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NOTE FOR GUIDANCE ON THE FUNDING OF JOINT EDF-EDRF PROJECTS 2014 - 2020

***- Increasing cooperation between outermost regions of the European Union,
African, Caribbean and Pacific countries
and neighbouring overseas countries and territories -***

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1. GENERAL PRINCIPLES

1.1 Aim

The general aim of this note for guidance is to increase cooperation between outermost regions (ORs) of the European Union (EU), African, Caribbean and Pacific (ACP) countries and neighbouring overseas countries and territories (OCTs).

To this end, it specifically targets easier linkage between the various financial instruments by providing those responsible for European Development Fund (EDF) and European Regional Development Fund (ERDF) cooperation programmes between outermost regions of the EU, ACP countries and/or neighbouring OCTs.

The note is addressed to:

- the competent departments of the European Union – the Directorates-General for Regional and Urban Policy (REGIO) and for International Development and Cooperation (DEVCO) of the European Commission, the European External Action Service (EEAS) and Union delegations, particularly those in Barbados, Cape Verde, Guyana, Jamaica, Mauritius and Nigeria, and
- the managing authorities for ERDF programmes, the regional and national authorising officers for EDF-ACP programmes and the territorial and regional authorising officers for EDF-OCT programmes

with a view to guiding them in the definition of joint projects and so providing guidance to potential beneficiaries.

The information contained in this note is based on the provisions of the applicable legal instruments for the period from 2014 to 2020 (see Annex I), the intention being to flesh out the new opportunities offered by the new legislative framework.

The note for guidance complements the various programming documents, namely the ERDF territorial cooperation programmes (TCPs), the EDF-ACP national indicative programmes (NIPs) and regional indicative programmes (RIPs) and the EDF-OCT territorial and regional programmes.

1.2 Potential areas of OR-ACP-OCT cooperation

Regions	ORs	ACPs	OCTs
Caribbean / Amazon Basin	Guadeloupe (FR) French Guiana (FR) Martinique (FR) Saint Martin (FR)	Antigua and Barbuda Bahamas Barbados Belize Dominica Dominican Republic Grenada Guyana Haiti Jamaica Saint Christopher and Nevis Saint Lucia	Anguilla Aruba Bonaire Cayman Islands Curaçao Montserrat Saba Saint Barthélemy Sint Eustatius Sint Maarten Turks and Caicos Islands British Virgin Islands

		St Vincent and the Grenadines Suriname Trinidad and Tobago	
Indian Ocean	Mayotte (FR) Réunion (FR)	Comoros Kenya Madagascar Mauritius Mozambique Seychelles Somalia South Africa ¹ Tanzania	French Southern and Antarctic Territories
West Africa	Azores (PT) Canary Islands (ES) Madeira (PT)	Cape Verde Mauritania Senegal	

1.3 Cooperation programmes

1.3.1 ERDF: territorial cooperation programmes

The ERDF is intended to help correct the main regional imbalances within the Union. The programmes that feature in the list of ERDF territorial cooperation programmes (TCP) drawn up by the Commission² and covered by this note are as follows:

Territorial cooperation programme	Indicative ERDF allocation in EUR millions
Indian Ocean / Indian Ocean Commission	63.2
Interreg Caraïbes / Organisation of Eastern Caribbean States	64.3
Amazon Basin	18.9
Saint Martin / Sint Maarten	10
Mayotte-Comoros-Madagascar	12
Madeira-Azores-Canaries (MAC)	110.6

¹ This ACP country is not eligible for EDF assistance.

² Commission Implementing Decision of 16 June 2014 setting up the list of cooperation programmes and indicating the global amount of total support from the European Regional Development Fund for each programme under the European territorial cooperation goal for the period 2014 to 2020 (notified under document number C(2014) 3776), OJ L 178 of 18.6.2014, p. 18.

1.3.2 EDF-ACP: regional and bilateral cooperation programmes

The 11th European Development Fund is divided into national and regional envelopes as well as an intra-ACP envelope.

For each ACP country, the **11th bilateral EDF** finances projects in the Agenda for Change sectors. Each National Indicative Programme (programming document) must be focused on a maximum of three of the sectors listed in section 3 below.

Area	Indicative ACP PIN allocations to potential participating countries under the 11th EDF in EUR millions
Caribbean, including Amazon Basin	651
Indian Ocean	2 158
West Africa	597

The **11th regional EDF** is intended to enhance regional economic integration, peace and security and the management of natural resources. It is implemented by means of regional indicative programmes.

Area	Indicative ACP PIR allocations under the 11th EDF in EUR millions
Caribbean	350
Eastern and Southern Africa and the Indian Ocean	1 332
West Africa	1 150

1.3.3 EDF-OCT: territorial and regional programmes

The 11th EDF-OCT funds the territorial and regional strategies and priorities of the OCTs as set out in programming documents.

OCT region	Indicative OCT allocations under the 11 th EDF in EUR millions
Caribbean	40
Indian Ocean	4

OCT	Indicative OCT allocation under the 11 th EDF in EUR millions
Aruba	13.05
Bonaire	3.95
Curaçao	16.95
Saba	3.55
Sint Eustatius	24.5
Sint Maarten	7
Anguilla	14.05
Montserrat	18.4
Turks and Caicos Islands	14.6

2. PLAYERS AND BODIES INVOLVED³

2.1 ERDF

In each territorial cooperation programme, the ERDF administrative bodies are as follows:

2.1.1 The managing authority

Them Member State or States appoint as the managing authority a national, regional or local public body or a private body responsible for administering the programme. In particular, the managing authority lays down appropriate procedures and criteria for the selection of operations. It provides beneficiaries with the information that is relevant to the implementation of operations.⁴ The managing authority is also responsible for providing the lead beneficiary of a cooperation project with a document setting out the conditions for the execution of the project.⁵

³ See Annex I for precise definitions of each player or body as set out in the applicable legal bases.

⁴ Article 125 of Regulation (EU) No 1303/2013

⁵ Article 12(5) of Regulation (EU) No 1299/2013

2014-2020 cooperation programme	Managing authority
Indian Ocean / Indian Ocean Commission	Réunion Regional Council (FR)
Interreg Caraïbes / OECS	Guadeloupe Regional Council (FR)
Guiana Shield / Amazon Basin	French Guiana Regional Council (FR)
Saint Martin / Sint Maarten	Deputy Prefect of Saint Martin (FR)
Mayotte-Comoros-Madagascar	Prefect of Mayotte (FR)
Madeira-Azores-Canaries (MAC)	Canary Islands Government (ES)

The managing authority may entrust the management of part of an operational programme to an intermediate body, such as the French Development Agency (ADF), the German Development Loan Corporation (*Kreditanstalt für Wiederaufbau* – KfW) or the Spanish International Development Cooperation Agency (*Agencia Española de Cooperación Internacional para el Desarrollo* - AECID) by means of an agreement in writing, known as a ‘global grant’, between the intermediate body and the managing authority. The intermediate body must provide guarantees of its solvency and competence in the domain concerned, as well as of its administrative and financial management capacity.⁶

2.1.2 The joint secretariat

The joint secretariat (JS) is a coordination unit that assists the managing authority and the monitoring committee. The main functions of the JS are to handle cases, provide potential beneficiaries with information on funding opportunities and assist beneficiaries in implementing operations.

Ideally, the JS should comprise staff from all of the countries participating in the programme (Member States and third countries, including ACP partner countries and/or OCTs). Its funding, including recruitment of staff from third countries and territories, is provided from the technical-assistance component of the programme (6% or 7% of the ERDF contribution to the programme).

2.1.3 The monitoring committee

Following consultation with the EU Member State or States which have at least one outermost region involved in the programme and with the OCTs and ACP countries that have accepted the invitation to participate in the programme, the monitoring committee is set up by the managing authority.⁷ It comprises representatives of the competent

⁶ Article 123(7) of Regulation (EU) No 1303/2013

⁷ Article 23(2) of Regulation (EU) No 1299/2013.

authorities of the Member States and of all the other participating countries⁸ as well as of the relevant regional organisations.

The monitoring committee examines all issues that affect the performance of the programme and gives an opinion on any amendment of the programme proposed by the managing authority. It may make observations to the managing authority regarding the implementation of the programme.

It is also the task of the monitoring committee to select the operations that are to be funded under cooperation programmes; it selects these either directly or through a steering committee that acts under its responsibility.⁹

The monitoring committee, unlike the managing authority, does not have the status of a programme authority.

2.2 EDF

The main players in the administration of EDF resources are:

- the authorising officer for the EDF, that is to say the Commission;
- the national and regional EDF-ACP authorising officers (duly empowered regional organisations, including the high-level steering committee¹⁰);
- the territorial and regional EDF-OCT authorising officers;
- the EU delegations, including regional delegations.

For precise definitions of these players, please refer to Articles 35 and 36 of the Cotonou Agreement and to Article 86 of the Overseas Association Decision, which are reproduced in Annex I.

3. FIELDS OF COOPERATION

The ERDF territorial cooperation programmes contain eleven identified thematic objectives, taken from the objectives of the Europe 2020 strategy.¹¹ So as to avoid an excessive spread of ERDF funding, which would reduce the impact of programmes, the TCPs focus at least 80% of the ERDF input on four thematic objectives. The remaining 20% is assigned to one or more of the other thematic objectives and to technical assistance.

The EDF-ACP national and regional indicative programmes generally encompass three focal sectors as well as cross-cutting priorities.

The EDF-OCT programming documents, both territorial and regional, focus on a single sector. This focal sector is chosen from the fields of cooperation defined in the Overseas Association Decision.

⁸ Article 48 of Regulation (EU) No 1303/2013

⁹ Article 12(1) of Regulation (EU) No 1299/2013

¹⁰ This high-level committee is set up in each region to coordinate the programming and implementation of the regional EDF allocations.

¹¹ Article 5 of Regulation (EU) No 1301/2013, supplemented by Article 7 of Regulation (EU) No 1299/2013

In each geographical area, following the programming process, territorial cooperation programmes and EDF programmes may share common fields of cooperation, in which case thematic objectives and focal sectors are identical. The quest for joint funding must therefore relate to these common fields of cooperation. For the other thematic areas, however, the flexibility offered by the ERDF to spend up to 30% of its allocation outside the territory of the EU¹² can be exercised in respect of those parts of cooperation projects that are located in or relate to ACP countries or OCTs.

ERDF 11 thematic objectives	EDF-ACP Regional 3 regional sectors	EDF-ACP National (Programme for Change sectors)	EDF-OCTs Territorial and regional 8 sectors
<ol style="list-style-type: none"> 1. Research, technological development and innovation 2. Access to and use and quality of ICT 3. Competitiveness of SMEs 4. Shift towards a low-carbon economy in all sectors 5. Adaptation to climate change as well as risk prevention and management 6. Preserving and protecting the environment and promoting resource efficiency 7. Promoting sustainable transport and removing bottlenecks in key network infrastructures 8. Promoting sustainable and quality employment and supporting labour mobility 9. Promoting social inclusion and combating poverty and any discrimination 10. investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure 11. Enhancing the institutional capacity of public authorities and stakeholders and efficient public administration 	<ol style="list-style-type: none"> 1. Peace and security 2. Regional economic integration 3. Management of natural resources 	<ol style="list-style-type: none"> 1. Democracy, human rights and the rule of law 2. Gender equality and emancipation of women 3. Administration of the public sector, fiscal policy and administration and corruption 4. Civil society and local authorities 5. Natural resources 6. Correlation between development and security 7. Social protection, health, education and employment 8. Business environment and regional integration 9. Sustainable agriculture and energy 	<ol style="list-style-type: none"> 1. Environment, climate change and reducing the risk of disasters 2. Accessibility 3. Research and innovation 4. Youth, education, training, health, employment and politics 5. Culture 6. Combating organised crime 7. Tourism 8. Trade and trade-related cooperation

Third countries participating in territorial cooperation programmes must confirm their agreement to the contents of the programme, either in writing or in the formally approved minutes of consultation meetings or of the deliberations of the relevant regional cooperation organisations.¹³

¹² Article 20(2)(b) of Regulation (EU) No 1299/2013

¹³ Article 8(9) of Regulation (EU) No 1299/2013

4. EDF-ERDF COORDINATION MECHANISMS

The rules governing the EDF and ERDF (see Annex I) contain provisions for the establishment of coordination mechanisms at the appropriate level to facilitate the use of resources from the EDF and ERDF for the benefit of joint projects.

Under those rules, in each area – the Caribbean, the Indian Ocean and West Africa – the ERDF managing authorities and the ERDF and EDF competent authorities jointly set up a coordination structure, which will be ‘a regional dialogue and coordination platform’ (hereinafter referred to as ‘the platform’).

This platform is to be as inclusive as possible, and its members must include representatives of the following entities:

- the managing authority for the ERDF territorial cooperation programme,
- the joint secretariat for the ERDF territorial cooperation programme,
- the EDF-ACP and EDF-OCT regional authorising officers,
- the EDF-ACP and EDF-OCT national and, where appropriate, territorial authorising officers,
- the national authorities of the participating Member States,
- the regional organisations for the relevant area,
- the European Commission – DG Regional and Urban Policy, DG International Cooperation and Development and the relevant EU delegation(s).

The platform could meet once or twice a year¹⁴ and be chaired alternately by the managing authority of the technical cooperation programme and by the competent authorities of the ACP countries and/or of the OCTs that are responsible for the management of EDF programmes.

It will have a crucial role to play in mobilising the various participating players for the purpose of identifying and releasing EDF and ERDF resources for joint cooperation projects. It will perform the following functions:

- consult on areas of cooperation;
- define the objectives to be pursued in each sector and the players involved;
- propose actions (projects or programmes) and their probable implementation arrangements, including the entity that might be entrusted with their execution, and identify potential funding sources; the platform will forward these proposals to the territorial, national or regional EDF authorising officers and to the ERDF monitoring committee for approval and adoption; these latter will then be responsible for dealing with the projects and programmes and for obtaining funding decisions through the usual EDF and ERDF channels;
- ensure that these proposals are followed up and conduct periodic reviews of progress made in the coordination of programmes;
- catalogue all of the projects jointly funded by the EDF and the ERDF in the region, whether or not they were jointly planned at the outset; the platform must therefore be

¹⁴ The organisation of these meetings will be met from the technical-assistance budget of the ERDF programmes, the procedural details being laid down in each programme.

kept informed by the respective managing authorities for these projects or their programmes about the progress of the territorial cooperation programme and of the EDF actions within the area.

The platform can be assisted by an EDF/ERDF administrative support team; the operating base of this team will have to be determined, and it will be financed from the ERDF technical-assistance allocation.

The operating procedures of this platform must be described in the territorial cooperation programmes financed by the ERDF.

5. IMPLEMENTING ARRANGEMENTS

5.1 Single funding source: EDF or ERDF

Joint cooperation projects¹⁵ may be financed by a single funding source, which has been the case for most joint projects to date. These projects continue to be managed in accordance with the form of governance appropriate to the funding source, but it is important that they should be discussed by the platform, or at least presented to it for information purposes, so that all projects contributing to the overall aim of better cooperation between ORs, ACP countries and neighbouring OCTs can be catalogued. The EDF/ERDF administrative support team assisting the platform will be responsible for cataloguing these projects.

(a) ERDF: The ERDF can serve as the single funding source for a joint project if the project is located in the EU part of the programme and if the cross-border or transnational implications and benefits have been identified.

Example 1:

- meetings in the territory of ORs which include participants from ACP countries or OCTs
- building and equipping a language-training centre in Guadeloupe that will be open to beneficiaries from neighbouring countries and territories

The same applies, *mutatis mutandis*, to projects located outside EU territory. In such cases, the total amount of finance provided by the ERDF, whether or not as a single funding source, for projects located outside the EU must be capped at 30% of the total ERDF programme allocation.¹⁶

A financial contribution by third countries is not compulsory. To be selected, a cooperation project must meet at least two of the following four criteria: jointly devised, jointly implemented, jointly staffed and jointly funded. Since joint funding is one of four criteria, any of the other three can compensate for its absence.¹⁷

¹⁵ A 'project', as defined by the ERDF, is not necessarily synonymous with an 'operation' (see the definition in Annex I).

¹⁶ Article 20(2)(b) of Regulation (EU) No 1299/2013

¹⁷ Article 12(4) of Regulation (EU) No 1299/2013

The ERDF co-financing rate is calculated for each priority axis¹⁸ and not for each operation. In the case of an 85% ERDF co-financing rate, which is the maximum ERDF contribution to total eligible expenditure or to eligible public expenditure on a priority axis, the managing authority must furnish proof of public or private counterpart resources amounting to at least 15% of the eligible expenditure. Accordingly, if projects are funded at rates in excess of the rate awarded for the priority axis – in this case 85% – other projects must be funded at a lower rate, so as to ensure adherence to the overall rate of 85%. These counterpart resources cannot be provided by any other Union fund. Nevertheless, the EU Member State or third country may replace its own contribution with a loan or financial support from the European Investment Bank or the World Bank, for example, or even from a private bank.

(b) EDF: The EDF may also serve as the sole funding source for a joint project if that project is located in an ACP country or in an OCT and if the cross-border or transnational implications and benefits have been identified.

Example 2: the SmartFish project

In the Indian Ocean, a project for the automatic exchange of satellite data involving Member States of the Indian Ocean Commission makes it possible to monitor fisheries and share data throughout the region, including Réunion, one of the outermost regions. After an initial stage funded by the European Commission's Directorate-General for Maritime Affairs and Fisheries, the SmartFish project is now being implemented under the 10th regional EDF for the Indian Ocean, which is financing a two-year phase-out with a contribution of €2m.

Example 3: Generation of electricity from geothermal sources in Dominica and interconnection with Guadeloupe and/or Martinique

Dominica, an ACP country, has considerable potential for the production of geothermal energy. Following the success of the exploration stage, the Government of Dominica is launching the production stage and the establishment of an appropriate institutional framework, for which it is receiving a soft loan of €6.5m. from the French Development Agency (AFD) and a grant of €2m. from the 10th EDF through the Caribbean Investment Facility. This project could lead to the construction and operation of geothermal power plants with capacities of some 100 megawatts, which would not only benefit Dominica itself but would also benefit two outermost regions, Guadeloupe and Martinique, thanks to a grid connection.

¹⁸ Article 120(1) and (2) of Regulation (EU) No 1303/2013.

5.2 Dual EDF and ERDF financing for the same joint cooperation project

The platform will be able to propose the simultaneous use of EDF and ERDF resources for the same joint cooperation project.

Within the EDF, the funding source may be the bilateral cooperation funds in the case of ACP countries, territorial cooperation funds in the case of OCTs, funds allocated to regional cooperation for ACP countries or OCTs or to intra-ACP cooperation.

As with projects funded from a single source, it is also important that these projects should be discussed within the platform or presented to the platform for information purposes with a view to ensuring the exhaustive cataloguing of all projects contributing to the pursuit of the overall objective of improving cooperation between ORs, ACP countries and neighbouring OCTs.

Example 4: Saint Martin and Sint Maarten joint treatment plant

Since this potential joint EDF-ERDF project is located in the OCT of Sint Maarten, which is outside the territory of the EU, the ERDF contribution will be capped at €3m., which is 30% of the total allocation of €10m. to the Saint Martin-Sint Maarten programme, regardless of the cost of the facility. The remainder can be provided by the territorial EDF budget for Sint Maarten. The parties will decide on the arrangements for the management and implementation of the co-financing, particularly on the manner in which calls for tender are to be issued.

The ways in which EDF and ERDF contributions can be combined for the benefit of joint projects are described below. Whatever system is chosen, the management and control mechanisms must ensure that the same expenditure items are not declared twice – once for the purpose of obtaining an EDF contribution and once for an ERDF contribution.

5.2.1 Pooling of EDF and ERDF resources in a body entrusted with their management

(a) Making EDF resources available for an ERDF programme (managing authority):

Under the Financial Regulation governing the EDF, EDF resources can be managed indirectly by a delegated managing authority of a technical cooperation programme (TCP), if that authority is a public body of an EU Member State and if the Commission ensures that the delegated body, when managing EU funds, will guarantee a level of protection of the financial interests of the Union equivalent to that required of the Commission by the Financial Regulation. By means of an examination focused on the pillars of good financial practice, the Commission verifies that delegated bodies:

- establish an effective system of internal control and ensure that it is applied;
- use an accounting system that provides accurate, full, reliable and timely information;
- undergo an independent external audit, conducted in accordance with internationally recognised auditing standards by an audit service that is operationally independent of the entity or person in question;
- apply appropriate rules and procedures for financial awards from Union funds in the form of grants, contract awards and financial instruments;
- provide for *ex post* publication of information on the recipients of funds;
- guarantee reasonable protection of personal data.

This verification of compliance with the principles of sound financial management is undertaken by an independent external auditor in accordance with the terms of reference

laid down by the Commission, to which end some of the documentation gathered in connection with the certification of managing authorities for the implementation of TCPs may be used, thereby facilitating the work of the auditors responsible for verifying compliance with the pillars of good practice. In the particular case of managing authorities, the checks that resulted in their certification for the management of ERDF resources may be considered equivalent to the verification of compliance with the pillars.

The managing authority can then conclude a delegation agreement with the Commission for the EDF component of the co-financing arrangement. The ERDF funding is made available to the managing authority through the TCP. The managing authority is required to include in its annual activity reports on the TCP a specific section devoted to the management of EDF resources.

The provision of EDF resources to a managing authority may be warranted by the funding of a specific predefined joint project or by the funding of several actions with a common objective that have been selected on the basis of a call for proposals. In either case, the rules governing eligibility and the selection of contractors, participants and actions or projects will be consistent with the ERDF rules.¹⁹

Example 5: The hypothetical case of cooperation involving several OCTs under their geographical regional EDF-OCT programme, ORs in the framework of the European territorial cooperation programme and/or ACP countries as part of their regional EDF-ACP programme

The Caribbean OCTs engage in preliminary discussions on the selection of a cooperation sector under the 11th EDF and opt for the sector of natural-resources management and in particular the subsector of renewable energy.

In so far as this sector overlaps with the thematic objectives and focal sectors covered by the regional ACP programme for the Caribbean and by the TCP, the OCTs – represented for example by the regional authorising officer – initiate discussions with the ACP countries and the ORs – represented respectively, for example, by the regional authorising officer for the Caribbean and the TCP managing authority – with a view to identifying a joint project in that sector. They prepare an action plan and a budget, which serves to determine the respective contributions from the EDF, the ERDF and any other source.

If it is decided to entrust the management of this joint project to the TCP managing authority, the Commission will transfer the EDF resources from the regional ACP programme for the Caribbean and the regional OCT programme for the Caribbean to the ERDF managing authority by concluding a delegation agreement based on parallel co-financing.

With all of the EDF and ERDF resources at its disposal, the managing authority can thus issue a joint call for proposals, for which all of the region's ORs, ACP countries and OCTs would be eligible as prospective beneficiaries. The managing authority may also commission a single study, for example, on the renewables potential of the entire Caribbean region.

¹⁹ This is because the pooling of funds offers the flexibility to apply ERDF rules to the EDF, as explained in the subsection below on origin and nationality rules.

Example 6: Cooperation between ACP countries under their regional EDF-ACP programme and the ERDF programme

The aim of the Wider Cariforum Cooperation Programme, funded by the 10th EDF, is to increase regional integration in sectors that match the thematic objectives and focal sectors adopted for the ACP regional programme for the Caribbean and the ERDF TCP. The intended actions are as follows:

- extending the existing university exchanges in the Caribbean ORs to include the universities of the Caribbean ACP countries or creating new initiatives of this kind;
- establishing training courses and other activities designed to enhance the administrative capabilities of local authorities;
- creating an academy of vocational training in sectors such as tourism, health and education that are important to all Caribbean countries, regions and territories;

Guadeloupe Regional Council, which is the managing authority for the ERDF TCP, will be the contracting authority for both co-financing sources. In order to implement the EDF funding, Guadeloupe Regional Council will conclude a delegation agreement with the European Commission and the Secretariat-General of Caricom, which is the regional authorising officer for the EDF. The three players will consult with a view to establishing the sectors within which future grants will be awarded, the common selection criteria and the budget for the action, which will serve to determine the respective contributions from the EDF, the ERDF and any other source.

(b) Making ERDF resources available for an EDF programme:

This arrangement is not possible at source, that is to say by means of a transfer from DG REGIO or the managing authority to DG DEVCO or the EU delegation, because Article 4(7) of Regulation (EU) No 1303/2013 rules out any method of implementing the ERDF budget other than shared management in accordance with Article 59 of the Financial Regulation governing the EU budget.²⁰ The powers of the managing authority extend only to concluding contracts with sole or lead beneficiaries of projects.²¹

(c) Delegating the management of the EDF and ERDF to the same intermediate body

A single intermediate body may be entrusted simultaneously with the management of ERDF resources by the managing authority and with the management of EDF resources by the Commission.

In particular, this task may be delegated to the regional OCT or ACP regional authorising officer, to a national or territorial authorising officer, to a regional or international organisation or to a regional or European development bank, such as the European Investment Bank or a financial institution of a Member State such as the AFD or KfW. This entity would be responsible for managing the resources in accordance with its own procedures in the case of an international organisation or a public body of Member State that had been assessed for compliance with the pillars of good financial practice.

²⁰ The exceptions do not apply to the European territorial cooperation programmes.

²¹ In accordance with Article 12(5) of Regulation (EU) No 1299/2013.

5.2.2 Apportionment of expenditure on joint projects between the EDF and the ERDF

(a) Parallel co-financing of distinct operations forming part of a single project

A joint project is divided into at least two clearly identifiable operations, each of which is financed from a different source of funding. This means that the funds are not interchangeable and must therefore be administered in accordance with the specific rules and procedures that apply to each funding source.

A single proposal for a joint project identified by the EDF-ERDF dialogue platform could thus be the subject of separate funding from the EDF and the ERDF, which would complement each other to finance the implementation of the joint project.

A typical way of implementing joint projects is to select them by means of a single call for proposals issued by the ERDF managing authority on the basis of common eligibility and selection rules that are consistent with the legal bases of both the EDF and the ERDF. Each joint project is treated as a single project in operational terms but is divided into two or more operations, each of which is implemented in accordance with the rules and procedures that apply to the relevant funding source. The project is presented along with an overall financial plan specifying the ERDF and EDF counterpart contributions as well as a financial plan for each of the operations. The managing authority will therefore conclude separate contracts for the EDF and ERDF operations.

On the ERDF side, the resources will be administered by the managing authority or an intermediate body, whereas the players responsible for administering the EDF resources can vary widely – Commission departments or an EU delegation in the case of direct management or, in the case of indirect management, the national, territorial or regional authorising officer, an international organisation, the development agency of an EU Member State or another designated body.

One of the partners, however, regardless of nationality, must be appointed to coordinate the technical and operational execution of the joint project. In this context, it is recommended that a joint steering committee be established for the project so as to ensure optimum coordination of the activities benefiting from parallel EDF and ERDF funding.

Example 7: Islands project in the Indian Ocean

The first phase of the Islands project, from 2011 to the middle of 2014, received funding of €10m. from the 10th EDF under the Regional Indicative Programme for Eastern and Southern Africa and the Indian Ocean. The aim of this project is to contribute to the economic, social and environmental development of the Comoros, Madagascar, Mauritius, the Seychelles and Zanzibar and to better regional integration. The island of Réunion has provided parallel funding for some project activities from ERDF resources. This cooperation between the OR and ACP countries dates from the start of implementation, particularly in the first project steering committee, to which Réunion belonged in its capacity as a member of the IOC; during that initial period, Réunion volunteered to be the lead beneficiary for the Coral Reefs operation. Réunion has contributed ERDF technical-assistance resources to the Regional Technical Committee on Coral Reefs, which it chairs. The ERDF activities are incorporated into the planning of EDF activities and into their logical framework. The financial and programming priorities and components are determined at meetings of the regional technical committee and of the steering committee.

Example 8: The Biodiversity and Renewable Energy projects in the Indian Ocean

From the conception stage, the Biodiversity and Renewable Energy projects in the Indian Ocean made express provision for Réunion to be a party to their EDF financing agreements. The financing agreement for the Renewable Energy project, for instance, states that, although Réunion, as an outermost region of France, will not be a financial beneficiary of the project, it will be closely involved in the project as a member of the Indian Ocean Commission. Its participation will be funded from the ERDF and from its own resources.

Example 9: Hypothetical case of cooperation between an OCT, with the aid of its EDF territorial programme, and an OR, with the aid of the European territorial cooperation programme

On the basis of discussions between their competent authorities, an OCT and an OR agree to set up a joint project in the renewables sector, focusing particularly on distribution networks.

To this end, the OCT will assign part of the financial resources allocated to its territorial programme under the OCT allocation of the 11th EDF, while the OR will mobilise available funds from the budget of the European territorial cooperation programme. The OCT and the OR jointly identify potential actions and prepare an action plan and a budget, which apportions the expenditure items of the common project between the two parties. The choice made by the OCT for its cooperation with the OR must be reflected and included in the programming document for its territorial allocation that it submits to the Commission for approval. Once the programming document has been approved and the funding decision adopted, the financing agreement will be signed, and the implementation of the EDF-OCT element of the project can begin. The execution of the project must be monitored by the two parties through a steering committee.

(b) Parallel co-financing within a single operation

In cases where a single joint project is being co-financed, the expenditure items in the single budget are clearly assigned to either the EDF or the ERDF so as to comply with Article 65(11) of Regulation (EU) No 1303/2013.²² As in the case of parallel co-financing of separate operations (see point 5.5.2(a) above), funds are not interchangeable, which means that expenditure items will be dealt with in accordance with the rules and procedures specific to the appropriate funding source.

Since there is no legal definition of an expenditure item, for the purposes of this document ‘expenditure item’ means the amount of eligible expenditure on a given budgetary item.

²² Article 65(11) of Regulation (EU) No 1303/2013 reads as follows: “An operation may receive support from one or more ESI Funds [European structural and investment funds] or from one or more programmes and from other Union instruments, provided that the expenditure item included in a request for payment for reimbursement by one of the ESI Funds does not receive support from another Fund or Union instrument, or support from the same Fund under another programme.”

For cooperation programmes co-financed by the ERDF, Commission Delegated Regulation (EU) No 481/2014²³ has defined expenditure categories for staff costs, office and administrative expenditure, travel and accommodation costs and expenditure on external expertise and services and on equipment. In addition, the ERDF may support the sharing of facilities and human resources and all types of infrastructure.²⁴

The apportionment of expenditure between the EDF and the ERDF will be defined in the financing agreement for the joint project. The level of contribution from each funding source must reflect the estimated degree of involvement of the ORs, ACP countries and/or OCTs in the joint project.

5.2.3 Rules on nationality and origin

The rules on nationality and origin are those prescribed by the legal bases of each instrument. One frequently cited barrier to co-funding by the EDF and ERDF is the incompatibility in the context of calls for tender of the rules regarding the nationality of tenderers for service provision and for supply and works contracts and of the rules governing the origin of supplies. The EDF nationality rules are certainly less open than those of the ERDF.

Nevertheless, where there is indirect management (see the cases described in points 5.2.1(a) and (c) above), the rules of the contracting authority may be applied in full as long as they include at least the nationalities and origins that are eligible for the EDF. If the rules of the contracting authority are those of the ERDF, particularly in the case of the managing authority, it is therefore possible that they will also apply to the EDF co-financing.

²³ Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes (OJ L 138, 13.5.2014, p. 45)

²⁴ Article 3(2) of Regulation (EU) No 1301/2013

Annex I

EXCERPTS FROM LEGAL BASES

Part I - EDF

- **Revised Cotonou Agreement:**

Article 35

National Authorising Officer

1. The Government of each ACP State shall appoint a National Authorising Officer to represent it in all operations financed from the Fund resources managed by the Commission and the Bank. The National Authorising Officer shall appoint one or more deputy National Authorising Officers to replace him when he is unable to carry out his duties and shall inform the Commission of this appointment. Wherever the conditions regarding institutional capacity and sound financial management are met, the National Authorising Officer may delegate his functions for implementation of the programmes and projects concerned to the body responsible within the national administration. The National Authorising Officer shall inform the Commission of any such delegation.

In the case of regional programmes and projects, the relevant organisation or body shall designate a Regional Authorising Officer whose duties correspond, *mutatis mutandis*, to those of the National Authorising Officer.

In the case of Intra-ACP programmes and projects, the ACP Committee of Ambassadors shall designate an Intra-ACP Authorising Officer, whose duties correspond, *mutatis mutandis*, to those of the National Authorising Officer. In the event that the ACP Secretariat is not the Authorising Officer, the Committee of Ambassadors shall be informed in conformity with the financing agreement of the implementation of programmes and projects.

When the Commission becomes aware of problems in carrying out procedures relating to management of Fund resources, it shall, in conjunction with the National Authorising Officer, make all contacts necessary to remedy the situation and take any appropriate steps.

The relevant Authorising Officer shall assume financial responsibility only for the executive tasks entrusted to him.

Where resources from the multi-annual financial framework of cooperation under this agreement are managed in a decentralised way and subject to any additional powers that might be granted by the Commission, the relevant Authorising Officer shall:

- (a) be responsible for the coordination, programming, regular monitoring and annual, mid-term and end-of-term reviews of implementation of cooperation, and for coordination with donors;
- (b) in close cooperation with the Commission, be responsible for the preparation, submission and appraisal of programmes and projects;
- (c) prepare tender dossiers and, where appropriate, the documents for calls for proposals;
- (d) submit tender dossiers and, where appropriate, documents for calls for proposals, to the Commission for approval before launching invitations to tender and, where appropriate, calls for proposals;
- (e) in close cooperation with the Commission, launch invitations to tender and, where appropriate, calls for proposals;
- (f) receive tenders and, if applicable, proposals, and transmit copies of tenders to the Commission; preside over the opening of tenders and decide on the results of their

examination within the period of validity of the tenders, taking account of the time required for approval of contracts;

(g) invite the Commission to the opening of tenders and, if applicable, proposals and notify the Commission of the results of the examination of tenders and proposals for approval of the proposals for the award of contracts and grants;

(h) submit contracts and programme estimates and any addenda thereto to the Commission for approval;

(i) sign the contracts and addenda thereto approved by the Commission;

(j) clear and authorise expenditure within the limits of the funds assigned to him; and

(k) during the execution operations, make any adaptation arrangements necessary to ensure the proper execution of approved programmes or projects from the economic and technical viewpoint.

2. The relevant Authorising Officer shall, during the execution of operations and subject to the requirement to inform the Commission, decide on:

(a) technical adjustments and alterations to programmes and projects in matters of detail so long as they do not affect the technical solution adopted and remain within the limits of the reserve for adjustments provided for in the financing agreement;

(b) changes of site for multiple-unit programmes or projects where justified on technical, economic or social grounds;

(c) imposition or remission of penalties for delay;

(d) acts discharging guarantors;

(e) purchase of goods, irrespective of their origin, on the local market;

(f) use of construction equipment and machinery not originating in the Member States or ACP States provided there is no production of comparable equipment and machinery in the Member States or ACP States;

(g) subcontracting;

(h) final acceptance, provided that the Commission is present at provisional acceptance, endorses the corresponding minutes and, where appropriate, is present at the final acceptance, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work; and

(i) hiring of consultants and other technical assistance experts.

Article 36

Head of Delegation

1. The Commission shall be represented in each ACP State or in each regional grouping which expressly so requests, by a delegation under the authority of a Head of Delegation, with the approval of the ACP State or States concerned. Appropriate measures shall be taken in any case in which a Head of Delegation is appointed to a group of ACP States. The Head of Delegation shall represent the Commission in all spheres of its competence and in all its activities.

2. The Head of Delegation shall be the main contact for ACP States and bodies or organisations eligible for financial support under the Agreement. He shall cooperate and work in close cooperation with the National Authorising Officer.

3. The Head of Delegation shall have the necessary instructions and delegated powers to facilitate and expedite all operations under the Agreement.

4. On a regular basis, the Head of Delegation shall inform the national authorities of Community activities which may directly concern cooperation between the Community and the ACP States.

- **Internal Agreement on the 11th EDF:**

Article 10

Implementing provisions

1 (...) The 11th EDF Implementing Regulation shall contain appropriate measures to allow for matching of funding of credits from the EDF and the European Regional Development Fund to finance cooperation projects between EU Outermost Regions and ACP Countries as well as Overseas Countries and Territories in the Caribbean, Western Africa and Indian Ocean, in particular simplified mechanisms for joint management of such projects.

- **Regulation on the implementation of the 11th EDF:**

Article 17

Participation by a third country or region

In order to ensure the coherence and effectiveness of Union assistance, the Commission may decide that non-ACP developing countries and regional integration bodies with ACP participation that promote regional cooperation and integration eligible for Union assistance under other Union financing instruments for external action, where the project or programme concerned is of a regional or cross-border nature and complies with Article 6 of Annex IV to the Cotonou Agreement, are eligible for funds referred to in Article 1(2)(a)(i) of the Internal Agreement. The Overseas Countries and Territories ("OCTs") eligible for Union assistance under Decision [...], and the Union's outermost regions can also participate in regional cooperation projects or programmes; the funding to enable participation of these territories or outermost regions shall be additional to funds referred to in Article 1(2)(a)(i) of the Internal Agreement. The objective of a reinforced cooperation between the Member States, their outermost regions, the OCTs and the ACP countries should be taken into account and, where appropriate, coordination mechanisms be set up. Provision for this funding and for the types of financing referred to in the 11th Financial Regulation may be made in the strategy papers and multiannual indicative programmes and in the action programmes and measures referred to in Article 9 of this Regulation.

- **Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision')**

Article 83

Programming

1. For the purpose of this Decision, programmable aid shall be based on a programming document.

2. The programming document may take into account the territorial development plans or other plans agreed upon between the OCTs and the Member States to which they are linked.
3. Pursuant to Article 10, the OCTs authorities shall assume the primary responsibility for the formulation of strategies, priorities and arrangements through the preparation of programming documents in coordination with the Commission and the Member State to which the OCTs is linked.
4. The OCTs authorities shall be responsible for:
 - (a) establishing their priorities on which the strategy shall be based; and
 - (b) formulating project and programme proposals submitted to and examined with the Commission.

Article 85 **Implementation**

1. The Commission shall adopt the financing decision corresponding to a programming document in accordance with the standards set out in the Financial Regulation applicable to the 11th EDF and following the procedure provided for in Article 87.
2. The Commission shall implement OCTs 11th EDF resources in any of the ways set out in the Financial Regulation applicable to the 11th EDF and in accordance with the conditions set out in this Decision and in the measures implementing that Decision. To this end, it shall conclude financing agreements with the relevant authorities of the OCTs.
3. The OCTs authorities shall be responsible for:
 - (a) preparing, negotiating and concluding contracts;
 - (b) implementing and managing projects and programmes; and
 - (c) maintaining projects and programmes and ensuring their sustainability.
4. The relevant authorities of the OCTs and the Commission shall be jointly responsible for:
 - (a) ensuring equality of conditions for participation in invitations to tender and contracts;
 - (b) monitoring and evaluating the effects and results of projects and programmes; and
 - (c) ensuring the proper, prompt and efficient execution of projects and programmes.
5. To facilitate the exchanges of views, technical meetings shall be held at least once a year between the Territorial Authorising Officers, the Member States concerned and representatives of the Commission involved in the programming, notably through the use of modern technologies or, if possible, as an extension of the OCTs-EU Forum dialogue.

6. Actions financed under the 11th EDF may be implemented with parallel or joint co-financing subject to provisions of the Financial Regulation applicable to the 11th EDF.

Article 86

Territorial and Regional Authorising Officers

1. The Government of each OCTs shall appoint a Territorial Authorising Officer to represent it in all operations financed from the resources of the 11th EDF managed by the Commission and the European Investment Bank. The Territorial Authorising Officer shall appoint one or more deputy Territorial Authorising Officers to replace him when he is unable to carry out his duties and shall inform the Commission of this appointment. Wherever the conditions regarding institutional capacity and sound financial management are met, the Territorial Authorising Officer may delegate his functions for implementation of the programmes and projects concerned to the body responsible within the competent OCTs authority. The Territorial Authorising Officer shall inform ex-ante the Commission of any such delegation.

When the Commission becomes aware of problems in carrying out procedures relating to management of resources from the 11th EDF, it shall, in conjunction with the Territorial Authorising Officer, make all contacts necessary to remedy the situation and take any appropriate steps. The Territorial Authorising Officer shall assume financial responsibility only for the executive tasks entrusted to him.

Where resources from the 11th EDF are managed indirectly and subject to any additional powers that might be granted by the Commission, the Territorial Authorising Officer shall:

- (a) be responsible for the coordination, programming, regular monitoring and reviews of implementation of cooperation, and for coordination with donors;
- (b) in close cooperation with the Commission, be responsible for the preparation, submission and appraisal of programmes and projects.

2. Where 11th EDF resources are managed in an indirect way and subject to any additional powers that might be granted by the Commission, the relevant Territorial Authorising Officer shall act as the Contracting Authority for programmes implemented by means of tenders or calls for proposals, under the ex-ante control of the Commission.

3. The Territorial Authorising Officer shall, during the execution of operations and subject to the requirement to inform the Commission, decide on:

- (a) technical adjustments and alterations to programmes and projects in matters of detail so long as they do not affect the technical solution adopted and remain within the limits of the reserve for adjustments provided for in the financing agreement;
- (b) changes of site for multiple-unit programmes or projects where justified on technical, economic or social grounds;

- (c) imposition or remission of penalties for delay;
 - (d) acts discharging guarantors;
 - (e) subcontracting;
 - (f) final acceptance, provided that the Commission has endorsed the provisional acceptance, the corresponding minutes and, where appropriate, is present at the final acceptance, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work; and hiring of consultants and other technical assistance experts.
4. In the case of regional programmes, the authorities of the participating OCTs shall designate a Regional Authorising Officer among the actors of cooperation referred to in Article 11. The duties of the Regional Authorising Officer correspond mutatis mutandis to those of the Territorial Authorising Officer.

Article 89

Rules on nationality and origin for public procurement, grants and other award procedures for OCTs

1. General rules on eligibility:
- (a) Participation in the award of procurement contracts, grants and other award procedures for actions financed under this Decision for the benefit of third parties shall be open to all natural persons who are nationals of, and legal persons which are effectively established in, an eligible country or territory as defined in paragraph 2, and to International Organisations.
 - (b) In the case of actions jointly co-financed with a partner or other donor or implemented through a Member State in shared management or through a Trust Fund established by the Commission, countries which are eligible under the rules of that partner, other donor or Member State or determined in the constitutive act of the trust fund, shall also be eligible.
- In the case of actions implemented through entrusted bodies, which are Member States or their agencies, the European Investment Bank or through International Organisations or their agencies, natural and legal persons who are eligible under the rules of that entrusted body, as identified in the agreements concluded with the co-financing or implementing body, shall also be eligible.
- (c) In the case of actions financed under this Decision and, in addition, under another Instrument for external action, including the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽⁹⁾, as last amended in Ouagadougou on 22 June 2010 ⁽¹⁰⁾, the countries identified under any of these Instruments shall be considered eligible for the purpose of that action.

In the case of actions of a global, regional or cross-border nature financed under this Decision, natural and legal persons from countries, territories and regions covered by the action may participate in the procedures implementing such actions.

- (d) All supplies purchased under a procurement contract, or in accordance with a grant agreement, financed under this Decision shall originate from an eligible country or territory. However, they may originate from any country or territory when the amount of the supplies to be purchased is below the threshold for the use of the competitive negotiated procedure. For the purposes of this Article, the term 'origin' is defined in Article 23 and 24 of Council Regulation (EEC) No 2913/92 ⁽¹¹⁾ and other Union legislation governing non-preferential origin.
- (e) The rules under this Article do not apply to, and do not create nationality restrictions for, natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor.
- (f) Eligibility as defined in this Article may be restricted with regard to the nationality, localisation or nature of applicants, where required by the nature and the objectives of the action and as necessary for its effective implementation.
- (g) Natural and legal persons who have been awarded contracts shall respect applicable environmental legislation including multilateral environmental agreements as well as internationally agreed core labour standards.

2. Tenderers, applicants and candidates from the following countries and territories shall be eligible to funding under this Decision:

- (a) Member States, candidate countries and potential candidates as recognised by the Union, and members of the European Economic Area;
- (b) OCTs;
- (c) developing countries and territories, as included in the OECD-DAC list of ODA Recipients, which are not members of the G-20 group;
- (d) countries for which reciprocal access to external assistance is established by the Commission. Reciprocal access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from OCTs;
- (e) Member States of the OECD, in the case of contracts implemented in a Least Developed Country;
- (f) when announced in advance in the documents of the procedure:
 - (i) countries having traditional economic, trade or geographical links with neighbouring beneficiary countries;
 - (ii) all countries, in the case of urgency or of unavailability of products and services in the markets of the eligible countries.

3. Tenderers, applicants and candidates from non-eligible countries or goods from non-eligible origin may be accepted as eligible by the Commission in duly substantiated cases where the eligibility rules would make the realisation of a project, a programme or an action impossible or exceedingly difficult.

4. For actions implemented in shared management, the relevant Member State to which the Commission has delegated implementation tasks is entitled, on behalf of the Commission, to authorise participation of tenderers, applicants and candidates from other countries and authorise goods from other countries within the meaning of point (f) of paragraph 2, and to accept as eligible, tenderers, applicants and candidates from non-eligible countries within the meaning of paragraph 3, or goods from non-eligible origin within the meaning of point (d) of paragraph 1.

Article 92

Eligibility for territorial financing

1. The OCTs public authorities shall be eligible for financial support provided for in this Decision.

2. Subject to the agreement of the authorities of the OCTs concerned, the following entities or bodies shall also be eligible for financial support provided for in this Decision:

- (a) local, national and/or regional public or semi-public agencies, departments or local authorities of the OCTs and in particular their financial institutions and development banks;
- (b) companies and firms of the OCTs and of regional groups;
- (c) companies and firms of a Member State, so as to enable them, in addition to their own contribution, to undertake productive projects in the territory of an OCTs;
- (d) OCTs or Union financial intermediaries promoting and financing private investments in the OCTs; and
- (e) actors of decentralised cooperation and other non-governmental actors from OCTs and from the Union, to enable them to undertake economic, cultural, social and educational projects and programmes in the OCTs in the framework of decentralised cooperation, as referred to in Article 12.

Article 93

Eligibility for regional financing

1. A regional allocation shall be used for operations benefiting and involving:

- (a) two or more OCTs regardless of their location;
- (b) one or more OCTs and one or more outermost regions referred to in Article 349 TFEU;
- (c) one or more OCTs and one or more neighbouring ACP and/or non-ACP States;

- (d) one or more OCTs, one or more outermost regions and one or more ACP and/or non-ACP States;
 - (e) two or more regional bodies of which OCTs are members;
 - (f) one or more OCTs and regional bodies of which OCTs, ACP States or one or more of the outermost regions are members;
 - (g) the OCTs and the Union as a whole; or
 - (h) one or more entities, authorities or other bodies from at least one OCTs, being members of an EGTC in accordance with Article 8, one or more outermost regions and one or more neighbouring ACP and/or non-ACP States.
2. The funding to enable participation of the ACP States, outermost regions and other countries shall be additional to funds allocated to the OCTs under this Decision.
3. The participation of ACP States, outermost regions and other countries to programmes established pursuant to this Decision shall be envisaged only to the extent that:
- (a) the centre of gravity of the projects and programmes funded under the multi-annual financial framework of cooperation remains in an OCTs;
 - (b) equivalent provisions exist in the framework of the Union's financial instruments; and
 - (c) the principle of proportionality is respected.
4. Appropriate measures will allow for matching of funding of credits from the EDF and the general budget of the Union to finance cooperation projects between the OCTs, the ACP Countries, the outermost regions as well as other countries, in particular simplified mechanisms for joint management of such projects.

Part II - ERDF

- **Basic Regulation:**²⁵

Article 1 **Subject-matter**

This Regulation lays down the common rules applicable to the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the

²⁵ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347 of 20/12/2013, p. 320).

European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), which operate under a common framework (the 'European Structural and Investment' - 'ESI Funds'). It also lays down the provisions necessary to ensure the effectiveness of the ESI Funds and their coordination with one another and with other Union instruments. The common rules applying to the ESI Funds are set out in Part Two.

(...)

Article 2 **Definitions**

For the purposes of this Regulation, the following definitions apply:

(...)

- (6) 'programme' means an 'operational programme' as referred to in Part Three or Part Four of this Regulation and in the EMFF Regulation, (...);

(...)

- (8) 'priority' in Parts Two and Four of this Regulation means the 'priority axis' referred to in Part Three of this Regulation for ERDF, ESF and the Cohesion Fund (...);

- (9) 'operation' means a project, contract, action or group of projects selected by the managing authorities of the programmes concerned, or under their responsibility, that contributes to the objectives of a priority or priorities; in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments;

- (10) 'beneficiary' means a public or private body (...) responsible for initiating or both initiating and implementing operations; and in the context of State aid schemes, as defined in point 13 of this Article, the body which receives the aid; and in the context of financial instruments under Title IV of Part Two of this Regulation, it means the body that implements the financial instrument or the fund of funds as appropriate;

(...)

- (18) 'intermediate body' means any public or private body which acts under the responsibility of a managing or certifying authority, or which carries out duties on behalf of such an authority, in relation to beneficiaries implementing operations;

(...)

- (36) 'irregularity' means any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.

- (37) 'economic operator' means any natural or legal person or other entity taking part in the implementation of assistance from the ESI Funds, with the exception of a Member State exercising its prerogatives as a public authority;

(...).

Article 9
Thematic objectives

In order to contribute to the Union strategy for smart, sustainable and inclusive growth as well as the Fund-specific missions pursuant to their Treaty-based objectives, including economic, social and territorial cohesion, each ESI Fund shall support the following thematic objectives:

- (1) strengthening research, technological development and innovation;
- (2) enhancing access to, and use and quality of, ICT;
- (3) enhancing the competitiveness of SMEs, of the agricultural sector (for the EAFRD) and of the fishery and aquaculture sector (for the EMFF);
- (4) supporting the shift towards a low-carbon economy in all sectors;
- (5) promoting climate change adaptation, risk prevention and management;
- (6) preserving and protecting the environment and promoting resource efficiency;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures;
- (8) promoting sustainable and quality employment and supporting labour mobility;
- (9) promoting social inclusion, combating poverty and any discrimination;
- (10) investing in education, training and vocational training for skills and lifelong learning;
- (11) enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

Thematic objectives shall be translated into priorities that are specific to each of the ESI Funds and are set out in the Fund-specific rules.

Article 65
Eligibility

(...)

11. An operation may receive support from one or more ESI Funds or from one or more programmes and from other Union instruments, provided that the expenditure item included in a request for payment for reimbursement by one of the ESI Funds does not receive support from another Fund or Union instrument, or support from the same Fund under another programme.

Article 120
Determination of co-financing rates

1. The Commission decision adopting an operational programme shall fix the co-financing rate and the maximum amount of support from Funds for each priority axis. Where a priority axis concerns more than one category of regions or more than one Fund, the Commission decision shall, where necessary, fix the co-financing rate by category of region and Fund.

2. For each priority axis, the Commission decision shall set out whether the co-financing rate for the priority axis is to be applied to:
 - (a) total eligible expenditure, including public and private expenditure; or
 - (b) eligible public expenditure.
3. (...)

The co-financing rate at the level of each priority axis of operational programmes under the European territorial cooperation goal shall be no higher than 85 %.

The ERDF Regulation:²⁶

Article 3

Scope of support from the ERDF

1. The ERDF shall support the following activities in order to contribute to the investment priorities set out in Article 5:
 - (a) productive investment which contributes to creating and safeguarding sustainable jobs, through direct aid for investment in SMEs;
 - (b) productive investment, irrespective of the size of the enterprise concerned, which contributes to the investment priorities set out in points (1) and (4) of Article 5, and, where that investment involves cooperation between large enterprises and SMEs, in point (2) of Article 5;
 - (c) investment in infrastructure providing basic services to citizens in the areas of energy, environment, transport and ICT;
 - (d) investment in social, health, research, innovation, business and educational infrastructure;
 - (e) investment in the development of endogenous potential through fixed investment in equipment and small-scale infrastructure, including small-scale cultural and sustainable tourism infrastructure, services to enterprises, support to research and innovation bodies and investment in technology and applied research in enterprises;
 - (f) networking, cooperation and exchange of experience between competent regional, local, urban and other public authorities, economic and social partners and relevant bodies representing civil society, referred to in Article 5(1) of Regulation (EU) No 1303/2013, studies, preparatory actions and capacity-building.

²⁶ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347 of 20/12/2013, p. 289).

2. Under the European territorial cooperation goal, the ERDF may also support the sharing of facilities and human resources, and all types of infrastructure across borders in all regions.
3. The ERDF shall not support:
 - (a) the decommissioning or the construction of nuclear power stations;
 - (b) investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC;
 - (c) the manufacturing, processing and marketing of tobacco and tobacco products;
 - (d) undertakings in difficulty, as defined under Union State aid rules;
 - (e) investment in airport infrastructure unless related to environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact.

Article 5

Investment priorities

The ERDF shall support the following investment priorities within the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013, in accordance with the development needs and growth potential referred to in point (a)(i) of Article 15(1) of that Regulation and set out in the Partnership Agreement:

- (1) strengthening research, technological development and innovation by:
 - (a) enhancing research and innovation (R&I) infrastructure and capacities to develop R&I excellence, and promoting centres of competence, in particular those of European interest;
 - (b) promoting business investment in R&I, developing links and synergies between enterprises, research and development centres and the higher education sector, in particular promoting investment in product and service development, technology transfer, social innovation, eco-innovation, public service applications, demand stimulation, networking, clusters and open innovation through smart specialisation, and supporting technological and applied research, pilot lines, early product validation actions, advanced manufacturing capabilities and first production, in particular in key enabling technologies and diffusion of general purpose technologies;
- (2) enhancing access to, and use and quality of, ICT by:
 - (a) extending broadband deployment and the roll-out of high-speed networks and supporting the adoption of emerging technologies and networks for the digital economy;
 - (b) developing ICT products and services, e-commerce, and enhancing demand for ICT;
 - (c) strengthening ICT applications for e-government, e-learning, e-inclusion, e-culture and e-health;

- (3) enhancing the competitiveness of SMEs by:
 - (a) promoting entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms, including through business incubators;
 - (b) developing and implementing new business models for SMEs, in particular with regard to internationalisation;
 - (c) supporting the creation and the extension of advanced capacities for product and service development;
 - (d) supporting the capacity of SMEs to grow in regional, national and international markets, and to engage in innovation processes;
- (4) supporting the shift towards a low-carbon economy in all sectors by:
 - (a) promoting the production and distribution of energy derived from renewable sources;
 - (b) promoting energy efficiency and renewable energy use in enterprises;
 - (c) supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector;
 - (d) developing and implementing smart distribution systems that operate at low and medium voltage levels;
 - (e) promoting low-carbon strategies for all types of territories, in particular for urban areas, including the promotion of sustainable multimodal urban mobility and mitigation-relevant adaptation measures;
 - (f) promoting research and innovation in, and adoption of, low-carbon technologies;
 - (g) promoting the use of high-efficiency co-generation of heat and power based on useful heat demand;
- (5) promoting climate change adaptation, risk prevention and management by:
 - (a) supporting investment for adaptation to climate change, including ecosystem-based approaches;
 - (b) promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems;
- (6) preserving and protecting the environment and promoting resource efficiency by:
 - (a) investing in the waste sector to meet the requirements of the Union's environmental *acquis* and to address needs, identified by the Member States, for investment that goes beyond those requirements;
 - (b) investing in the water sector to meet the requirements of the Union's environmental *acquis* and to address needs, identified by the Member States, for investment that goes beyond those requirements;
 - (c) conserving, protecting, promoting and developing natural and cultural heritage;
 - (d) protecting and restoring biodiversity and soil and promoting ecosystem services, including through Natura 2000, and green infrastructure;

- (e) taking action to improve the urban environment, to revitalise cities, regenerate and decontaminate brownfield sites (including conversion areas), reduce air pollution and promote noise-reduction measures;
 - (f) promoting innovative technologies to improve environmental protection and resource efficiency in the waste sector, water sector and with regard to soil, or to reduce air pollution;
 - (g) supporting industrial transition towards a resource-efficient economy, promoting green growth, eco-innovation and environmental performance management in the public and private sectors;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures by:
- (a) supporting a multimodal Single European Transport Area by investing in the TEN-T;
 - (b) enhancing regional mobility by connecting secondary and tertiary nodes to TEN-T infrastructure, including multimodal nodes;
 - (c) developing and improving environmentally-friendly (including low-noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility;
 - (d) developing and rehabilitating comprehensive, high quality and interoperable railway systems, and promoting noise-reduction measures;
 - (e) improving energy efficiency and security of supply through the development of smart energy distribution, storage and transmission systems and through the integration of distributed generation from renewable sources;
- (8) promoting sustainable and quality employment and supporting labour mobility by:
- (a) supporting the development of business incubators and investment support for self-employment, micro-enterprises and business creation;
 - (b) supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources;
 - (c) supporting local development initiatives and aid for structures providing neighbourhood services to create jobs, where such actions are outside the scope of Regulation (EU) No 1304/2013 of the European Parliament and of the Council ⁽¹⁰⁾;
 - (d) investing in infrastructure for employment services;
- (9) promoting social inclusion, combating poverty and any discrimination, by:
- (a) investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services;
 - (b) providing support for physical, economic and social regeneration of deprived communities in urban and rural areas;
 - (c) providing support for social enterprises;

- (d) undertaking investment in the context of community-led local development strategies;
- (10) investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure;
- (11) enhancing institutional capacity of public authorities and stakeholders and efficient public administration through actions to strengthen the institutional capacity and the efficiency of public administrations and public services related to the implementation of the ERDF, and in support of actions under the ESF to strengthen the institutional capacity and the efficiency of public administration.

- **The ETC Regulation:**²⁷

Article 7

Investment priorities

1. The ERDF shall, within its scope as set out in Article 3 of Regulation (EU) No 1301/2013, contribute to the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013 through joint action under cross-border, transnational and interregional cooperation programmes. In addition to the investment priorities set out in Article 5 of Regulation (EU) No 1301/2013, the ERDF may also support the following investment priorities within the thematic objectives indicated for each European territorial cooperation component:
 - (a) under cross-border cooperation:
 - (i) promoting sustainable and quality employment and supporting labour mobility by integrating cross-border labour markets, including cross-border mobility, joint local employment initiatives, information and advisory services and joint training;
 - (ii) promoting social inclusion, combating poverty and any discrimination by promoting gender equality, equal opportunities, and the integration of communities across borders;
 - (iii) investing in education, training and vocational training for skills and lifelong learning by developing and implementing joint education, vocational training and training schemes;
 - (iv) enhancing institutional capacity of public authorities and stakeholders and efficient public administration by promoting legal and administrative cooperation and cooperation between citizens and institutions;
 - (b) under transnational cooperation: enhancing institutional capacity of public authorities and stakeholders and efficient public administration by developing and coordinating macro-regional and sea-basin strategies;
 - (c) (...);

²⁷ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347 of 20/12/2013, p. 259).

2. (...)

Programming

Article 8

Content, adoption and amendment of cooperation programmes

1. A cooperation programme shall consist of priority axes. Without prejudice to Article 59 of Regulation (EU) No 1303/2013, a priority axis shall correspond to a thematic objective and comprise one or more of the investment priorities of that thematic objective in line with Articles 6 and 7 of this Regulation. Where appropriate, and in order to increase its impact and effectiveness through a thematically coherent integrated approach to pursuing the objectives of the Union strategy for smart, sustainable and inclusive growth, a priority axis may, in duly justified cases, combine one or more complementary investment priorities from different thematic objectives in order to achieve the maximum contribution to that priority axis.

Article 12

Selection of operations

1. Operations under cooperation programmes shall be selected by a monitoring committee as referred to in Article 47 of Regulation (EU) No 1303/2013. That monitoring committee may set up a steering committee that acts under its responsibility for the selection of operations.
2. Operations selected under cross-border and transnational cooperation shall involve beneficiaries from at least two participating countries, at least one of which shall be from a Member State. An operation may be implemented in a single country, provided that cross-border or transnational impacts and benefits are identified.

(...).

3. Notwithstanding paragraph 2, an EGTC or other legal body established under the laws of one of the participating countries may be the sole beneficiary of an operation provided that it is set up by public authorities or bodies from at least two participating countries, in the case of cross-border and transnational cooperation, and from at least three participating countries, in the case of interregional cooperation.

A legal body that implements a financial instrument or a fund of funds, as applicable, may be the sole beneficiary of an operation without the application of the requirements for its composition set out in the first subparagraph.

4. Beneficiaries shall cooperate in the development and implementation of operations. In addition, they shall cooperate in the staffing or the financing of operations, or in both.

For operations in programmes set up between outermost regions and third countries or territories, the beneficiaries shall be required to cooperate only in two of the fields mentioned in the first subparagraph.

5. For each operation, the managing authority shall provide to the lead or sole beneficiary a document setting out the conditions for support of the operation, including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution.

Article 13
Beneficiaries

1. Where there are two or more beneficiaries of an operation in a cooperation programme, one of them shall be designated by all the beneficiaries as the lead beneficiary.
2. The lead beneficiary shall:
 - (a) lay down the arrangements with other beneficiaries in an agreement comprising provisions that, *inter alia*, guarantee the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid;
 - (b) assume responsibility for ensuring implementation of the entire operation;
 - (c) ensure that expenditure presented by all beneficiaries has been incurred in implementing the operation and corresponds to the activities agreed between all the beneficiaries, and is in accordance with the document provided by the managing authority pursuant to Article 12(5);
 - (d) ensure that the expenditure presented by other beneficiaries has been verified by a controller or controllers where this verification is not carried out by the managing authority pursuant to Article 23(3).
3. If not otherwise specified in the arrangements laid down in accordance with point (a) of paragraph 2 the lead beneficiary shall ensure that the other beneficiaries receive the total amount of the contribution from the funds as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce that amount for the other beneficiaries.
4. Lead beneficiaries shall be located in a Member State participating in the cooperation programme. However, Member States and third countries or territories participating in a cooperation programme may agree to the lead beneficiary being located in a third country or territory participating in that cooperation programme, provided that the managing authority is satisfied that the lead beneficiary can carry out the tasks set out in paragraphs 2 and 3 and that the requirements for management, verification and audit are fulfilled.
5. Sole beneficiaries shall be registered in a Member State participating in the cooperation programme. However, they may be registered in a Member State not participating in the programme, provided the conditions set out in Article 12(3) are satisfied.

Article 17
Technical assistance

The amount of the ERDF allocated to technical assistance shall be limited to 6 % of the total amount allocated to a cooperation programme. For programmes with a total

allocation not exceeding EUR 50 000 000 the amount of the ERDF allocated to technical assistance shall be limited to 7 % of the total amount allocated, but shall not be less than EUR 1 500 000 and not higher than EUR 3 000 000.

Article 18

Rules on eligibility of expenditure

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to lay down specific rules on eligibility of expenditure for cooperation programmes with regard to staff costs, office and administrative expenditure, travel and accommodation costs, external expertise and services costs, and equipment expenditure. The Commission shall notify the delegated acts, adopted in accordance with Article 29, simultaneously to the European Parliament and to the Council by 22 April 2014
2. Without prejudice to the eligibility rules laid down in, or on the basis of, Articles 65 to 71 of Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013, this Regulation or the delegated act referred to in paragraph 1 of this Article, the participating Member States in the monitoring committee, shall establish additional rules on eligibility of expenditure for the cooperation programme as a whole.
3. For matters not covered by eligibility rules laid down in, or on the basis of, Articles 65 to 71 of Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013, in the delegated act referred to in paragraph 1 of this Article or in rules established jointly by the participating Member States in accordance with paragraph 2 of this Article, the national rules of the Member State in which the expenditure is incurred shall apply.

Article 19

Staff costs

Staff costs of an operation may be calculated at a flat rate of up to 20 % of the direct costs other than the staff costs of that operation.

Article 20

Eligibility of operations in cooperation programmes depending on location

1. Operations under cooperation programmes, subject to the derogations referred to in paragraphs 2 and 3, shall be located in the part of the programme area comprising Union territory (the 'Union part of the programme area').
2. The managing authority may accept that all or part of an operation is implemented outside the Union part of the programme area, provided that all the following conditions are satisfied:
 - (a) the operation is for the benefit of the programme area;
 - (b) the total amount allocated under the cooperation programme to operations located outside the Union part of the programme area does not exceed 20 % of the support from the ERDF at programme level, or 30 % in the case of cooperation programmes for which the Union part of the programme area consists of outermost regions;

- (c) the obligations of the managing and audit authorities in relation to management, control and audit concerning the operation are fulfilled by the cooperation programme authorities, or they enter into agreements with authorities in the Member State or third country or territory in which the operation is implemented.
- 3. For operations concerning technical assistance or promotional activities and capacity-building, expenditure may be incurred outside the Union part of the programme area provided that the conditions in points (a) and (c) of paragraph 2 are satisfied.

Article 23

Functions of the managing authority

- 1. Without prejudice to paragraph 4 of this Article, the managing authority of a cooperation programme shall carry out the functions laid down in Article 125 of Regulation (EU) No 1303/2013.
- 2. The managing authority, after consultation with the Member States and any third countries participating in a cooperation programme, shall set up a joint secretariat.

The joint secretariat shall assist the managing authority and the monitoring committee in carrying out their respective functions. The joint secretariat shall also provide information to potential beneficiaries about funding opportunities under cooperation programmes and shall assist beneficiaries in the implementation of operations.

- 3. Where the managing authority is an EGTC, verifications under point (a) of Article 125(4) of Regulation (EU) No 1303/2013 shall be carried out by or under the responsibility of the managing authority at least for those Member States and third countries or territories from which there are members participating in the EGTC.
- 4. Where the managing authority does not carry out verifications under point (a) of Article 125(4) of Regulation (EU) No 1303/2013 throughout the whole programme area, or where the verifications are not carried out by or under the responsibility of the managing authority for those Member States and third countries or territories from which there are members participating in the EGTC in accordance with paragraph 3, each Member State or, where it has accepted the invitation to participate in the cooperation programme, each third country or territory shall designate the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory (the 'controller(s)').

The controllers referred to in the first subparagraph may be the same bodies responsible for carrying out such verifications for the operational programmes under the Investment for growth and jobs goal or, in the case of third countries, for carrying out comparable verifications under external policy instruments of the Union.

The managing authority shall satisfy itself that the expenditure of each beneficiary participating in an operation has been verified by a designated controller.

Each Member State shall ensure that the expenditure of a beneficiary can be verified within a period of three months of the submission of the documents by the beneficiary concerned.

Each Member State or, where it has accepted the invitation to participate in the cooperation programme, each third country shall be responsible for verifications carried out on its territory.

5. Where the delivery of co-financed products or services can be verified only in respect of an entire operation, the verification shall be performed by the managing authority or by the controller of the Member State where the lead beneficiary is located.

- **The EGTC Regulation:**²⁸

Article 3

Composition of an EGTC

1. An EGTC shall be made up of members, within the limits of their competences under national law, belonging to one or more of the following categories:
 - (a) Member States or authorities at national level;
 - (b) regional authorities;
 - (c) local authorities;
 - (d) public undertakings within the meaning of point (b) of Article 2(1) of Directive 2004/17/EC of the European Parliament and of the Council ⁽⁹⁾ or bodies governed by public law within the meaning of the second subparagraph of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council ⁽¹⁰⁾;
 - (e) undertakings entrusted with operations of services of general economic interest in compliance with applicable Union and national law;
 - (f) national, regional or local authorities, or bodies or public undertakings, equivalent to those referred to under point (d), from third countries, subject to the conditions laid down in Article 3a.

Associations consisting of bodies belonging to one or more of these categories may also be members.

2. An EGTC shall be made up of members located on the territory of at least two Member States, except as provided for in Article 3a(2) and (5).

Article 3a

Accession of members from third countries or overseas countries or territories (OCTs)

²⁸ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210 of 31/07/2006, p. 19), as amended by Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings (OJ L 347 of 20/12/2013, p. 303)

1. In accordance with Article 4(3a), an EGTC may be made up of members located on the territory of at least two Member States and of one or more third countries neighbouring at least one of those Member States, including its outermost regions, where those Member States and third countries jointly carry out territorial cooperation actions or implement programmes supported by the Union.

For the purposes of this Regulation, a third country or an OCT shall be considered to be neighbouring a Member State, including its outermost regions, where the third country or the OCT and that Member State share a common land border or where both the third country or OCT and the Member State are eligible under a joint maritime cross-border or transnational programme under the European territorial cooperation goal, or are eligible under another cross-border, sea-crossing or sea-basin cooperation programme, including where they are separated by international waters.

2. An EGTC may be made up of members located on the territory of only one Member State and of one or more third countries neighbouring that Member State, including its outermost regions, where the Member State concerned considers that EGTC to be consistent with the scope of its territorial cooperation in the context of cross-border or transnational cooperation or bilateral relations with the third countries concerned.
3. For the purposes of paragraphs 1 and 2, third countries neighbouring a Member State, including its outermost regions, include maritime borders between the countries concerned.
4. In accordance with Article 4a and subject to the conditions set out in paragraph 1 of this Article, an EGTC may also be made up of members located on the territory of at least two Member States, including their outermost regions, and of one or more OCTs, with or without members from one or more third countries.
5. In accordance with Article 4a and subject to the conditions set out in paragraph 2 of this Article, an EGTC may also be made up of members located on the territory of only one Member State, including its outermost regions, and of one or more OCTs, with or without members from one or more third countries.
6. An EGTC shall not be set up only between members from a Member State and one or more OCTs linked to that same Member State.

Article 4a

Participation of members from an OCT

In the case of an EGTC with a prospective member from an OCT, the Member State to which the OCT is linked shall satisfy itself that the conditions of Article 3a are fulfilled and, taking into account its relationship with the OCT, either:

- (a) approve the prospective member's participation in accordance with Article 4(3);
or
- (b) confirm in writing to the Member State where the proposed registered office of the EGTC is to be located that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in this Regulation.

Annex II

IDENTIFICATION OF JOINT PROJECTS

Part I - EDF

Identification of EDF-ACP projects

The preparation of cooperation projects is divided into two stages – identification and formulation – which are followed by funding and implementation. The decision-making process on the funding of a project or programme depends on its having been identified and formulated and having undergone technical, economic and financial viability checks, on the drafting and approval of a funding proposal/action *fiche* and on a funding decision taken by the European Commission. Once the decision has been made, funds – referred to as a ‘global financial commitment’ – are reserved for the project or programme.

For each type of cooperation, the implementation of each of these two stages is explained in detail in dedicated manuals and guidelines, which are accessible on the EuropeAid Intranet site.

During the identification stage, EuropeAid initiates the requisite preparatory studies and manages the technical, contractual and financial aspects of the process. The relevant programme or project proposals that have been selected at the identification stage are developed into operational projects. The objective at this stage is to examine the feasibility and viability of projects.

The studies are generally conducted by external contractors. Beneficiaries and other interested parties help to produce the detailed description of the action. This is the stage at which the detailed logical framework is constructed, along with indicators, the implementation schedule and timetables for activities and resource input. These various elements then serve as the basis for the creation of an action *fiche*.

Formulation of EDF-ACP projects

The formulation stage normally encompasses similar tasks to those of the identification stage. It comprises:

- a feasibility study, for which terms of reference are drawn up,
- a logical framework, which defines the indicators and the method to be used to monitor them, and an estimate of the resources required and the associated expenses,
- an implementation schedule, containing global specifications for the various stages of the project and indicating the responsible institutional organisations as well as defining the responsibility of each participating player,
- an action *fiche* based on the criteria established during the assessment mission,
- an analysis of the document, conducted by the Quality Support Group at its base.

Specific provisions concerning the identification state of EDF-OCT programmes

The territorial or regional authorising officer and the EU delegation, acting in tandem with EuropeAid (the OCT Task Force and the competent geographical directorate) and on the basis of a proposal from the territorial or regional authorising officer (TAO or RAO), share responsibility for the preparation of the draft identification *fiche*. That document is the product of consultations conducted by the TAO or RAO with the widest possible range of stakeholders.

Following these consultations, the TAO or RAO submits the draft identification *fiche*, to the EU delegation, using the applicable models.

The EU delegation examines the draft identification *fiche* and forwards it to the OCT Task Force and the competent geographical directorate of EuropeAid, which assess it and, where appropriate, request further information and/or amendments. The EU delegation, in cooperation with the TAO or RAO, provides the requisite information.

The geographical directorate of EuropeAid, acting in tandem with the OCT Task Force, finalises the draft identification *fiche* and forwards it to Quality Support Group I for appraisal.

Formulation stage for EDF-OCT programmes

The formulation stage consists in the creation of an action *fiche*, which describes the planned actions in detail and sets out the implementation timetable and the financial plan. Once the identification *fiche* has been approved, the territorial authorising officer submits a draft action *fiche* to the EU delegation. The delegation examines it and, if the case file is deemed complete, forwards it to the competent geographical directorate and OCT Task Force of EuropeAid, which assess it and may, if necessary, request further information and/or amendments. Where further information and/or amendments are needed, they are provided by the EU delegation, acting in cooperation with the TAO or RAO.

The geographical directorate of EuropeAid, acting in collaboration with the OCT Task Force, finalises the draft action *fiche* and forwards it for examination by Quality Support Group II.

Part II - ERDF

Identification of ERDF projects

In cooperation projects, the identification process is based on calls for projects, which are made, on average, at intervals of 18 months. The calls for projects relate to one or more thematic objectives.

Depending on the programme, project proposals can also be submitted direct to a programming committee without going through a call for projects.

The choice of identification method – calls for projects, direct submission or a combination of both – results from a decision taken by the monitoring committee within the scope of its rules of procedure. There is no regulatory obligation to arrange calls for projects.

Requests for project funding are examined by a joint secretariat (JS) then forwarded to the monitoring committee, which selects the proposed projects and decides on the amount of ERDF grant to be awarded.

This selection may be made by a selection board acting under the responsibility of the monitoring committee or by the monitoring committee itself. During the selection process, the selection board or monitoring committee applies the selection criteria laid down by the monitoring committee.

As a rule, each project has at least two beneficiaries, of which at least one is located in a Member State of the EU and at least one in an ACP country or an OCT. One of the beneficiaries is the lead beneficiary, the project coordinator. One special characteristic of the lead beneficiary is that it receives the total amount of public aid and is responsible for distributing it among the beneficiaries in accordance with the project financing plan. In certain circumstances the lead beneficiary may be located in a third country participating in the cooperation programme.

An operation may be implemented in a single country, provided that it benefits the area covered by the programme.

The beneficiaries must cooperate in at least two of the following four fields: development, implementation, staffing and financing of operations.

Annex III

FLOW CHART ON EDF-ERDF COOPERATION PROJECTS

First stage: programming

(Common to all forms of co-financing)

1. A consultation meeting takes place of competent authorities, particularly the ERDF managing authority and the EDF national and/or territorial and/or regional authorising officers.
2. In the light of the outcome of this meeting and in accordance with the provisions of the EDF and ERDF regulations, a coordination platform is established in each area (the Caribbean, the Indian Ocean and West Africa) by the competent authorities. This platform meets once or twice a year.
3. EDF and/or ERDF resources are identified and made available for joint cooperation projects.
4. The platform forwards proposals to the EDF territorial, national or regional authorising officers and to the ERDF monitoring committee for validation and approval.
5. Projects and programmes are examined and funding decisions taken by the assessment services of the EDF and ERDF.

During the implementation stage:

The platform monitors these proposals and there are periodic reviews of progress made in the coordination of programmes.

Second stage: implementation

Parallel co-financing

1. A proposed action identified by the platform might be the subject of separate financial inputs from the EDF and the ERDF. A project is divided into at least two clearly identifiable operations or components, each of which is financed from a different funding source.
2. A joint steering committee is established to monitor the action.
3. On the ERDF side, the funding is implemented by the managing authority in accordance with the provisions that apply to the ERDF.
4. The EDF funds are managed in accordance with the provisions that apply to the EDF, following the adoption of a funding decision and the signing of a financing agreement, calls for proposals or, where appropriate, an IMDA (indirect management

delegation agreement).

Joint co-financing: delegation of the management of EDF resources (for ACP countries or OCTs) to the ERDF managing authority

Prior condition: *The ERDF managing authority must undergo an audit for compliance with the pillars of good financial practice or an equivalent assessment before it can administer EDF resources.*

1. A proposed action identified by the EDF-ERDF dialogue platform might be the subject of joint EDF-EDRF financing, EDF resources being placed at the disposal of the ERDF managing authority.
2. One or more IMDAs are concluded between the Commission and the ERDF managing authority.
3. Implementation is governed by the ERDF rules.

Annex IV

LIST OF ABBREVIATIONS

ACP	African, Caribbean and Pacific
EDF	European Development Fund
EGTC	European grouping of territorial cooperation
ERDF	European Regional Development Fund
ESI funds	European structural and investment funds
ETC	European territorial cooperation
IMDA	Indirect management delegation agreement
IOC	Indian Ocean Commission
JS	Joint secretariat (TCP)
NIP	National indicative programme
OCT	Overseas country or territory
OR	Outermost region
RAO	Regional authorising officer
RIP	Regional indicative programme
TAO	Territorial authorising officer
TCP	Territorial cooperation programme