



Brussels, 25.1.2016
COM(2016) 28 final

2016/0012 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union within the ACP-EU Committee of Ambassadors regarding the revision of Annex III of the ACP-EU Partnership Agreement

EXPLANATORY MEMORANDUM

At its 39th session held on 19 and 20 June 2014 in Nairobi, the ACP¹-EU Council of Ministers agreed, in a Joint Declaration, to proceed with the orderly closing of the Centre for the Development of the Enterprise (hereinafter referred as to 'CDE'), a joint technical body of the ACP-EU Partnership Agreement² established in its Annex III. In this Joint Declaration, the Council of Ministers delegated powers to the ACP-EU Committee of Ambassadors to take the necessary decisions, "*including the relevant amendment to Annex III of the Cotonou Agreement*".

Since June 2014 progressive steps have been completed in view of the CDE liquidation, the final milestone conditioning an orderly winding-down of the CDE being the adoption of the revision of the Annex III of the ACP-EU Partnership Agreement.

With the present Commission's proposal it is intended to introduce the necessary changes in Annex III to the ACP-EU Partnership Agreement as well as to establish a legal framework for the CDE's existence solely for the needs of its liquidation and to foresee legal dispositions regarding:

- i) the legal personality of the CDE;
- ii) the definition of the period covering the phasing-out of the entity;
- iii) the financing arrangements;
- iv) a redefinition of its governance structure of the CDE solely for the needs of its liquidation.

At the same time, the Commission decided to withdraw the Commission proposal for a Council decision on "*the position to be taken by the European Union within the ACP-EU Council of Ministers regarding the revision of Annex III of the ACP-EU Partnership Agreement*" COM (2014) 364 final³ which served as a basis of negotiation in view of the preparation of this 39th ACP-EU Council of Ministers. The Commission recommended at that time a straightforward deletion of any reference to the CDE in the Annex III. This Commission proposal adopted on 10 June 2014 became obsolete and has to be reviewed to foresee the new legal framework of the CDE's existence solely for the needs of its liquidation. The Commission proposal COM(2014)364 will be withdrawn in parallel following the required procedure.

The Commission proposes that the Council of the European Union adopts the attached Decision.

¹ African, Caribbean and Pacific States ('ACP')

² OJ L 317, 15.12.2000, p.3 Agreement signed in Cotonou on 23 June 2000, as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L209, 11.8.2005, p.27) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L287, 4.11.2010, p 3).

³ Proposal for a Council Decision on the position to be taken by the European Union within the ACP-EU Council of Ministers regarding the revision of Annex III of the ACP-EU Partnership Agreement, COM(2014)364 final <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2014:0364:FIN>

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THE COUNCIL OF THE EUROPEAN UNION,

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

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, (hereinafter referred to as the 'ACP-EU Partnership Agreement')⁴,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 100 of the ACP-EU Partnership Agreement states that its Annexes Ia, Ib, II, III, IV and VI may be revised, reviewed and/or amended by the ACP-EU Council of Ministers on the basis of a recommendation from the ACP-EU Development Finance Cooperation Committee.
- (2) Article 15(4) of the ACP-EU Partnership Agreement states that the ACP-EU Council of Ministers may delegate powers to the ACP-EU Committee of Ambassadors.
- (3) At its 39th session held on 19 and 20 June 2014 in Nairobi, 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 (hereinafter referred to as CDE) "*and the amendment of Annex III of the Cotonou Agreement*". For this purpose, the ACP-EU Council of Ministers decided to grant a delegation of powers to the ACP-EU Committee of Ambassadors to take the matter forward with a view to adopting the necessary decisions, "*including the relevant amendment to Annex III of the Cotonou Agreement*".
- (4) The modification of Annex III concerns the definition of the new legal framework of the CDE's existence solely for the needs of its liquidation.

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted by the Union in the ACP-EU Committee of Ambassadors regarding the revision of Annex III to the ACP-EU Partnership Agreement is

⁴ OJ L 317, 15.12.2000, p.3 Agreement signed in Cotonou on 23 June 2000, as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L209, 11.8.2005, p.27) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L287, 4.11.2010, p 3).

established under the terms of the draft Decision of the ACP-EU Committee of Ambassadors annexed 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 Committee.

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*.

Done at Brussels,

*For the Council
The President*