

# EXTERNAL ACTION FINANCIAL INSTRUMENTS AND EUROPEAN DEVELOPMENT FUND

## RULES ON PARTICIPATION IN PROCUREMENT PROCEDURES AND GRANTS

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<b>Part I: 2014-2020 instruments for external action</b>
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1) **Eligible countries for DCI, ENI, PI, Greenland and INSC** (CIR - Article 9)

Participation in the award of procurement contracts, grants and other award procedures for actions financed under **DCI, ENI, PI, Greenland and INSC** for the benefit of third parties shall be open to all natural persons who are nationals of, and legal persons that are effectively established in, one of the following eligible countries/territories/beneficiaries:

- (a) *EU Member States* ([appendix 1](#))
- (b) *IPA II beneficiaries* (listed in the Annex I of IPA II Instrument) ([appendix 2](#))
- (c) *European Economic Area* ([appendix 3](#))
- (d) Developing countries and territories, (included in the OECD-DAC list of ODA recipients<sup>1</sup>), which are not members of the G20 group<sup>2</sup>:
  - (i) *Least Developed Countries* (LDCs) ([appendix 4](#))
  - (ii) *Other Low Income Countries* ([appendix 5](#))
  - (iii) *Lower Middle Income Countries and Territories* ([appendix 6](#))
  - (iv) *Upper Middle Income Countries and Territories* ([appendix 7](#))
- (e) *Overseas Countries and Territories* (OCTs) covered by Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ([appendix 8](#))
- (f) *Member States of the OECD* ([appendix 9](#)) are also eligible when contracts are exclusively implemented in a Least Developed Country<sup>3</sup> or in a Highly Indebted Poor Country (HIPC)<sup>4</sup>.
- (g)
  - (i) *Developing countries, as included in the list of ODA recipients, which are members of the G20 group* ([appendix 10](#));
  - (ii) *any other countries and territories* (ie. all countries of the world).

The entities of these countries can only participate in procedures, where the country itself is a beneficiary of the action. This can happen in particular, in thematic programmes,

<sup>1</sup>Please check the DAC List of ODA Recipients, effective for reporting on 2018, 2019 and 2020 flows.

<sup>2</sup>Non eligible G20 Members developing countries are: India, Indonesia, Argentina, Brazil, China, Mexico, South Africa. South Africa will be eligible when the action will be co-financed with the EDF. *Turkey* is also a developing country (upper middle income) G20 Member but is eligible as a beneficiary listed in the Annex I of the IPA II.

<sup>3</sup>See [appendix 4](#) for the full list of LDCs.

<sup>4</sup>HIPCs are: Afghanistan, Benin, Bolivia, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Ethiopia, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nicaragua, Niger, Republic of Congo, Rwanda, São Tomé & Príncipe, Senegal, Sierra Leone, Tanzania, The Gambia, Togo, Uganda, Zambia.

programmes financed under the PI or where the success of a regional programme necessitates the participation of the said country.

- (h) any countries for which *reciprocal access* to external assistance is established by the Commission.

Currently there are no such countries.

- (i) **for ENI Instrument only:** in addition to the countries/territories/beneficiaries mentioned above that are eligible for ENI, the following countries/territories are also considered eligible for contracts financed under the ENI Instrument:

- (i) *Partner countries or territories covered by the Instrument*(annex I of the ENI Instrument) ([appendix 11](#));

- (ii) in the case of relevant procedures taking place in the context of the multi-country and cross-border co-operation programmes in which it<sup>5</sup> participates:*the Russian Federation.*

- (j) **For DCI, ENI, PI, Greenland and INSC:** where an agreement on widening the market for procurement of goods or services to which the Union is party applies, the procurement procedures for contracts financed by the budget shall also be open to natural and legal persons established in a third country other than those specified in the basic instruments governing the cooperation sector concerned, under the conditions laid down in that agreement.

## 2) **for IcSP and EIDHR(CIR –Article 11)**

*All countries* are eligible for participation in contracts financed under these Instruments that are fully untied without prejudice to the limitations inherent to the nature and the objectives of the action.

## 3) **for IPA II (CIR- Article 10)**

Participation in the award of procurement contracts, grants and other award procedures for actions financed under the CIR **for IPA II** for the benefit of third parties shall be open to all natural persons who are nationals of, and legal persons who are effectively established in, one of the following eligible countries/ territories/beneficiaries:

- (a) *EU Member States*([appendix 1](#))

- (b) *Beneficiaries listed in the Annex I of the IPA II* ([appendix 2](#))

- (c) *European Economic Area*([appendix 3](#))

- (d) *Partner countries and territories covered by ENI Instrument*(annex I of ENI Instrument) ([appendix 11](#))

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<sup>5</sup>In line with the upcoming corrigendum of the CIR, regarding Article 9(1)(b) (OJ L 316, 4.11.2014, p. 69) (FR).

- (e) countries for which Commission has adopted a decision approving the request for *reciprocal access* to external assistance.

Currently there are no such countries.

- (f) where an agreement on widening the market for procurement of goods or services to which the Union is party applies, the procurement procedures for contracts financed by the budget shall also be open to natural and legal persons established in a third country other than those specified in the basic instruments governing the cooperation sector concerned, under the conditions laid down in that agreement.

**Part II: Rules on nationality and origin for public procurement, grants and other award procedures financed under the ACP-EC Partnership Agreement, laid down in Annex IV to the latter Agreement as revised by Decision No 1/2014 of the ACP-EU Council of Ministers of 20 June 2014 (2014/428/EU)**

Participation in procedures for the award of procurement contracts or grants financed from the multi-annual financial framework of cooperation under the ACP-EC Partnership Agreement is open to all natural persons who are nationals of, or legal persons who are effectively established in:

- (a) *an ACP State* ([appendix 12](#));
- (b) *a Member State of the European Union* ([appendix 1](#));
- (c) *Beneficiaries of the Instrument for pre-accession assistance* ([appendix 2](#));
- (d) *a Member State of the European Economic Area* ([appendix 3](#));
- (e) *Overseas Countries and Territories* ([appendix 8](#));
- (f) developing countries and territories, as included in the OECD-DAC list of ODA Recipients, which are not members of the G20 group, without prejudice to the status of the *Republic of South Africa*, as governed by Protocol 3 of the partnership Agreement ([appendices 4, 5, 6 and 7](#));
- (g) countries for which Commission has adopted a decision approving the request for *reciprocal access* to external assistance in agreement with ACP countries;

Currently there are no such countries.

- (h) *a Member State of the OECD* ([appendix 9](#)), in the case of contracts exclusively implemented in a Least Developed Country (LDC)<sup>6</sup> or a Highly Indebted Poor Country (HIPC)<sup>7</sup>.

<sup>6</sup>See [appendix 4](#) for the full list of LDCs.

<sup>7</sup>See full list of HIPCs in [footnote 4](#)

**Part III: rules on nationality and origin for public procurement, grants and other award procedures for instruments for external action financed under the Overseas Association Decision.**

From the publication of the 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') the following rules are applicable to calls financed under the financial assistance of the EDF:

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

- (a) *Member States of the European Union*([appendix 1](#))
- (b) *candidate countries and potential candidates*as recognised by the Union([appendix 2](#))
- (c) *members of the European Economic Area*([appendix 3](#))
- (d) *OCTs*([appendix 8](#))
- (e) developing countries and territories, as included in the OECD-DAC list of ODA Recipients, which are not members of the G-20 group([appendices 4, 5, 6 and 7](#))
- (f) 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;

Currently there are no such countries.

- (g) *Member States of the OECD*([appendix 9](#)), in the case of contracts exclusively implemented in a Least Developed Country<sup>8</sup>.

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<sup>8</sup>See [appendix 4](#) for the full list of LDCs.

## APPENDICES

### **APPENDIX 1 : EU MEMBER STATES**

Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom<sup>9</sup>.

### **APPENDIX 2 : IPA II BENEFICIARIES**

Albania, Bosnia and Herzegovina, Kosovo\*, Montenegro, Serbia, Turkey, Republic of North Macedonia.

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

### **APPENDIX 3 : EUROPEAN ECONOMIC AREA**

(only non-EU MS are mentioned) Iceland, Lichtenstein, Norway.

### **APPENDIX 4 : LEAST DEVELOPED COUNTRIES**

Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Sao Tome & Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Sudan, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, Zambia.

### **APPENDIX 5: OTHER LOW INCOME COUNTRIES**

Democratic People's Republic of Korea, Zimbabwe.

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<sup>9</sup>The United Kingdom ceased to be an EU Member State on the 31 of January 2020. Pursuant to the Withdrawal Agreement concluded between the EU and the UK, references to the eligibility of 'Member States' for participation in programmes under the current 2014-2020 MFF and the EDFs also cover the United Kingdom (Article 127(6), Article 137 and Article 152(1) Withdrawal Agreement).

## **APPENDIX 6 : LOWER MIDDLE INCOME COUNTRIES AND TERRITORIES**

Armenia, Bolivia, Cabo Verde, Cameroon, Congo, Côte d'Ivoire, Egypt, El Salvador, Eswatini, Georgia, Ghana, Guatemala, Honduras, India, Indonesia, Jordan, Kenya, Kosovo, Kyrgyzstan, Micronesia, Moldova, Mongolia, Morocco, Nicaragua, Nigeria, Pakistan, Papua New Guinea, Philippines, Sri Lanka, Syrian Arab Republic, Tajikistan, Tokelau, Tunisia, Ukraine, Uzbekistan, Vietnam, West Bank and Gaza Strip.

## **APPENDIX 7 : UPPER MIDDLE INCOME COUNTRIES AND TERRITORIES**

Albania, Algeria, Antigua and Barbuda, Argentina, Azerbaijan, Belarus, Belize, Bosnia and Herzegovina, Botswana, Brazil, China (People's Republic of), Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, Fiji, Republic of North Macedonia, Gabon, Grenada, Guyana, Iran, Iraq, Jamaica, Kazakhstan, Lebanon, Libya, Malaysia, Maldives, Marshall Islands, Mauritius, Mexico, Montenegro, Montserrat, Namibia, Nauru, Niue, Palau, Panama, Paraguay, Peru, Saint Helena, Saint Lucia, Saint Vincent & the Grenadines, Samoa, Serbia, South-Africa, Suriname, Thailand, Tonga, Turkey, Turkmenistan, Venezuela, Wallis and Futuna.

## **APPENDIX 8 : OVERSEAS COUNTRIES AND TERRITORIES<sup>10</sup>**

Anguilla (UK), Aruba (NL), Bermuda (UK), Bonaire (NL), British Antarctic Territory (UK), British Indian Ocean Territory (UK), British Virgin Islands (UK), Cayman Islands (UK), Curaçao (NL), Falkland Islands (UK), French Polynesia (FR), French Southern and Antarctic Territories (FR), Greenland (DK), Montserrat (UK), New Caledonia and Dependencies (FR), Pitcairn (UK), Saba (NL), Saint Barthelemy (FR), Saint Helena, Ascension and Tristan da Cunha (UK), Sint Eustatius (NL), Sint Maarten (NL), South Georgia and South Sandwich Islands (UK), St. Pierre and Miquelon (FR), Turks and Caicos (UK), Wallis and Futuna Islands (FR).

## **APPENDIX 9 : OECD MEMBER STATES**

Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

Australia, Canada, Chile, Iceland, Israel, Japan, Korea, Mexico, New Zealand, Norway, Switzerland, Turkey, United States of America.

<sup>10</sup>OCTs listed in Annex II to the TFEU having special relations with the United Kingdom are covered by the scope of the EU-UK Withdrawal Agreement. Therefore, pursuant to the EU-UK Withdrawal Agreement, Union law as referred to in Articles 137 WA therefore includes the rules on financing of OCTs and eligibility under the current 2014-2020 MFF and the EDFs (Article 3(1)(e), Article 127(6), Article 137 and Article 152(1),(3) Withdrawal Agreement).

## **APPENDIX 10 : G20 MEMBER DEVELOPING COUNTRIES**

Argentina, Brazil, China, India, Indonesia, Mexico, South-Africa, Turkey.

## **APPENDIX 11 : ENI PARTNER COUNTRIES AND TERRITORIES**

Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Republic of Moldova, Morocco, occupied Palestinian territory (oPt), Syria, Tunisia, Ukraine.

## **APPENDIX 12 : ACP COUNTRIES\***

### **Africa:**

South Africa\*\*, Angola, Benin, Botswana, Burkina Faso, Burundi, Central African Republic, Cameroon, Cabo Verde, Chad, Comoros Islands, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Eritrea, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Uganda, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, , Tanzania, Togo, Zambia and Zimbabwe.

### **Caribbean:**

Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Surinam, Trinidad and Tobago.

### **Pacific:**

Cook Islands, East Timor, Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, Niue, Palau, Papua New Guinea, the Solomon Islands, Western Samoa, Tonga, Tuvalu, Vanuatu.

\*\* While natural and legal persons established in South Africa are eligible to participate in procedures financed by the 10<sup>th</sup>/ 11<sup>th</sup> EDF, South Africa cannot be a beneficiary of contracts financed by the 10<sup>th</sup>/11<sup>th</sup> EDF.

\* Cotonou Partnership Agreement of 23 June 2000 (as amended by the provisional application of Decision No 1/2000 of the ACP-EC Council of Ministers of 27 July 2000, Decision No 1/2000 of the ACP-EC customs cooperation committee of 18 October 2000, Decision No 1/2001 of the ACP-EC customs cooperation committee of 20 April 2001, Decision No 2/2001 of the ACP-EC customs cooperation committee of 20 April 2001, Decision No 3/2001 of the ACP-EC customs cooperation committee of 10 May 2001, Decision No 4/2001 of the ACP-EC customs cooperation committee of 27 June 2001, Decision No 5/2001 of the ACP-EC customs cooperation committee of 7 December 2001, Decision No 2/2002 of the ACP-EC customs cooperation committee of 28 October 2002, Decision No 1/2003 of the ACP-EC Council of Ministers of 16 May 2003, Council Decision (EC) of



19 December 2002, Decision No 1/2004 of the ACP-EC Council of Ministers of 6 May 2004, Decision No 2/2004 of the ACP-EC customs cooperation committee of 30 June 2004 and Decision No 4/2005 of the ACP-EC customs cooperation committee of 13 April 2005).