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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 28 January 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2016) 30 final ANNEX 1

Subject: ANNEX to the Proposal for a COUNCIL DECISION on the position to be
taken by the European Union within the ACP-EU Committee of
Ambassadors regarding approval of derogations to the Financial
Regulation of the Centre for Development of the Enterprise (CDE)

Delegations will find attached document COM(2016) 30 final ANNEX 1.

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to the

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ANNEX

Draft

DECISION OF THE ACP-EU COMMITTEE OF AMBASSADORS

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 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, (hereinafter referred to as "ACP-EU Partnership Agreement")¹ and in particular Article 2(6) thereof,

Having regard to the Decision No 5/2004 of the ACP-EU Committee of Ambassadors of 17 December 2004 concerning the Financial Regulation of the Centre for the Development of Enterprise (hereinafter referred to as 'CDE Financial Regulation')²,

Whereas:

- (1) Article 2(6) d) of the Annex III to the ACP-EU Partnership Agreement requires the ACP-EU Committee of Ambassadors to monitor the overall strategy of the Centre and supervise the work of the Executive Board.
- (2) Article 2(7) a) of the 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*".

¹ 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 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) 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 Ambassadors³ (hereinafter referred to as the 'CDE Statutes') and the CDE Financial Regulation provide the safeguards in terms of information of and supervision by the ACP-EU Committee of Ambassadors.
- (4) The ACP-EU Council of Ministers at its 39th session held from 19 to 20 June in Nairobi has agreed, in a Joint Declaration, to proceed with the orderly closing of the CDE and the amendment of Annex III of the ACP-EU Partnership Agreement and, for this purpose, to grant a delegation of powers to the ACP-EU Committee of Ambassadors to take this matter forward with a view to adopt the necessary decisions.
- (5) In its Decision No 4/2014 on 23 October 2014⁴, the ACP-EU Committee of Ambassadors recalls that the closure of the CDE shall respect the competences of the CDE's supervisory authorities determined in Annex III to the ACP-EU Partnership Agreement and the modalities 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, explaining that in the context of the closing down of the Centre, the CDE Executive Board wishes to derogate to Article 27.1 and 27.5 of the CDE Financial Regulation, and seeks prior approval to be granted by the Supervisory Authorities.
- (7) The modification of or derogations to the CDE Financial Regulation and Staff Regulation of the Centre for the Development of Enterprise⁵ (hereinafter referred to as the 'CDE Staff Regulation'), according to the needs that may arise from the implementation of the orderly closure process of the CDE, necessitates a flexible procedure.
- (8) The requirements to appoint a firm of auditors for a period of three years foreseen as per Article 27.1 of the CDE Financial Regulation and the requirement for this firm to draw up each year a statutory audit report as par Article 27.5 of the CDE Financial Regulation, not being relevant anymore in the current context of the closing down of the organisation.

HAS DECIDED AS FOLLOWS:

Article 1

1. The ACP-EU Committee of Ambassadors gives its favourable opinion regarding the derogation to Article 27.1 and 27.5 of the CDE Financial Regulation, with immediate effect.
2. By derogation to Article 27.1 of the CDE Financial Regulation, the CDE will be able to appoint a firm of auditors for a period of four years covering the financial years

³

OJ L 66, 8.3.2006, p.66.

⁴

OJ L 330, 15.11.2014, p. 61.

⁵

OJ L348, 30.12.2005, p.54.

2013 to 2016. This firm of auditors shall be selected in accordance with the procurement procedures foreseen in the CDE Financial Regulation.

By derogation to 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 authorizes the CDE Executive Board to derogate to and/or to modify the CDE Financial Regulation and CDE Staff Regulation according to the needs that may arise from the implementation of the orderly closure process of the CDE.

Article 3

This Decision shall enter into force upon its adoption.

Done at [...],

*For the ACP-EU Committee of Ambassadors
The President*