

Federal Act on Development Cooperation (2002), including its Amendment (2003)

Part 1

Definitions and principles

Section 1.

(1) The Federal Government, in the context of its international development policy, shall perform development cooperation.

(2) Development policy shall comprise any measure by the Federal Government that aims at promoting sustainable economic and social development of the developing countries or preventing any impairment to such a development. In particular, it comprises development cooperation.

(3) Austria's development policy shall primarily pursue the following objectives:

1. combating poverty in the developing countries by promoting economic and social development that is aimed at a process of sustainable economic activity and economic growth combined with structural, institutional and social change;
2. ensuring peace and human security, especially by promoting democracy, rule of law, human rights and good governance; as well as
3. preserving the environment and protecting natural resources that form the basis for sustainable development.

(4) Austria's development policy is primarily based on the following principles. Any measure adopted shall take into consideration

1. the aims of the respective governments and populations in the developing countries, with regard to the speed and kind of development process in question and their right to choose their own way of development;
2. the integration of measures into the social environment, with specific regard being paid to cultural aspects and use of appropriate technology,
3. equality between women and men as well as,
4. in a suitable manner, the needs of children and of people with disabilities.

(5) The Federal Government, in the fields of policy it pursues that may have effects on developing countries, shall take into consideration the objectives and principles of development policy.

Section 2.

(1) Development cooperation as defined by this Federal Act comprises any measure taken by the Federal Government that is part of Official Development Assistance and reported to the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD). These measures may be carried out by the ADA (Section 6) in its own name and for its own account.

(2) Measures according to Subsection 1 in particular include

- a. projects implemented by the Federal Government;
- b. promotion, by means of grants in the form of contributions in kind and financial contributions or concessional loans, of projects implemented by organisations as defined by Section 3, Subsection 2 that comply with the objectives and principles of Section 1, Subsections 3 and 4.

(3) Projects according to Subsection 2 in particular include

- a) planning and implementation of projects of defined kinds and dimensions in developing countries;
- b) education and training of, as well as assistance to, persons from developing countries;
- c) cultural and scientific cooperation, exchange of information and transfer of technology;
- d) training and employment of development workers and experts;
- e) consultancy, including drawing up of plans and studies necessary for this purpose;
- f) measures to promote cooperation with private enterprises;
- g) information, education, cultural and public relations activities on development policy in Austria,
- h) support of a sustainable economic, social and ecological development in the developing countries in accordance with the objectives of the Austrian development policy as laid down in Section 1 Subsection 3, by using synergies with trade and industry as well as development organisations,
- i) participation in multilateral development cooperation projects.

Section 3.

(1) Developing countries as defined by this Federal Act shall be those countries and regions that are listed in the Appendixes to the Three-Year Programmes on Austria's Development Policy (Section 9). Selection of those countries and regions shall be based on the list of recipients of development assistance compiled by the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD).

(2) Development organisations as defined by this Federal Act shall be non-profit making legal entities under private law if their objectives laid down in their statutes and their actual operations include development cooperation. Other institutions, in particular of the legally recognised churches and religious communities, the Provincial and Local Governments and other corporations under public law as well as enterprises, if they perform development cooperation as defined by Section 2, Subsection 3, shall be treated as equivalent to development organisations.

Part II

Chapter 1

General provisions

Section 4.

(1) The Federal Government, in consideration of the Three-Year Programme (Section 9) may perform development cooperation as defined by Section 2, Subsection 2 either directly, on its own, or in concert with other subjects of international law, provided that it is ensured that the contributions made available by the Federal Government are used as defined by this Federal Act.

(2) When executing development cooperation, the Federal Government shall primarily use the administration and project implementation capacities of the developing countries and thus strengthen the structures of civil society and public structures in these countries. In addition, in providing its contributions the Federal Government shall endeavour to call upon organisations as defined by Section 3, Subsection 2 for the purpose of implementation provided that, depending on the kinds and dimensions of the contributions made and in consideration of the capacities of the developing countries and organisations as defined by Section 3, Subsection 2, this is appropriate and conducive to meeting the objectives of said contributions.

(3) The conditions under which contributions to development cooperation in accordance with Subsection 1 are made shall be laid down in each individual case in the form of either interdepartmental agreements or agreements under private law.

Section 5.

(1) The Federal Government, for the purpose of implementing development cooperation projects, may contract out projects and grant funds – either on initiative by applicants for funds or as a result of invitations to submit applications for funding.

(2) The Federal Government, in the context of the policy-issue-related or geographical priorities of the Three-Year Programme, may resort to contracting out for the purpose of preparing, implementing or evaluating development cooperation projects.

(3) Funding based on initiative by organisations as defined by Section 3, Subsection 2 shall be in accordance with the objectives and principles of Section 1, Subsections 3 and 4. The applicants for funds shall also provide contributions. Only organisations as defined by Section 3, Subsection 2 shall be eligible for application for funding.

(4) The ADA (Section 6) may invite organisations as defined by Section 3, Subsection 2 to submit proposals for the implementation of projects in the context of the policy-issue-related and geographical priorities of the Three-Year Programme. Invitations to submit such applications for funding shall be made known in an appropriate way.

Chapter 2

Austrian Development Agency Limited Company

(Austrian Development Agency, ADA)

Formation of the ADA

Section 6.

(1) The Austrian Development Agency Limited Company shall be formed under the legal name Austrian Development Agency, hereinafter referred to as ADA.

(2) The headquarters of the ADA shall be in Vienna; the financial year shall be the calendar year. The ADA shall have the right to use the federal coat of arms.

(3) The ADA shall be formed as at 1 January 2004, to the exclusion of Section 2 Subsection 1 of the Act on Limited Companies of 6 March 1906 (Limited Companies Act), Collection of Imperial Acts RGBI. No. 58/1906 as amended. The provisions of the Limited Companies Act shall apply to the ADA as far as this Federal Act does not provide otherwise. The Management of the ADA, without undue delay, shall apply for entry in the commercial register and the competent court shall enter the company in the commercial register. Section 5 Subsection 2 of the Limited Companies Act shall not apply. As far as this Act does not contain the information required in Section 4 of the Limited Companies Act, it shall be included in the memorandum of formation.

(4) The Federal Government shall be the sole founder and owner of the ADA and, for the purposes of this Chapter, including exercising the rights of shareholders and management of share interests, it shall be represented by the Federal Minister for Foreign Affairs. A sale of shares shall not be admissible.

(5) The memorandum of formation shall be issued by the Federal Minister for Foreign Affairs and presented when applying for entry in the commercial register of the company. Any necessary modifications of the memorandum shall be made accordingly.

(6) The share capital of the ADA shall be EUR 70 000 and shall be paid up fully after application for entry in the commercial register of the company. In addition the Federal Government shall contribute to the capital of the ADA the amount of EUR 910 000 in cash.

(7) Any statements, including the memorandum of formation of the ADA, decisions and official confirmations with regard to the ADA shall not require authentication if the seal of office has been affixed.

Transfer of assets and valuation

Section 7.

(1) Those movable assets that have so far been owned by the Federal Government and managed and used principally by the Federal Ministry for Foreign Affairs, and which are necessary for fulfilling the functions of the ADA, including any pertinent rights, legal relationships, obligations, accounts receivable and debts, as at 1 January 2004 shall pass into the ownership of the ADA, by universal succession. The universal succession shall be entered in the commercial register. The non-cash capital contribution shall be effected without any increase of the share capital, and the equivalent shall be transferred to an untied capital reserve..

(2) Valuations of the assets transferred shall be entered in the opening balance sheet, which shall be prepared within six months after the point of time when this Federal Act has entered into force. The valuations in the opening balance sheet do not have to be linked to acquisition cost and cost of production. The valuations of technical equipment and assets shall be effected according to possibilities of utilisation in consideration of the current state of the art.

(3) The opening balance sheet shall include an appendix which gives a summary of those assets and liabilities that have been transferred from the Federal Ministry for Foreign Affairs to the ADA that may be allocated to it in a transparent way and that are regarded as necessary for operation, and which makes it possible to identify the positions of creditors and debtors that are transferred. In addition said appendix shall include all and any assets, legal relationships and debts that are transferred from the Federal Ministry for Foreign Affairs to the ADA and cannot be seen from the balance sheet. The transfer of assets shall be subject to those provisions of company law that concern the formation of companies with non-cash capital contribution pursuant to Section 6a Subsection 4 of the Limited Companies Act, with the exception of the audit reports of the management and the supervisory board pursuant to Section 25 Subsection 1 of the Company Act of 1965, Collection of Federal Acts BGBl. No. 98/1965 as amended. The opening balance sheet shall be audited and confirmed by a court-appointed auditor; the audit report shall be regarded as the formation report pursuant to Section 25 Subsection 2(4) of the Company Act of 1965. The Management shall have published in Wiener Zeitung the opening balance sheet pursuant to Section 10 of the Commercial Code, Collection of German Acts dRGBL. 1897 p. 219 as amended, as well as the annual financial statement, and shall establish confirmation at the commercial register court that publication has been arranged pursuant to Section 277 Subsection 2 of the Commercial Code.

The functions of the ADA

Section 8.

(1) The function of the ADA shall be to prepare and implement measures of development cooperation, with particular attention being paid to their effectiveness in developing countries. The ADA shall fulfil its functions in coordination with other institutions that also undertake development activities. In this context, the ADA shall in particular take over the following tasks:

1. preparation of programmes and projects and conclusion of agreements on measures of development cooperation in the context of the Three-Year Programme (Section 23) as well as implementation of said programmes, projects and measures;
2. support of sustainable economic, social and ecological development in developing countries, utilising Austrian potential;
3. participation in multilateral development cooperation projects in the context of the European Community and other international organisations, in particular by means of acquisition of international means and cofinancing as well as arranging the participation in development projects of enterprises and development organisations;
4. support of assignments of Austrian development workers and experts, in particular in the context of international organisations and institutions;
5. consultancy to the Federal Minister for Foreign Affairs with regard to all principal issues and concerns of development policy and cooperation, and in particular the preparation of the Three-Year Programme.

(2) The ADA shall draw up an annual work programme, including an annual budget for the following year and forecasts, which has to be approved by the Federal Minister for Foreign Affairs. The work programme shall implement the current Three-Year Programme within the scope of activities of the ADA and in particular it shall include the focus of activities and objectives of the work of the ADA as well as information on the operational and administrative resources necessary for this purpose. The ADA shall implement the work programme according to the means provided under the current Federal Finance Act. Substantial modifications of the work programme shall require previous approval by the Federal Minister for Foreign Affairs, who shall also be entitled to ask for presentation of a new work programme at any time.

Guidelines for management

Section 9.

(1) The ADA is a nonprofit company as defined by Section 34 of the Federal Fiscal Code, Collection of Federal Acts BGBl. No. 194/1961 as amended. It is not profit-oriented and shall be managed on the basis of the principles of economy, efficiency and effectiveness.

(2) The ADA shall have the right to carry out any transactions and measures that are deemed to be necessary or useful for fulfilling its tasks. This also applies to the foundation of subsidiaries and acquisition of interests.

(3) The ADA shall have the right to render services under conditions of competition pursuant to Section 2. Services shall only be rendered under conditions of competition in order to fulfil the functions transferred to the ADA pursuant to Section 8 Subsection 1. Receipts shall only be aimed at as far as they are necessary for the purpose of cost coverage. In the accounting system of the ADA, services rendered under conditions of competition and other services shall be represented in separate accounting areas.

(4) The first Management that may be appointed after this Act has entered into force but before the ADA has been established, shall draw up a business plan within six months after appointment and submit it to the Supervisory Board for approval. The business plan shall include in particular the business goals aimed at by the ADA, its strategies and organisation as well as plans for the employment of staff and use of physical resources, investments planned and financing, in consideration of the objectives and principles of the Austrian development policy (Section 1 Subsections 3 and 4).

(5) The Management shall take care that a planning and reporting system be established, which ensures that the Management's legal reporting obligations be fulfilled and which makes it possible to evaluate the measures taken by the ADA with regard to achievement of goals and effectiveness.

(6) The provisions of the Trade Regulation Act of 1994 (TRA of 1994), Collection of Federal Acts BGBl. No. 194 as amended, shall not apply to the ADA.

(7) The ADA has the right to make use, against payment, of the consultancy services and representation by the Federal Law Office.

(8) The Federal Computing Centre, upon request and against payment, shall perform tasks on behalf of the ADA. With regard to payment for the services rendered by the Federal Computing Centre, the ADA shall be regarded as a federal office.

(9) In the case of dissolution or termination of the ADA, or lapse of original purpose, the assets of the ADA, as far as they exceed the contribution to the capital effected by the Federal Government and the fair market value of the non-cash capital contribution of the Federal Government, shall be used exclusively for nonprofit purposes or charitable purposes in the field of development cooperation.

Financing of the ADA

Section 10.

The ADA shall defray its expenses

1. out of contributions provided by the Federal Government as from 1 January 2004 in the form of an annual basic payment to be used for covering the administrative expenses incurred for fulfilling its work programme. In addition to this basic payment, the Federal Government, according to the funds earmarked for this purpose in the annual Federal Finance Act, may compensate higher expenses, provided that this is necessary although the ADA has observed the principles of economical, efficient and effective business practices;
2. out of contributions provided by the Federal Government for carrying out operational measures taken in order to fulfil the work programme, according to the funds earmarked for this purpose in the annual Federal Finance Act;
3. out of payments for rendering services for the Federal Government or third parties;
4. out of other public or private contributions;
5. out of other receipts.

Management

Section 11.

The ADA shall have a general manager. The Management shall be appointed after a public notification of vacancies, by the Federal Minister for Foreign Affairs, for a maximum period of four years, pursuant to the provisions of the Staffing Act, Collection of Federal Acts BGBl. No. 26/1998 as amended.

Supervisory Board

Section 12

(1) After entry into force of this Act, and if possible already before the formation of the ADA, but by 31 January 2004 at the latest, a supervisory board shall be established, which shall consist of 12 members whose maximum period of office shall be four years.

1. Six members of the Supervisory Board shall be appointed by the Federal Minister for Foreign Affairs, who shall appoint one of these members as Chairperson.
2. The Federal Minister of Finance, the Federal Minister of Agriculture, Forestry, Environment and Water Management, the Federal Minister for Social Security, Generations and Consumer Protection and the Federal Minister for Economic Affairs and Labour shall each appoint one member of the Supervisory Board. The Federal Minister for Foreign Affairs shall appoint one of these members as Vice Chairperson.
3. One member of the Supervisory Board shall be appointed by the Provincial Governors, through the Liaison Office of the Provinces.
4. One member shall be nominated by the bodies representing the staff established according to the works constitution.

(2) The members of the Supervisory Board appointed pursuant to Subsections 1(1) and 1(2) may be dismissed and replaced by other members at any time, by the Federal Minister who has appointed them.

(3) The members of the Supervisory Board shall be obliged to furnish comprehensive information to the Federal Minister who has appointed them.

(4) The Supervisory Board shall take decisions by simple majority. In the event of an equality of votes the Chairperson shall have the casting vote.

(5) The Supervisory Board shall in particular be responsible for

1. approval of programmes and projects as far as a decision in this matter does not come within the competence of the Management;
2. audit of the annual work programme including the annual budget for the previous year and forecasts as well as any substantial modifications of the work programme before approval pursuant to Section 8 Subsection 2;
3. approval of the foundation of subsidiaries and acquisition of interests;
4. approval of the establishment and closure of coordination offices;
5. approval of the business plan pursuant to Section 9 Subsection 4.

Coordination offices

Section 13.

(1) In order to perform its functions, the ADA may establish coordination offices in other countries. The establishment and closure of a coordination office shall require previous approval by the Federal Minister for Foreign Affairs. The coordination offices shall report to the Federal Ministry for Foreign Affairs on the general political and economic development in the country where they are situated.

(2) The heads of the coordination offices shall be appointed by the Federal Minister for Foreign Affairs after the corresponding vacancies have been publicly notified by the ADA, for a maximum period of four years. Only persons having several years of qualified professional experience in the field of development cooperation shall be appointed. A non-recurrent reappointment for a maximum period of four years shall be admissible without giving public notification of vacancies. The pertinent contracts of employment and extension of said contracts shall be concluded by the Management.

Employees of the ADA

Section 14.

(1) The Federal Minister for Foreign Affairs shall have the right to issue general instructions or individual instructions to the Management and, through the Management, also to the heads of the coordination offices.

(2) The Federal Minister for Foreign Affairs shall have the right, for important reasons, to revoke appointments pursuant to Section 11 and Section 13 Subsection 2, in particular in cases where an instruction pursuant to Subsection 1 has not been followed.

(3) In performing their tasks, the employees of the ADA shall be obliged to observe secrecy about any facts which have come to their knowledge only through their work. The provisions of Section 46 Subsections 1 to 4 of the Act on Employment of Civil Servants of 1979 (ECS of 1979), Collection of Federal Acts BGBl. No. 333 as amended, shall apply *mutatis mutandis*.

(4) The Works Constitution Act, Collection of Federal Acts BGBl. No. 22/1974 as amended, shall apply to all employees of the ADA. The ADA shall be regarded as an enterprise according to Section 34 of the Works Constitution Act.

Transfer of civil servants

Section 15.

(1) Civil servants (Section 1 Subsection 1 of the ECS of 1979) who by 31 December 2003 have, at least primarily, performed tasks that are transferred to the ADA, as from 1 January 2004 shall be assigned to the ADA for permanent

service, for the duration of their period of active service, as long as they are not assigned for permanent service to another office of the Federal Ministry for Foreign Affairs or another company in which the ADA has at least a majority interest (Subsection 2).

(2) It shall be admissible to assign civil servants transferred to the ADA pursuant to Subsection 1 to a legal successor of the ADA or a company in which it holds at least a majority interest.

(3) The Management shall be responsible for administrative supervision as well as for exercising the pertinent right to issue instructions to civil servants assigned to the ADA. When performing this function, the Management shall be bound by instructions by the Federal Minister for Foreign Affairs.

(4) Civil servants pursuant to Section 1, if they declare their withdrawal from federal civil service within a period of five years after this Federal Act has entered into force, shall have the right to be employed by the ADA or a company in which the ADA has at least a majority interest. Said employment shall be effective as from the first day of the month following the withdrawal from civil service and under the conditions for newly employed persons effective at that point in time. The time of service as a federal civil servant shall be credited by the ADA, or the company employing the civil servant, with regard to all and any claims related to duration of employment. In the case of civil servants employed by the ADA or a company in which the ADA at least has a majority interest, the provisions of Section 16 Subsection 3, second and third clauses shall apply *mutatis mutandis* in such a way as if the persons in question were civil servants withdrawing from a contractual relationship with the Federal Government.

(5) The ADA shall compensate the Federal Government for the complete employment-related expenditure for civil servants pursuant to Subsection 1, including attendant expenses as well as a contribution for covering pension cost (covering contribution). This contribution shall amount to 31.8 percent of the expenses for employment earnings. Employment earnings shall be all and any money payments that are subject to pension contributions. With the exception of special pension contributions, pension contributions that are directly deducted from the earnings of civil servants shall be credited. In the event of future changes of the level of the pension contributions of civil servants pursuant to Section 22 of the Salaries Act of 1956, Collection of Federal Acts BGBl. No. 54 as amended, the percentage of the covering contribution shall be changed to the same extent. Any special pension contributions paid to the companies as well as any payments effected after this Act has entered into force shall be transferred to the Federal Government immediately and to the full amount. Any other payments to the Federal Government shall be due on the tenth day of the month in question.

(6) The Employment Protection Act, Collection of Federal Acts BGBl. No. 450/1994 as amended, shall apply to civil servants assigned to the ADA for permanent service.

Transfer of contractual public servants

Section 16.

(1) Contractual public servants of the Federal Government who by 31 December 2003 have, at least primarily, performed tasks that are transferred to the ADA shall be allocated to the ADA for permanent service by means of an employer's declaration by the Federal Minister for Foreign Affairs that shall be made by 31 March 2004 at the latest. As from the point in time when the employer's declaration comes into effect, they shall be employees of the ADA. The ADA shall take over the rights and obligations the Federal Government has had to observe with regard to these contractual public servants.

(2) The provisions of the employment and remuneration law, in particular the Act on Contractual Public Servants of 1948, Collection of Federal Acts BGBl. No. 86 as amended, shall continue to apply to employees pursuant to Subsection 1. It shall no longer be admissible to conclude specific contracts pursuant to Section 36 of the Act on Contractual Public Servants. Employees pursuant to Subsection 1, if they state that they are willing to withdraw from transferred employment according to the regulations that continue to apply in their case immediately after coming into effect of an individual contract differing from the transferred employment, shall have the right to enter simultaneously into an employment contract according to the legal provisions applying to newly employed persons. Within two years as from the formation of the ADA, any termination of employment for one of the reasons given in Section 32 Subsection 4 of the Act on Contractual Public Servants shall not be admissible.

(3) If employees pursuant to Subsection 1 enter into an employment contract with the company according to the legal provisions effective for newly employed persons, they shall not be entitled to severance payments resulting from

their withdrawal. Any rights to future severance payments acquired in the time of employment with the Federal Government shall be transferred to the personnel providence insurance fund for the employees in question and take effect as from the time of entry into an employment contract with the ADA according to the legal provisions applicable to newly employed persons. In the case of such transfers, the provisions of Section 47 Subsection 3 of the Federal Act on Personnel Providence Insurance (PPI), Collection of Federal Acts BGBl. No. 100/2002, shall apply provided that no individual contracts according to Subsection 1 have been concluded and that the payment to be effected by the Federal Government pursuant to Subsection 2 shall be transferred to the competent personnel providence insurance fund by the Federal Ministry for Foreign Affairs, in the amount that corresponds to 50 percent of the severance payment calculated pursuant to Section 35 Subsection 4 of the Act on Contractual Civil Servants of 1948, Collection of Federal Acts BGBl. No. 86 as amended, and to receipt of which the contractual public servant withdrawing from employment is not entitled as a result of a transfer to employment with the ADA. The time of employment in a previous service relationship with the Federal Government shall be credited by the ADA with regard to all and any claims related to duration of employment.

(4) Any rights to future severance payments and anniversary bonuses for employees pursuant to Subsection 1 shall be taken over by the company.

Provisions applicable to public servants who become employees of the company

Section 17.

(1) The Federal Government shall assume contingent liability (Section 1356 of the General Civil Code) with regard to meeting remuneration claims of public servants who become employees of the company pursuant to Section 15 Subsection 4 or Section 16 Subsection 1. This liability shall be limited to the amount which, on the day before the public servant in question has withdrawn from federal civil service, results from the position relevant for this public servant in terms of remuneration, taking into account the function performed at that point in time, as well as the years in service and the regular salary increases as provided for.

(2) Claims the Federal Government has made against public servants pursuant to Section 15 Subsection 4 and Section 16 Subsection 1 shall be transferred to the company upon commencement of the employment, and, upon settlement of the claim, the Federal Government shall be reimbursed by the company without undue delay.

(3) With regard to obligatory or voluntary use of flats provided by the employer, employees pursuant to Section 15 Subsection 4 and Section 16 Subsection 1 shall be treated as if they were federal civil servants. Such use of a flat shall not establish an accommodation right with regard to the flat in question, and the provisions of Section 80 of the ECS of 1979 and Sections 24a to 24c of the Salaries Act of 1956 shall continue to apply *mutatis mutandis*. The rights of the employer as defined in Section 80 of the ECS of 1979 shall be exercised by the Federal Minister for Foreign Affairs.

(4) Employees of the ADA who enter into an employment contract with the Federal Government shall be treated as if their previous employment with the ADA had been a civil service employment with the Federal Government.

Equal treatment

Section 18.

The Federal Act on Equal Treatment (AET), Collection of Federal Acts BGBl. No. 100/1993 as amended, with the exception of Chapters 4 and 5 of Part III, Part V and Section 50, shall apply to employees with the ADA, civil servants assigned to the ADA for permanent service pursuant to Section 15 Subsection 1 as well as persons applying for employment with the ADA, provided that the company is regarded as an office and central office pursuant to Section 2 Subsections 1 and 2 of the AET.

Leave of absence

Section 19.

- (1) Federal civil servants who enter into fixed-term employment with the ADA in a management position or position as head of a coordination office shall be granted unpaid leave of absence for the term of this employment.
- (2) Any leave of absence pursuant to Subsection 1 shall not exceed a total period of 12 years.

Chapter 3

Funding

Section 20.

(1) Applications for funding shall be submitted to the ADA (Section 6) and shall include any documents necessary. Applicants shall not have a right to funding. The ADA shall examine applications for funding in accordance with the applicable provisions of this Act and the Three-Year Programme (Section 23). If funding is granted by the ADA, the latter shall conclude a funding agreement with the applicant for funds.

(2) The funding agreement shall include the conditions, obligations and restrictions which in particular serve the purpose of meeting the objectives of this Federal Act and shall oblige the applicant for funds

1. to use the funds in accordance with the principles of economy, efficiency and effectiveness and in line with the agreement;
2. to keep the necessary records and preserve vouchers so that use of the funds in line with the agreement may be verified by means of auditing;
3. to report immediately any occurrence that might delay or make impossible the implementation of the project receiving funds;
4. to draw up a schedule for project implementation;
5. to submit interim reports if the project covers a longer period of time;
6. to submit a report immediately after conclusion of the project, including in particular an overview of measures taken and results achieved as well as figures accounting for the use of the funds obtained and also earnings and expenses in connection with said project;
7. to permit inspection of those books, vouchers and other documents that serve the purpose of examining the implementation of the project, to permit inspections in situ and to provide any necessary information in connection with the project.

(3) The funding agreement shall also include provisions stipulating an immediate cessation of funding and an obligation on the part of the recipient of funds to pay back the contribution granted or its equivalent – plus, in the case of fault, an interest of three percentage points above the base interest rate as from the day of disbursement, in particular

1. if the recipient of funds has incorrectly informed bodies or representatives of the ADA or the European Community on conditions relevant for granting funds;
2. in the case of a serious violation of the funding agreement;
3. if the project cannot be implemented. However, if the project has become inexecutable without fault on the part of the recipient of funds after implementation has been started, only those funds that have not yet been spent shall be paid back, or, on approval of the ADA, earmarked for other projects;
4. if bodies of the European Community demand a return of funds because said funding violates Community regulations;

(4) Funding that has been promised shall not be disposed of in a legally effective way by means of assignment, transfer or pledge or in any other way.

(5) When funds are handled by organisations or bodies of international law or applicants for funds from a developing country, the regulations of this Section shall generally apply. Notwithstanding, in individual cases it may be agreed that internal regulations of the organisations and bodies of international law shall apply. Also, in well-founded individual cases, deviations from individual regulations of this Section shall be admissible if the applicant for funds is a resident of a developing country.

Part III

Consultancy and coordination

Section 21.

(1) In order to advise the Federal Minister for Foreign Affairs with regard to any of his competencies in the field of development policy, a commission shall be established at the Federal Ministry for Foreign Affairs in accordance with Section 8 of the Federal Ministries Act of 1986 published in the Collection of Federal Acts BGBl. No. 76 as amended, to act as an Advisory Board on Development Policy (hereinafter referred to as the Advisory Board).

(2) The Advisory Board shall be composed of experts in the fields of development policy or development cooperation, respectively, who shall be nominated by the Federal Minister for Foreign Affairs.

(3) The Advisory Board shall adopt rules of procedure and shall convene at least twice a year. The Federal Minister for Foreign Affairs shall act as a chairperson and nominate a senior official of the Federal Ministry for Foreign Affairs to act as an executive deputy who shall head and coordinate the activities of the Advisory Board.

Section 22.

Any contribution that is provided by the Federal Government and reported to the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) that is part of Official Development Assistance shall be in line with the objectives and principles of development policy (Section 1, Subsections 3 and 4) and in accordance with the guidelines of the Three-Year Programme on Austria's Development Policy. The Federal Minister for Foreign Affairs shall ensure the coordination of international development policy both in Austria and with regard to Art. 180 EC Treaty.

Part IV

Planning and financing

Section 23.

For longer-term planning the Federal Minister for Foreign Affairs, acting in consent with the Federal Minister of Finance, shall draw up a three-year programme on Austria's development policy, and *after the ADA (Section 6) and the Advisory Board (Section 21) have been heard*, annually submit this programme to the Federal Government and communicate it to the Nationalrat of the Austrian Parliament for the purpose of information. The programme shall include any contribution to Official Development Assistance performed by the Federal Government (Section 2, Subsection 1), the priorities of development cooperation and the funding necessary in each case. In addition it shall lay down the guidelines for the participation of the Federal Government in the development cooperation of the European Union and the relevant international organisations and financial institutions.

Part V

Concluding provisions

Section 24.

(1) For the purpose of implementing an individual project, in those cases where consent of the Ministry of Finance shall be obtained according to the Budget Act of 1986 published in the Collection of Federal Acts BGBl. No. 213 as amended, the necessary personal data may be communicated to the Federal Ministry of Finance.

(2) For the purpose of auditing of the accounting and settlement practices with regard to expenditure and revenues of the Federal Government according to this Federal Act, subject to the provisions of the Court of Audit Act of 1948 published in the Collection of Federal Acts BGBl. No 144 as amended, personal data may be communicated to the Court of Audit as far as this is necessary for pursuing the relevant auditing activities.

(3) In cases of joint funding (co-financing) personal data may also be communicated to the co-financing partner as far as this is an essential prerequisite for executing the auditing rights of the co-financing partner included in the agreements on which co-financing is based.

(4) In the same way personal data concerning funding or contracting relations, to the extent necessary, may be communicated to institutions that shall take part in the preparation, implementation or evaluation of the project in question.

(5) Admissibility with regard to communication of personal data for other purposes, in particular in the context of public relations or information activities, is subject to the regulations of the Data Protection Act of 2000 published in the Collection of Federal Acts BGBl. No. 165 as amended.

(6) The activities of the ADA pursuant to Part II Chapter 2 shall be regarded as public services as defined by Section 5 Subsections 1 and 2 of the Data Protection Act of 2000. Use of data by the ADA as a service provider shall be bound by instructions issued by the Federal Minister for Foreign Affairs.

Section 25.

Article 34 of the Act Accompanying the Budget of 2001, Collection of Federal Acts BGBl. No. 142/2000, shall apply.

Section 26.

In this Federal Act any terms relating to persons equally refer both to women and men, provided that this is relevant in the context of the subject matter in question.

Section 27.

The Development Aid Act of 1974 published in the Collection of Federal Acts BGBl. No. 474 and as amended in BGBl. No. 579/1989 shall be invalidated.

Section 28.

Responsibility for enforcing this Federal Act shall rest with the Federal Minister for Foreign Affairs, who shall act in consent with the Federal Minister of Finance as far as Section 23 is concerned. Responsibility for enforcing Section 7 Subsection 1 shall rest with the Federal Minister of Finance. Responsibility for enforcing Section 1, Section 12 Subsections 1 to 3 and Section 22 shall rest with the competent Federal Ministers. In other respects, this Act shall not affect any competences of other Federal Ministers in matters that may also constitute development cooperation, with the exception of the competence for development cooperation and coordination of international development policy of the Federal Minister for Foreign Affairs.