

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DEFINITION OF TREATIES)
(AMENDED COTONOU AGREEMENT) (COMMUNITY AID INTERNAL
AGREEMENT) ORDER 2007

2007 No. 2136

1. This explanatory memorandum has been prepared by the Department for International Development and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This Order would declare that the Internal Agreement between Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community Aid under the multi-annual financial framework for the period 2008-2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the overseas countries and territories to which part four of the EC Treaty applies, signed in Brussels on 17 July 2006 (the Internal Agreement), is to be regarded as a Community Treaty as defined in section 1(2) of the European Communities Act 1972.

- 2.2 The provisions of section 2 of the European Communities Act 1972 (which provide for the general implementation of Community Treaties) would then apply in relation to the Internal Agreement; they could be used for the implementation of the provisions of the Internal Agreement and would allow the financial obligations imposed on the United Kingdom by the Internal Agreement to be met out of the Consolidated Fund.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

- 4.1 The Internal Agreement is made between the Member States of the European Community only and must be ratified by each of those Member States before it can come into force.
- 4.2 The Government intends, subject to the making of this Order, to ratify the Internal Agreement on behalf of the United Kingdom. The United Kingdom must be in a position to implement all the provisions of the Internal

Agreement before it can ratify it. The Order would provide the necessary powers, under section 2 of the European Communities Act 1972.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Secretary of State for International Development has made the following statement regarding Human Rights:

In my view the provisions of the European Communities (Definition of Treaties) (Amended Cotonou Agreement) (Community Aid Internal Agreement) Order 2007 are compatible with the Convention rights.

7. Policy background

- 7.1 The Partnership Agreement between the Members of the African, Caribbean and Pacific (ACP) Group of States and the European Community and its Member States (the Cotonou Agreement) was signed on 23 June 2000 and was concluded for a period of 20 years. It covers political and trade relations and development co-operation and has, as its central objective, the reduction and eventual eradication of poverty. The Cotonou Agreement is subject to review every five years. The Cotonou Agreement and an ancillary Internal Agreement on financing between the Members States of the European Community were both specified as Community Treaties under S.I. No. 3935/2001.
- 7.2 A review of the Cotonou Agreement was conducted between May 2004 and February 2005. Following the review and further negotiations, the parties signed an agreement amending the Cotonou Agreement on 25 June 2005 (the Amending Agreement). The specification as a Community Treaty of the Amending Agreement is the subject of a separate Draft Order and Explanatory Memorandum.
- 7.3 Among other things, the Amending Agreement provides for a new multi-annual financial framework of Community cooperation under the Cotonou Agreement as amended. The Internal Agreement establishes the new multi-annual financial framework of cooperation (through a 10th European Development Fund (EDF)) and sets out the role of the Member States, the Commission and the European Investment Bank (EIB) in relation to that framework.
- 7.4 The Internal Agreement confirms the overall amount of Community Aid available to the ACP Group of States and to the Overseas Countries and Territories for the period 2008-2013. It also confirms:
 - a) contributions by Member States;

- b) the broad allocation of funds between national, regional, intra-ACP and inter-regional programmes;
- c) lending through the Investment Facility managed by the EIB, utilising funds from the 10th EDF and the EIB's own resources;
- d) Commission administration;
- e) transition arrangements from the 9th EDF; and
- f) review of the realisation and results of funding in 2010.

7.5 A summary of the main provisions of the Internal Agreement is set out in the Annex to this Memorandum.

7.6 The Parliamentary EU Committees were consulted during the negotiations on the 10th EDF. DFID officials ensured NGO representatives were updated on progress.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 No impact on the public sector is foreseen.

9. Contact

Either Helen O'Connor (Tel: 020 7023 1742; email h-oconnor@dfid.gov.uk) or Paul Hailston (Tel: 020 7023 0772; email p-hailston@dfid.gov.uk) in the European Union department of the Department for International Development, 1 Palace Street, London, SW1E 5HE can answer any queries regarding the instrument.

ANNEX

Summary of the Internal Agreement

The Internal Agreement provides for:

- a) the establishment of the tenth European Development Fund (10th EDF) for the period 2008-2013;
- b) the level of contributions to be made to the 10th EDF by the Member States (a total of €2,268 million (£15,745.9 million), of which the United Kingdom shall contribute €3,361 million (£2,333.5 million));
- c) distribution of aid between ACP States and the Overseas Countries and Territories;
- d) the allocation of funds between national and regional programmes, intra-ACP and inter-regional cooperation;
- e) lending through the Investment Facility managed by the European Investment Bank (EIB);
- f) the amount of EIB own resources (€2,030 million (£1,409.2 million)) that will supplement EDF resources for loans through the Investment Facility;
- g) administration by the Commission;
- h) the operation of the committees of representatives of governments of the Member States that will oversee implementation of the EDF and the Investment Facility;
- i) transition arrangements from the 9th EDF;
- j) a mechanism to allow additional voluntary contributions by Member States;
- k) a performance review of the 10th EDF in 2010; and
- l) procedures concerning implementation, accounting, audit and discharge.