20 Elimination of Non Tariff Barriers

1. The parties agree to eliminate Non Tariff Barriers, which for purposes of this Article are defined as trade regulatory requirements other than tariffs, trade related health and safety regulations as contained in the Part xx of this Agreement.
2. For purposes of cooperation in elimination of NTBs, the Parties agree to: -
  - (a) exchange schedules of non tariff and non health and safety trade regulatory requirements which trade in goods is subjected to and to eliminate such regulations within 1 year of coming into force of this Agreement.
  - (b) No introduction of new NTBs
  - (c) Set up NTBs monitoring and elimination mechanism to facilitate monitoring implementation of the provision of this Article.

#### Title III Rules of Origin

Article 21  
Scope

1. For purposes of implementing trade cooperation, the provisions set out in the rules of origin Annex XXX shall apply.

Article 22  
Sub Committee on Customs Cooperation and Rules of Origin

1. The Parties hereby establish a Sub- Committee on Customs Cooperation and Rules of Origin, composed of the representatives of the Parties. The Sub-Committee shall meet on a date and with an agenda agreed in advance by the Parties. The Office of chairperson of the Sub-Committee shall be held alternately by each of the Parties. The Committee shall report to the Committee on Trade Cooperation.

2. The functions of the Sub-Committee shall, inter alia, be as follows:

- (a) monitoring the implementation and administration of Articles XXX and XXX of Annex (Rules of Origin) and any other customs matters related to market access;
- (b) providing a forum to consult and discuss on all issues concerning customs, including rules of origin and related customs procedures, general customs procedures, customs valuation, tariff classification and mutual administrative assistance in customs matters;
- (c) enhancing cooperation on the development, application and enforcement of rules of origin and related customs procedures, general customs procedures and mutual administrative assistance in customs matters;
- (d) Any other issues agreed by the Parties.

TITLE VIII

TRADE REMEDIES

Article 23  
Safeguards

1. For purposes of implementing trade cooperation, the provisions set out in the safeguards Annex XXX shall apply.

2. Unless otherwise provided , the provisions of Article XIX of the GATT 1994 and of the WTO Agreement on Safeguards are applicable between the Parties.

Article 24  
Special safeguards

1. ESA countries will have recourse to a special safeguard which confers them the right to take pre-emptive safeguards to take account of the weaknesses and sensitivity of their industrial sector, agricultural sector and trade distortive effects of CAP of the Community.
2. Given the sensitivity of agricultural markets, if imports of agricultural imports originating from EU cause or threaten to cause a serious disturbance to the ESA markets, the ESA country concerned shall take immediate and appropriate action to limit or redress the disturbance.
3. In taking such pre-emptive safeguard measures the procedures set out in the Protocol on safeguards ( Annex XXX) will apply.

Article 25  
Antidumping and Countervailing Measures

1. If an ESA country finds that dumping and/or countervailable subsidisation is taking place in trade with the EU within the meaning of the provisions of Article VI of the GATT 1994, and the Agreement on Subsidies and Countervailing measures it shall have the right to take appropriate measures against this practice in accordance with the WTO Agreement on the Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing measures and related internal legislation.
2. Before definitive anti-dumping and countervailing duties are imposed in respect of products imported from ESA region, the Community is required to consider the possibility of constructive remedies as provided for in the Agreement on Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures.
3. Enforcement of antidumping and countervailing measures shall be in accordance with the procedures set out in the protocol on Antidumping and Countervailing measures in Annex XXX]

Article 26  
Balance of payments

1. Where an ESA State is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods and in services and with regard to payments and capital movements, including those related to direct investment.

2. When an ESA has a BOP problem arising from the implementation of the EPA, the EU commits to provide support to take corrective measures

Article 27  
Revenue loss

1. The Community shall and based on an agreed formula and mechanism, provide budgetary assistance to ESA countries to enable them cope with revenue losses arising from liberalisation due to this agreement.
2. The EPA Council will determine from time to time the mechanism and formula to be used in carrying out the remedial measures in respect of ESA countries that suffer revenue loss.
3. The revenue loss compensation should not be financed through reallocation of the already committed development assistance to individual ESA countries either by the Community or its member states

## PART III

### TRADE RELATED ISSUES

#### TITLE 1

#### GENERAL PROVISIONS

##### Article 28

##### Scope and Coverage

1. The scope of trade related issues shall be, but not limited to, competition policy, consumer policy and protection of consumer health, intellectual property rights, standardization and technical regulations and conformity assessment, trade and environment, sanitary and phytosanitary measures, tax carve-out clause, trade facilitation, and investment.

##### Article 29

##### Objectives

1. The Parties recognise the importance of trade-related issues and shall enhance their cooperation to achieve the following objectives:

- a) The facilitation of market access for ESA goods into the Community market through simplification of rules of origin, strengthening of ESA's capacity to meet standards, technical regulations and conformity assessment procedures, sanitary and phytosanitary measures on trade, environmental issues, measures for protection of consumer health and improved customs administration.
- b) Strengthening the capacity of ESA countries and region to deal with all aspects of trade related issues and services.
- c) Enhance the benefits of trade related issues for intra ESA trade and for the progressive integration of ESA region in the world economy and strengthening their cooperation in these areas.

#### TITLE II

#### SANITARY AND PHYTOSANITARY MEASURES

##### Article 30

##### Scope and Coverage

1. The scope and coverage shall be guided by the WTO Agreement on Sanitary and Phytosanitary measures (SPS Agreement), the International Office of Epizootics (OIE) Statutes and International Animal Health Code, the International Aquatic Health Code, the International Plant Protection Convention (IPPC) and the Codex Alimentarius, and other relevant international agreements .

#### Article 31 Objectives

1. The objective of cooperation in sanitary and phytosanitary issues is to :
  - a) facilitate trade between the Parties and within ESA to harmonize legislation and regulations, whilst safeguarding human, animal and plant health or life in accordance with the instruments referred to in Article 26, subject to the requirement that these measures do not constitute arbitrary or unjustifiable discrimination or a disguised restriction to trade; (capture harmonisation of measures within the EU).
  - b) provide better targeted and timely technical and financial assistance, promote technology transfer, for the development of the necessary infrastructure and capacities for standardisation, conformity assessment, certification and adaptation, quality assurance and accreditation, in order to assist ESA countries to comply with regional, European and international standards;
  - c) address problems arising from SPS measures through technical assistance and capacity building activities on agreed priority sectors and products giving due consideration to regional integration.
  - d) Ensure transparency as regards SPS measures including by private sector applicable to intra-regional, bi-regional and international trade;
  - e) promote regional harmonisation of measures and the development of appropriate regulatory frameworks and policies within ESA;
  - f) facilitate participation in and making submissions to international and European organisations setting SPS standards
  - g) promote linkages, joint ventures and joint research and development between ESA and EU institutions and laboratories
  - h) Support the development of regional and national standard and conformity assessment infrastructure in conjunction with international requirements that will enable ESA countries to adapt and enforce measures to protect human, animal and plant life and health

Article 32  
Definitions

1. The definitions of terms used in this section of the agreement will have the same meaning as in Annex A of the WTO SPS Agreement;
2. The provisions of this Title of the agreement shall be implemented in accordance with the guidelines outlined in Annex A of the WTO SPS Agreement;
3. Unless otherwise stated, the definitions provided by the OIE, the IPPC, the Codex, the CBD, the CITES and other relevant bodies shall apply when terminologies so defined in the official documents of these organisations are used in this Agreement.

Article 33  
*Sovereign Rights and Obligations*

1. Each Party shall have the sovereign right to implement sanitary and phytosanitary measures and shall meet its obligations in accordance with [the WTO SPS Agreement and in particular Articles 2 and 5 (7)].
2. The Parties reaffirm their rights and obligations under the IPPC, the OIE, the Codex, (the Convention on Biodiversity [CBD], the Cartagena Protocol and the Convention on International Trade in Endangered Species of Wild flora and Fauna CITES and all other multilateral environmental agreements and international conventions with SPS related provisions.]

Article 34  
Principles

*Scientific Justification of Measures*

1. The Parties shall ensure that the introduction,, alteration or modification of any sanitary and phytosanitary measure in their territories will be in accordance with Article 5 of the WTO SPS Agreement.

*Harmonisation*

2. The Parties shall endeavour to harmonize their standards, including testing and certification procedures, in accordance with Article 3 of the WTO SPS Agreement.

*Equivalence and Regionalisation*

3. The Parties shall endeavour to promote the equivalence of measures in accordance with Article 4 of the SPS Agreements.--

4. The Parties shall, when appropriate, recognise the regionalisation of the ESA. Upon the achievement of full trade integration of ESA, the Parties shall recognise the harmonised SPS standards applicable in the whole region, a sub-region, each country or a local authority within a country, for the purpose of facilitating entry into the EU of ESA agricultural commodities.

#### *Notification, Enquiry and Transparency*

5. The Parties shall not introduce new SPS measure unless notification has been carried out in accordance with Article 7 and Annex B of the WTO SPS Agreement.

6. The Parties shall be as transparent as possible in their application of SPS measures in accordance with Article 7 and Annex B of the WTO SPS Agreement.

7. The Parties may apply the principles of zoning, when defining import conditions, in line with international standards. Zones of defined sanitary or phyto-sanitary status may also be identified and proposed jointly by the Parties, on a case by case basis, wherever possible, in order to avoid disruption to trade.

8. The Parties shall develop a joint mechanism for coordination, consultations and exchange of information as regards notification and application of SPS measures; including the establishment of an ESA-EU SPS Sub-Committee, which shall be responsible for reviewing, prioritizing and ensuring that the programmes resulting from this Agreement are effectively implemented.

#### Article 35

##### Special and Differential Treatment:

1. The EC shall recognise the S&D needs of ESA countries in implementing SPS measures

2. The EC shall provide technical developmental assistance to ESA countries to address the special needs of ESA countries arising from the implementation of the EPA

#### Article 36

##### Areas of Cooperation

1. Taking into account the foregoing and notwithstanding the existing development cooperation programs between EU and the ESA region in the SPS area, the Parties shall focus their cooperation on the following:

a) Technical Assistance and Capacity Building

2. Setting up sustained SPS training programmes in animal health, plant protection, food safety for public sector personnel, aimed at building the public sector capacity for regulating, monitoring and certification of compliance in accordance with the WTO Agreement on the Application of Sanitary and Phyto-sanitary Measures (“SPS Agreement”).
3. Setting up of sustained training programmes for private sector commodity producers and processors, aimed at building private sector capacity (farmers/producers/fishermen/traders) to comply with SPS standards and requirements.
4. Strengthening ESA accreditation agencies including setting up training programmes for laboratory auditors (lead assessors as well as technical assessors).
5. Setting up inter-laboratory testing and validation programmes, accreditation of laboratories in accordance with international standards as well as the provision of continuous training programmes for laboratory specialists;
6. Creation of sustainable enquiry points and competent authorities in the ESA region and training of a critical mass of personnel and staff in the cited competent authorities.
7. Implementing measures in ESA countries aimed at improved SPS risk management at production and processing levels.
8. Implementing national and regional projects aimed at preventing and eradicating quarantine plant pests, trans-boundary animal diseases, and diseases of aquatic animals;
9. Enabling ESA Countries in updating or developing adequate legislative and regulatory instruments, and setting up institutional and operational mechanisms for the implementation of the SPS agreement, including provisions on harmonization, equivalence, transparency, notification and risk assessment, and other relevant national legislation and regulations;
10. Establishing national and regional reference laboratories in animal health, plant protection and food safety, as appropriate;
11. Creating linkages with European reference laboratories including training, technology transfer, and joint ventures to enable ESA Countries upgrade, maintain and receive certification and accreditation of EU standards for their national SPS related laboratories, and for the region to maintain its SPS related regional reference laboratories;

12. Assisting ESA countries to comply with EU requirements for processing facilities related to products of trade interest to ESA countries to enable the registration and approval of such facilities as suppliers to EU markets.
13. Enabling ESA countries to develop regionally integrated animal disease, plant pest and disease and aquatic animal disease monitoring and surveillance systems;
14. Enabling ESA countries develop national and regional plant pest and disease, animal disease and fisheries emergency preparedness systems;
15. Assisting ESA countries to participate effectively in all stages of the international standards and norms setting processes moderated by the International Plant Protection Convention (IPPC), the International Office of Epizootics (OIE) and the Codex Alimentarius Commission (Codex) and other relevant international standard setting bodies.;
16. Implementing programmes to develop self-regulation by ESA exporters of different agricultural, food and fisheries commodities;
17. Assisting the ESA Countries establish regularly updated databases which will include data and information on their SPS capacities; plant protection, food safety and animal health.
18. Establishing programmes for substituting undesirable pest control methods and agents with the most appropriate modern technologies, for disposing off of obsolete pesticides,
19. Defining benchmarks for mutual recognition of SPS Competent Authorities and modus operandi for treatment of products which are certified by mutually recognized SPS Competent authorities.
20. Processing accreditation for SPS Competent Authorities in ESA region which meet the mutual recognition status
21. Developing mechanisms for dialogue between private and public sectors in relation to SPS issues, including cooperation with regard to private sector standard-setting.
22. Improving ESA capacity to comply with EU SPS standards
23. Capacity building for the identification of pests, creation of disease free zones and the delimitation of pest free zones
24. Assistance to ESA exporters to meet EU maximum residue levels ( EU's MRLs) requirements

Articles 37  
Fisheries

- 1 Cooperation on SPS Measures and standards for fisheries shall aim at:
- (a) Development of harmonized regional rules, legislations and standards of fish products to promote regional trade as well as improve the national capacities for production of fish at economies of scale;
  - (b) Set up training programmes for public sector at national level to enable them regulate, monitor and certify compliance in accordance with the WTO Agreements on the Application of SPS Measures;
  - (c) Set up training programmes for the fishers and fish farmers in order for them to be able to comply with SPS standards and requirements;
  - (d) Finance programmes to build capacity to deal with fish diseases and parasites;
  - (e) Accreditation of laboratories and capacity building of the Competent Authorities;
  - (f) Further development of infrastructure towards compliance with HACCP, especially on landing sites, ice-making plants, and primary processing facilities;
  - (g) Training programmes in SPS, product development and branding
  - (h) Assistance in the implementation of measures aimed at enhancing the quality of fisheries products and supporting trade promotion activities;

Article 38  
*Information Exchange and Transparency of Trade Conditions*

Cooperation shall aim at:

1. Setting up appropriate mechanisms for information sharing on changes to SPS measures which may affect products of export interest to either party. The Parties shall also exchange information on other areas of potential relevance to their trade relations, including animal welfare issues, rapid alerts, scientific opinions and events.
2. Providing assistance to improve ESA countries capacity to ensure compliance of imported products with ESA SPS measures .
3. Establishment of an early-warning system to ensure that ESA countries are informed in advance of new SPS measures that may affect ESA exports to the EU. This system shall build on existing mechanisms, as appropriate.
4. Sharing of information on the European Union – Maximum Residue Levels (EU-MRLs) with a view to ensuring that they do not impinge on ESA preferential market access.

5. Results of testing for SPS should be made available to the Party whose product has been tested

Article 39  
Competent Authorities

1. The SPS competent authorities of the EU and the ESA-EPA Group shall be the competent authorities in member states as defined in the WTO SPS Agreement and the statutory documents of the relevant standard setting bodies, such as, the IPPC, the OIE and the Codex.

Article 40  
Joint ESA-EC SPS Sub-Committee

1. The Parties hereby establish a Sub-Committee on SPS composed of the representatives of the Parties. The Sub-Committee shall meet on a date and with an agenda agreed in advance by the Parties. The Office of chairperson of the Sub-Committee shall be held alternately by each of the Parties. The Committee shall report to the Committee on trade cooperation.

2. The functions of the Sub-Committee shall, inter alia, be as follows:

- (a) monitoring the implementation and administration of Articles XXX and XXX on SPS measures;
- (b) providing a forum to consult and discuss on all issues concerning SPS measures;
- (c) enhancing cooperation on the development, application and enforcement of SPS measures;
- (d) Any other issues agreed by the Parties.

Article 41  
Joint SPS Protocol

1. The implementation of this Title will be in accordance with the SPS Protocol included in Annex XXX of this Agreement.

TITLE III  
STANDARDS, TECHNICAL REGULATIONS  
AND CONFORMITY ASSESSMENT

Article 42  
Scope and coverage

1. The provisions of this Title shall apply to the application of Standards, Conformity Assessment and Technical Regulations, as defined in the WTO-Agreement on Technical Barriers to Trade, related provisions adopted by the European Community and national and regional legislation of the ESA countries, as well as any other non regulatory standards, technical regulations and conformity assessment procedures applied by the private sector that may directly or indirectly affect products between the parties and which may constitute a barrier to trade.

Article 43  
Objectives

1. The objectives of cooperation in the areas of standards, technical regulations and conformity assessment between the Parties shall be;
- a) the avoidance and reduction of technical barriers to trade, in order to facilitate trade between the Parties one hand and enhance regional integration among ESA countries on the other, by reducing differences in standards, technical regulations and conformity assessments applied in the EU and those applied in ESA countries while taking into account the legitimate objectives of the Parties and the principle of non discrimination, within the meaning of the WTO Agreement on Technical Barriers to Trade (the WTO/TBT Agreement).
  - b) to promote greater use of international technical regulations, standards and conformity assessment procedures, including sector specific measures.
  - c) to develop functional links, joint ventures and joint research and development work between ESA and EU standardisation, conformity assessment and regulatory institutions, including direct support for ESA conformity with schemes such as private sector standards .
  - d) to enhance the market access for products from ESA countries through improvements in safety, quality and competitiveness of products.

- e) to promote greater use of international best practices for technical regulations, international standards and conformity assessment procedures as well ensure that the issuing of standards and technical requirements are transparent and not trade restrictive;
- f) to assist the ESA region through financial and technical support to establish and enhance technical capacity for:
- g) the development, implementation and monitoring of technical regulations,
- h) harmonisation within ESA and convergence with the EU's of technical regulations and standards
- i) development of appropriate regulatory framework and policies within the ESA region as well as regulatory reforms to meet internationally accepted practices;
- j) to build capacity in the areas of standardization, conformity assessment and technical regulations, including through public/private partnerships at both the national and regional level.
- k) to facilitate the active participation of institutions of ESA region in international Standards setting bodies and the WTO TBT Committee and as observers in the UN/ECE and European standards setting bodies;
- l) support the development of national standards and technical regulatory authorities in ESA countries
- m) develop certification programmes in ESA countries with emphasis on quality assurance
- n) regional harmonisation of standards

#### Article 44 Definitions

1. For the purpose of this section, the definitions of Annex I to the WTO TBT Agreement shall apply. In this respect, the Decision of the WTO Committee on Technical Barriers to Trade on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of that Agreement shall also apply.

#### Article 45 Basic rights and obligations

1. The Parties reaffirm their rights and obligations under the TBT agreement, while taking account of their rights and commitments under other international arrangements relating to the protection of biodiversity in particular and the environment in general.

2. Each Party shall have the sovereign right to develop and implement standards, technical regulations and conformity assessment procedures in accordance with the provisions of the WTO TBT Agreement.

3. No Party may prepare, adopt, maintain or apply any standard or technical regulation with an effect of creating an unnecessary obstacle to trade between the Parties. An unnecessary obstacle to trade should not be deemed to be created where:

- a) the demonstrable purpose of standard or technical regulation is to achieve a legitimate objective
- b) the standard or technical regulation does not operate to exclude goods of another Party that meet that legitimate objective

#### Article 46

##### Recognition

1. The EC recognise ESA technical regulations, standards, conformity assessment procedures and bodies.

#### Article 47

##### Subcommittee on Standards, Technical Regulations and Conformity Assessment

1. The Parties here by establish a Sub-Committee on Technical Regulations, Standards and Conformity Assessment in order to achieve the objectives set out in this section. The Sub-Committee, made up of representatives of the Parties, shall be co-chaired by a representative of each Party. The Sub-Committee shall meet as and when necessary. The Committee shall report to the Committee on Trade Cooperation.

2. The Sub-Committee may address any matter related to the effective implementation of the provisions under this section. In particular, it shall have the following responsibilities and functions:

- (a) monitoring and reviewing the implementation of the provisions contained in this section. In this connection, the Sub-Committee shall draw up a work program aimed at achieving the objectives of the section and in particular those set out in Article xxx;
- (b) providing a forum for discussion and exchanging information on any matter related to this section and in particular as it relates to the Parties' systems for technical regulations, standards and conformity assessment procedures, as well as developments in related international organisations;
- (c) providing a forum for consultation and prompt resolution between the Parties of issues that act or can act as unnecessary barriers to trade, within the scope and meaning of this section;

- (d) encouraging, promoting and facilitating other cooperation between the Parties' institutions and organisations, public and/or private, for metrology, standardisation, testing, certification, inspection and accreditation; and
- (e) exploring any means aimed at improving access to the Parties' respective markets and enhancing the functions provided for in this section.

Article 48  
Principles  
*Transparency and Notification*

1. Within 6 months of entry into force of this Agreement, the parties shall inform each other of the existing standards, technical regulations and conformity assessment procedures applied in their territories for traded products and thereafter any changes thereof.
2. The Parties shall inform each other of any progress made in the harmonization of their standards, technical regulations or conformity assessment procedures with international standards, technical regulations or conformity assessment procedures.
3. The Parties shall exchange information on other issues of potential relevance to their trade relations, including rapid alerts, scientific opinions and events through contact points.
4. The Community undertakes to provide assistance in establishing such contact points and offer training for their maintenance and sustainable operation. To this effect the Community undertakes to provide assistance for the establishment and sustenance of a database accessible to the Parties, and which the Parties shall jointly update on a regular basis.

Article 49  
Harmonization

1. The Parties shall endeavour to harmonize their standards, technical regulations and conformity assessment procedures in accordance with the provisions of the WTO-TBT Agreement;

Article 50  
Areas of Cooperation

1. The Parties shall intensify their bilateral cooperation in the field of standards, technical regulations and conformity assessment with a view to facilitating access to

their respective markets, by increasing the mutual knowledge, understanding and compatibility of their respective systems.

2. The Parties agree to cooperate in the following areas of Standards, Technical Regulations and Conformity Assessment:

- (a) Promotion of greater use of international standards in technical regulations and conformity assessments, including sector specific measures, in the Parties' territories,
- (b) Support to ESA capacity building initiatives including the development of physical and technical infrastructure in the fields of standardization, conformity assessment, technical regulations, quality management and assurance, market surveillance, as well as information and documentation including reinforcement of ESA TBT enquiry points;
- (c) promoting and enabling full participation in international standard setting bodies, and reinforcing the role of international standards as a basis for technical regulations through ensuring that ESA countries' quality and standards authorities obtain international accreditation;
- (d) Development of links between ESA public and private institutions dealing with Standards, conformity assessment and technical regulations with similar institutions in the European Union.
- (e) Identification and implementation of appropriate measures provided by the TBT Agreement, including, *inter-alia*, regulatory dialogue, equivalence of technical regulations, alignment to international standards, reliance on the supplier's declaration of conformity, use of accreditation to qualify conformity assessment bodies and mutual recognition agreements.

3. In their cooperation, the Parties shall aim at identifying measures and their implementation modalities that are the most appropriate for particular issues or sectors. Such measures may include regulatory cooperation in areas such as convergence and/or equivalence of technical regulations and standards, alignment to international standards, reliance on the supplier's declaration of conformity and use of accreditation to qualify conformity assessment bodies, and mutual recognition agreements.

4. The Parties shall conclude over time specific arrangements for implementing the identified measures. To this end, the Parties shall work towards:

- (a) Developing common views on good regulatory practices, including, but not limited to:

- i) Transparency in the preparation, adoption and application of technical regulations, standards and conformity assessment procedures;
  - ii) Necessity and proportionality of regulatory measures and related conformity assessment procedures, including the use of suppliers declaration of conformity;
  - iii) Use of international standards as a basis for setting up technical regulations, except where such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued;
  - iv) Enforcement of technical regulations and market surveillance activities;
  - v) Establishment of the necessary technical infrastructure and transfer of technology, in terms of metrology, standardisation, testing, certification and accreditation, to support technical regulations; and
  - vi) Establishing mechanisms and methods for reviewing technical regulations and conformity assessment procedures;
- (b) Enhancing regulatory, technical and scientific cooperation by inter alia, exchanging information, experiences and data, with a view to improving the quality and level of their technical regulations and making efficient use of regulatory resources;
  - (c) Developing compatibility and/or equivalence of their respective technical regulations, standards and conformity assessment procedures;
  - (d) Promoting and encouraging bilateral cooperation between their respective organisations, public and/or private, responsible for metrology, standardisation, testing, certification and accreditation;
  - (e) Promoting and encouraging full participation in international standard setting bodies, and reinforcing the role of international standards as a basis for technical regulations; and
  - (f) Increasing their bilateral cooperation in the relevant international institutions and organisations and fora dealing with the issues covered by this section.

## Conformity Assessment

1. The Parties shall, further to Article 41 and recognizing the existence of substantial differences in the structure, organization and operation of conformity assessment procedures in their respective territories, make compatible those procedures to the greatest extent practicable.
2. Recognizing that it should be to the mutual advantage of the Parties concerned, each Party shall accredit, approve, license or otherwise recognize conformity assessment bodies in the territory of the other Party on terms no less favourable than those accorded to conformity assessment bodies in its territory.
3. Each Party shall, with respect to its conformity assessment procedures:
  - (a) not adopt or maintain any such procedure that is stricter, nor apply the procedure more strictly, than necessary to give it confidence that a good or a service conforms with an applicable technical regulation or standard, taking into account the risks that non-conformity would create;
  - (b) initiate and complete the procedure as expeditiously as possible;
  - (c) in accordance with Article 40(4), undertake processing of applications in non-discriminatory order;
  - (d) publish the normal processing period for each such procedure or communicate the anticipated processing period to an applicant on request;
  - (e) ensure that the competent body
    - i. on receipt of an application, promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of any deficiency,
    - ii. transmits to the applicant as soon as possible the results of the conformity assessment procedure in a form that is precise and complete so that the applicant may take any necessary corrective action,
    - iii. informs the applicant, on request, of the status of the application and the reasons for any delay;
    - iv. limit the information the applicant is required to supply to that necessary to conduct the procedure and to determine appropriate fees;

- v. accord confidential or proprietary information arising from, or supplied in connection with, the conduct of the procedure for a good of another Party or for a service provided by a person of another Party
- vi. Accord the same treatment as that for a good of the Party or a service provided by a person of the Party, and
- vii. ensure that any fee it imposes for conducting the procedure is no higher for a good of another Party or a service provider of another Party than is equitable in relation to any such fee imposed for its like goods or service providers or for like goods or service providers of any other country, taking into account communication, transportation and other related costs;
- viii. ensure that the location of facilities at which a conformity assessment procedure is conducted does not cause unnecessary inconvenience to an applicant or its agent;
- ix. limit the procedure, for a good or service modified subsequent to a determination that the good or service conforms to the applicable technical regulation or standard, to that necessary to determine that the good or service continues to conform to the technical regulation or standard; and
- x. limit any requirement regarding samples of a good to that which is reasonable, and ensure that the selection of samples does not cause unnecessary inconvenience to an applicant or its agent.

4. Each Party [Signatory] shall apply such modification as may be necessary the relevant provisions of paragraph 3 to its approval procedures.

5. Each Party shall on the request of another Party, take such reasonable measures as available to it to facilitate access in its territory for conformity assessment activities

6. Each Party shall give due consideration to a request from the other Party to negotiate agreements for the mutual recognition of the result of that other Party's conformity assessment procedures

## Article 52 Implementation

1. In order to facilitate the implementation of this Agreement an ESA-EU Sub-Committee on Standards shall be established.,

2. The sub-committee shall be responsible for reviewing, prioritizing and ensuring that the programmes resulting from this agreement are effectively implemented, and such a Sub-committee will meet as and when necessary at the request of either party.

3. The ESA-EU Sub-Committee on standards, technical regulations and conformity assessment shall be composed of technical representatives of all member states and shall report to the Joint ESA-EU Committee on trade cooperation.

#### Article 53 Competent Authorities

1. The competent Authorities of the Parties are the authorities competent for the implementation of standards, technical regulations and conformity assessment schemes as designated by their countries.

#### Article 54

1. Protocol on Standards Technical Regulations and Conformity Assessment

2. The Parties agree that the technical details of cooperation in the implementation of this Title on TBTs shall be dealt with in the TBT Protocol on Standards, Technical Regulations and Conformity Assessment included in Annex ..... of this Agreement.

## TITLE IV

### TRADE FACILITATION

#### Article 55 Scope and Coverage

1. The provisions of this Title shall focus on cooperation between the Parties aimed at, inter alia, strengthening the capacity of ESA countries and region to deal with, all aspects of trade facilitation including customs valuation, procedures and documentation, reforms and modernization; enhancing cooperation between the Parties' customs authorities and other border agencies; regional transit arrangement; developing efficient transport systems and networks; storage, further expediting the movement release and clearance of goods; need for capacity building and technical assistance; establishing effective transport corridors; transparency of trade laws; publication and administration of trade regulations, fees and formalities connected with importation and exportation and building consultative mechanisms between customs authorities and other stakeholders

#### Article 56 Objectives

1. The objectives of cooperation in Trade Facilitation shall be:
  - a) Simplification and harmonization of Customs Procedures, legislation and export and import licensing requirements;
  - b) Reduce to the minimum the number of days in clearing goods at customs
  - c) Fight and eradicate corruption and fraud in customs where appropriate
  - d) Modernisation of customs systems and procedures
  - e) Capacity building and provision of financial and technical assistance for ESA countries and region in this area;
  - f) Enhancing efficiency in regional transit system.
  - g) Transparency through the publication and in administration of all trade regulations
  - h) To address supply side constraints which are the key problems inhibiting both intra and inter-regional trade and increase investment flows into ESA region.

- i) Reduce transaction costs for both domestic and international trade

#### Article 57

##### Areas of Cooperation in trade facilitation

1. The areas of cooperation shall include the Community support in the following:
  - a) Establishment of ICT infrastructure along transit corridors in the region to facilitate exchange of information among different stakeholders and develop appropriate risk management techniques to reduce dwell time and inspection rates to speed up cargo clearance;
  - b) Improvement of the state of weighbridges, road, rail, port and waterways infrastructure and border post facilities and regional institutional structures to manage corridor operations;
  - c) Provision of technical support for the implementation of an enhanced regional trade facilitation programme that will result in uniform application of the WTO trade facilitation principles;
  - d) Provision of technical and financial support to Clearing and Forwarding Agents' Associations, Transporters' Associations and Port operators to effectively play their role in trade facilitation initiatives;
  - e) Human resource development in the area of trade facilitation

#### Article 58

##### Principles of cooperation in customs matters

1. Cooperation shall be based upon the following principles
  - (a) Adoption of legislation that avoids unnecessary burdens on economic operators, that will not hinder the fight against fraud, corruption and provides further facilitation for operators that meet high level of compliance;
  - (b) protection of legitimate trade through the effective enforcement of legislative requirements;
  - (c) application of modern customs techniques, including risk assessment, simplified procedures for entry and release of goods, post release controls, and company audits;
  - (d) adoption of procedures that are transparent, efficient and where appropriate simplified, in order to reduce costs and increase predictability for economic operators;

- (e) development of information technology based systems, for both export and import operations, between economic operators and customs administrations and between customs and other agencies;
- (f) adoption of systems that facilitate the importation of goods through the use of simplified customs procedures and processes, including pre-arrival clearance;
- (g) adoption of import provisions that do not include any requirements for pre-shipment inspections as defined by the WTO Agreement on Pre-shipment Inspection;
- (h) application of rules that ensure that any penalties imposed for minor breaches of customs regulations or procedural requirements are proportionate and, in their application, do not give rise to undue delays in customs clearance, in accordance with Article VIII of GATT 1994.
- (i) Restriction of export and import licensing requirements to SPS regulations only for intra regional trade and trade between ESA and the EU.

#### Articles 59

#### Areas of cooperation in customs matters

1. Areas of cooperation shall include Community support in the following:
  - (a) Completion of the ESA programme on computerization of customs management systems and the extension of the automation to business to have effective e-customs systems in the region;
  - (b) Provision of financial and technical support for ESA Countries to conduct assessments of their trade facilitation programmes and develop a programme for conformity/implementation;
  - (c) Development and implementation of a programme to publish regulatory information relating to importation and exportation of goods and procedures on web-sites for all ESA member States to meet the requirements of GATT Article X;
  - (d) Provision of financial and technical resources for the implementation of joint controls at border posts along the transport corridors of the region.
  - (e) Provision and enhancement of scanning facilities to expedite the clearance of goods
  - (f) Build capacity of ESA countries customs and administration

- (g) Provision of capacity building to regional customs administrations on risk management, simplified procedures for entry and release of goods, post release controls and company audits and security of the trade supply chain;
- (h) Developing capacity of ESA countries' customs administrations to enable them meet the new security measures, especially in container and general customs clearance;

2. In order to ensure compliance with the provisions of this Title as they relate to customs matters, the Parties undertake to:

- (a) cooperate and exchange information concerning customs legislation and procedures;
- (b) apply customs rules and procedures agreed by the Parties at regional or multilateral levels;
- (c) simplify requirements and formalities in respect of the release and clearance of goods;
- (d) cooperate on all issues concerning rules of origin and customs procedures related to them;
- (e) cooperate on all customs valuation matters, in accordance with the Agreement on Implementation of Article VII of the GATT 1994.

3. In order to improve working methods and to ensure transparency and efficiency of customs operations, the Parties shall:

- (a) ensure that the highest standards of integrity be maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments in this field, as provided for in each Parties legislation;

- (b) take further steps, wherever possible, towards the reduction, simplification and standardization of data in the documentation required by customs, including the use of a single customs entry document or data message, based on international standards and relying as far as possible on commercially available information;
- (c) collaborate wherever possible on legislative and operational initiatives relating to import, export and customs procedures, and, to the extent possible, towards improving the service to the business community;
- (d) cooperate through technical assistance on issues relating to customs operations
- (e) cooperate in harmonisation of customs computerisation programs with the aim of establishing common customs standards;
- (f) apply the regional and international rules and standards in the field of customs, including the provisions of the revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures;
- (g) collaborate wherever possible towards facilitating transshipment operations and transit movements through their respective territories.
- (h) Cooperate to introduce the WCO trade facilitation programs including standards to secure and facilitate global trade (SAFE)
- (i) Elaborate and implement measures to fight corruption

#### Article 60 Customs Valuation

1. The WTO Agreement on implementation of Article VII of the GATT 1994, shall be the basis for customs valuation applied to trade between the Parties, without the reserves and options provided for in Article 20 and paragraphs 2, 3 and 4 of Annex III of that Agreement,

#### Article 61 Cooperation on Trade Statistics

1. The Parties agree to develop compatible systems, to enable access and use of each other's statistics on trade in goods and services.
2. Cooperation will focus on:

- (a) Harmonisation of statistical methods to generate indicators that are comparable between the Parties;
- (b) Scientific and technological exchanges between EU and ESA countries statistical units;
- (c) Statistical research directed at developing common methods for collecting, analysing and interpreting data; and
- (d) Human Resource Capacity Building in Statistics.

## TITLE V

### Competition Policy

#### Article 62 Objectives

1. The objectives of this Title shall be;
  - (a) To promote and encourage competition by preventing restrictive business practices and other restrictions that deter the efficient operation of markets in the ESA countries, thereby enhancing the welfare of the consumers and to protect consumers against uncompetitive behaviour by market actors
  - (b) To establish and promote an investment friendly climate, a sustainable industrialization process and transparency in the access to markets, taking fully into account the development needs of the ESA.
  - (c) To cooperate in the area of competition policy with a view to creating an appropriate regulatory framework

#### Article 63 Areas of Cooperation

1. The areas of cooperation shall include EU support in the following:
  - (a) ] to facilitate ESA countries to develop regulatory capacity in competition policy and enforcement
  - (b) Provision of technical and financial resources to support ESA countries in Capacity building, including technical cooperation in competition policy analysis and development, with the view to enhancing the evaluation of the implications and impact on the development needs of the ESA countries on closer multilateral and bilateral cooperation;
  - (c) Setting up of appropriate national and regional structures to promote sound competition and eradicate anti-competitive practices
  - (d) Provision of financial resources from the EU to support the region in the establishment of national and regional competition commissions, and enhance cooperation with national, regional/sub regional organisations;

- (e) Setting up a framework for co-operation in the establishment and operations of national and Regional Competition Commissions in ESA countries covering, inter-alia:
- i. exchange of information;
  - ii staff training, exchanges and attachments;
  - iii training for judges and other law enforcement officers;
  - iv. public and stakeholder awareness activities;
  - v. co-operation in investigation of anti-competitive practices.
  - vi. Conducting a comprehensive study on the nature of the constraints hampering the development of competitive economies in the region
  - vii. Assisting in the prevention and sanctioning of anti-competitive practices by international or multinational cartels.
  - viii. Establishment of a business data centre

## TITLE VI

### INTELLECTUAL PROPERTY RIGHTS

#### Article 64 Scope and Coverage

1. For the purpose of this Title, intellectual property covers copyright and related rights; industrial property rights; plant breeders rights; rights to traditional knowledge, folklore and genetic resources; and other rights recognised under the TRIPS Agreement and CBD and the International Agreement on Plant Genetic Resources

#### Article 65 Objectives

The objectives of cooperation in intellectual property rights shall be:

1. To ensure availability of legal, institutional and human resource capacities and policy frameworks for the protection of intellectual property rights whilst respecting and safeguarding public policies of ESA countries
2. Ensuring the economic development and social expansion of an ESA Country economy is not hampered by a restricted application of international and bilateral obligations in the area of intellectual property rights,
3. Ensuring the implementation of the flexibilities as are provided under the TRIPS Agreement and CBD and the International Agreement on Plant Genetic Resources
4. To facilitate technology transfer amongst the parties and especially to the ESA countries
5. To ensure adequate and effective protection of genetic resources, traditional knowledge and folklore of ESA countries and prevent bio-piracy
6. To ensure that the legitimate interests of the ESA countries are safeguarded
7. To provide for enhanced incentives for the development and research into new technologies especially in pharmaceutical products, including the production of generic medicine.
8. To ensure that claims of ownership of seeds and plant products cannot be transferred onto similar natural resources endemic to the ESA region

9. To provide support for the development and research to identify geographical indications on products of ESA countries. In the case of livestock this will include the Breed Characterisation Inventory

10. To grant legal protection to geographical indications identifying products of ESA countries in both the Community and among ESA countries

Article 66  
Areas of Cooperation

1. The Parties shall strengthen their cooperation in all areas of intellectual property, including in the following areas:

- a) the availability of legal, institutional and policy frameworks necessary for the implementation of the TRIPS Agreement whilst respecting the flexibilities therein, and the CBD and the International Agreement on Plant Genetic Resources
- b) the establishment and reinforcement, including training of personnel, of national and regional intellectual property offices dealing in intellectual property matters
- c) a fair compensation for the intellectual property holder while at the same time giving due consideration to the interest of the general in particular taking into account the needs and level of development of ESA countries.
- d) effective protection of ESA countries genetic resources, folklore and traditional knowledge and bio piracy;
- e) in granting patents utilising genetic resources from ESA countries, the EC and its Member States will require the disclosure of origin and proof of prior informed consent of the indigenous community concerned and equitable sharing of benefits; where a genetic resource is derived from a genetic material of an individual and the rights conferred by this paragraph are conferred on that individual
- f) Exploitation of genetic resources from ESA countries by EU shall take due regard to the principle of prior-informed consent to ensure indigenous communities holding such genetic resources benefit from such exploitation.
- g) prevention of abuse of intellectual property rights by their holders

h) Creation of awareness on IPR through an information exchange system with the aim to update each other on IPR development on time

2. EU shall support ESA countries to enable them benefit from the relevant provisions of the WTO Agreement on TRIPs and the in-built flexibilities especially with regard to public health, including access to pharmaceutical products at a reasonable price;

3. EU shall support ESA countries to enact appropriate laws, formulate policies and develop infrastructure for local production of pharmaceutical products, transfer of technology and the attraction of investment in their pharmaceutical sectors;

4. The EU shall provide incentives to enterprises and institutions in its territory for the purpose of promoting and encouraging technology transfer to ESA countries in order to enable them create a sound and viable technological base.

#### Article 67 Implementation

1. The implementation of this Title shall be reviewed after 5 years as from the date of signing this agreement. Such review may also include any relevant new developments that might warrant modification or amendment of this Title

2. In order to facilitate the implementation of this Title, EU shall provide, on request and mutually agreed terms and conditions, technical and financial assistance in favour of ESA countries.

#### Article 68 Institutional Arrangements

1. For the purpose of this Title the ESA-EU Committee on IPRs shall be established.

2. The IPR Committee shall be composed of technical representatives of all Parties and shall report to the joint ESA-EU Committee on Trade Cooperation.

## TITLE VII

### INVESTMENT AND PRIVATE SECTOR DEVELOPMENT SUPPORT

#### Article 69 Scope and Coverage

1. Cooperation shall, through financial and technical assistance, support the policies and strategies for investment and private sector development as set out in this Title. Cooperation shall be as provided in the Cotonou Partnership Agreements articles 74 to 78

#### Article 70 Objectives

1. The objectives of the cooperation on investment and private sector development are to:
  - (a) Create an environment for sustainable and equitable economic development of ESA through investment, including FDI, technology transfer, capacity building and institutional support from the E.C.
  - (b) Facilitate better coordination between ESA and E.C on private sector development with specific regard to transparency in the economic space in ESA and poverty alleviation.
  - (c) Provide deeper cooperation with institutions and intermediary organisations dealing with investment promotion in E.C and ESA.
  - (d) Establish a framework for funding arrangements and assistance to support economic development programmes of ESA.
  - (e) Provide support to strengthen and build the capacity of private development institutions like the chambers of commerce associations and indigenous development organisations in individual ESA countries and the region as a whole so as to enable the emergence of dynamic and vibrant private sector
  - (f) Ensure constructive engagement between ESA and EU on continuous improvement of the investment climate in ESA through diagnostic reviews and assessments.

- (g) establish mechanisms for providing information, identifying and disseminating investment rules, opportunities and other related information
- (h) develop a legal framework that favours investment in both Parties, by conclusion, where appropriate of agreements to promote and protect investment and avoid double taxation;
- (i) work towards uniform intra-ESA harmonised and simplified procedures and administrative practices in the field on investment;
- (j) incorporate technical assistance activities for training initiatives between the Parties government agencies dealing with the matter; and
- (k) .support through appropriate instruments, the promotion and encouragement of investment in ESA region
- (l) Promote business dialogue, cooperation and partnership between EU and ESA

#### Article 71 Investment Climate

1. The parties undertake to take the necessary measures to create a conducive investment environment. In this regard they agree to the following:

- (i) eliminate bottlenecks to investment and streamline investment procedures
- (ii) establish one-stop shops for the entry and setting up of investments so as to accelerate the establishment of business enterprises

#### Article 72 Investment promotion

1. The ESA countries and the E.U shall, subject to their general policy on investment, including Foreign Direct Investment, encourage the deepening of cooperation on inter-regional investment. On the EU side this will be through grant of incentives, preferences and privileges, special policies and measures which will increase the level of investment from the E.U into the ESA.

2. The aim of the co-operation is to promote, within the bounds of their own competence, an attractive and stable investment climate, which favours and promotes mutually beneficial investment, both domestic and foreign, especially through improved conditions for investment protection, investment promotion, the transfer of capital and

the exchange of information on (incentives), opportunities and other relevant information.

3. The ESA Countries and the EU, within the scope of their respective competencies, recognizing 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 ESA-EU 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 ESA countries under mutual business cooperation and partnerships;
- d) facilitate partnerships through joint ventures and encourage venture capital financing for greenfield investment and others, in line with ESA countries' regulations ;
- e) sponsor sectoral investment fora to promote partnerships and external investment;
- f) support efforts of the ESA Countries to attract financing, with particular emphasis on private financing, for infrastructure investments and revenue generating infrastructure critical for the private sector;
- g) support efforts of ESA countries to establish financial frameworks adapted to investment needs of SMEs
- h) support capacity building for investment promotion agencies of ESA member countries and institutions involved in promoting and facilitating foreign and local investment;
- i) disseminate information on investment opportunities and business operating conditions in the ESA Countries; and
- h) promote national and ESA-EU private sector business dialogue, cooperation and partnerships, in particular through an ESA-EU private sector business forum. Support for operations of an ESA-EU private sector business

forum shall be the creation of a business council which has the following objectives:

- (i) to facilitate dialogue within the ESA/EU private sector and between the ESA/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 ESA and EU private sectors in the context of the Agreement or, more generally, of economic relations between the EU and the ESA 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 national or regional level.

4. In order to encourage European investment in development projects of special importance, ESA Countries and the EU may also conclude agreements, to the extent consistent with the principles and objectives of this Agreement, relating to specific projects of mutual interest through public- private sector partnerships and joint venture arrangements.

#### Article 73 Investment Support

1. Cooperation shall be in the following areas;
  - (a) Capacity building and financial assistance to develop regulatory capacity
  - (b) Promotion of ESA as an investment destination
  - (C) Ensure access by ESA to resources available under EIB Investment Facility and CDE for the benefit of the region;
  - (d) Developing a programme to improve the overall financial environment of the ESA region in terms of:
    - (i) diversification of financial instruments,
    - (ii) encouraging strategic alliances including public-private partnerships, Build-Operate-Transfer and Build-Operate-Own activities between ESA and EU investors

- (e) Establishment of financial instruments adapted to SMEs

Article 74  
Investment finance

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, the Community shall provide, in particular:

- a) grants for financial and technical assistance to support policy reforms and advocacy, 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) The ESA and EU shall develop special instruments to development finance institutions for the setting up of dedicated investment funds for the exclusive purpose of providing development financing and assistance to investors in ESA.
- d) Enhance access to the Investment Facility through:
  - (i) setting up EIB threshold for lending that takes into account development requirement realities of the ESA member States
  - (ii) the EIB should endeavour to facilitate the creation of guarantee and investment funds to ensure Investment Facility resources are availed to SMEs in ESA member States
  - (iii) the EIB should carry out as much consultation as possible with ESA Member States in designing rules governing the operations of the investment facility
  - (iv) the EU should introduce concessionary loans and tax relief for EU companies ready to invest in the targeted sectors

Article 75  
Private Sector Development

1. The ESA and the E.U, in accordance with their laws and regulations shall set up a framework to strengthen private sector development in the ESA region through capacity building, mentoring, institutional commitment, transfer of technology and entrepreneurship development.
2. The Community shall provide the necessary financial and technical assistance for entrepreneurship development through a specific program elaborated for that purpose.
3. A business forum shall be established to provide a platform for the private sectors of both Parties to meet on a regular basis and in a structured manner with a view to developing business ties

#### Article 76 Investment guarantees

1. Cooperation shall ensure the increasing availability and use of risk insurance as a risk-mitigating mechanism in order to boost investor confidence in the ESA Countries.
2. Cooperation shall offer guarantees and assist with guarantees funds covering risks for qualified investment. Specifically, cooperation shall provide support to ESA Countries for:
  - a) Reinsurance schemes to cover foreign direct investment by eligible investors; against legal uncertainties and major risks
  - b) Establishment of an appropriate legal framework for the guarantee of investments
  - c) 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
  - d) 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 ESA and the EU shall within the framework of the ESA-EU Development Finance Cooperation Committee undertake a joint study on the setting up of an ESA-EU Guarantee Agency to provide and manage investment guarantee programmes.

4. The Parties shall provide support to the ATI for the management of guarantee schemes and implementation of its programmes

#### Article 77

##### Investment promotion and protection

1. The ESA Countries and the EU, 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. The parties shall collaborate with a view to facilitate the conclusion of the avoidance of double taxation agreements within ESA and between ESA countries and the EU member states.

#### Article 78

##### Competent Authorities

1. The competent authorities of the EU and ESA countries shall be the competent authorities as defined in this Agreement. An EU/ESA Committee on trade related issues shall be established with the Sub-Committees mentioned in articles 65 to 67

2. Nothing in this Agreement shall be taken to restrict the mandate and operations of the Central Bank of an ESA country.

PART VI  
TRADE IN SERVICES

PART V  
FISHERIES

TITLE I  
GENERAL PROVISIONS

Article 79  
Objectives

1. Fisheries cooperation between ESA and EU countries shall aim at encouraging sustainable utilization of ESA fisheries resources to contribute to economic development of the ESA region. Taking into account the Cotonou Agreement and the resolution of the EU Council of Co-operation and Development Ministers on “Fisheries and Poverty Reduction”, of November 2001, both parties shall act to ensure sustainable exploitation, development of fisheries resources and facilitation of market access for fishery products from both industrial and small scale fisheries in ESA countries and contribute to poverty reduction.

2. The general objectives of regional and national fisheries policies include regulating fishing levels and water resources with a coherent policy, developing appropriate fishing techniques. The agreement shall also aim at building links between other policies such as tourism policy, so that fishing and water resources can be used to their maximum potential through the development of activities such as sport fishing. The agreement shall support the development of domestic markets for fish products and build infrastructure to support these markets including transport links to and from water resources and storage and distribution facilities

Article 80  
Scope

1. ESA EU cooperation in fisheries trade and development shall be in two parts: marine, inland fisheries and aquaculture development.

Articles 81  
Principles

1. The principles of cooperation in fisheries include;

- a. support for the development and strengthening of regional integration,
- b. preservation of the Lomé/Cotonou *acquis*;
- c. provision of special and differential treatment.
- d. flexible adjustment of fishing possibilities according to resource assessments that take into account the best available scientific information, and the needs of the fishing industry;
- e. functioning monitoring system of the environmental, economic and social impacts in Partner Countries.
- f. Conformity to the principles of UNCLOS
- g. preservation and priority of particular needs of the artisanal/subsistence fishery.
- h. consistence with existing national laws, as well as regional and sub-regional agreements and multilateral agreements.

2. These guiding principles should contribute to sustainable and responsible development of the living inland, marine resources, aquaculture and to optimising the benefits of this sector for present and future generations, through increased investment, capacity building and improved market access.

## TITLE II

### Marine Fisheries

#### Article 82

##### Scope

1. The scope of this title is the utilisation, conservation and management of marine fisheries resources to optimise the benefits from fisheries for the ESA region through investment capacity building and improved market access.

#### Article 83

##### Objectives

1. The objective of cooperation is to:
  - a. ensure the sustainable exploitation of fisheries resources as a strong basis for regional integration, given the straddling and migratory species which are shared among many island and coastal ESA states and as, no individual ESA country has the capacity to ensure the sustainability of fisheries particularly, Monitoring Control and Surveillance (MCS) necessary for combating Illegal, Unreported & Unregulated (IUU) fishing.
  - b. ensure a more equitable share of the benefits and to further develop the fisheries sector given the prevailing disparity in the benefits accruing to the ESA States from fisheries and fish products.

- c. strengthen co-operation to ensure the implementation of a sustainable fisheries policy and a rational and responsible exploitation of the resources in the region.
- d. promote effective exploitation, conservation and management of the living marine resource in the EEZ and waters in which ESA have jurisdiction based on UNCLOS, for the mutual social and economic benefit of the ESA group of countries and EU.

#### Article 84

##### Areas of cooperation

1. To achieve the objectives of cooperation in fisheries within the described principles, cooperation will include; fisheries management and conservation issues, vessel management and post harvest arrangements and financial and trade measures and development of fisheries and fisheries products and marine aquaculture .
2. The EU will provide resources for the implementation of the identified areas of cooperation at national and regional levels, which will also include support for regional capacity building. Furthermore, the EU commits on specific measures as described in the section concerning financial and trade measures, and on infrastructure development specific for fisheries and marine aquaculture.

##### a) Fisheries Management and Conservation Issues

1. The precautionary approach shall be applied in determining levels of sustainable catch, fishing capacity and other management strategies, to avoid or reverse undesirable outcomes such as over-capacity and over-fishing, as well as undesirable impacts on the ecosystems and artisanal fisheries.
2. Each ESA state may also impose a range of measures, including seasonal and gear restrictions in order to further protect its territorial waters and ensure the sustainability of the artisanal and coastal fishery.
3. The parties would encourage all the concerned States to become members of IOTC and other regional fisheries organisations. These countries, with the EU, should co-ordinate action to ensure the management and conservation of all fish species, including tuna and tuna-like resources and facilitate relevant scientific research.
4. Where there is insufficient scientific evidence for the competent national management authority to determine limits and target levels of sustainable catch in an ESA EEZ the EU, in consultation with the competent national authority and IOTC and where relevant, other regional fisheries organisations, shall make resources available to undertake such scientific analysis.

5. The parties agree to take appropriate measures where an increase in effort results in catch levels above the target sustainable level established by the competent national authority.

6. In order to conserve and manage straddling stocks and highly migratory fish stocks, the EU and the ESA coastal and island states shall ensure compliance by vessels flying their flags with relevant national, regional and sub- regional fisheries management measures and related national laws and regulations.

#### b) Vessel Management and Post Harvest Arrangements

1. Vessels Management and post harvest arrangements emerging from IOTC and any other relevant regional fisheries organisations will be observed. ESA states and the EU shall set out minimum terms and conditions with respect to monitoring, control and surveillance of EU fishing vessels operating in the waters of ESA states, which should include the following:

2. A Vessel Monitoring System (VMS) will be set up for all ESA coastal and island States, and all ESA states will use a compatible VMS. Those ESA states which do not have a VMS will be assisted by the EU to set up a compatible VMS.

3. In addition to a compulsory compatible VMS system, all ESA coastal and island states, in conjunction with the European Commission, will develop other mechanisms to ensure effective Monitoring, Control and Surveillance (MCS) and the EU will support ESA states to put such an agreed system in place and assist in implementation.

4. Countries shall have the right of placing observers, whether in national or international waters, with the procedures concerning the deployment of observers being well stipulated. Observers are to be paid by the national governments but all costs on board are to be met by the ship-owner. The EU will support the costs of training observers.

6. Common systems of reporting of fishing will be developed and be used throughout the region, with minimum terms set for reporting.

7. All vessels shall land or tranship their catch within the ESA coastal or island state, with no transhipment allowed at sea.

8. All vessels should endeavour to use the facilities of the countries with which they have an agreement and also to make use of local supplies.

9. By-catch reporting shall be compulsory. Priority should be given to avoid discards through the use of selective fishing methods in line with principles of IOTC

and relevant regional fisheries organisations. Where feasible and practical, by-catch shall be brought ashore.

10. National/regional training programmes for ESA nationals shall be developed to facilitate their effective participation in the fishing industry and will be an area of cooperation. Where the EU has completed bilateral access negotiations, employment of nationals, in particular in substantive posts on EU vessels shall be encouraged and there shall be a social clause stipulating minimum conditions of employment and training.

11. Both parties shall undertake coordinated efforts to fight all IUU fishing. EU shall take specific measures to combat Illegal, Unreported and Unregulated (IUU) fishing in general. Fishing vessels involved in IUU fishing should be prosecuted, with the assistance and full support of the EU, and should not be allowed to fish again in the ESA waters unless prior authorisation has been obtained from both the EU and the concerned ESA states and relevant regional fisheries organisations.

c) Financial and Trade Measures and Development issues

1. The EU and its member States shall ensure the maintenance of a commercially viable level of preferences and to prevent further erosion of trade preferences concerning canned tuna, tuna loins, other tuna products and other marine products. The parties shall work for a transition period, during which financial and other compensation will be provided to improve the competitiveness and production capacity of the processing factories, the diversification of the fishing industry and improvement of port facilities. Insert Article 12 CPA

2. The EU will work with the ESA States to develop domestic fleets in ESA countries and to encourage the establishment of joint ventures in fishing operations.

3. The EU will promote the setting up of joint ventures in fishing operations, fish processing, port services, enhance production capacity, improve competitiveness of fishing and related industries and services, downstream processing, development and improvement of port facilities, diversification of the fishery to include non-tuna species which are under-exploited or not exploited, etc.

4. Where the EU has a bilateral access agreement with an ESA state, the two parties will also negotiate a separate sectoral development or fiscal agreement, either at a national or regional level, or both, which is decoupled from the access agreement.

### TITLE III

#### INLAND FISHERIES AND AQUACULTURE DEVELOPMENT

Article 85  
Scope

1. The scope of this title shall cover inland fisheries, coastal and aquaculture development in the ESA region with respect to capacity building, technology transfer, SPS standards, investment, and investment finance, environmental protection as well as legal and regulatory frameworks.

Article 86  
Objectives

1. The objectives of cooperation in inland fisheries and aquaculture and aquaculture development will be to promote sustainable exploitation of inland fisheries and aquaculture resources, remove supply side constraints, improve fish and fish products quality to meet SPS standards in EU market, improved access to the EU market, address intra regional trade barriers, attract capital inflows and investment into the sector, build capacity and enhance access to financial support for the private investors for inland fisheries and aquaculture development

Article 87  
Areas of cooperation

1. The areas of cooperation shall include EU support in the following:
  - a) Capacity building and export market development through:
    - i. Development and improvement of infrastructure for inland fisheries and aquaculture
    - ii. Building capacity in production, processing and product diversification that strengthen the competitiveness of the region's inland fisheries and aquaculture and aquaculture.
    - iii. Research and provision of appropriate technologies on harvesting and post harvest management
    - iv. Training programs in product development and branding
    - v. Build capacity for managing export market chains, including the introduction and management of certification schemes for specific product lines.
    - vi. Implement projects support to small scale fisheries to mitigate the heavy costs for engaging in regional trade and trade with the EU.
    - vii. Develop programs aimed at capacity building of fisheries competent authorities, traders associations and fishers in order to participate in fisheries trade with the EU
    - viii. Implement projects aimed at market promotion, value addition and reduction in post harvest losses in fisheries products.
    - ix. The provision of equipment including the provision of vessels and upgrading of equipment in the ESA countries

- x. Establishment of specific programmes to develop technical capabilities of ESA countries including projects such as *desalination* of lakes
  - xi. The EC shall support the creation of R&D centres including the development of aquaculture for commercial fishing farms so that an industry is developed in the region
- b) Technology
- i. EU and ESA to design and implement mechanism for value adding technology transfer from the EU to the ESA countries
  - ii. Initiate and support programs on research and data collections systems
- c) Legal and regulatory
- i. Support towards development of inland fisheries and aquaculture regulations and monitoring control and surveillance systems
  - ii. Support to ESA in developing appropriate legal and regulatory instruments on IPR and build capacity for their implementation in international trade.
  - iii. Eco-labeling and intellectual property protection
- d) Investment and finance
- i. Promotion of joint ventures and other forms of mixed investments between stakeholders in ESA countries and the EU.
  - ii. Setting up modalities for identification for investors for joint venture operations in inland fisheries and aquaculture
  - iii. Provide access to credit facilities for the development of small-to medium scale enterprises as well as industrial scale inland fisheries
- e) Environmental and Stocks Conservation in Fisheries
- i. The EU and ESA shall take measures to ensure that fish trade also contributes to environmental conservation, and safeguards against stocks depletion.
  - ii. Maintenance of biodiversity and cautious introduction of exotic species for aquaculture. Exotic species may be introduced in managed/closed spaces in consultation with all concerned neighbouring countries.
- f) Socioeconomic and poverty alleviation measures
- i. Promote small and medium scale fishers, processors, and fish traders in the ESA region by building their capacity to participate in trade with the EU.
  - ii. Promote gender equity in fisheries, and particularly develop capacity of women traders involved and intend to engage in fisheries.

- iii. Promote the disadvantage groups involved and intend to engage in fisheries

#### Article 88

##### Dispute settlement mechanism

1. Joint Committee (EU-ESA states) will be established, which will meet at the request of either party, and which will act as the first level of a dispute settlement mechanism.

## PART VI

### ECONOMIC AND DEVELOPMENT COOPERATION

#### TITLE I GENERAL PROVISIONS

##### Article 89

1. The Parties agree that EPAs will be accompanied by appropriate development support measures to be provided by the EC, so as to allow ESA countries to maximize the benefits deriving from EPAs. EPAs and development support measures must be complementary and mutually supportive. The Parties agree that EPAs need to be mainstreamed into the development policies of the ESA countries and regions and fully integrated into the development cooperation policies of the EC.
2. The Parties agree that capacity building and infrastructure development are important requirements for EPAs to contribute to the sustainable development of ESA countries. Industrial development and enhancing regional integration are equally important. Both sides agree that support in these areas is needed. They further agree on the general principles and modalities for such support, as set out by the Cotonou Agreement and its Compendium, and on the need to ensure the implementation of these principles and modalities, through the identification and the design of concrete programmes and projects.
3. The EC and its member States shall provide resources to the ESA countries to finance EPA related adjustment costs *and other development needs*. To this end the EU and its member States agree to provide additional financial resources and over and above the EDF and ensure that resources currently available under EDF will not be diverted to cover EPA related commitments.
4. The EU and its member States agree to provide additional resources pursuant to the recommendations of WTO AFT Task adopted by the General Council

##### Article 90

##### Objectives

1. The economic and development co-operation shall aim at the structural transformation of ESA economies by establishing a strong, competitive and diversified economic base in the ESA countries through enhancing production, distribution, transport, marketing; developing trade capacity of ESA countries as well as capacity to attract investment; and strengthening ESA Group's trade and investment policies and regulations.

Article 91  
Scope

1. The scope of cooperation shall cover, inter alia, the following;
  - (a) agriculture and rural development, including livestock, forestry and food security;
  - (b) industrial development;
  - (c) mineral resources development,
  - (d) private sector development,
  - (e) trade and business development
  - (f) development of services, including tourism, maritime, and information technology and communication;
  - (g) transport and infrastructure development,
  - (h) natural resources,
  - (i) social, cultural, environmental and
  - (j) institutional development
  - (k) financial services development

## TITLE II

### AGRICULTURE

#### Article 92

##### General provisions

1. The Parties fully recognize the importance of agriculture as the mainstay of ESA economies as the majority of the region's populations depend on it for livelihood and food security. In this regard, the Parties recognize the contribution of the agricultural sector in assisting ESA countries to overcome poverty and attain Millennium Development Goal number 1 (of halving hunger and poverty by 2015). In this regard therefore, the parties undertake to support effective implementation of the CAADP and other related activities necessary for the achievement of sustainable growth of the sector in the ESA region and articulated in national development programmes of ESA countries.

2. The Parties commit themselves to using the EPA to work jointly in the development of a regional agricultural policy and market underpinned by regional preferences that is supportive of expanding ESA regional markets and attracting investment in the sector. Parties, will in particular cooperate in ensuring that ESA countries work aggressively on removing impediments in particular NTBs to intra-regional trade.

3. The targeted agricultural sector growth under CAADP and other programmes cannot be realized from the envisaged public expenditure allocations by ESA member States. The Parties undertake to use the EPA as a source of funds for public investment in key areas such as agricultural research, extension, training and infrastructure development. Further, the parties recognize the importance of foreign direct investment (FDI) for targeted investments in key growth driving sub sectors of agriculture and resolve to work together to attract such investments to the ESA region.

4. The Parties undertake to cooperate in developing priority physical regional infrastructure (roads, rail, ports, telecommunications, energy, waterways and others) necessary for driving agricultural development as well as supporting the strengthening of regional trade facilitation mechanisms (harmonization of SPS measures, customs procedures and product standards).

5. The Parties undertake to use the EPA as a mechanism to address the emergence of value adding agro-processing industries to the ESA region.

6. Further, the Parties commit themselves to using the EPA as an instrument to assist ESA countries to access key global markets with specific emphasis on the EU market and influencing the expansion ESA regional markets.

7. Further the Parties commit themselves to enhance rural development through promoting value addition activities by establishing, agro processing industries and institutional development. The ESA region endeavours to put in place policies that support agricultural development through EPA

8. The Parties shall use the EPA to effectively address issues of processing, marketing, distribution and transport (PMDT) facing the ESA countries

9. The Parties recognize that development of agriculture remains an essential component of economic development as agriculture stimulates growth in other sectors. Thus, the Parties undertake to ensure that agriculture, with a deliberate strategy for going up the value chain remains the backbone of strategic interventions aimed at improving the well-being of ESA rural communities provided its long term sustainability is addressed by adopting sustainable natural resource management practices.

10. The development of the agricultural sector shall be based on ESA priorities guided by coherent policy and strategies designed with the participation of all stakeholders. Such strategy shall provide a framework for co-ordination of government and donor financing..

11. As indicated in the CAADP and other programmes co-operation in the agricultural sector shall be aimed at supporting:

- (a) the design and implementation of regional and national policies and strategies which focus on, inter alia, improved access to production factors (land, water, credit, inputs, etc.) in particular for women, improving the efficiency and responsiveness of services and diversify their provision through a greater involvement of the private sector, improving productivity and reducing losses in production and storage, facilitating the transfer of technology, facilitating partnerships and collaboration between the public and the non-public sector, supporting the development of national and regional markets;
- (b) the reform, strengthening of institutions, contributing to the investment required to modernise them and increase their capacity, so as to make them more responsive to the needs of beneficiaries;
- (c) the active participation and involvement of the rural population and in particular its most disadvantaged sections, in the allocation and management of financial resources at local level, inter alia, by assisting civil society to develop local associations and professional organisations;
- (d) agricultural research through national, regional and international institutions based on their respective comparative advantage and complementarity aiming in particular at: improving natural resources management including water-use efficiency, sustainably increasing productivity and preserving

biodiversity. At national level, particular attention shall be paid to improving national policies and building capacity;

- (e) participatory land reforms and the establishment of land tenure systems ensuring an equitable and efficient allocation of land and allowing access to land to the most disadvantaged groups of population while protecting their existing rights; and
- (f) participation of women, as producers, in the development process notably by improving their access to all factors of production, i.e. inputs, land, financial services, extension and training services.

### Article 93

#### Food security and Sustainable Agricultural development

1. This Article is included to, in particular, recognize the fact that the ESA region has large numbers of people whose agricultural production is solely for household food security purposes and have a minor role in commercial agricultural markets.

2. The objective with regard to this aspect therefore is to enable ESA countries implement effective measures to achieve food security and sustainable agricultural development that will ensure economic development and in the region, both at the national and regional levels.

3. The EU shall provide technical and financial assistance as well as promote transfer of technology to ESA countries for programmes aimed at increasing overall agricultural production in order to enable the region implement a viable and sustainable agricultural development regime that ensures food security in the region. The assistance shall include: the following:[

- (a) The development of critical factors of food production including water
- (b) Irrigation development including water harvesting and irrigation schemes
- (c) Measures for prevention of vulnerability to natural disasters,
- (d) Development of new agro-enterprises
- (e) The control of animal diseases and plant pests and diseases
- (f) The Identification and maintenance of disease free zones
- (g) The production, supply and distribution of foodstuffs;
- (h) The ; development of disease free zones through programmes aimed at controlling animal diseases and plant pests and diseases
- (i) Research, extension and exchange of technical information;
- (j) Strengthening Agro-meteorology and early warning systems climatology techniques;
- (k) The coordination of export and import of agricultural commodities;
- (l) The development of storage capacity, management, distribution and preservation techniques and packaging
- (m) coordination food aid to give preference to sourcing food aid from the region (triangular cooperation)

- (n) Harmonisation of agricultural policies of the ESA countries with a view to having a common agricultural policy;
- (o) Assistance to develop a capacity to manufacture essential agricultural inputs like fertilisers in the region
- (p) The coordination of bulk purchases of imports of essential agricultural inputs;
- (q) The marketing and stabilization of prices of agricultural commodities.
- (r) Management of pesticides
- (s) Control of wildlife problem animals which destroy crops and transmit livestock diseases
- (t) Ensuring that export refunds for countries that may need them among ESA states are made available.
- (u) Strengthening market information and early warning systems and databases
- (v) Coping with and mitigating the impact of natural disasters, such as drought, cyclones and floods on agriculture
- (w) Technical and financial support to ESA countries to take advantage of organic certification. Organic certification will be made simple and flexible to provide the ESA countries with the opportunity to take full advantage of the trade in organic goods for which they have a comparative advantage
- (x) Assistance to fast track the development of growth sub-sectors like horticulture and dairy development
- (y) Assistance in the maintenance of strategic food reserves at the national and regional level

#### Article 94 Preferences

1. The Parties fully recognise the development dimensions of longstanding preferences, and their contribution to economic development for ESA countries. The EC undertakes to maintain such preferences through flexible rules and modalities based on development needs.

2. The Community shall take appropriate measures to maintain a commercially meaningful margin of preference on ESA exports, including for products covered by commodity protocols. Such measures shall include an adequate level of tariff protection, including through classifying such imports into the EU as sensitive products and applying a special safeguard mechanisms.

#### Article 95 Export Subsidies and Domestic support

1. The objective of cooperation in this area is to achieve substantive improvements in market access facilitated by the elimination on the part of the Community, of all forms of export subsidies (support) on goods of export interest to ESA Region upon

entry into force of this Agreement, and to substantially reduce production and trade-distorting domestic support. The Parties agree to the elimination of all agricultural support which impacts on production levels and trade outcomes in products\traded between the two regions

2. The Community agrees to eliminate [export] subsidies on products of interest to the ESA countries, the products in question being listed in (Annex .....)

#### Article 96 Net Food Importing Countries

1. The Parties agree that cooperation in this area shall be to assist countries that are net food importers to develop programmes that will assist these countries ensure food security

2. Parties agree to maintain an adequate level of food aid and to take into account the interests of food aid recipient countries. To this end, a "safe box" for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, the Parties will ensure elimination of commercial displacement.

3. The cooperation shall include the following:

- (a) establishment of a financing facility by the EU to assist net food importing countries to finance the increased cost of importation of food. This financing facility shall adopt instruments to ensure that such food shall be sourced on the regional market except where the regional market as appropriate cannot meet the demand of net food importing countries.
- (b) Develop capacity for food production and food processing
- (c) Develop and implement a system or mechanism for enhancing regional trade in agricultural imports and food products
- (d) Review of existing food aid policies with the objective of developing ESA food aid policy that does not encourage food aid dependency and the weakening of food production in the ESA countries
- (e) Identification of constraints for food production in ESA region and elaborate measures to address these constraint The establishment and implementation of food import substitution policies and strategies

#### Article 97 Commodities

1. The Parties agree that the objective of cooperation in this area is to improve incomes for commodity producers, and to reduce income vulnerability, at both producer and macro level. Cooperation shall be in the context of agreed EU Action Plan on commodities to address commodity dependence, price decline; managing commodity

risks and accessing finance, diversification of commodities, integration into global economy and sustainable corporate practices and investments.

2. The aim of cooperation in addressing commodity dependence at a national and international level shall be to:
  - (a) support ESA countries in the design of commodity chain strategies aimed at sustainably improving the competitiveness and returns to labour for commodity sectors and reducing the vulnerability of producers;
  - (b) undertake assessments and where necessary pursue reform of International Commodity Bodies and their strategies, in order to match the new challenges. This will aim to ensure that they contribute effectively to market functioning, sustainable development and other common interests of the individual commodity sectors, and to commodity chain strategies in ESA countries;
  - (c) develop commodity cooperation with international organisations – such as UNCTAD, FAO, the World Bank and the Common Fund for Commodities – in accordance with their specific comparative advantage. This will help enhance expertise and develop innovative tools needed to assist the commodity dependent developing countries develop and implement their commodity strategies.
3. In order to cope with commodity price decline the EU shall
  - (a) support ESA countries in the implementation of commodity chain strategies at the national level, including actions to improve capacity and support services at producer level, strengthening and upgrading of producer organisations; ensuring essential infrastructure for commodity producing areas; pursuing reforms at the macro level; and developing and exploiting regional integration;
  - (b) help develop regional support services for commodity development. For example, supporting regional networks of farmer organisations, commodity branch organisation, and trade associations; quality-enhancing services (certification, testing, market information); technology development and market development research; transport networks; and investment promotion;
4. The EU shall, in the area of management of commodity risks and access to finance:
  - (a) act to extend producer access to market based commodity price risk insurance. Against a premium, this gives producers the possibility to guarantee a certain price for a given date while still benefiting from price increases above this secured level;

- (b) support the development and piloting of new financial instruments, and the creation of the institutions needed for such instruments to be made available to ESA producers;
- (c) support piloting of the use of market based insurance tools at the country level and continue to explore alternative international lending arrangements, in order to help cushion national budgets and foreign exchange against the effects of commodity shocks;

5. Ensure that in the short term, resources such as “Flex” and budget support are provided to ESA countries, to mitigate the adverse impact on poverty of shortfalls in export earnings. This will include seeking to improve access to the EU “Flex” instrument which aims to safeguard macro-economic and sectoral reforms and policies that are at risk as a result of falls in export revenue<sup>5</sup>. In the area of diversification from traditional commodities the EU shall

- (a) help to inform government choices relating to diversification strategies. For example, the Commission is currently supporting the development of a methodology to evaluate the potential competitiveness of national coffee sectors, including the options of diversification;
- (b) support livelihood diversification for commodity producers, through increasing assistance to productive sectors in rural areas, and increasingly incorporating responses to challenges relating to globalisation, commodity markets and trade rules into rural development strategies;
- (c) assist governments to put in place the enabling conditions to exploit the potential for developing local, national and regional food markets. In this context, it will be important to monitor the implications of international trade and agricultural policies;
- (d) valorise the many existing EU private sector support instruments in the context of ESA countries’ commodity and diversification strategies, including the Investment Facility of the European Investment Bank

6. With regard to integrating with the national trading system, the EU shall

- (a) act to secure a development friendly outcome in the WTO multilateral trade negotiations by ensuring that the needs of the ESA commodity producers are adequately addressed, including by paying due attention to products of specific interest to them, both traditional products and those which show potential for diversification;
- (b) continue to monitor the impacts of its domestic agricultural support policies and pursue reforms whilst continuing the move towards support systems that avoid trade distortion;

- (c) maximise access to the EU market for ESA countries, through ensuring continued generous and predictable preferential market access. This may include the revision of the current rules of origin requirements on which the according of preferences is based;
- (d) support ESA countries in taking advantage of their market access, including through capacity building and increased awareness of existing possibilities.

7. In order to enhance sustainable corporate practices and investments the EU shall

- (a) promote Corporate Social Responsibility (CSR) internationally, including by supporting public awareness and transparency on existing fair, sustainable or ethical trade initiatives – whether led by civil society, private sector or government;
- (b) assist ESA countries to benefit from CSR, including by supporting them in building the capacities needed to adhere to the related codes and criteria. This can for example involve participation in public private partnerships for sustainable commodity production, and support to non-governmental initiatives aimed at helping the supply side of trade flows in sustainably produced goods;

#### Article 98 Commodity Protocols

1. The Parties recognise the economic importance to the ESA region of the following commodity production and exports; as specified in annex XXX
2. The Community undertakes to maintain the benefits of Protocols 3 of Cotonou agreement on ACP sugar, and Protocol 4 on beef and veal for ESA countries through innovative ways on a secure long term basis. [In this regard, the EU shall specify and bind in its schedule the individual country allocation of each ACP commodity protocol quantities under Art 13 of GATT 94. Any reallocation of shortfall shall be made along the ACP commodity protocols.]
3. The Parties shall put in place an insurance mechanism to absorb price volatilities for commodity exports and to help develop production complementarities between the Community and ESA states.
4. Parties agree to examine and where necessary take measures to develop specific mechanisms to support export development for commodity protocols.

5. The Parties agree on addressing issues such as the PMDT (processing, marketing, distribution and transport) as essential means of assisting ESA countries to diversify their export structure and to add more value to their exports.
6. Under this agreement, the Community shall establish two facilities:
  - (a) Transitional Adjustment Facility to allow ESA countries time resources to make the necessary adjustments due to reduced margins of preferences in protocol commodities;
  - (b) Special Fund for Diversification to support ESA countries move up the value chain and export diversification. The facility shall have two core windows namely the private sector and the public sector windows and two optional windows namely technical assistance and social net windows.]

### TITLE III INDUSTRY

#### Article 99 Industrial development and competitiveness

1. The cooperation in this article shall facilitate the development, restructuring and modernisation of the ESA Group industry while fostering its competitiveness and self-sustained and balanced growth and to facilitate the establishment of a dynamic, integrated and decentralised approach that is favourable to mutual beneficial co-operation between ESA States and the Community industry. The EC shall support the growth and development of a competitive industrial sector in ESA countries
2. The aim of the co-operation shall be to:
  - (a) encouraging partnerships between the various stakeholders, including inter-alia economic actors, governmental and non-governmental agencies with view to identifying sectors of mutual interest to facilitate transfer of knowledge and technology, trade and investment;
  - (b) strengthen and promote dialogue, exchange of experiences and co-operation between the Parties, including private sector to improve the competitiveness of ESA countries taking into account environmental protection, sustainable development and economic empowerment;
  - (c) promote and strengthen innovation, diversification, development and product quality in businesses;

- (d) promote improved utilisation of ESA Group's human resources and industrial potential through, inter alia, the facilitation of access to credit and investment finance and support to industrial innovation, technology transfer, training, including industrial attachment, research and technological development.
- (e) Improve access to capital markets and funding at favourable conditions to finance investments in ESA countries.

3. The Parties agree to:

- (a) The establishment of a special programme to promote the development of activities in the areas of processing marketing, distribution and transportation of commodities
- (b) support to technological transfer and Research and Development:
- (c) To promote industrial cooperation projects, including projects deriving from process of privatisation/ (commercialisation) and/or opening up of the ESA Group's economies; these could cover the establishment of forms of infrastructure stimulated by European investment through industrial co-operation between businesses;
- (d) Establish favourable financing facility to improve the competitiveness of ESA countries industries
- (e) support ESA countries financial institutions by providing capital and technical assistance for the purpose of enhancing the private sectors' access to capital
- (f) the provision of capacity building for the private sector including training in entrepreneurial skills, development of business incubation centres and PSD research institutions
- (g) The establishment of a program for modernization and restructuring of ESA industries to be supported by the EC
- (h) Develop ESA capital markets for purposes of enhancing private sector's access to long term financing of productive investments.
- (i) The establishment of an environment favourable to the development of private enterprise in order to stimulate the growth and diversification of industrial production.

Article 100

Micro-Enterprises, small and medium sized enterprises

1. Parties shall aim to promote a favourable environment and develop and strengthen micro enterprises, small and medium sized enterprises (MSMEs) in ESA (and Africa) region as well as promote co-operation between MSMEs in the Community and ESA (and African) region in a manner that is sensitive to gender equality.

2. The aim of co-operation in this area shall be to:

- (a) co-operate, where appropriate, in the creation of enabling legal, administrative, institutional, technical and financial framework for setting up and expansion of MSMEs;
- (b) provide financial assistance required by MSMEs, in areas such as, skills training, skills retraining, technology, innovation, information, marketing as well as review and develop institutional framework required in the liberalisation process undertaken as a result of this agreement. facilitating access to finance, technology and stimulating innovation.
- (c) provide assistance to institutions that provide services to SMEs, private sector organisations, companies, organisations, policy makers and agencies providing services through appropriate technical support, information exchange and capacity building;
- (d) establish and facilitate appropriate links between ESA, Africa and Community private sector operators in order to improve the flow of information (relating to strategy formulation and implementation, business trends and opportunities, networking, joint ventures, alliances and transfer of skills);
- (e) promoting contacts between economic operators, encouraging joint investment and establishing joint ventures and information networks through horizontal programs;
- (f) support for development of SME database

3. The Parties agree to:

- (a) create attractive financial instruments to facilitate investment in ESA countries
- (b) support to strengthen value chain in Micro and SMEs in ESA countries
- (c) and through co-operation with Community firms, a mutually beneficial climate for attracting investment in the MSMEs sector;
- (d) to establish and strengthen value chains that promote ESA industrialisation
- (e) facilitate MSMEs to access EIB resources, CDE resources and other private sector resources by reducing the thresholds and other conditionalities.
- (f) Urge the EIB to make available resources to ESA financial intermediary institutions to enable them provide concessionary loans to MSMEs according to set criteria for development.

Article 101  
Mining and Minerals

1. The objective of co-operation is to foster development of mining and minerals in the ESA region.

2. The aim of the co-operation shall be to:

- (a) make information on mineral resources and geo-science accessible for exploration and mining investments. The co-operation should also create climate for attracting investment in the sector, including MSMEs and previously disadvantaged communities;
- (b) promote value addition for the mining industry
- (c) foster exchange of information and experiences, in the application of environmentally friendly technologies in the mining productive processes;
- (d) promote joint efforts to develop scientific and technological initiatives in the field of mining,
- (e) support and promote policy measures that improve health and safety standards in the mining industry as well as conditions of employment; and

- (f) support policies which ensure that mining activities take place with due consideration for the environment and sustainable development, taking into account the specific circumstances in the country and nature of mining.
- (g) Undertake social investment to contribute to the development of local communities and infrastructure
- (h) Support and promote local ownership of mineral resources
- (i) strengthen the capacity of ESA countries institutions to effectively and efficiently promote and manage the development of the mining sector

3. The Parties agree to:

- (a) establish a special programme to support mining and mineral resource development in the ESA region, including co-operation in research and technology transfer as well as making information on mineral resources and geo-science accessible for exploration and mining investment;
- (b) create, through co-operation with Community firms, climate for attracting joint ESA and Community investment in the sector, including MSME sector;
- (c) use the EIB (Investment Facility) to assist ESA and Community firms that want to co-operate in mining development,
- (d) develop and implementation of a mechanism for addressing vulnerability to mineral export dependency
- (e) establish and create processing capacity for maximum value addition
- (f) cooperate on technical and financial assistance to inter alia-
  - i) raise standards and levels of performance in the mineral sector, including the establishment of a regional post-graduate training centre on mineral law and administration, mineral and resource economies and business management as well as improving the capacity of ESA countries for exploration of mineral resources
  - ii) develop training programmes in mining and minerals
  - iii) establish training programmes in the manufacture of jewellery and in lapidary industries and establish scholarships schemes;
  - iv) support small scale mining by indigenous miners; and

- v) establish technology demonstration centres.

Article 102  
Tourism Development

1. The Parties will co-operate with the objective of strengthening the development of a competitive tourism industry.
2. The aim of co-operation shall be to:
  - (a) promote the development of tourism industry as a generator of economic growth and empowerment, employment and foreign exchange;
  - (b) seek to establish a strategic alliance involving public, private and community interests in order to ensure the sustainable development of tourism;
  - (c) carry out joint operations in such areas as development of products and markets, human resources and institutional structures;
  - (d) facilitate the means for ESA countries to draw on EU expertise to develop eco-tourism
  - (e) training and capacity building in order to improve service standards;
  - (f) co-operate in promoting and developing community-based tourism through pilot projects in rural areas; and
  - (g) facilitate movement of tourists in line with best practices of eco-tourism.
  - (h) Provide financial and technical assistance to strengthen the linkages between tourism and other sectors of the economy
3. The Parties agree to:
  - (a) Support organisation of regional tourism promotional activities including regional and international tourism fairs and exhibitions;
  - (b) develop projects intended to create and consolidate tourist products and services of mutual interest or which hold an attraction for other markets of mutual interest;
  - (c) assist in the establishment of Regional Tourism Development Centres;

- (d) consolidate of long haul tourist flows;
- (e) reinforce tourism promotion channels;
- (f) provide technical assistance and pilot projects for developing special interest tourism; and
- (g) use promotion instruments to develop tourism at local level tourism material.
- (h) provide funding to preserve ESA countries' natural, historical and cultural tourist attractions

4. The Parties agree that co-operation in tourism will be based on the following guidelines:

- (a) respecting the integrity and interests of local communities, particularly in rural areas;
- (b) stressing the importance of safeguarding and promoting cultural heritage;
- (c) facilitating the training, know-how transfer and awareness creation in the wider community;
- (d) providing positive interaction between tourism and environmental preservation; and
- (e) promoting regional co-operation in ESA.

## TITLE V

### INFRASTRUCTURE

#### Article 103

##### Scope and Objectives

1. Cooperation in infrastructure will cover the development of physical infrastructure namely, transport, energy and information technology and communication. The objective is to develop and improve capacity and facilities in ESA countries in these areas. The Communities assistance for infrastructural development shall take account of and support priority development areas as articulated in the respective ESA countries' national development programmes.

Article 104  
Transport

1. Co-operation shall focus on harmonising programmes and policies on developing, restructuring and modernising ESA region's transport systems, improving the movement of passengers and goods and provide better access through road, air, maritime and rail transport to markets. Cooperation will cover among others areas refining management of transport from the operational and administrative points of view and by improving operating standards.

2. The aim of co-operation in this area shall be:

- (a) to improve and develop the state of infrastructure in the ESA especially regarding urban and rural transport and the interconnection and interoperability of multi transport networks and other issues of mutual interest;
- (b) human resource capacity building in areas related to infrastructure development and planning, inter alia, economic operators and civil servants and maritime operators and support for national and regional maritime training centres;
- (c) cooperation projects in transfers of European technology in Global Navigation Satellite System and urban and rural public transport centres;
- (d) to improve the access of ESA to affordable, safe and reliable modes of transport and to facilitate the flow of goods in the ESA region through the support to the development of inter-modal infrastructure networks and transport systems, that are economically and environmentally sustainable;
- (e) contributing to the development, restructuring and modernisation and management of the road, waterway, rail, port and airport infrastructure;
- (f) gradually improving the conditions of multi-modal transit
- (g) improving the safety of air and maritime traffic by re-enforcing the existing and prospective projects and improving aids to navigation and training to enable efficient programmes.
- (h) Enhancing the sustainability of road transportation, through improved fuel quality, including access to technology related to renewable sources of fuel.
- (i) Supporting the development of emergency response and contingency plans with regard to all modes of transportation of hazardous goods (including oil) and waste.

3. The Parties agree to:
- (a) establish a mechanism which will restructure, modernise, upgrade and rehabilitate the ESA region's main transport and communication links both internally and with the outside world; and
  - (b) assist in development and implementation of an Infrastructure Investment Plan for ESA region, concentrating on energy, transport and information and communication technology, which is composed of projects that have a potential to further the process of integration. Such projects will have, inter alia, the following characteristics:
    - i) beneficial to more than one country in ESA except in the case of island states,
    - ii) feasible and viable with public sector component,
    - iii) be able to satisfy the requirements of an environmental impact assessment study,
    - iv) be able to contribute to an improvement in the regional investment climate,
    - v) can facilitate increased trade and production, and
  - (c) cooperate with regard to assistance for training programmes on legislation and technical matters for economic operators and senior civil servants
  - (d) assist in facilitating cooperation projects in transfer of European technology in global navigation satellite systems and urban and rural public transport centres
  - (e) cooperate on assistance to improve the safety of air and maritime traffic by improving aids to navigation and training to enable efficient programmes.
  - (f) Support regional transport policy and strengthen regional institutional framework

Article 105  
Energy

1. The Parties agree to consolidate economic relations in key sectors such as thermal energy, hydroelectricity, and other types of renewable energy, energy saving technology, and rural electrification and secure supply of energy at competitive prices.

2. Co-operation in this area shall be to:

- (a) exchange of information in all suitable forms, including developing databases shared by institutions of both Parties, and training and conferences and information on energy systems and investment opportunities;
- (b) facilitate capacity building of ESA Group expertise especially by general and technical training and exchange programmes;
- (c) undertake diagnostic studies, comparative analyses and implementation of programmes by institutions from both Parties;
- (d) improve the access of ESA Group to modern affordable, reliable and sustainable sources of clean energy at competitive prices through both the development of local or renewable energy sources and rationale management of existing resources;
- (e) promote regional energy co-operation in ESA and;
- (f) promote transfers and use of environmentally friendly technologies;
- (g) involve public and private operators from both regions in technological development and common-infrastructure projects, including networks with other (Africa) countries;
- (h) support the development of appropriate energy policies and infrastructure in ESA region;
- (i) diversify energy supplies in ESA region; and
- (j) improve the rationale use of energy notably by the promotion of energy efficiency systems.
- (h) obtaining from EU financial assistance for the implementation of regional integrating energy projects.

3. The Parties agree to:

- (a) reorganise and modernise the energy producing, distributing and consuming sub-sectors so that appropriate services are provided on optimum terms of economic efficiency, social development and environmental acceptability;
  - (b) improve energy operators performance standards in technical, economic and financial terms especially in electricity and liquid fuels sector;
  - (c) support co-operation within ESA region to exploit locally available energy resources in efficient and environmentally friendly manner;
  - (d) support the development of new and renewable forms of energy and support infrastructure especially for rural energy power supply in ESA countries;
  - (e) support technically and financially to assess and develop their hydro-energy resources which are of regional importance to facilitate integration;
  - (f) support ESA countries to interconnect their power systems to enhance and facilitate regional integration;
  - (g) strengthen the capacity of ESA energy providing firms to develop and administer energy resources specially hydro-energy effectively and efficiently
  - (h) support the energy regulatory and policy reforms including commercialisation and privatisation.
4. The parties agree that the EU shall provide support for the development of adequate and cost effective energy supplies with the objective of supporting ESA economies to be competitive both at the regional and global markets.
- 5 Support shall be directed towards:
- (a) assisting non-oil producing ESA countries to lessen the impact of oil price shocks
  - (b) assisting ESA countries to develop alternative energy sources including oil and gas, hydro, solar, wind and geo-thermal energy]

Article 106  
Information and Communications Technology (ICT)

1. The aim of the co-operation between the Parties is to support the development of the ICT sector in ESA countries as well as promote its contribution to other socio-economic sectors of modern society and to the building of an information society.
2. In this context ICTs shall encompass, inter alia, postal services, broadcasting, telecommunications, and information technologies.
3. Co-operation shall be on:
  - (a) support towards meeting the goals of an information society, including development and implementation of national and regional access strategies
  - (b) regulatory and policy aspects of communications;
  - (c) information exchanges and technical assistance on IT, competition law, technical regulation, licencing, standardisation of ICT products, frequency spectrum management, numbering and rights of way;
  - (d) dissemination of new information and communication technologies, and the development of new facilities, particularly in relation to interconnection of networks and interoperability of applications;
  - (e) promotion and implementation of joint research, technological development on projects in the field of new technologies related to the information society; and
  - (f) exchange and training of specialist, in particular young professional; and
  - (g) access for ESA organisations to Community projects or programmes on the basis of arrangements applying in various fields concerned as well as access for Community organisations to operations initiated by ESA under the same reciprocal arrangements.
  - (h) Harmonisation of cyber laws and effective technical collaboration with a view to combating cyber terrorism and cyber crimes
  - (i) Support to enhance ICT development, including connectivity and access to affordable hardware and software, as well as to strengthen distance-learning arrangements, to promote new opportunities including such areas as e-commerce, improved early warning and tele-medicine;
  - (j) Enhancing partnership with and promoting participation of ESA countries in other concerned international bodies, especially in the field on of security in cyberspace.

- (k) Promotion and support for the development of niche markets for ICT services, including call centre services, business process outsourcing and disaster recovery sites.
- (l) Facilitating connectivity through financial assistance to submarine fibre optic cables, including the EASSY Project.

4. The EU to provide resources to support updating/development of legal frameworks for regulation of the Information and Communication Technology sector of ESA countries

## TITLE VI NATURAL RESOURCES AND ENVIRONMENT

### Article 107 Water Resources

1. The objective of the cooperation in this sector is to enhance and ensure the sustainable development and management of water resources in the region for further development of irrigated agriculture, hydropower and water supply development in an integrated and sustainable manner

2. The Parties agree on the need for cooperation whose aim is to ensure the development and targeted management of water resources in the region for the protection of human health, the development of agriculture, hydro-dependent industries and service sectors in a sustainable manner and with minimum negative impact on human health and the environment.

3. Cooperation shall be targeted at regional/national programmes and policies aimed at promoting integrated water management including water demand management, water quality, capacity-building, water governance and regional water partnerships, including

- (a) Exchange of information and experiences on water resources management, development, utilisation and technology;
- (b) Establishment of strategic water catchment areas and water harvesting that increase production, investment and trade;
- (c) Provision of financial and technical assistance to ESA countries to support their efforts to conduct diagnostic studies of the water sector

- (d) Irrigation schemes as outlined in the COMESA Irrigation Master Plan;
- (e) Water pollution control, purification and conservation.
- (f) Cooperation for ESA countries to benefit under the EU “Water for Life Initiative
- (g) Capacity building and technological and financial support for wastewater treatment and sanitation programmes
- (h) Promotion of sustainable irrigation schemes, including through reuse or use of recycled water
- (i) Support the establishment of regional water research and development centre which could gradually develop to centre of excellence
- (j) Create joint platforms for improved coordination through harmonization of rules and procedures for the effective implementation of water resource programs and projects in ESA countries
- (k) Promotion and support of sustainable utilisation of trans-boundary water resources for the benefit of ESA countries.

Article 108  
Biodiversity

1. The objective of cooperation in this area is to conserve and sustainably manage biodiversity: flora, fauna, and microbial genetic resources including their ecosystems in the ESA region for the purpose of preserving natural resources and enhancing eco-tourism in order to alleviate poverty, ameliorate environmental degradation and consequently improve the livelihood of the people.

2. Cooperation shall focus, *inter alia*, on conservation and sustainable use of biological resources as its objectives. To achieve these objectives, capacity building, awareness creation and education are of paramount importance.

3 The Parties agree to cooperate in the following areas:

- (a) Conservation of biodiversity and wildlife resources both in-situ and ex-situ;
- (b) Management of biodiversity and wildlife resources for the purpose of enhancing the tourism industry and related industries;

- (c) Conservation of domestic and wild indigenous biological resources including microbial genetic resources and their ecosystems
- (d) Integration of local communities in the management of biodiversity and wildlife resources with the objective of formulating, designing and implementing appropriate incentive measures for conservation of biological diversity;
- (e) conservation and promotion of indigenous/traditional knowledge associated with biological resources of the ESA region;
- (f) Utilisation of biodiversity and wildlife resources for educational purposes; and
- (g) Research directed at enhancing management of biodiversity and wildlife resources
- (h) Technology transfer necessary for transformation or utilisation of the natural resources
- (i) Support to the ESA Group to implement the Convention on Biological Diversity guidelines on biodiversity and tourism development
- (j) Support to the ESA Group to develop local capacities to implement the Bonn Guideline on Access to Genetic Resources and Benefit-sharing (under the aegis of the Convention on Biological Diversity);
- (k) Capacity building to promote cooperation for biodiversity resources, shared ecosystem management and exchange of experience, including through support for strong networks, by both Governments and other stakeholders;
- (l) Management and sustainable utilisation of biodiversity and wildlife resources
- (m) Development and management of trans-boundary natural and biodiversity wildlife resources
- (n) Recognition of other bio-diversity related conventions and international agreements

## Scope and coverage

1. Bearing in mind Article 49 of the Cotonou Agreement, the provisions of this title shall focus on assistance including support to participate in forums dealing with trade and environment, information sharing, capacity building, technical assistance, equipment, infrastructure, technology transfer, promotion of joint ventures and linkages between ESA and EU private and public institutions in areas of promotion, adoption, implementation and certification of sectors for which environmental protection is important.

### Article 110 Objectives

1. The objectives of the cooperation in environmental issues are to
  - a) promote sustainable development particularly focusing on the mutual supportiveness of trade and development
  - b) facilitate trade between the Parties and within the ESA in products and services for which eco-labeling is important
  - c) develop new ESA industries related to the environment
  - d) avoid use of Environmental standards as barriers to trade

### Article 111 Areas of cooperation

- 1 The areas of cooperation shall include EU support in the following:
  - a) Give information on products and their requirements in terms of production process, transport, sales and labelling for which the EU sets environmental conservation as a priority
  - b) Assist in survey of ESA capacity in providing such services to their industries to the expected level required to enter the EU markets
  - c) Provide timely assistance including technical assistance, training, equipment, infrastructure, and technology transfer to ESA countries on the effects of environmental measures and the environmental benefits of removing trade restrictions and distortions.
  - d) Promote joint ventures and linkages between ESA and EU institutions and enterprises, especially in the field of Research & Development, to enable adoption and implementation of relevant methods and technologies for supply of environment-friendly products.

- e) Assist ESA laboratories in terms of equipment, technology transfer and training, so as to increase and elaboration of the requirements for environmental purposes relating to products standards and technical regulations packaging labelling and recycling.
- f) Facilitate technology transfer to ESA countries under favourable terms and conditions to ESA industries, laboratories and research institutions
- g) Facilitate registration procedures of ESA products with relevant European and international authorities needed before commercialisation of said products
- h) Facilitate active participation of ESA in Multilateral Environmental Agreements, the WTO Committee on Trade and Environment, international institutions, and European private and public institutions dealing with environmental and eco-labelling issues.
- i) Promote capacity building schemes on the linkages, synergies on the mutual support of trade and environment policies
- j) Notifications of domestically prohibited goods to limit their exports to each others territory.
- k) Facilitation of access to environmentally sound technologies

Article 112  
Environment

1. The objective of cooperation is to protect, improve and conserve the environment in the context of achieving sustainable development objectives.

2. The Parties agree to cooperate in the following areas:

- (a) Strengthen environmental management systems, including reinforcing institutional and legal frameworks and the capacity to develop, implement, administer and enforce environmental laws, regulations and standards and policies.
- (b) Promote sustainable forestry management
- (c) Enable the implementation of the 10-year framework on sustainable production and consumption by helping countries to develop national action plans.
- (d) Adaptation to Climate Change impacts and implementation of the Clean

Development Mechanism.

- (e) Integrated Water Resources Management
- (f) Integrated Solid Waste management, including Hazardous Waste Management.
- (g) Integrated Coastal Zone Management and sustainable management of marine resources.
- (h) Mitigation of natural disasters and Prevention of environmental disasters
- (i) Facilitate transfer and training to promote the use, proper operation and maintenance of clean production technologies, especially for SMEs.
- (j) Strengthen capacity of countries to negotiate and implement international environmental agreements and trade policies.
- (k) Helping the efficient implementation of environmental legislation and supporting ESA environmental agencies and other structures, public or private, with special emphasis on joint collaboration with EU environmental and other agencies.
- (l) Build capacity, share best practices, and enhance research and development on environmental management.
- (m) Assisting ESA countries to participate in the meetings of Multilateral Environmental Agreements as well as in regional and international conferences and meetings dealing with environment and development issues.
- (n) Assisting ESA public and private institutions as well as the civil society in finding sustainable and cost-effective solutions to environmental problems through capacity building, training, technology transfer, research & development, and linkages between ESA and EU institutions
- (o) Assisting ESA public and private institutions as well as the civil society in using and benefiting from existing environmental advantages for example by developing new and profitable industries, products and services, through capacity building, training, technology transfer, research & development, and linkages between ESA and EU institutions.

## PART VII

### EPA DEVELOPMENT FINANCE CO-OPERATION

#### TITLE I

#### GENERAL PROVISIONS

##### Article 113

##### Aims and Objective

1. The objective of financial co-operation shall be to provide financial and technical resources to facilitate the full attainment of the ESA countries' development goals as outlined in this Agreement.
2. Development finance co-operation shall be conducted so as to –
  - a) Address supply side constraints of ESA countries;
  - b) support the sustainable policies and development reforms being implemented by national and regional authorities;
  - c) Increase and improve the production and productive capacities as well as level of competitiveness of ESA countries so as to benefit fully from market access opportunities into the EU
3. Development finance co-operation shall seek to facilitate the ESA countries to attain the Millennium Development Goals (MDGs) and shall include the cancellation of all debts owed by ESA countries to the EU and its Member States and financial institutions;

##### Article 114

##### Scope

- 1 The Community shall provide financial resources to:
  - a) support institutional, structural reforms and human resource development intended to modernise ESA economies and facilitate their integration into the global economy including;
    - (i) social safety nets;
    - (ii) training programs for workers displaced by restructuring; and
    - (iii) regional capacity building efforts for public sector officials including a regional centre of excellence

- b) upgrade and modernise ESA economic, production, distribution, marketing and transport infrastructures including roads, railways, airports, waterways and harbours, telephony, information and communication technologies, broadcasting and Internet networks, laboratories, health and educational facilities;
- c) support ESA countries in enhancing their social and cultural development
- d) support production-enhancing and related activities in agriculture including ensuring food security, mining, energy, ICT, transport and natural resources;
- e) facilitate ESA economies' adjustment and diversification in agricultural production patterns away from export commodities that are facing reduced margins of preference on the EU market;
- f) promote private sector economic and job creation activities in ESA countries;
- g) promote EU private sector to participate/invest in ESA member States' development programmes
- h) address the adverse effects on ESA economies of the impact of the introduction of the progressive market liberalisation in ESA-Community trade relations and loss of preferences
- i) support regional integration initiatives among ESA countries and address any adverse effects of regional integration on national economies;
- j) minimise the adverse effects of external debt and balance of payments on ESA economies; and
- k) Support to policy and regulatory framework development

## TITLE II

### DEVELOPMENT FINANCE INSTRUMENTS

#### Article 115 EPA Facility

1 Pursuant to European Pledge to increase ODA targets to 0.56% of the EU Gross National Income by 2010 and to 0.75% by 2015, and further that half of the additional resources that these increases in ODA will bring shall go to Africa, which should result

in additional Euro 23 billion per year to Africa by 2015 and taking into account the recommendations of the WTO General Council decisions on Aid for Trade to provide financial assistance to the developing countries to address their trade development, trade related infrastructure, trade related adjustment and production capacity needs the Community and its Member States agree as a means to implementing the above recommendations for the benefit of the ESA countries .

2 The Community agrees to set up an ESA-EPA Financing Facility which will provide for additional financial resources in areas not adequately covered by EDFs. The Community shall provide seed money for this facility to be augmented by EU Member States own contribution as well as by other donor agencies.

3 All areas of cooperation and financial support mechanisms including Funds identified under this agreement will be catered for under this Facility.

#### Article 116 Financial resources

1 The Community undertakes to provide such financial resources as may be necessary for the proper and effective implementation of this Agreement.

2. The Parties agree to establish the following instruments for the implementation of development finance co-operation:

#### Article 117 Adjustment Facility

1. The Parties agree to provide financial and technical support to the Adjustment Facility established by the COMESA Fund through which the Community and EU member States shall provide financial resources to address, inter alia:

- a) the effects on ESA economies of the impact of the progressive liberalisation of markets in ESA-Community trade relations. Support shall aim at building ESA economies' competitiveness, retraining of employees [compensation] and job creation.
- b) the transitional effects of the process of regional integration on national economies including the effects of tariff elimination as ESA countries seek to develop and expand regional markets by trade liberalisation. Such assistance shall take the form of budget support

#### Article 118 Infrastructure Facility

1. The Parties agree to provide financial and technical support to the Infrastructure Facility established by the COMESA Fund through which the Community shall provide

financial resources to facilitate the construction, maintenance and upgrading of ESA physical infrastructure for facilitating trade and economic growth. This infrastructure shall include trunk and feeder roads, railways, airports, waterways and ports and harbours, telephony, ICT, broadcasting and Internet networks, laboratories and testing facilities, and health and educational facilities. The Fund will be provided on the basis of each ESA countries' national and regional development programme that articulates the goals of national and regional poverty reduction and sustainable development strategies.

2. Support under the Facility shall aim at enhancing ESA economies' productivity and competitiveness.

#### Article 119 General Development Fund

1. The Parties agree that the Community and its Member States will provide (including through targeted Budget support) to the ESA countries to;

- a) support institutional, structural, policy, legal and regulatory reforms intended to modernise ESA economies and facilitate their integration into the global economy. This support shall target institutions of central and local government administrations, national structures that provide services for bilateral and regional integration initiatives and regional structures that implement or facilitate the implementation of regional integration programmes;
- b) support human resource development, including training and other capacity building activities as well as through a regional centre of excellence.
- c) enhance production and operational efficiency in agriculture, mining, energy, ICT, transport and natural resources with special emphasis on processing and value-addition and transfer of technology;
- d) promote horizontal and vertical linkages of the ESA economies' diversification in agricultural and industrial production patterns away from export commodities;
- e) support commodity-price stabilisation;
- f) promote private sector economic and job creation activities including initiatives by farmers' unions, chambers of commerce and/or mining and manufacturers' associations;

3. The Parties agree that the Community and its Member States will provide direct Budget Support to the ESA Regional Integration Organisations to facilitate the

implementation of their regional integration and cooperation mandates. The Community and the RIOs agree to build on the Contribution Agreements mechanisms initiated in COMESA.

#### Article 120 EU Financial Institutions

1. ESA countries and the Community shall work towards increasing the forward and backward linkages among economic operators, by incorporating new thinking in private sector development, and by increasing the capacity of the European Investment Bank and other financial institutions to lend evenly across the entire ESA region.
2. To promote investment in the ESA region, the Community shall, through the European Investment Bank and other financial institutions, establish a loan facility or line of credit for ESA private sector borrowers at rates similar to those applicable to EU borrowers.
3. In granting any facility line of credit under paragraph 2 above, the Community and or its financial institutions shall not be guided by political considerations in the implementation of the facility

#### Article 121 Debt Cancellation

1. To allow the ESA countries to achieve development, improve trade continue in line with the Monterrey Consensus, the parties agree that the Community and its Member States will make resources available to liquidate the external and domestic debts of the ESA countries.

#### Article 122 Investment Facilitation

1. The Parties agree that the Community and its Member States shall make resources available to facilitate private sector investment in the ESA region while recognising the contribution of EIB in this role, the Parties agree to review the conditionalities and modalities to enable ESA private sector better access to their resources.

#### Article 123 Other Facilities

1. The Parties agree that the Community and its Member States shall simplify the conditions to ESA countries and give them priority in accessing funds through all ACP financing instruments such as:
  - a) Water Facility

- b) Energy Facility
- c) EU Africa Infrastructure Partnership facility
- d) Aid for Trade
- e) G8 Infrastructure Consortium
- f) Technical Cooperation Facility
- g) HIV/AIDS global funds, and
- h) Any other funds, facilities and resources that may be established

2. The access rules for these funds shall be flexible to enable all ESA countries to qualify. The rules should also enable ESA countries to co-finance programs developed with international financial institutions and bilateral assistance from EU member States and other external partners.

#### Article 124

##### Transitional Arrangement

1. The Parties agree to set up appropriate arrangement for ESA countries to access and benefit from financial resources and trade provisions during the transitional period between successive EDFs

### TITLE III

#### IMPLEMENTATION MODALITIES

#### Article 125

##### Eligibility

1 All ESA countries are eligible to receive development financial support under one or more of the Funds and Facilities listed in Articles XXX

2 Regional integration organisations in the ESA region (COMESA, EAC, IOC, IGAD...) shall also be eligible to receive development finance to implement regional projects and programmes which are intended to benefit the countries listed in paragraph 1 above.

3 Final beneficiaries of development finance co-operation shall be public sector institutions (including both central and local government), private sector associations or groupings and recognised non-State actors.

4 An eligible beneficiary may receive support from two or more Funds or Facilities simultaneously.

#### Article 126

##### Project and Programme Identification, Preparation and Appraisal

1. Identification and preparation of development support projects and programmes shall be initiated by eligible ESA countries. The programmes and project proposals shall be submitted to the European Commission for discussion
2. RIOs can initiate and submit to the EC programmes and proposals for the ESA region.
3. Appraisal of the projects and programmes shall be conducted jointly by relevant organs established by the Parties.
4. Based on the appraisal, the relevant organ of ESA shall prepare a financing proposal to be submitted to the Community for financing.

Article 127  
Financing Proposal and decision

1. The conclusions of the appraisal shall be summarised by the relevant organ established by the Parties.
2. The Commission shall finalise the financing proposal and submit to and defend it before the Community's decision-making organ.
3. Notwithstanding Articles (78, 79,) programmes and project proposals not exceeding XXX euros shall be submitted, appraised and approved by the EU Delegation Office within the ESA country within a period not exceeding XXX months.

Article 128  
Financing Decisions and Agreements

1. A project or programme approved for implementation shall be covered by a financing agreement which shall be prepared jointly by the relevant [ESA-Community organ] established by the Parties.

Article 129  
Eligible contractors and supplies

1. Contractors eligible to participate in projects and programmes funded under the funds and facilities listed in Articles XXX shall be nationals of or companies registered in the eligible ESA countries or in the Community.
2. Supplies eligible under the projects and programmes funded under the funds and facilities listed in Articles XXX shall originate from the eligible ESA countries and/or from the Community.

Article 130  
VAT and Customs arrangements

1. All contracts and supplies implemented or procured under the funds listed in Articles XXX shall be exempt from VAT and customs duties and/or charges of equivalent effect applicable in the ESA countries or in the Community.

Article 131  
Monitoring and Evaluation

1. Monitoring and evaluation shall have as its objective the enhancement of the effectiveness of development finance co-operation. It shall be conducted jointly by the relevant organs of the Community and ESA countries.

## PART VIII

### INSTITUTIONAL FRAMEWORK AND FINAL PROVISIONS

1. THE JOINT INSTITUTIONS
2. FINAL PROVISIONS
3. DISPUTE SETTLEMENT