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Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union within the ACP-EU Committee of Ambassadors concerning the statutes of the Technical Centre for Agricultural and Rural Cooperation

EXPLANATORY MEMORANDUM

By Decision 2010/648/EU of 14 May 2010 the Council authorised the signing of the agreement amending the Cotonou Partnership Agreement for the second time.

Article 95(3) of the Cotonou Agreement authorises the Joint ACP-EU Council to adopt transitional measures required in respect of the amended provisions until they come into force. By Council Decision 2010/614/EU of 14 June 2010, the Council approved the position to be adopted by the European Union within the ACP-EU Council of Ministers concerning the transitional measures, and by Decision No 2/2010 of the ACP-EU Council of Ministers of 21 June 2010, the amending provisions are provisionally applied, as from 1 November 2010.

Annex III of the Agreement was amended by the second revision; in particular the provisions regarding the Executive Board of the Technical Centre for Rural and Agricultural Cooperation (CTA) were modified with a view to strengthening governance and easing decision-making processes.

The statutes of the CTA should consequently be adapted in accordance with the Annex III of the Agreement, as amended by the second revision. Moreover, it is useful to seize this opportunity to include an explicit reference to the applicable EDF financial rules and to harmonise some of its provisions with those of the statutes of the Centre for the Development of Enterprise (CDE).

Article 3(5) of Annex III provides that the ACP-EU Committee of Ambassadors shall lay down the statutes of the CTA. The amended statutes are annexed to the proposed Council decision.

The Council is therefore requested to adopt the attached proposal for a Council decision on the position to be adopted by the European Union within the ACP-EU Committee of Ambassadors concerning the statutes of the Centre for Rural and Agricultural Cooperation.

Proposal for a

COUNCIL DECISION

on the position to be adopted by the European Union within the ACP-EU Committee of Ambassadors concerning the statutes of the Technical Centre for Agricultural and Rural Cooperation

THE COUNCIL OF THE EUROPEAN UNION,

HAVING REGARD to the Treaty on the Functioning of the European Union, and in particular its Articles 208 and 218§9 thereof,

HAVING REGARD to the proposal from the Commission,

WHEREAS

- (1) The second revision of 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 , as revised on 25 June 2005 and on 22 June 2010 , hereinafter referred to as "the Cotonou Agreement" has updated its Annex III to review the missions given to the Centre for the Development of Enterprise (CDE) and to the Technical Centre for Agricultural and Rural Cooperation (CTA) and also to clarify and reinforce the governance of these organisms, in particular the supervision by the Committee of Ambassadors and the responsibilities of the Executive Board.
- (2) Decision No 2/2010 of 21 June 2010 of the ACP-EU Council of Ministers established a provisional application of the amending agreement as from 1 November 2010.
- (3) The statutes of the Technical Centre for Agricultural and Rural Cooperation (hereinafter referred to as "the Centre") should be revised accordingly;
- (4) As a consequence the position to be adopted by the European Union within the ACP-EU Committee of Ambassadors concerning the statutes of the Technical Centre for Agricultural and Rural Cooperation should be established,

HAS ADOPTED THIS DECISION:

Sole Article

The position adopted by the European Union within the ACP-EU Committee of Ambassadors on the amendment of the statutes of the Technical Centre for Agricultural and Rural Cooperation shall be based on the attached draft decision proposal.

Minor amendments to the draft decision of the Committee of Ambassadors may be agreed without the need for a further Council decision.

Done at Brussels,

*For the Council
The President*

ANNEX

DECISION N° .../2012 OF THE ACP-EU COMMITTEE OF AMBASSADORS

on the statutes of

Technical Centre for Agricultural and Rural Cooperation

THE ACP-EU 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 2000¹, as first revised on 25 June 2005² and on 22 June 2010³, hereinafter referred to as "the Cotonou Agreement", and in particular its Articles 3(5) and 3(6) of Annex III thereto.

WHEREAS:

- (1) The second revision of the Cotonou Agreement on 22 June 2010 has updated its Annex III to review the missions given to the CDE and CTA and to clarify and reinforce the governance of these organisms, in particular the supervision by the Committee of Ambassadors and the responsibilities of the Executive Board.
- (2) Decision No 2/2010 of 21 June 2010 of the ACP-EU Council of Ministers established a provisional application of the amending agreement as from 1 November 2010.
- (3) As a consequence the statutes of the Technical Centre for Agricultural and Rural Cooperation (hereinafter referred to as "the Centre") should be revised accordingly.
- (4) Pursuant to Article 3(5) of Annex III to the Agreement, a decision of the Committee of Ambassadors is needed to lay down the statutes of the Centre; it is appropriate for the Committee to adopt a Decision to that effect on behalf of the Council of Ministers, in accordance with Articles 15 (4) and 16 (2) of the Agreement.

HAS DECIDED AS FOLLOWS:

Sole Article

The statutes of the Technical Centre for Agricultural and Rural Cooperation annexed to this decision are hereby adopted.

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

The present Decision shall enter into force the day following that of its adoption.

For the ACP-EU Committee of Ambassadors

¹ OJ L 317, 15.12.2000, p. 3., signed in Cotonou on 23 June 2000, and entered into force on 1 April 2003

² OJ L 287, 28.10.2005, p.5, signed in Luxembourg on 25 June 2005 and entered into force on 1 July 2008

³ OJ L 287, 4.11.2010, p.3., signed in Ouagadougou on 22 June 2010, and provisionally applied since 1 November 2010

ANNEX
STATUTES OF THE
TECHNICAL CENTRE FOR AGRICULTURAL AND RURAL COOPERATION

Article 1

Subject

1. The Centre, within the meaning of Annex III 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, (hereafter "the Cotonou Agreement") shall be a joint ACP-EU technical body. It shall have legal personality and shall enjoy in all States party to the Agreement the most extensive legal capacity given to legal persons of the same kind under their laws.
2. The Centre's staff shall enjoy the customary privileges, immunities and facilities provided for in the second subparagraph of Article 1 of Protocol 2 on privileges and immunities and referred to in Declarations VI and VII annexed to the Cotonou Agreement.
3. The Centre shall be non-profit making.
4. The Centre's headquarters shall be situated provisionally in Wageningen (Netherlands), with a local office in Brussels.

Article 2

Principles and objectives

1. The Centre shall act in accordance with the provisions and objectives of the Cotonou Agreement. It shall pursue the objectives specified in Article 3 of Annex III to the Cotonou Agreement under the supervision of the Committee of Ambassadors.
2. The Centre shall elaborate the details of these objectives in an overall strategy paper.
3. The Centre shall perform its activities in close cooperation with the institutions and other bodies referred to in the Cotonou Agreement or the annexed declarations. The Centre may, where necessary, call upon regional and international institutions, particularly those which are located in the European Union or ACP States and which deal with matters relating to agricultural and rural development.

Article 3

Financing

1. The Centre's budget may be financed by the European Development Fund (EDF) in accordance with the rules laid down by the Financial Protocol provided for in Annex I to the Cotonou Agreement in respect of development finance cooperation.
2. The Centre's budget may receive additional resources from other parties for the purposes of achieving the objectives set by the Cotonou Agreement and implementing the strategy drawn up by the Centre.

Article 4

Committee of Ambassadors

The Committee of Ambassadors shall be the supervisory authority of the Centre in accordance with Article 3(5) of Annex III to the Cotonou Agreement. It appoints the members of the Executive Board and the Director of the Centre on a proposal from the Executive Board, monitors the overall strategy of the Centre and supervises the work of the Executive Board.

The Committee of Ambassadors shall give a discharge to the Director in respect of the implementation of the budget of year n+2. In view to granting the discharge, the Committee of Ambassadors shall, based on a recommendation from the Executive Board, examine the accounts and the opinion expressed by the Auditor with the replies given by the Director.

The Committee of Ambassadors may evoke and review at any time, or object to, the decisions made by the Centre. It shall be regularly informed by the Executive Board, and also by the Director of the Centre when the Committee of Ambassadors so requests.

Article 5

Executive Board

1. The Executive Board shall be set up to support, monitor and control the technical, administrative and financial aspects of all the Centre's activities.
2. The Executive Board shall be composed, on a parity basis of six members – three ACP nationals and three European Union nationals - who are selected and appointed by the parties, based on their professional qualifications in the fields of agriculture and rural development and/or information and communication policies, science, management and technology.
3. One half of the membership of the Executive Board shall be renewed every two and a half years.
4. The members of the Executive Board shall be appointed by the Committee of Ambassadors in accordance with the procedures laid down by the Committee for a period of up to five years, subject to a mid-term review.
5. It shall hold four ordinary meetings a year. It may also meet whenever needed in order to perform its duties, at the Committee of Ambassadors or at the Chairperson of the Board or at the request of the Director. The Centre shall act as secretariat to the Executive Board.
6. The members of the Executive Board shall carry out their tasks independently, may not seek or take any instructions from third parties and shall act solely in the interests of the CTA. The position of member of the Executive Board shall be incompatible with any other activity remunerated by the Centre.
7. The members of the Executive Board shall elect the Chairperson and Vice-Chairman for a period of up to five years in accordance with the provisions laid down in its Rules of Procedure. The position of Chairman shall be filled by a person from the party (ACP or European Union) not holding the post of the Centre's Director. The post of Vice-Chairman shall be filled by a person from the party not holding the post of the Chairman.
8. Meeting of the Executive Board are attended by observers from the European Commission, the General Secretariat of the Council of the European Union and a representative of the ACP Secretariat.

9. The Executive Board may invite other members of the Centre's management and staff and/or external experts to advice on specific questions.
10. The Executive Board shall take its decisions by a simple majority of the members present or represented in accordance with its Rules of Procedure. Each member of the Executive Board shall have one vote. In the case of a hung vote, the Chairperson shall have the casting vote.
11. Minutes shall be drawn up after each meeting. Discussions in the Executive Board shall be confidential.
12. The Executive Board shall adopt its own Rules of procedure and shall inform the Committee of Ambassadors thereof.

Article 6

Tasks of the Executive Board

1. The Executive Board shall closely monitor and supervise the Centre's activities. The Executive Board shall be accountable to the Committee of Ambassadors.
2. The Executive Board shall:
 - (a) lay down the draft financial regulations in conformity with EDF rules and shall submit them to the Committee of Ambassadors for approval;
 - (b) lay down and approve the staff regulations and the rules of operation of the Centre in conformity with EDF rules and shall submit them to the Committee of Ambassadors for information;
 - (c) supervise the Centre's activities and ensure that its mission and rules are properly implemented;
 - (d) adopt the annual and multiannual work programmes and the budget of the Centre and submit them to the Committee of Ambassadors for information;
 - (e) submit periodic reporting and evaluations to the Committee of Ambassadors;
 - (f) adopt the Centre's overall strategy and send it to the Committee of Ambassadors for information;
 - (g) approve the organisational structure, personnel policy and the organisation chart;
 - (h) approve the recruitment of new staff and the renewal, extension or termination of existing staff contracts;
 - (i) approve the annual financial statements and transmit them to the Committee of Ambassadors for information together with the opinion of the Auditor;

- (j) approve the annual reports and transmit them to the Committee of Ambassadors for verification that the Centre's activities are consistent with the objectives laid down by the Agreement and the overall strategy paper;
 - (k) propose the appointment of the Director of the Centre to the Committee of Ambassadors; and
 - (l) report to the Committee of Ambassadors on any important issues that arise in the course of performing its duties.
 - (m) report to the Committee of Ambassadors on the measures taken in the light of the observations and recommendations accompanying the Committee of Ambassadors' discharge decision.
3. Following a competitive tender procedure, the Executive Board shall select, from at least three bids, a firm of auditors which is a member of an internationally recognised supervisory body, for a period of three years. Those auditors shall examine whether the annual financial statements have been drawn up properly and in accordance with International Accounting Standards and give a true and fair overview of the financial situation of the Centre. The auditors shall also comment on the soundness of the Centre's financial management.
 4. The Executive Board shall recommend to the Committee of Ambassadors to grant to the Director the discharge for the annual accounts.

Article 7

Director

1. The Centre shall be headed by a Director appointed by the Committee of Ambassadors on a proposal from the Executive Board for a period of up to five years and shall not be renewable. The post of Director shall be held alternatively by ACP and EU nationals. The Committee's Co-chairs shall sign the Director's letter of appointment.
2. The Director shall be responsible for the Centre's legal and institutional representation and for the execution of the Centre's remit and tasks.
3. The Director shall be responsible for submitting to the Executive Board for approval:
 - (a) the Centre's overall strategy;
 - (b) the annual and multiannual activity/work programmes;
 - (c) the Centre's annual budget;
 - (d) the annual report, periodic reporting and evaluation;
 - (e) the organisational structure, personnel policy and organisation chart; and
 - (f) the recruitment of new staff and the renewal, extension or termination of the contracts of the existing staff.

4. The Director shall be responsible for the organisation and day-to-day management of the Centre. The Director shall report to the Executive Board on any addendum of the Rules of operation of the Centre.
5. The Director reports to the Executive Board on any major issues arising in the exercise of its duties, and when it proves necessary shall inform the Committee of Ambassadors.
6. 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 of Ambassadors dismisses the Director.
7. The Director shall be responsible for submitting the annual accounts to the Executive Board for approval and transmission to the Committee of Ambassadors.
8. The Director shall take all the appropriate steps to act on the observations and recommendations accompanying the Committee of Ambassador's discharge decision.