COUNCIL DECISION (EU) 2015/355

of 2 March 2015

adopting the rules of procedure of the European Development Fund Committee

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies ([1]) ('the Internal Agreement'), and in particular Article 8(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) 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 ([2]), as first amended in Luxembourg on 25 June 2005 ([3]) and as amended for the second time in Ouagadougou on 22 June 2010 ([4]) ('ACP-EU Partnership Agreement'), provides for the definition of financial protocols for each five-year period.

(2) On 26 June 2013, the Representatives of the Governments of the Member States, meeting within the Council, adopted an Internal Agreement in accordance with the ACP-EU Partnership Agreement providing for the setting up of the European Development Fund Committee consisting of Representatives of the Governments of the Member States.

(3) The rules of procedure of the European Development Fund Committee should take into account the relevant provisions of Council Decision 2013/755/EU ([5]) and of Council Regulation (EU) 2015/322 ([6]),

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 2 March 2015.

For the Council
The President
D. REIZNIECE-OZOLA

([1]) OJ L 210, 6.8.2013, p. 1.
([2]) OJ L 317, 15.12.2000, p. 3.
([3]) OJ L 287, 28.10.2005, p. 4.
([4]) OJ L 287, 4.11.2010, p. 3.
([5]) Council Decision 2013/755/EU of 25 November 2013 on the association of the Overseas Countries and Territories (OCTs) with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).
([6]) Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund (OJ L 58, 3.3.2015, p. 1).

ANNEX

RULES OF PROCEDURE OF THE EUROPEAN DEVELOPMENT FUND COMMITTEE

Article 1

Composition

The European Development Fund Committee (the 'Committee') shall comprise the delegations of the Member States (the 'delegations') and shall be chaired by a representative of the Commission.

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

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 (EU) 2015/322 ([1]) ('the 11th EDF Implementation Regulation'), and in particular in Articles 7, 9 and 14 thereof and, where appropriate, in Council Decision 2013/755/EU ([2]) ('the Overseas Association Decision'). In respect of the responsibilities conferred upon it by the Overseas Association Decision, the Committee shall be referred to as the 'EDF-OCTs Committee'.

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

(a) the Commission shall proceed to publish, in a timely manner on its website, adopted decisions taken on the basis of Articles 14 and 15 of the 11th EDF Implementation Regulation and inform the Committee accordingly by the most rapid and reliable electronic means;

(b) the Commission shall inform the Committee of any delays or difficulties in the implementation of annual action programmes, individual and special measures, including advance information on the suspension and the resumption of budget support programmes, which could result in significant additional commitments or substantive changes likely to entail compulsory referral under the provisions of the 11th EDF Implementation Regulation.

Article 3

Convening a meeting

1. The Committee shall be convened by the Chair, acting on his or her own initiative or at the request of a Member State.

2. Joint meetings of the Committee with other committees may be convened to discuss issues 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:

(a) draft measures to be adopted by the Commission on which the Committee is asked to give an opinion, in accordance with the procedure provided for in Article 14 of the 11th EDF Implementation Regulation;

(b) other issues put to the Committee for information or a simple exchange of views, either on the Chair's initiative or at the request in writing of a Committee member.

([1]) Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund (OJ L 58, 3.3.2015, p. 1).

([2]) Council Decision 2013/755/EU of 25 November 2013, on the association of the overseas countries and territories with the European Union ('Overseas Association Decision'), (OJ L 344, 19.12.2013, p. 1).

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 or in writing afterwards, as appropriate.

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

5. At least every three months, and whenever updated information is available, an indicative long-term planning for upcoming meetings shall accompany the agenda. This planning shall include items to be submitted for an opinion, as well as strategic cross-EDF issues to be submitted for information and/or for an exchange of views. The planning shall include items to be submitted to the Committee over the upcoming six-month period. To the extent possible, the planning shall also indicate items that are likely to be submitted to the Committee over the subsequent six-month period.

Article 5

Documentation to be sent or submitted to the members of the Committee

1. The Chair shall send the invitation and the draft agenda of the meeting, as well as any draft measures about which the Committee is asked to give an opinion to the members of the Committee well in advance of the meeting, taking into account the urgency and the complexity of the matter, and in any case at least 21 calendar days before the date of the meeting. Other documents related to the meeting, in particular documents for information and an exchange of views, shall, as far as possible, be submitted within the same time limit.

All documents shall be submitted in accordance with Article 15(2) and (3).

2. In cases of urgency, and where the measure to be adopted must be applied immediately, the Chair may, on his or her own initiative or at the request of a member of the Committee, shorten the time limit for submission of documents referred to in paragraph 1. That time limit shall not be shorter than seven calendar days. Such cases of urgency shall be duly justified in writing by the Commission.

3. By way of exception, in cases of extreme urgency in a partner country or region, for example serious economic, social and political circumstances, natural disasters suffered by the recipient country, and humanitarian crises 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 time limits laid down in paragraphs 1 and 2. Such cases of extreme urgency shall be duly justified in writing by the Commission.

4. Paragraphs 2 and 3 shall not apply to Strategy Papers and Multiannual Indicative Programmes and their adjustment as a result of the mid-term and end-of-term reviews referred to in Article 7(2) of the 11th EDF Implementation Regulation.

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

(a) those items to which they can already give their assent in principle and that they propose to include as A items (with or without comments or requests for further information); and

(b) those items that they think need discussion and that they propose to include as B items;

on the agenda referred to in Article 4(1).

At the request of a Member State, any A item may be submitted for discussion and transferred to the list of B items as early as possible before or, in exceptional cases, at the meeting.

Delegations shall also formulate any comments and requests for further information in writing and, wherever possible, at least three working days before the date of the meeting.

The Commission shall provide further information and respond to any comments, wherever possible, in writing and at least one day before the meeting.

6. On duly justified imperative grounds of urgency, the Commission may also use the procedure set out in Article 14(4) of the 11th EDF Implementation Regulation. In such cases, the Chair shall submit the measures to the Committee within 14 days from their adoption in order to obtain its opinion.

Article 6

Transmission of programming documents to the Joint Parliamentary Assembly

In accordance with Article 7(1) of the 11th EDF Implementation Regulation, the Committee's secretariat will transmit the programming documents to the Joint Parliamentary Assembly for information at the same time as they are sent to 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 in Article 14(3) and (4), respectively, of the 11th EDF Implementation Regulation and in Article 8(2) and (3) of the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies ([1]) ('the Internal Agreement').

2. Unless a member of the Committee objects, the Chair may, without proceeding to a formal vote, establish that the Committee has delivered a positive opinion, by consensus, on the draft measures.

3. 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 until a subsequent meeting.

4. If, pursuant to paragraph 3, the Chair decides not to postpone the vote as requested by one or more delegations, the requesting delegation(s) may enter a reservation which may be withdrawn within a maximum of three working days 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.

5. Subject to the second subparagraph of this paragraph, if the documents relating to a specific agenda point have not been sent to Committee members within the time limit laid down in Article 5(1) and (2) voting on an issue shall be postponed to the next meeting.

At the proposal of the Chair or at the request of a Committee member, the Committee may decide by a simple majority of its members to keep this point on the agenda due to the urgency of the matter. If necessary, the written procedure provided for in Article 11 of these rules of procedure may be applied.

6. In the context of an examination of annual or multiannual action programmes, any delegation may request the withdrawal of a project or programme from the action programme. If that request is supported by a blocking minority of delegations, as laid down in Article 8(3) of the Internal Agreement, in connection with Article 8(2) of the Internal Agreement, the action programme shall be adopted by the Commission without the project or programme concerned. 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, at a later stage, be resubmitted to the Committee outside the action programme in the form of an individual measure which shall then be adopted by the Commission in accordance with the procedure set out in Article 14 of the 11th EDF Implementation Regulation.

Article 8

Exchange of views

1. 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 Articles 3(3), 7(2) and 14(2) of the 11th EDF Implementation Regulation. Any evaluation, including recommendations and follow-up actions may also be discussed in the Committee at the request of a Member State, in line with Article 18(2) of the 11th EDF Implementation Regulation. As set out in Article 18(4) of the 11th EDF Implementation Regulation, the Commission shall review progress made in the implementation of the 11th EDF, including National Indicative Programmes, and shall submit to the Council implementation reports on a yearly basis starting from 2015. That report may also be discussed in the Committee at the request of a Member State.

([1]) OJ L 210, 6.8.2013, p. 1.

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) of the Internal Agreement, in conjunction with Article 8(2) of the Internal Agreement, shall be recorded as a recommendation.

Article 9

Representation and quorum

1. Each delegation shall be considered to be one member of the Committee. 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.

Within a reasonable time, and in any case no later than five calendar days before the date of a meeting, the following information shall be communicated to the Chair:

(a) the composition of each delegation, except where such composition is already known to the Chair;

(b) the names and functions of any experts accompanying the delegations and the reasons for which their presence is required.

If the Chair does not object to the participation of an expert in advance of the relevant meeting, permission shall be considered to be granted.

Ahead of the meeting the Chair shall inform delegations on the participation of a non-governmental expert, indicating the organisation he or she represents.

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

4. The quorum required for deliberations of the Committee shall be that required for a qualified majority opinion to be issued in accordance with Article 14(3) and (4) of the 11th EDF Implementation Regulation.

Article 10

Third parties and experts

1. Representatives of acceding countries shall be invited to attend the meetings of the Committee as from the date of signature of the Treaty of Accession.

2. The Chair may decide to invite representatives of other third parties or other experts to talk on specific points on the agenda of the Committee, on his or her own initiative or at the request of a member of the Committee. However, a simple majority of Member States may oppose their participation in the meeting.

3. Representatives of third parties and experts referred to in paragraphs 1 and 2 and those mentioned in Article 9(2) shall not be present during, and shall not participate in, the voting of the Committee.

Article 11

Written procedure

1. In duly justified cases, the Chair may obtain the Committee's opinion by written procedure. The Chair shall communicate the Committee members the proposals of draft measures and shall lay down a time limit for delivery of an opinion according to the urgency of the matter.

Delegations have 21 calendar days from the sending of the proposals to adopt a position. Any Committee delegation which does not express its opposition or intention to abstain before the time limit laid down in the communication is considered to have given its tacit agreement to the proposal.

In cases of urgency or extreme urgency in a partner country or region, the same time limits as those laid down in Article 5(2) and (3) shall apply. Such cases of urgency or extreme urgency shall be duly substantiated in writing by the Commission.

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

3. The Commission shall inform the members of the Committee in writing on the outcome of a written procedure without delay, and in any case no later than seven calendar days after the expiry of the time limit.

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 without delay and, wherever possible, within 14 calendar days of the meeting. For meetings which are held at four-week intervals or less, the minutes shall be sent at least seven calendar days prior to the subsequent meeting.

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 and shall distribute it to the participants during the course of that 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 shall inform the Chair of this situation. Additionally, any person designated by the Member States, as well as experts who have been authorised by the Chair to participate in the meeting in accordance with Articles 9(2) and 10(2), and representatives of third parties who have been invited to attend the meeting in accordance with Article 10 shall inform the Chair of any conflict of interest with regard to a particular item on the agenda.

In the event of such a conflict of interest, the person concerned shall, at the request of the Chair, withdraw from the meeting whilst the relevant items of the agenda are being dealt with.

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 be sent to the Permanent Representation of the Member State concerned by the most rapid and reliable electronic means. Where a Permanent Representation indicates to the Commission a specific central electronic address for correspondence related to the work of the Committees, that address shall be used for correspondence. In addition, correspondence may be addressed directly to the persons designated by the Member States to represent them in the Committee.

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

Article 16

Access to documents and confidentiality

1. Requests for access to Committee documents shall be handled in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council [1]. The Commission shall decide on requests for access to those documents pursuant to its Rules of Procedure [2]. If the request is addressed to a Member State, that Member State shall apply Article 5 of Regulation (EC) No 1049/2001.

2. The Committee's discussions shall be confidential.

3. Documents submitted to members of the Committee, experts and representatives of third parties shall be confidential, unless access is granted to those documents pursuant to paragraph 1 or they are otherwise made public by the Commission.

4. The members of the Committee, as well as experts and representatives of third parties, shall be required to respect the confidentiality obligations set out in this Article. The Chair shall ensure that experts and representatives of third parties are made aware of the confidentiality requirements imposed upon them.

Article 17

Protection of personal data

The processing of personal data by the Committee and its working groups shall be in conformity with Regulation (EC) No 45/2001 of the European Parliament and of the Council [3], under the responsibility of the Chair acting as the controller, within the meaning of point (d) of Article 2 of that Regulation.

Article 18

Running costs

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

If the allocated financial appropriation allows it and within the limits of that appropriation, the Commission shall cover the travelling expenses of two delegation members who submit a request to that effect.

2. The Commission shall make available the premises and material resources necessary for the Committee's work.

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[1] 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 (OJ L 145, 31.5.2001, p. 43).

[2] Rules of Procedure of the Commission (C(2000) 3614) (OJ L 308, 8.12.2000, p. 26).

[3] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).