

**Rules of Procedure of the
EDF Committee**

**Rules of procedure of the
Article 22 Committee**

1 June 1981

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COUNCIL DECISION
OF 27. 1. 1981

adopting the Rules of Procedure
of the European Development Fund Committee

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the second ACP-EEC Convention, signed at Lomé on 31 October 1979, hereinafter referred to as the "Convention", and in particular Title VII thereof,

Having regard to the Internal Agreement on the Financing and Administration of Community aid, signed in Brussels on 20 November 1979, hereinafter referred to as the "Internal Agreement", and in particular Article 17(2) thereof,

Having regard to Council Decision 80/1186/EEC of 16 December 1980 on the association of the overseas countries and territories with the European Economic Community ⁽¹⁾, hereinafter referred to as the "Decision", and in particular Title VI thereof,

⁽¹⁾ OJ No L 361, 31.12.1980, p. 1

.../...

Whereas it is for the Council to adopt the Rules of Procedure of the European Development Fund Committee, hereinafter referred to as the "Committee";

Whereas Council Decision 80/1184/EEC of 18 December 1980 ⁽¹⁾ provides for the replacement of the European unit of account by the ECU to express amounts of financial aid under the second ACP-EEC Convention and the preceding Conventions,

HAS DECIDED AS FOLLOWS:

Sole Article

The Rules of Procedure of the European Development Fund Committee are hereby adopted as set out in the Annex hereto.

Done at Brussels, 27 January 1981

For the Council
The President

(s.) G. BRAKS

⁽¹⁾ OJ No L 349, 23.12.1980, p. 34

Rules of Procedure of the European Development Fund Committee

Article 1

1. The Committee shall comprise the delegations of the Member States hereinafter referred to as the "delegations" and shall be chaired by a representative of the Commission.

A representative of the European Investment Bank, hereinafter referred to as the "Bank", shall take part in the Committee's proceedings.

A representative of the General Secretariat of the Council shall attend the Committee's meetings as an observer.

2. The Member States shall inform the Commission and the General Secretariat of the Council of the names of the persons authorized to exercise the right to vote and of the addresses to which communications to the delegations should be sent.

The representatives of the Commission and of the Bank may be assisted by officials or agents of their respective institutions.

3. The Committee may decide unanimously to hear non-governmental experts.

In this case the Commission is authorized to reimburse the travel and subsistence expenses of these experts under the conditions laid down in Article 13(1).

Article 2

The Committee shall meet when convened by its Chairman, either on his own initiative or at the request of a delegation.

Article 3

1. The Committee shall, under the conditions laid down in Article 17(3) and (4) of the Internal Agreement, deliver an opinion on the following proposals:
 - (a) financing proposals concerning the projects and programmes referred to in Article 93 of the Convention and in Article 81 of the Decision and on the emergency aid referred to in Article 137 of the Convention and in Article 117 of the Decision, which are eligible for financing by means of grants, special loans or the special financing facility provided for in Article 51 of the Convention or in Article 48 of the Decision;
 - (b) financing proposals for an additional commitment exceeding 15% of the initial commitment laid down in the financing decision;
 - (c) proposals for substantial amendments regarding the execution of a project for which a commitment has already been made.

.../...

2. Pursuant to Article 114(1) of the Convention and to Article 95(1) of the Decision, financing proposals may deal with multiannual programmes or overall amounts where the financing concerns sets of training schemes, microproject programmes or sets of technical co-operation and trade promotion schemes.
3. Pursuant to Article 114(2) of the Convention and to Article 95(2) of the Decision, financing proposals may deal with sets of projects and programmes involving a limited amount in a specific sector.
4. Financing decisions relating to the multiannual programmes or overall amounts referred to in paragraph 2 shall be taken by the Chief Authorizing Officer. The Committee shall be informed periodically and at least once a year of operations undertaken under this heading.
5. Financing proposals shall be drawn up by the Commission departments in accordance with a model laid down by the Committee on a proposal from the Commission. They shall contain in particular an advance time-table for the technical and financial implementation of the project.

For projects or programmes eligible for financing by means of a special loan or the special financing facility provided for in Article 51 of the Convention or Article 48 of the Decision, a draft mandate to be given to the Bank regarding the recovery of the principal and the interest thereon of special loans or of the amounts granted under the special financing facility shall be annexed to the financing proposal.

.../...

Article 4

At the meetings of the Committee, each delegation shall give its opinion on the Commission's proposals.

Article 5

1. The Committee shall be informed as soon as possible of any delays or difficulties in executing projects or programmes which might give rise to consultations as provided for in Article 3(1)(b) and (c).
2. The Committee shall also be informed:
 - (a) in accordance with Article 20 of the Internal Agreement, of requests for financing officially submitted to the Commission and set out in a list which shall be updated at regular intervals;
 - (b) in accordance with Article 21 of the Internal Agreement, of the results of work periodically done by the Commission on the evaluation of projects being carried out or completed.
3. The information provided in accordance with paragraphs 1 and 2 may be discussed if any delegation so requests.

.../...

Article 5

1. At least three weeks before the date scheduled for a meeting, the Chairman of the Committee shall send to the delegations, the Permanent Representations of the Member States, the Bank and the General Secretariat of the Council a draft agenda in the official languages of the Communities, together with the proposals referred to in Article 3, as well as the Annexes relating thereto.
2. Information memoranda drawn up pursuant to Article 5 shall be sent, in the official languages of the Communities, to the delegations, the Permanent Representations of the Member States, the Bank and the General Secretariat of the Council as soon as possible before the meeting of the Committee.
3. At least three working days before the scheduled date of the meeting, the delegations shall inform the Committee secretariat in writing of the financing proposals on which they are already able to agree and which they propose for entry - with or without observations or a request for further information - in part A of the draft agenda referred to in paragraph 1, and of those which they consider should be discussed at the meeting and which they are proposing for entry in part B.

In the case of the latter financing proposals, the delegations shall also transmit by the same date, wherever possible in writing, their observations and requests for further information.

The further information and the replies to the observations made will be given, wherever possible in writing, before the meeting by the Committee secretariat.

.../...

4. On the basis of the various particulars referred to in paragraph 3, the Chairman of the Committee shall prepare the agenda for the meeting and submit it to the delegations for approval at the start of the meeting.

A favourable opinion shall be delivered by the Committee on the financing proposals entered in part A by all delegations, after satisfactory replies have been given to observations or requests for further information by the delegations.

Article 7

1. Exceptionally, for projects or programmes whose implementation is a matter of urgency, particularly in the light of their implementation schedule, the Chairman may bring the matter before the Committee using an accelerated procedure whereby the three-week period referred to in Article 6(1) is reduced to seven working days from the date on which the financing proposals are dispatched.
2. The Committee shall take a decision on the spot, unless any delegation requests either recourse to the written procedure provided for in Article 8, within a period reduced to one week if necessary, or further discussion by the Committee.

.../...

Article 8

1. The opinion of the Committee may be sought by means of a written procedure.

If, at the end of three weeks, the Committee has not delivered a favourable opinion on the financing proposal, or if, before the end of this period, a delegation specifically requests that the proposal be the subject of discussion, it shall be examined by the Committee at a subsequent meeting.

2. The Committee shall be notified by telex of recourse to the written procedure.

Article 9

The following procedures shall apply to the emergency aid referred to in Article 137 of the Convention and Article 117 of the Decision:

- (1) where the circumstances call for immediate aid, the Commission is authorized to commit, up to a ceiling of 500,000 ECU, the amounts necessary for covering operations of the utmost urgency. The Chairman of the Committee shall inform the Committee forthwith of such commitments;
- (2) where the ceiling provided for in (1) proves inadequate, a financing proposal shall be submitted to the Committee by telex.

If at the end of three working days the Committee has not delivered a favourable opinion on the financing proposal or if, before the end of this period, a delegation has requested that the proposal be the subject of discussion with regard to its substance, the Chairman shall immediately convene the Committee, which shall meet within the period of seven working days provided for in Article 7(1).

.../...

Article 10

1. The Committee may deliver a favourable opinion on a financing proposal subject to amendments. Account shall be taken of these amendments when the matter is placed before the Commission, as provided for in paragraph 5.
2. The Committee may request that certain points in the appraisal of a project or programme be re-examined. In particular in such case, the financing proposal may be submitted to the Committee a second time.
3. If, after a favourable opinion by the Committee but prior to the signing of the financing agreement, substantive amendments to the financing proposal submitted to the Committee prove necessary, the Commission shall postpone the signing and inform the Committee thereof. If the latter considers that, since its deliberations, the basic facts have changed or no longer obtain, it may request a fresh vote on the financing proposal and any amendments thereto.
4. Any delegation may request that an item be included on the agenda for a Committee meeting. Information supplied regarding the item may be given orally.
5. The opinions delivered by the Committee shall be forwarded to the Commission by the Chairman.

Article 11

In the context of Article 113(3) of the Convention and Article 18(3) of the Internal Agreement, the Committee shall meet as an ad hoc committee to hear the representatives of the ACP State or States concerned.

.../...

(ANNEX)

Article 12

1. The Commission shall provide the secretariat for the Committee and for the ad hoc committee referred to in Article 11.
2. Within three weeks at the latest of the date of the Committee's opinion, the secretariat shall draw up, under the Chairman's responsibility and in the official languages of the Communities, a record of the main conclusions of each meeting of the Committee and of the basic positions taken by the delegations. This record shall be considered final when it has been approved by the Committee either by means of the written procedure or at a subsequent meeting. It shall be sent to the Commission by the Chairman of the Committee.
3. The final record shall be sent to the delegations, the Permanent Representations of the Member States, the Bank and the General Secretariat of the Council.
4. Whenever the ad hoc committee referred to in Article 11 meets, a special record shall be drawn up, approved and distributed under the same conditions as those laid down for records of meetings of the Committee. If representatives of the ACP State or States concerned or representatives of the bodies referred to in Article 94 of the Convention have been granted a hearing at the meeting of the ad hoc committee, they shall also receive the special record.
5. Correspondence concerning the Committee shall be addressed to the Commission, for the attention of the Chairman of the Committee. Correspondence addressed to a delegation shall also be sent to the Permanent Representation of the Member State concerned.

.../...

Documents relating to the Committee's work and deliberations may be communicated only to the relevant departments of the Member States and of the Community institutions or bodies.

5. Persons attending meetings of the Committee and of the ad hoc committee shall be required to observe the secrecy of these Committees' work and deliberations.

Article 13

1. The operating expenditure of the Committee and of the ad hoc committee, including the travelling expenses of not more than four persons per State or per Community institution or body, shall be charged to the general budget of the European Communities.
 2. The Commission shall place at the disposal of the Committee the premises and facilities necessary for its work.
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.../...

(ANNEX)

STATEMENTS ENTERED IN THE MINUTES
OF THE COUNCIL MEETING

1. Re Articles 3 and 6

(a) The Council states:

"The Chairman of the Committee, pursuant to Article 6 of the Financial Regulation of the Centre for Industrial Development and Article 6 of the Financial Regulation of the Technical Centre for Agricultural and Rural Co-operation, will refer to the Committee the draft budget adopted by the Committee on Industrial Co-operation and the Subcommittee on Co-operation for Agricultural and Rural Development.

He will refer it to the Committee in accordance with Article 6 of these Rules of Procedure as soon as the draft budget has been adopted.

However, when forwarding the financing proposal he may refer to the draft budget adopted by the Committee on Industrial Co-operation and the Subcommittee for Co-operation on Agricultural and Rural Development."

(b) The Danish delegation states:

"The Danish delegation considers that the third subparagraph of the above Council statement is concerned with the matter of time and not the use of the official languages of the Communities."

.../...

(ANNEX)

2. Re Article 3(5), first subparagraph

The Council states:

"This model was adopted by the Committee at its meeting held on 14 November 1978 and 6 February 1979."

3. Re Article 4

The Council states:

"Should a delegation have to absent itself during a meeting, it may, as an exceptional measure, either inform the Committee secretariat of its position on the Commission proposal(s) or delegate its votes to another delegation and inform the Committee secretariat."

4. Re Article 5(2)(b)

The Council states:

"The information shall also cover overall regional and sectoral assessments."

5. Re Article 6(1)

(a) The Council states:

"It is agreed that the Commission departments will endeavour, by contacting each delegation, to shorten in practice the time taken to forward Committee documents and that the delegations, for their part, will endeavour to shorten the time taken to forward documents to the officials concerned."

(b) The Commission states:

"The Commission will do everything in its power to meet the deadline laid down in Article 6(1)."

.../...

(c) The German delegation states:

"The German delegation emphasizes that it reserves the right not to adopt a position in the Committee if the documents in German do not reach it in good time."

6. Re Article 6(3) and (4)

The Council states:

"The agreement of a delegation to the entry of a financing proposal in part A of the provisional agenda of the Committee does not rule out the possibility for that delegation of going back on its decision should it feel this necessary."

7. Re Article 7(1)

(a) The Commission states:

"Projects and programmes whose implementation is a matter of urgency shall cover, in particular, operations involving an imperative implementation schedule and operations whose appraisal has been delayed for reasons unforeseeable to the Community (agricultural projects, school buildings which have to be completed before the start of the new school year, road-building projects which must be carried out outside the rainy season, cofinancing which involves special implementation time-limits etc.)."

(b) The Council and the Commission state:

"As a general rule the Chairman of the Committee should refer to the Committee only projects or programmes the total of which does not exceed 3 million ECU."

8. Re Article 8

(a) The Council and the Commission state:

"The Chairman of the Committee should seek the Committee's opinion by means of the written procedure only on projects or programmes in respect of which it is presumed that an opinion will be delivered without discussion. As a general rule, he should seek the opinion by this procedure only on projects or programmes the total of which does not exceed 2 million ECU."

(b) The Commission states:

"It is of course understood that until the deadline for the procedure is reached, the Commission departments will reply to any requests for clarification from delegations."

(c) The Council states:

"Delegations will request a discussion by the Committee only on questions of substance remaining after the requests for clarification referred to in the above Commission statement."

It will be for the delegation requesting the discussion alone to decide whether a question is one "of substance".

.../...

9. Re Article 9

The Council states:

"Information forwarded under the co-ordination procedure to all the Member States will also be forwarded, in the case of the ACP States and the OCT, to the members of the Committee."

10. Re Article 9, point 2

The Council and the Commission state:

"As a general rule, the Chairman of the Committee should refer to the Committee only financing proposals concerning emergency aid the total of which does not exceed 3 million ECU."

Where the Chairman has to refer to the Committee a financing proposal concerning emergency aid totalling more than 3 million ECU he will endeavour to use the normal procedure referred to in Article 6 or the accelerated procedure referred to in Article 7."

11. Re Article 9, point 2, first sentence

The Council states:

"The telex will be drafted in accordance with an outline to be defined by the Committee on a proposal from the Commission."

.../...

COUNCIL DECISION
OF 28. IV. 1981

adopting the Rules of Procedure of the Committee
set up under the auspices of the European Investment Bank
(the "Article 22 Committee")

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community,

Having regard to the second ACP-EEC Convention, signed at Lomé
on 31 October 1979, hereinafter called the "Convention", and in
particular the provisions thereof on industrial co-operation and
on financial and technical co-operation,

Having regard to the Internal Agreement on the Financing and
Administration of Community Aid, signed in Brussels on
20 November 1979, hereinafter called the "Internal Agreement",
and in particular Article 22(1) thereof setting up under the
auspices of the European Investment Bank, hereinafter called
the "Bank", a Committee composed of Representatives of the
Governments of the Member States hereinafter called "the
Article 22 Committee",

Having regard to Council Decision 80/1186/EEC of 16 December 1980 on the association of the overseas countries and territories with the European Economic Community ⁽¹⁾, hereinafter called "the Decision", and particularly the provisions thereof on industrial co-operation and on financial and technical co-operation,

Having regard to the opinion of the Bank,

Whereas it is for the Council to adopt the Rules of Procedure of the Committee;

Whereas, in accordance with Article 5 of the Decision of the Representatives of the Governments of the Member States of 8 April 1965 on the provisional location of certain institutions and departments of the Communities ⁽²⁾, all the activities of the Bank are carried on in Luxembourg,

HAS DECIDED AS FOLLOWS:

Sole Article

The Rules of Procedure of the Article 22 Committee as set out in the Annex hereto are hereby adopted.

Done at Luxembourg, 28. IV. 1981

For the Council

The President

(s.) J. de KONING

⁽¹⁾ CJ No L 361, 31.12.1980, p. 1
⁽²⁾ OJ No 152, 13.7.1967, p. 18

RULES OF PROCEDURE
of the Article 22 Committee

Article 1

1. The Committee shall comprise the delegations of the Member States, hereinafter called "delegations", and the Bank. The latter shall provide the secretariat of the Committee.

The Committee shall be chaired by the representative of the Member State currently providing the Chairman of the Board of Governors of the Bank.

A representative of the Commission shall take part in the work of the Committee.

A representative of the General Secretariat of the Council shall attend the meetings of the Committee as an observer.

2. The Member States shall inform the Bank and the General Secretariat of the Council of the names of the persons authorized to exercise the right to vote and of the address to which communications to them are to be sent, together with the names of the persons authorized to receive such communications.
3. The Bank, the Commission and the General Secretariat of the Council shall designate their respective representatives. Such representatives may be assisted by officials or staff of their institution. Paragraph 2 shall apply by analogy with regard to the addressees of documents submitted by the Bank.

Article 2

The Committee shall meet when convened by its Chairman, either on his own initiative, at the request of a delegation or at the request of the Bank.

.../...

Article 3

1. The Committee shall, under the conditions laid down in Article 22(3) and (4) of the Internal Agreement, deliver an opinion on requests for loans with interest rate subsidies and proposals for financing by risk capital.
2. Documents submitted to the Committee shall be prepared by the Bank.

In addition to the date referred to in Article 23(2) of the Internal Agreement, the documents shall give details of:

- the place of the project in the Community indicative aid programme,
- the development objective which it is intended to achieve,
- the general organization of and the justification for the project,
- its cost and method of financing,
- its local, national and regional impact.

3. The detailed rules governing the technical execution of the project and the timetable for carrying it out shall be summarized in an Annex.
4. However, the Bank may obtain the Committee's opinion on the basis of a blanket authorization of commitments as regards, within the framework of risk capital operations, the financing of specific studies for the preparation of projects, the financing of assistance to firms during the starting-up period and the financing of research and investment in preparation for the launching of projects in the mining and energy sectors referred to in Article 105(2)(b) and (c) of the Convention. The Bank shall inform the Committee of operations undertaken under this heading.

.../...

(ANNEX)

Article 4

1. The Committee shall be informed of any loans without interest rate subsidies which the Bank intends to grant in the petroleum sector.
2. The Committee shall also be informed:
 - (a) pursuant to Article 24(1) of the Internal Agreement, and subject to such adjustments as are necessary to take account of the nature of the operations financed and of the procedures laid down in the Statute of the Bank, of all requests for financing officially submitted to the Bank, irrespective of whether these are selected by its directorates;
 - (b) pursuant to Article 24(2) of the Internal Agreement, of the results of work periodically done by the Bank on the assessment of projects being carried out or completed which have received aid managed by the Bank.
3. The information provided under paragraph 2 may be discussed if one or more delegations so request.

.../...

Article 5

1. At least three weeks before the date fixed for a meeting, the Bank shall send to the persons designated pursuant to Article 1(2) and (3) a personal copy of the draft agenda, marked "confidential", together with the documents referred to in Article 3.
2. Any information memoranda drawn up to meet the requirements of Article 4 shall be sent under the same conditions as set out in paragraph 1 and as soon as possible before the Committee meeting.
3. At least three working days before the date of the meeting, each delegation shall inform the Bank of the requests or proposals to which it is already able to agree and which it proposes to enter in part "A" of the draft agenda referred to in paragraph 1, as well as those which it considers must be discussed at the meeting and which it proposes to enter in part "B".

In the latter case and within the same time limit, delegations shall notify the Bank of their comments or requests for further information.
4. On the basis of the various particulars referred to in paragraph 3, the Chairman of the Committee shall draw up the agenda for the meeting which he shall submit to the delegations at the beginning of the meeting for their approval.

The Committee shall be deemed to have delivered a favourable opinion in the case of requests or proposals entered in part "A" by all delegations, after any comments or requests for further information made by delegations have been answered to their satisfaction.

.../...

Article 6

1. The opinion of the Committee may, if need be, be sought by means of a written procedure.

If, on expiry of a three-week period, the request or proposal has not obtained the Committee's favourable opinion, or if, before the expiry of that period, a delegation specifically requests that the request or proposal be discussed, the request or proposal shall be examined by the Committee at a subsequent meeting.

2. The Committee shall be informed by telex of use of the written procedure.

Article 7

1. The Committee's favourable opinion may be accompanied by requests for amendments to proposals submitted by the Bank.
2. The Committee may ask for the appraisal of a request or proposal to be supplemented in certain respects. In such an event, in particular, the request or the proposal may be put before the Committee a second time.
3. Each delegation may request that an item be placed on the agenda for a Committee meeting. Information supplied in this connection may be given orally.
4. The opinions delivered by the Committee shall be forwarded to the Board of Directors of the Bank.

.../...

Article 8

In the context of Article 113(3) and (4) of the Convention and Article 23(3) of the Internal Agreement, the Committee shall meet as an ad hoc committee to hear the representatives of the ACP State or States concerned.

Article 9

1. The Bank shall provide the secretariat for the Committee and for the ad hoc committee referred to in Article 8.
2. A record of the main conclusions of each meeting of the Committee and the main standpoints adopted by the delegations shall be drawn up by the secretariat under the responsibility of the Chairman within not more than three weeks following the date of the Committee's opinion. This record shall be considered final when it has been approved by the Committee either by means of the written procedure or at a subsequent meeting.
3. The final record shall be sent to the same addressees and under the same conditions as set out in Article 5(1).
4. Whenever the ad hoc committee meets, a special report shall be drawn up, approved and distributed under the same conditions as the records of meetings of the Committee. If representatives of States other than those referred to in Article 1(1) have been granted a hearing at the meeting of the ad hoc committee, they shall also be sent the special record.
5. Correspondence concerning the Committee shall be addressed to the Bank, for the attention of the Chairman of the Committee. Correspondence addressed to a delegation shall also be sent to the person designated to receive it at the Permanent Representation of the Member State concerned.

.../...

5. Those attending meetings of the Committee and of the ad hoc Committee shall be required to observe the secrecy of the Committees' work and deliberations. Documents relating to such work and deliberations shall be reserved exclusively for the use of those to whom they are addressed, who shall be responsible for their safekeeping.

Article 10

1. The operating expenditure of the Committee and of the ad hoc Committee, including travel expenses for not more than four persons per delegation or per Community institution, shall be borne by the Bank.
 2. The Bank shall place at the disposal of the Committee the premises and equipment necessary for its work.
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STATEMENTS ENTERED IN THE MINUTES OF THE COUNCIL MEETING

1. Re Article 3(1)

The Council States:

"Should a delegation not be represented or have to absent itself during a meeting it may, as an exceptional measure, inform the Committee's secretariat of its position on any of these requests or proposals."

2. Re the third indent of the second subparagraph of Article 3(2)

The Council states:

"The justification for the projects will relate to their economic and social aspects and, without prejudice to the powers of the Board of Directors of the Bank, to their financial aspects. This justification will take into account the benefits or effects expected from the projects.

When setting out this justification the Bank should where necessary take as a basis the principles to be taken into consideration in the Community procedures for programming aid."

3. Re Article 5(3)

The Council states:

"The fact that a delegation agrees to the entry of a request or a proposal as an "A" item on the Committee's provisional agenda does not exclude the possibility of that delegation reconsidering its decision if it considers it appropriate to do so."

.../...

4. Re Article 6

(a) The Council and the Bank state:

"The Chairman of the Committee would seek the opinion of the Committee by means of the written procedure only in the case of requests or proposals on which it is presumed that opinions will be delivered without discussion."

(b) The Bank states:

"It is self-evident that until the expiry of the procedural deadline the Bank's departments will answer any requests for additional information made by delegations."

(c) The Council states:

"Delegations will request a discussion by the Committee only in the case of basic points which are still outstanding after the requests for additional information referred to in the above statement by the Bank.

It is solely for the delegation requesting the discussion to judge whether a point is "basic"."
