COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.7.2007
COM(2007) 427 final

Proposal for a

COUNCIL DECISION

adopting the rules of procedure of the European Development Fund Committee

(presented by the Commission)

EXPLANATORY MEMORANDUM

A European Development Fund (EDF) Committee has been established at the Commission for the resources of the European Development Fund which it administers, as provided for in Article 8 of the Internal Agreement[1] on the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 and amended by the agreement signed in Luxembourg on 25 June 2005.

The Internal Agreement will enter into force after the ratification procedures have been completed. However, by decision of the representatives of the Governments of the Member States, meeting in the Council on 17 July 2006[2], certain provisions of the agreement, including Article 8 (creation and operation of the Committee), were applied provisionally from an earlier date.

Article 8(5) of the Internal Agreement lays down that the Council, acting unanimously, has to adopt the rules of procedure of the EDF Committee.

The Community must therefore adopt the new rules of procedure of the EDF Committee to enable it to perform the duties conferred upon it by the Internal Agreement.

The draft rules of procedure for the EDF Committee, which are enclosed with the proposal for a Decision, have been adapted to take account of the provisions of the new Internal Agreement which affect it. They also take account of the results of the Commission's simplification and harmonisation exercise in the area of comitology and the standard rules of procedure approved by the Commission as part of this exercise.

The Commission therefore proposes that the Council adopt the attached Decision.

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1 INTERNAL AGREEMENT between the Representatives and Governments of the Member States, meeting within the Council, on the financing of Community aid under the multiannual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies (OJ L 247, 9.09.2006, p. 32).

2 DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL on the provisional application of the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community aid under the multiannual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies (OJ L 247, 9.09.2006, p. 30).

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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[3] and revised in Luxembourg on 25 June 2005[4] (hereinafter referred to as "the ACP-EC Partnership Agreement"),

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the Financing of Community Aid under the Multiannual Financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies[5] (hereinafter referred to as "Internal Agreement"), and in particular Article 8 §5 thereof,

Having regard to Council Regulation 2007/…/EC on the implementation of the 10th European Development Fund (hereinafter referred to as "10th EDF") under the ACP-EC Partnership Agreement[6] (hereinafter referred to as "10th EDF Implementing Regulation"),

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community [7], as amended by Council Decision 2007/249/EC of 19 March 2007[8] (hereinafter referred to as "Overseas Association Decision"),

Having regard to the proposal from the Commission[9],

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3 OJ L 317, 15.12.2000, p. 3.
4 OJ L 209, 11.08.2005, p. 27.
5 OJ L 247, 09.09.2006, p. 32.
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7 OJ L 314, 30.11.2001, p. 1.
8 OJ L 109, 26.4.2007, p. 33.
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HAS DECIDED AS FOLLOWS:

Article 1

The rules of procedure of the European Development Fund Committee, as set out in the Annex, are hereby adopted.

Article 2

Until the entry into force of the Internal Agreement the rules of procedure of the European Development Fund Committee shall apply only to the programming needs and related decision-making procedures referred to in titles II and III of the 10th EDF Implementing Regulation, and, in respect of the OCT, in Articles 20 and 24 of the Overseas Association Decision.

Article 3

This Decision shall enter into force on the day of its publication in the Official Journal of the European Communities.

Done at Brussels,

For the Council
The President

ANNEX

RULES OF PROCEDURE
of the European Development Fund Committee

Article 1

Composition

The European Development Fund Committee, hereinafter referred to as the "Committee", shall comprise the delegations of the Member States, hereinafter referred to as "delegations", and shall be chaired by a representative of the Commission.

An observer from the European Investment Bank shall take part in the Committee's proceedings, with regard to questions concerning the Bank.

A representative of the General Secretariat of the Council shall attend the meetings as an observer.

Article 2

Referral to the Committee

1. A referral shall be made to the Committee in the cases and according to the procedures laid down in Council Regulation 2007/…/EC on the implementation of the 10th European Development Fund under the ACP-EC Partnership Agreement[10] (herewith referred to as the "10th EDF Implementing Regulation") and, where appropriate, in Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories ("Overseas Association Decision") as amended by Council Decision 2007/249/EC of 19 March 2007[11]. In respect of the responsibilities conferred upon it by the Overseas Association Decision, the Committee shall be referred to as the "EDF-OCT Committee".

2. In addition to the referral cases provided for in paragraph 1:

   (a) at each meeting the Commission shall submit to the Committee a list of the decisions taken in the preceding period on the basis of Article 11 (2) and 12 of the 10th EDF Implementing Regulation;

   (b) the Committee shall be informed as soon as possible of delays or difficulties in the implementation of annual action programmes, special support programmes and special measures which could result in significant additional commitments or substantive changes likely to entail compulsory referral under the provisions of the 10th EDF Implementing Regulation.

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11 OJ L 109, 26.4.2007, p. 33.

Article 3

Convening a meeting

1. The Committee shall be convened by its Chair, either on his or her own initiative or at the request of at least 5 Member States.

2. Joint meetings of the Committee with other committees may be convened to discuss issues of common interest falling within their respective areas of responsibility.

Article 4

Agenda

1. The Chair shall draw up the draft agenda and submit it to the Committee.

2. The agenda shall make a distinction between:

   – proposed measures about which the Committee is asked to give an opinion in accordance with the management procedures provided for in Article 11 (3) of the 10th EDF Implementing Regulation;

   – other issues put to the Committee under the terms of Articles 11 (4) and (5) of the 10th EDF Implementing Regulation, either on the Chair's initiative or at the written request of a Committee Member.

3. Any delegation may request the inclusion of an item on the agenda of meetings of the Committee. Relevant information on these items may be given orally.

4. The agenda shall include approval of the minutes of the previous meeting.

Article 5

Documentation to be sent to Committee members

1. The Chair shall send the invitation to the meeting, the draft agenda and proposed measures about which the Committee's opinion is required, as well as any other working documents to the Committee members via the secretariat in accordance with Article 13 §2 , no later than 15 working days before the date of the meeting.

2. In urgent cases, and where the measures to be adopted must be applied immediately, the Chair may, at the request of a Committee member or on his or her own initiative, shorten the period laid down in paragraph 1 to 5 working days before the date of the meeting.

3. By way of exception, in duly substantiated cases of extreme urgency (e.g. serious economic, social and political circumstances, natural disasters suffered by the recipient country, humanitarian crisis or other external circumstances of a similar nature requiring a very rapid reaction), the Chair may, at the request of a Committee Member or on his or her own initiative, depart from the periods laid down in paragraphs 1 and 2.

4. Paragraphs 2 and 3 of this Article do not apply to Strategy Papers and Multi-annual Indicative Programmes and their adjustment as a result of the mid-term and end-of-term reviews referred to in Articles 4 and 5 of the 10th EDF Implementing Regulation.

5. In the case of proposals submitted to the Committee for its opinion by oral procedure, delegations should notify the secretariat of the Committee in writing at least three working days before the date of the meeting of:

   – those items to which they can already give their assent in principle and that they propose including as A items (with or without comments or requests for further information) on the agenda referred to in Article 4(1), and

   – those items that they think need discussion and that they propose entering as B items.
   Delegations formulate any comments and requests for further information in writing and within the same time-limit.

The Commission shall provide further information and respond to any comments, wherever possible, in writing and before the meeting of the Committee.

Article 6

Transmission of Strategy papers to the Joint Parliamentary Assembly

In accordance with Article 4 (5) of the 10th EDF Implementing Regulation, the Committee's secretariat will transmit the Strategy Papers to the Joint Parliamentary Assembly for information at the same time as they are sent to the delegations in the Committee.

Article 7

Opinion of the Committee

1. Where a matter is put to the Committee for its opinion, it shall be discussed under the conditions and according to the procedure set out respectively in Article 11 (3) of the 10th EDF Implementing Regulation and in Article 8 (2) and (3) of the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the Financing of Community Aid under the Multiannual Financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies[12] (hereinafter referred to as "Internal Agreement").

2. When the oral procedure is used, and a substantive change is made or new factual elements are added to the draft measures during the meeting, the Chair, on his or her own initiative or at the request of a Member State, may postpone the vote on a particular agenda item until the end of the meeting or a later meeting.

[12] OJ L 247, 9.9.2006, p. 32.

3. If, in the situation described in paragraph 2, the Chair does not decide to postpone the vote as requested by one (or more) delegation(s), this/these delegation(s) may enter a reservation which may be withdrawn within a maximum of three working days starting from the day following the meeting. The Committee's opinion shall be recorded as definitive upon expiry of this period. The Commission shall inform Member States of the definitive position adopted by the Member State(s) whose delegation(s) entered a reservation in the Committee.

4. If a delegation so requests, voting on an issue can be postponed if the documents relating to a specific agenda point have not been sent to members within the timeframe laid down in Article 5 (1) and (2). In that case, the Chair may decide to extend the period of consultation, but no longer than the end of the next meeting. If necessary, the written procedure provided for in Article 9 of these rules of procedure may be applied.

   However, at the proposal of the Chair or at the request of a Committee member, the Committee may decide by a simple majority of members to keep this point on the agenda because of the urgency of the matter.

5. In the context of an examination of annual action programmes, any delegation may request the withdrawal of a project or programme from the annual action programme. If this request is supported by a blocking minority of delegations, as laid down in Article 9 (3), in connection with 8 (2) of the Internal Agreement, the annual action programme shall be adopted by the Commission without the project or programme concerned in accordance with the management procedures set out in Article 11 (3) of the 10th EDF Implementing Regulation. Unless the Commission, in line with the views of the delegations in the Committee, wishes not to pursue the withdrawn project or programme, it shall be re-submitted to the Committee outside the annual action programme in the form of a financing proposal which shall then be adopted by the Commission in accordance with the management procedures set out in Article 11 (3) of the 10th EDF Implementing Regulation.

Article 8

Exchange of views

1. In accordance with Article 11 (4) of the 10th EDF Implementing Regulation, the Committee shall have an exchange of views on the general conclusions of the annual operational reviews and of the annual report referred to in Article 14 (3) of the 10th EDF Implementing Regulation. Each delegation may also call for an exchange of views on the evaluations referred to in Article 15 (2) of the 10th EDF Implementing Regulation.

   Each delegation can invite the Commission at any moment to provide the Committee with information and to have an exchange of views on issues related to the tasks described under Article 11 (2) of the 10th EDF Implementing Regulation.

2. Such exchanges of views may lead to the formulation of recommendations by the delegations, which the Commission shall take into account. The minutes of the Committee shall reflect the interventions made. An intervention supported by a

qualified majority of delegations, as laid down in Article 8 §3, in connection with 8 §2 of the Internal Agreement, shall be recorded as a recommendation.

Article 9

Representation and quorum

1. Each delegation is considered to be one Committee member. Each Member State shall decide the composition of its delegation and shall inform the Chair thereof.

2. With the Chair's approval, delegations may be accompanied by non-governmental experts, at the expense of the Member State concerned. The Chair's approval is based on the delegates giving prior written notice to the Secretariat of the Committee that they wish to be accompanied for a specific agenda item. If the Chair does not object to the participation of an expert in advance of the concerned Committee meeting, the permission is considered to be granted.

3. A delegation may, if necessary, represent a maximum of one other Member State. The Chair of the Committee shall be notified in writing at the latest before the start of the meeting by the delegation which is represented.

4. The quorum required for the deliberations of the Committee to be valid is that permitting a qualified majority opinion to be issued in accordance with Article 11 (3) of the 10th EDF Implementing Regulation.

Article 10

Admission of third parties

1. The Chair may decide to hear experts on specific points, at the request of a delegation or on his/her own initiative.

2. These experts and those mentioned in Article 7 §2 shall not be present or take part when the Committee moves to a vote.

Article 11

Written procedure

1. Where proposed measures are subject to a written procedure, delegations have 15 working days from the sending of the proposals to adopt a position. Any committee delegation who does not express his opposition or intention to abstain before the deadline laid down in the letter is considered to have given his tacit agreement to the proposal;

   In cases of urgency or extreme urgency, the deadlines laid down in Article 5 §2 and §3 shall apply. The case of urgency or extreme urgency must be duly substantiated in writing by the Commission. The agreement of delegations shall only be established if it has been expressly notified. Any absence of notifications within 48 hours will be considered as an abstention.

2. However, if a Committee member requests that the draft measures be considered in the course of a meeting of the Committee, the written procedure shall thereby terminate and the proposed measures shall be carried over to the next meeting of the Committee.

3. The Commission informs the Members of the Committee in writing on the outcome of a written procedure as soon as the decision in question is adopted.

Article 12

Secretarial support

Secretarial services for the Committee shall be provided by the Commission.

Article 13

Minutes and summary report of the meetings

The minutes of each meeting shall be drawn up under the auspices of the Chair and shall contain the opinions expressed on the proposed measures and the positions expressed during the meeting. The minutes shall be sent to the members of the Committee within 15 working days.

The delegations shall send any written comments they may have on the minutes to the Chair. The Committee shall be informed of this; if there are any disagreements, the proposed amendment shall be discussed by the Committee. If the disagreement persists, the proposed amendment shall be annexed to the minutes.

Article 14

Attendance list

1. At each meeting, the Chair shall draw up an attendance list specifying the authorities or bodies to which the participants belong. The attendance list will be distributed to the participants during the course of the meeting.

2. At the beginning of every meeting, any delegation whose participation in the work constitutes a conflict of interest with regard to a particular point on the Agenda must inform the Chair of this situation. Members of delegations who do not belong to a particular authority or organisation of a Member State must sign a declaration stating that their participation does not raise any conflict of interest.

   In the event of such a conflict of interest, the member concerned must withdraw whilst the relevant agenda items are being dealt with, at the request of the Chair.

Article 15

Correspondence

1. Correspondence relating to the Committee shall be addressed to the Commission, for the attention of the Committee secretariat.

2. Correspondence addressed to delegations by the secretariat shall also be sent to the Permanent Representative of the Member State concerned in the most rapid and reliable electronic way.

3. Save in exceptional circumstances, correspondence between the Commission and delegations shall be sent in both directions by the computerised means provided for.

Article 16

Transparency

1. The principles and conditions concerning public access to documents which apply to the Commission shall apply to the Committee. If such a request is sent to a Member State, it must act in accordance with Article 5 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

2. The proceedings of the Committee shall be confidential for all participants.

Article 17

Running costs

1. The Committee's running costs, including travel expenses for one participant per Member State, shall be borne by the Commission.

2. The Commission is authorised to refund the accommodation and travel expenses of experts invited under Article 8 §1.

3. The Commission shall make available to the Committee the premises and material resources necessary for its work.