

ACP-EC COTONOU AGREEMENT

**AFRICAN, CARIBBEAN AND
PACIFIC GROUP OF STATES**

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 June 2005

ACP/

ACP-CE 2131/05

NOTE

Subject :	Draft decision of the ACP-EC Committee of Ambassadors on the Statutes and rules of procedure of the Centre for the Development of Enterprise (CDE)
-----------	--

Draft

**DECISION No .../... OF THE ACP-EC COMMITTEE OF AMBASSADORS
of**

on the Statutes and rules of procedure of
the Centre for the Development of Enterprise

THE ACP-EC COMMITTEE OF AMBASSADORS,

Having regard to 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 ¹, hereinafter referred to as "the Agreement", and in particular Article 2(6)(a) of Annex III thereto,

Having regard to the Internal Agreement of 12 September 2000 between Representatives of the Governments of the Member States, meeting within the Council, on the Financing and Administration of Community Aid under the Financial Protocol to the Agreement,

¹ OJ L 317, 15.12.2000, p. 3. Agreement as amended by Decision No 1/2003 of the ACP-EC Council of Ministers (OJ L 141, 7.6.2003, p. 25).

Whereas:

- (1) Article 2(6) of Annex III to the Agreement requires the Committee of Ambassadors to lay down, after the signature of the Agreement, the Statutes and rules of procedure of the Centre for the Development of Enterprise (hereinafter referred to as "the Centre"), including its supervisory bodies.
- (2) The second subparagraph of Article 1 of Protocol 2 on privileges and immunities to the Agreement extends such privileges and immunities to the staff of the Centre.
- (3) An Executive Board should be set up to act as a supervisory body for the Centre, within the meaning of Article 2(6)(a) of Annex III to the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Subject

1. The Centre, within the meaning of Annex III to the Agreement, shall be a joint ACP-EC technical body. It shall have legal personality and enjoy, in all Parties to the Agreement, the most extensive legal capacity accorded to legal persons of the same kind.
2. The Centre's staff shall enjoy the customary privileges, immunities and facilities provided for in Protocol 2 on privileges and immunities and referred to in Declarations VI and VII annexed to the Agreement.
3. The Centre shall be a non-profit body. Its headquarters shall be in Brussels, with decentralised offices in each ACP region at the discretion of the Board.

Article 2

Objectives

1. The Centre shall act in accordance with the provisions and principles of the Agreement. It shall pursue the objectives specified in Article 2 of Annex III to the Agreement.
2. The Centre shall define these objectives in greater detail in a policy document.

Article 3

Institutional cooperation

1. The Centre's cooperation with other bodies shall be guided by the principles of coordination, complementarity and added value in respect of any private sector development initiatives taken by public or private entities. The Centre shall exercise selectivity in undertaking its tasks.

2. The Centre may be called on by countries or regions to help prepare and execute national or regional indicative programmes concerning the private sector.
3. The Centre may be called on to execute, manage or co-manage special programmes undertaken by the Commission of the European Communities (hereinafter referred to as "the Commission") for ACP countries.

Article 4

Financing

1. The Centre shall be financed by the European Development Fund (EDF), as laid down in the Financial Protocol provided for in Annex I to the Agreement, and by its own sources of revenue, as set out in the Centre's Financial Regulation.
2. The Centre's budget may receive additional resources from other Parties for the purposes of achieving the Centre's objectives under the Agreement and the strategy drawn up by the Centre.
3. The Centre may, in pursuit of its objectives, manage on behalf of third Parties resources intended for the execution of activities provided for in the Agreement and benefiting the Parties specified in Annex III.

Article 5

Committee of Ambassadors

1. Article 2(6) of Annex III to the Agreement stipulates that:

"The Committee of Ambassadors shall be the supervisory authority of the Centre. It shall, after the signature of this Agreement:

- (a) lay down the Statutes and rules of procedure of the Centre, including its supervisory bodies;

- (b) lay down the Statutes relating to staff, financial and staff regulations;
 - (c) supervise the work of the bodies of the Centre; and
 - (d) lay down the rules of operation and the procedures for the adoption of the Centre's budget."
2. The Committee shall approve the Centre's overall strategy on the basis of a proposal from the Executive Board.

Article 6

Bodies

The supervisory bodies of the Centre shall be the Executive Board and the Management.

Article 7

Management

1. The Centre shall be headed by a Director. The Director shall be assisted by a Deputy Director, who shall answer to the Director and perform operational tasks.

The Director and Deputy Director shall be recruited on the strength of their management skills and their professional capacity to accomplish the objectives and tasks assigned to the Centre by the Agreement, and in particular Article 2 of Annex III thereto.

2. The Director and Deputy Director shall be appointed by the ACP-EC Committee of Ambassadors (hereinafter referred to as "the Committee") on the basis of a procedure and job descriptions approved by the Committee beforehand. The appointments of the Director and the Deputy Director shall coincide with the five-year duration of the EDF Financial Protocol. Their appointments shall be for a maximum period of five years and shall not be renewable. The posts of Director and Deputy Director shall be held by ACP and EU nationals in alternation.

3. The Committee's Co-Chairs shall sign the letters appointing the Director and Deputy Director.
4. The Director shall report to the Centre's Executive Board in accordance with the procedure laid down in Article 7.
5. If necessary, and after carrying out the procedure laid down in the Staff Regulations, the Executive Board may propose, by means of a duly reasoned proposal, that the Committee dismiss the Director.
6. If necessary, and after carrying out the procedure laid down in the Staff Regulations, the Executive Board may, at the Director's proposal, propose, by means of a duly reasoned proposal, that the Committee dismiss the Deputy Director. The procedure for the dismissal of the Deputy Director may also be initiated by the Executive Board without a prior proposal from the Director.

Article 8

The Director's responsibilities

1. The Director shall be responsible for the Centre's legal and institutional representation and for the execution of the Centre's remit and tasks, as defined in the Agreement and in Annex III thereto.
2. The Director shall be responsible for submitting to the Executive Board for approval:
 - the annual and multiannual activity programmes,
 - the Centre's annual budgets,
 - the annual reports,
 - the organisational structure, personnel policy and organisation chart.

3. The Director shall be responsible for submitting annual accounts for adoption by the Executive Board and forwarding to the Committee for final approval. The Committee shall be responsible for granting the Director discharge for the execution of the annual budgets.
4. The Director shall lay down the Centre's internal operating procedures and inform the Executive Board thereof.

Article 9

Executive Board

1. The Executive Board, a supervisory body established in accordance with Article 2(6)(a) and (7) of Annex III to the Agreement, shall comprise six members from the private sector, three of them ACP nationals and three European Union nationals.

The six members shall be appointed by the Committee, in accordance with the procedures laid down by the Committee, for a maximum period of five years, with a review at mid-term.

2. Meetings of the Executive Board may be attended by an observer from the Commission, the General Secretariat of the Council of the European Union, the ACP Secretariat, the European Investment Bank, and a representative of an ACP regional organisation with proven experience in the sector of private enterprise.
3. The members of the Executive Board shall elect a Chair and a Deputy Chair for a maximum period of five years, in accordance with its rules of procedure. The chair shall be held by the party (ACP or EC) not holding the post of the Centre's Director.
4. The Executive Board shall take decisions by a simple majority of the members present or represented, in accordance with its rules of procedure. Each member shall have one vote.
5. In the event of a hung vote, the Chair shall have a casting vote.

6. Confidential minutes shall be taken of each meeting.

7. The members of the Executive Board shall be bound, even after leaving office, not to divulge information covered by professional secrecy. They shall neither seek nor take instructions from third Parties.

The Executive Board shall adopt its rules of procedures.

Article 10

Members of the Executive Board

1. The members appointed to the Executive Board shall be persons with established reputation and shall possess an in-depth knowledge of the issues and objectives of ACP-EU development cooperation and of the machinery and instruments set up under the Agreement.

2. The members shall have proven experience in the sector of private enterprise. They shall conduct their activities in a manner consistent with their responsibilities and the Centre's objectives.

3. The members shall have an in-depth knowledge of English or French.

4. The position of member of the Executive Board shall be incompatible with any other activity remunerated by the Centre.

5. Undertakings in which members of the Executive Board hold shares shall not be eligible for the programmes and activities financed by the Centre.

Article 11

Tasks of the Executive Board

1. The Executive Board shall exercise close supervision over the Centre's activities. It shall hold up to four ordinary meetings a year. It may also meet whenever the performance of its tasks demands, at the initiative of the Committee or the Chair or at the request of the Director of the Centre.
2. The Executive Board shall:
 - (a) advise and support the Director in the management of the Centre and see that the rules and objectives laid down by the Committee are being applied properly;
 - (b) on the proposal of the Director of the Centre:
 - 1) adopt the Centre's overall strategy for submission to the Committee for approval;
 - 2) approve annual and multiannual activity programmes;
 - 3) approve the organisational structure, personnel policy and the organisation chart;
 - 4) approve the recruitment of new staff and the renewal, extension or termination of the contracts of existing staff;
 - 5) adopt the Centre's annual budgets for submission to the Committee for approval;
 - 6) adopt the annual accounts for submission to the Committee for approval; and

- 7) approve the annual reports and forward them to the Committee so that the Committee can verify that the Centre's activities are consistent with the objectives assigned it by the Agreement and with the overall strategy adopted.

(c) report, if necessary, to the Committee on any major issue arising in the exercise of its duties.

3. The Executive Board shall forward the annual accounts to the Committee for final approval. The Committee shall be responsible for granting the Director discharge for the annual budgets.

4. The Director of the Centre shall take part in the Executive Board's activities in an advisory capacity. The Centre shall provide secretarial services to the Executive Board.

5. The Executive Board may invite other members of the management or staff of the Centre and/or outside experts to give opinions on specific matters.

6. The Executive Board shall be accountable to the Committee.

7. The Executive Board shall choose, after competitive tendering by at least three companies, a professional firm of auditors of international repute, for a period of three financial years. That firm shall check that the accounts have been drawn up in accordance with international accounting standards and accurately reflect the Centre's financial situation. It shall also state whether the Centre's finances have been soundly managed.

Article 12

The ACP States, the Member States and the Community shall be bound, each to the extent to which it is concerned, to take the measures necessary to implement this Decision.

Article 13

Entry into force

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the ACP-EC Committee of Ambassadors
The President
