DECISIONS

COUNCIL DECISION (EU) 2016/298

of 29 February 2016

on the position to be adopted by the European Union within the ACP-EU Committee of Ambassadors regarding approval of derogations to the Financial Regulation of the Centre for the Development of the Enterprise (CDE)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 209(2) in conjunction with Article 218(9) thereof,

Having regard to 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 ([1]), and in particular Article 2(6) thereof,

Having regard to Decision No 5/2004 of the ACP-EC Committee of Ambassadors of 17 December 2004 concerning the Financial Regulation of the Centre for the Development of Enterprise ([2]),

Having regard to the proposal from the European Commission,

Whereas:

(1) At its 39th session from 19 to 20 June 2014 in Nairobi, Kenya, the ACP-EU Council of Ministers agreed, in a Joint Declaration, to proceed with the orderly closing of the Centre for the Development of Enterprise ('CDE'), and to the amendment 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 ('ACP-EU Partnership Agreement') and to that end, to delegate powers to the ACP-EU Committee of Ambassadors to take the matter forward with a view to the adoption of the necessary decisions.

(2) In its Decision No 4/2014 ([3]), the ACP-EU Committee of Ambassadors recalls that the closure of the CDE is to respect the competences of the CDE's supervisory authorities set out in Annex III to the ACP-EU Partnership Agreement and the detailed arrangements laid down by the ACP-EU Council of Ministers in its Joint Declaration.

(3) Annex III to the ACP-EU Partnership Agreement requires the ACP-EU Committee of Ambassadors to monitor the overall strategy of the CDE and supervise the work of the Executive Board.

(4) Annex III to the ACP-EU Partnership Agreement requires the CDE Executive Board to lay down the financial and staff regulations and the rules of operations.

(5) The request from the CDE Executive Board to the ACP-EU Committee of Ambassadors by letter dated 19 October 2015 explains that, in the context of the closing down of the CDE, the CDE Executive Board wishes to derogate from Article 27(1) and (5) of Decision No 5/2004 of the ACP-EC Committee of Ambassadors of 17 December 2004 concerning the Financial Regulation of the Centre for the Development of Enterprise ('CDE Financial Regulation') and seeks prior approval from the supervisory authorities.

([1]) Agreement signed in Cotonou on 23 June 2000 (OJ L 317, 15.12.2000, p. 3), as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 209, 11.8.2005, p. 27) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).
([2]) OJ L 70, 9.3.2006, p. 52.
([3]) Decision No 4/2014 of the ACP-EU Committee of Ambassadors of 23 October 2014 regarding the mandate to be given to the Executive Board of the Centre for the Development of Enterprise (CDE) (OJ L 330, 15.11.2014, p. 61).

(6) The modification of, or derogations to, the CDE Financial Regulation and CDE Staff Regulations ([1]), depending on the needs that may arise from the implementation of the orderly closure process of the CDE, necessitates a flexible procedure.

(7) The requirement of the appointment of a firm of auditors for a period of three years, as set out in Article 27(1) of the CDE Financial Regulation, and the requirement for this firm to draw up each year a statutory audit report, in accordance with Article 27(5) of that Regulation, need to be adapted in order to ensure a more efficient procedure in the context of the closing-down of the organisation,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted by the Union in the ACP-EU Committee of Ambassadors regarding the approval of the derogations to the CDE Financial Regulation shall be based on the draft Decision of the ACP-EU Committee of Ambassadors attached to this Decision.

2. Minor changes to the draft Decision may be agreed by the representatives of the Union in the ACP-EU Committee of Ambassadors without further decision of the Council.

Article 2

After its adoption, the Decision of the ACP-EU Committee of Ambassadors shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at Brussels, 29 February 2016.

For the Council
The President
H.G.J. KAMP

([1]) Decision No 9/2005 of the ACP-EC Committee of Ambassadors of 27 July 2005 concerning the Staff Regulations of the Centre for the Development of Enterprise (CDE) (OJ L 348, 30.12.2005, p. 54).

DRAFT

DECISION OF THE ACP-EU COMMITTEE OF AMBASSADORS

of …

on the approval of derogations to the Financial Regulation of the Centre for the Development of the Enterprise (CDE)

THE ACP-EU COMMITTEE OF AMBASSADORS,

Having regard to 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 ([1]), and in particular Article 2(6) thereof,

Having regard to Decision No 5/2004 of the ACP-EC Committee of Ambassadors of 17 December 2004 concerning the Financial Regulation of the Centre for the Development of Enterprise ([2]),

Whereas:

(1) Annex III to the ACP-EU 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, (ACP EU Partnership Agreement) requires the ACP-EU Committee of Ambassadors to monitor the overall strategy of the CDE and supervise the work of the Executive Board.

(2) Annex III to the ACP-EU Partnership Agreement requires the CDE Executive Board to lay down the financial and staff regulations and the rules of operations.

(3) The Statutes and Rules of Procedure of the Centre for the Development of Enterprise adopted by Decision No 8/2005 of the ACP-EU Committee of Ambassadors ([3]) (the 'CDE Statutes') and Decision No 5/2004 of the ACP-EC Committee of Ambassadors ('CDE Financial Regulation') ([4]) provide the safeguards in terms of information of and supervision by the ACP-EU Committee of Ambassadors.

(4) At its 39th session held from 19 to 20 June in Nairobi, the ACP-EU Council of Ministers agreed, in a Joint Declaration, to proceed with the orderly closing of the CDE and to the amendment of Annex III to the ACP-EU Partnership Agreement and, to that end, to delegate powers to the ACP-EU Committee of Ambassadors to take the matter forward with a view to the adoption of the necessary decisions.

(5) In its Decision No 4/2014 ([5]), the ACP-EU Committee of Ambassadors recalls that the closure of the CDE is to respect the competences of the CDE's supervisory authorities set out in Annex III to the ACP-EU Partnership Agreement and the detailed arrangements laid down by the ACP-EU Council of Ministers in its Joint Declaration.

(6) The request from the CDE Executive Board to the ACP-EU Committee of Ambassadors by letter dated 19 October 2015 explains that in the context of the closing down of the CDE, the CDE Executive Board wishes to derogate from Article 27(1) and (5) of the CDE Financial Regulation, and seeks prior approval from the Supervisory Authorities.

(7) The modification of or derogations to the CDE Financial Regulation and CDE Staff Regulations ([6]), depending on the needs that may arise from the implementation of the orderly closure process of the CDE, necessitates a flexible procedure.

([1]) Agreement signed in Cotonou on 23 June 2000 (OJ L 317, 15.12.2000, p. 3), as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 209, 11.8.2005, p. 27) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).
([2]) OJ L 70, 9.3.2006, p. 52.
([3]) OJ EU L 66, 8.3.2006, p. 16.
([4]) Decision No 5/2004 of the ACP-EC Committee of Ambassadors of 17 December 2004 concerning the Financial Regulation of the Centre for the Development of Enterprise (OJ L 70, 9.3.2006, p. 52).
([5]) OJ L 330, 15.11.2014, p. 61.
([6]) OJ L 348, 30.12.2005, p. 54.

(8) The requirements of the appointment of a firm of auditors for a period of three years, as set out in Article 27(1) of the CDE Financial Regulation, and the requirement for this firm to draw up each year a statutory audit report, in accordance with Article 27(5) of that Regulation, need to be adapted in order to ensure a more efficient procedure in the context of the closing-down of the organisation,

HAS ADOPTED THIS DECISION:

Article 1

1. The ACP-EU Committee of Ambassadors gives its favourable opinion regarding the derogation from Article 27(1) and (5) of the CDE Financial Regulation, with immediate effect.

2. By derogation from Article 27(1) of the CDE Financial Regulation, the CDE shall be able to appoint a firm of auditors for a period of four years covering the financial years 2013 to 2016. This firm of auditors shall be selected in accordance with the procurement procedures foreseen in the CDE Financial Regulation.

By derogation from Article 27(5) of the CDE Financial Regulation, a multiannual audit will be launched for the years not yet audited and a single final report will be presented to the CDE Executive Board.

Article 2

The ACP-EU Committee of Ambassadors authorises the CDE Executive Board to derogate from and/or to modify the CDE Financial Regulation and CDE Staff Regulation depending on the needs that may arise from the implementation of the orderly closure process of the CDE. The CDE Executive Board shall inform the ACP-EU Committee of Ambassadors of any such decision of derogation and /or modification of the CDE regulations immediately.

Article 3

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

Done at …,

For the ACP-EU Committee of Ambassadors
The President