

Economic Community of West African States, African Regional Bodies

## Regulation C/REG.5/08/11 Relating to the Denomination and the Establishment of the Rules for the Functions, Organization and Mode of Operation of the ECOWAS Project Preparation and Development Unit (PPDU)

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Regulation C/REG.5/08/11 Relating to the Denomination and the Establishment of the Rules for the Functions, Organization and Mode of Operation of the ECOWAS Project Preparation and Development Unit (PPDU)

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Economic Community of West African States

## **Regulation C/REG.5/08/11 Relating to the Denomination and the Establishment of the Rules for the Functions, Organization and Mode of Operation of the ECOWAS Project Preparation and Development Unit (PPDU)**

Published in official journal 59 on 1 August 2011

**Commenced in full**

*[This is the version of this document at 19 August 2011.]*

### **The Council of Ministers,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of the provisions of Article 28 of the said Treaty relating to the coordination and harmonisation of policies and programmes in the field of energy;

**MINDFUL** of the provisions of Article 32 of the said Treaty on the coordination and harmonisation of policies and programmes in the field of transport;

**MINDFUL** of Protocol A/P1/7/96 on the conditions governing the application of the Community Levy;

**MINDFUL** of Supplementary Act A/SA.6/01/08 amending Decision A/DEC.9/01/06 on the allocation of resources from the Community Levy to Community Institutions;

**MINDFUL** of Regulation C/REG.9/12/99 approving the restructuring of the ECOWAS Executive Secretariat in order to make it more functional and to pursue ECOWAS and NEPAD objectives, thereby fulfilling the expectations of Member States;

**MINDFUL** of Regulation C/REG.18/01/05 of 18 January 2005 relating to the creation within the ECOWAS Executive Secretary of a Project Development and Implementation Unit (PDIU) for the Development and Implementation of NEPAD Infrastructure Projects;

**DESIROUS** of amending, by this Regulation, the provisions of Regulation C/REG.18/01/05 of 18 January 2005 to make the said provisions consistent with the texts establishing the PPDU;

**MINDFUL** of Regulation C/REG.18/11/08 of 29 November 2008 relocating the ECOWAS Project Preparation and Development Unit (PPDU) to ECOWAS Bank for Investment and Development (EBID) and establishing the Infrastructure Fund for financing the activities of the Unit;

**BEARING IN MIND** that the term "PPDU" is commonly used by various stakeholders in the infrastructure sector and that the said term may be retained as the designation for the Project Preparation and Development Unit;

**OBSERVING** that the term "PDIU" has changed to become "PPDU" for reasons of the partial change in the mandate and responsibilities of the Unit;

**CONSIDERING** the imperative need to define the organisation, functions and mode of operation of the Project Preparation and Development Unit to facilitate the take-off of its activities;

**CONSIDERING** that, upon the creation of the PPDU, a Working Group comprising ECOWAS Commission and its technical and financial partners was established, and that the said Group affirmed the importance of conferring autonomy on the PPDU;

**DESIROUS** therefore of adopting Regulations to govern the organisation, functions and mode of operation of the PPDU;

**ON THE RECOMMENDATION** of the ninth meeting of the Administration and Finance Committee held in Abuja in May 2011;

**ENACTS:**

## **Chapter 1** **Definitions, denomination, functions,** **organisation and mode of operation of the PPDU**

### **Article 1 – Definitions**

For the purpose of these Regulations, and unless the context otherwise dictates:

**"Treaty"** means the Revised Treaty of the Economic Community of West African States (ECOWAS) signed in Cotonou on 24 July 1993 and all its amendments;

**"ECOWAS"** means the Economic Community of West African States, established under Article 2 of the 1993 Revised Treaty of ECOWAS;

**"Unit"** means the Project Preparation and Development Unit (PPDU);

**"Community"** means the Economic Community of West African States (ECOWAS) referred to under Article 2 to the revised Treaty and subsequent protocols;

**"Commission"** means the ECOWAS Commission established by virtue of the New Article 17 of the Supplementary Protocol A/SP.1/06/06 amending the Revised Treaty;

**"Director"** means Director of PPDU

**"Member States"** means the Member States of ECOWAS;

**"Council of Ministers"** means the Council of Ministers as established by Article 10 of the ECOWAS Revised Treaty;

**"NEPAD"** means the New Partnership for Africa's Development;

**"Technical and Financial Partners"** means the donors and development partners which support PPDU activities through financing, technical assistance and capacity building;

**"The Advisory Facility (AF)"**: means the facility support to the public sector or in some cases the private sector in partnership with the public sector;

**"The Infrastructure Developer Challenge Fund (IDCF)"**: means the facility provided for the funding of the operations of projects preparation of the private sector.

**"Stakeholder"** means all entities that will benefit from the activities of the PPDU and/or have provided a financial contribution or technical assistance to it.

### **Article 2 – Denomination**

1. The NEPAD Infrastructure Projects Development and Implementation Unit (PDIU) established in the ECOWAS Commission is hereby re-designated Project Preparation and Development Unit (PPDU).
2. The PPDU shall be vested with legal personality and the autonomy necessary to discharge its mandate.

### **Article 3 – Functions of the PPDU**

1. The PPDU shall be responsible for:
  - a. preparing and developing regional integration infrastructure projects in ECOWAS Member States;
  - b. management of a dedicated infrastructure fund for preparation of the projects;
  - c. promotion of public/private partnerships in investment financing and project management in ECOWAS;
  - d. discharging such other tasks as may be assigned to it by its governance organs.
2. To this end, the PPDU shall:
  - a) Identify, select and prioritize regional integration infrastructure projects in consultation with the ECOWAS Commission, Member States and the private sector;
  - b) Mobilise the resources required for preparation and development of infrastructure projects;
  - c) Undertake the studies and activities required for preparation and development of infrastructure projects with a view to making the projects bankable;
  - d) Create a more attractive climate for regional infrastructure projects financing and investment;
  - e) Manage the Infrastructure Funds, and all the other Funds placed at its disposal;
  - f) Serve as regional focal point for capacity-building of similar structures in ECOWAS Member States;
  - g) Negotiate and conclude cooperation and/or partnership agreements with regional and sub-regional institutions in the area of infrastructure project preparation and development.
  - h) Monitor and evaluate the implementation of projects it supports.

### **Article 4 – Governance organs**

The governance organs of the PPDU shall be:

- The Steering Committee; and
- The Directorate.

### **Article 5 – Composition and Functions of the Steering Committee**

The Steering Committee shall be the strategic decision-making organ of the PPDU.

#### **1. Composition of the Steering Committee**

- a) The Steering Committee shall be composed of the following nine (9) members representing PPDU stakeholders:
  - i. Two (2) Representatives of the ECOWAS Commission;
  - ii. One (1) Representative of the ECOWAS Bank for Investment and Development (EBID);
  - iii. Two (02) Members representing ECOWAS Member States;
  - iv. Three (03) Members representing the Technical and Financial Partners; and
  - v. One (01) Member representing the Private Sector.
- b) One of the Representatives of ECOWAS Commission shall be the Chairperson of the Steering Committee. The Deputy Chairperson shall be elected by Members of the Steering Committee.

- c) Members of the Steering Committee shall be persons recognised for their technical and managerial competence.
- d) The Director of PPDU shall participate in meetings of the Steering Committee in a non-voting capacity.

## 2. Functions of the Steering Committee

The Steering Committee shall perform the following functions:

- a) Propose from time to time for adoption by ECOWAS Statutory Authorities the overall mandate and management policy of the PPDU;
- b) Approve the operating strategy of the PPDU;
- c) Appoint External Auditors and review and approve the annual audited financial accounts;
- d) Approve the annual operating plan and budget submitted by the PPDU Management;
- e) Approve the organisational structure of the PPDU;
- f) Appoint the Director, evaluate his/her performance and, if need be, terminate his/her appointment;
- g) Approve the appointment proposal for the senior management staff of the PPDU;
- h) Approve the applications for the Advisory Facility (AF) and the Infrastructure Developer Challenge Fund (IDCF);
- i) Approve PPDU Management submissions in respect of distribution/allocation of AF and IDCF;
- j) Approve the commitments and expenditures of the AF and the IDCF;
- k) Approve the risk management plan, financial audit and control procedures of the PPDU;
- l) Approve the Rules of Procedure and the Manuals of Accounting, Financial, Administrative and Human Resource Management Procedures of the PPDU;
- m) Monitor the performance of the PPDU in relation to its mandate;
- n) Review the performance of the PPDU from time to time and make appropriate recommendations to the statutory authorities of ECOWAS. The periodicity for review shall be specified in the Manual of Procedure.

## Article 6 – Mode of operation of the Steering Committee

- a) The Steering Committee shall hold two (2) ordinary sessions in a calendar year, and an extra-ordinary session (s) where the need arises, at the invitation of its Chairperson or at the instance of at least two-thirds (2/3) of its members. The Chairperson shall address a written notification to each member not later than fifteen (15) days before any of the meetings.
- b) The Deputy Chairperson shall stand in for the Chairperson:
  - At the request of the Chairperson; or
  - Where the Chairperson is unable to carry out his/her duties.
- c) In case of vacancy of the position of Deputy Chairperson, the Chairperson shall provisionally appoint a member of the Steering Committee to serve as Deputy Chairperson until the next meeting of the Committee at which a new Deputy Chairperson shall be appointed.
- d) Two-thirds (2/3) of the Steering Committee shall constitute a quorum. Decisions of the Steering Committee shall be taken by a simple majority of the members present and voting. In the event of a tie, the Chairperson shall have a casting vote.

- e) The deliberations of the Steering Committee shall be recorded in a report signed by its Chairperson and the designated Rapporteur.
  - f) The PPDU Directorate shall serve as the Secretariat of the Steering Committee.
  - g) Members of the Steering Committee shall receive sitting allowance as prescribed in the PPDU Manual of Procedures referred to under Article 9 of this Regulation. Their participation in the various sessions shall be covered by the budget of the PPDU.
  - i) The Steering Committee may set up technical committees whenever necessary.
- [Please note: numbering as in original.]*

## **Article 7 – Election and term of office, resignation and removal, vacancy of position**

### **1. Election and term of office**

- a) With the exception of the Representatives of the ECOWAS Commission and those of EBID, members of the Steering Committee shall be appointed for a non-renewable tenure of four (4) years with effect from the date of their appointment.
- b) The Representatives of ECOWAS Commission, namely: the Commissioner for Infrastructure and the Commissioner for Finance and Administration or their respective representatives, shall be appointed in their official capacity.
- c) The Representative of EBID, namely, the Vice President in charge of Operations or his/her Representative shall be appointed in his/her official capacity.
- d) Representatives of Member States shall be appointed by consensus from among ECOWAS Member States on a two (2) year rotational basis.
- e) Without prejudice to Article 11 (2) of this Regulation the procedure for appointing representatives of the Steering Committee with the exception of the representatives of the ECOWAS Commission and EBID shall be defined in a regulation to be adopted by the Steering Committee established under Article 3 of this Regulation.

### **2. Resignation and removal from office**

- a) Any member wishing to resign from the Steering Committee shall give fifteen (15) days notice thereof to the Chairperson of the Steering Committee who shall inform the other members accordingly.
- b) A member of the Steering Committee may be removed from office for dereliction of duty, gross misconduct, repeated unjustified absence from committee sessions or where he/she has been convicted of a criminal offence, in accordance with the Rules of Procedure of the Committee.
- c) In case of resignation, death or removal from office of a member of the Steering Committee, his/her replacement shall be chosen without prejudice to the composition of the Steering Committee.

### **3. Vacancy of position**

Where the position of a member of the Steering Committee becomes vacant during his/her tenure, the Chairperson of the Steering Committee shall take all appropriate measures for replacement of the member without prejudice to the composition of the Steering Committee.

## **Article 8 – Directorate of the PPDU**

### **1. Functions of the Director**

The Director shall:

- a) Act as the principal representative of the PPDU in its dealings with all the key stakeholders;
- b) Implement the decisions of the Steering Committee;
- c) Represent the PPDU in all contractual transactions and act as its legal representative.
- d) Initiate and conduct staff recruitment in conformity with the organizational structure and the relevant procedures, as adopted by the Steering Committee;
- e) Organise and coordinate all activities of the PPDU;
- f) Manage the assets of the Unit;
- g) Sign contracts within the limits set by the Steering Committee;
- h) Authorize expenditure within the limits set by the Steering Committee;
- i) Recruit experts and consultants to render services relating to the effective running of the Unit, depending on the workload of the relevant staff;
- j) Manage and supervise the staff of the PPDU in the execution of their day-to-day activities and report to the Steering Committee;
- k) Build a good image for the Unit by the quality of the projects presented ;
- l) Perform such other functions as may be assigned to him/her by the Steering Committee.

### **2. Recruitment of the PPDU Director**

- a) The profile and grade required for the position of Director of the PPDU shall be determined by the Steering Committee which shall adopt the Terms of Reference for the said position.
- b) Recruitment of the Director of the PPDU shall be conducted in a transparent manner through competitive international recruitment procedure, open only to nationals of ECOWAS Member States.
- c) The Director of the PPDU shall be recruited on account of his/her competences and experience in infrastructure project management as defined in the profile of the position.
- d) In collaboration with the appropriate Human Resource Committee of the ECOWAS Commission, three (3) members of the Steering Committee shall participate in the process of selecting the Director.
- e) The Director of the PPDU shall be appointed by the Steering Committee for a tenure of five (5) years, renewable once.
- f) The personal emoluments of the Director shall be determined by the Steering Committee and shall be competitive in relation to comparable institutions.
- g) Renewal of the tenure of the Director shall be subject to an evaluation of his/her performance by the Steering Committee. The Steering Committee shall decide whether or not to renew the tenure of the Director depending on the outcome of the evaluation.

### **Article 9 – Staff of the PPDU**

1. The PPDU staff complement shall comprise of a Director, a technical team and support administrative staff recruited on the basis of the organizational structure and the PPDU Staff Regulations adopted by the Steering Committee.
2. Recruitment shall be carried out in collaboration with the appropriate Human Resources Committee of the ECOWAS Commission.

### **Article 10 – Manuals of Procedure and Rules of Procedure**

1. The rules governing the operation of the PPDU shall be set out in the Manuals of Procedure and Operation adopted by the ECOWAS Council of Ministers on the recommendation of the Steering Committee.
2. The Steering Committee shall adopt its own Rules of Procedure

### **Article 11 – Communication**

The PPDU shall devise a communication policy with a view to promoting and ensuring the transparency of its activities. It shall publish a report on its activity, on annual basis.

## **Chapter 2 Financial and accounting provisions**

### **Article 12 – Funding and utilization**

1. The PPDU shall be financed by contributions from the stakeholders. The funds so raised shall be used to finance:
  - a. The Infrastructure Fund; and
  - b. The operating budget.
2. **The Infrastructure Fund**
  - 1) The Infrastructure Fund shall comprise two types of Fund: the Advisory Facility (AF) and the Infrastructure Developer Challenge Fund (IDCF).
  - 2) The sources of funding for the Infrastructure Fund shall be:
    - a) The Community;
    - b) Donors, contributors, foundations and development partners;
    - c) Public-private sector partnership mechanisms; and
    - d) All other sources.
3. **The Advisory Facility (AF):**

The Advisory Facility shall serve to provide support to the public sector in the form of technical assistance towards preparation and negotiation of infrastructure projects. The Facility shall also be used to support the public sector during project preparation and negotiation with the private sector.

**4. The Infrastructure Developer Challenge Fund (IDCF)**

- a. The IDCF shall serve to provide support towards development of private sector-led infrastructure projects emanating from public-private partnership.

**5. Common procedures of the two funds**

- b. Distribution of the funds shall be determined by the Steering Committee.
- c. The procedure for use as well as the criteria for accessing the AF and the IDCF shall be established by the PPDU Directorate and approved by the Steering Committee.
- d. For both the AF and the IDCF, there shall be open invitations for the tendering of proposals from ECOWAS Member States' Governments and private sector regarding the provision of grants and/or contributions towards the cost of infrastructure projects.

**6. Operating budget**

The Operating budget of the PPDU shall be made up of resources as a determined by the Steering Committee of the PPDU.

**7. Adoption of PPDU budget**

The budget for the upcoming year shall be adopted by the Steering Committee in the last quarter of the current year.

### **Article 13 – Financial Regulations of the PPDU**

1. The PPDU shall provide itself with Financial Regulations and a Manual of Accounting Procedures approved by the Steering Committee.
2. The Financial Regulations referred to in paragraph 1 of this article shall be in conformity with the ECOWAS Financial Regulation and Manual of Accounting Procedures.

## **Chapter 3 Transitional and final provisions**

### **Article 14 – Transitional provisions**

1. a) For the purpose of speedy takeoff of the activities of the PPDU, interim personnel shall be recruited for the Unit on one-year renewable contract. The said recruitment shall be undertaken under the supervision of the President of the ECOWAS Commission. A Recruitment Committee is hereby established, with membership comprising the Representatives of ECOWAS Commission (Infrastructure Department, Human Resources Directorate), financial and technical partners, and two resource persons recognized for their competence in infrastructure development.
- b) The Committee shall select the candidates on the basis of a fair, transparent and competitive process.
2. The appointment of the Steering Committee members shall be undertaken under the supervision of the President of ECOWAS Commission in consultation with the stakeholders.
3. The operating budget of US\$8,864 million appropriated by the Council of Ministers by Regulation C/REG.18/11/08 of 29 November 2008, for a period of five years, shall be reallocated for five (5) years with effect from the date of signing of this Regulation.
4. The Infrastructure Fund shall start off with the sum of US\$ten (10) million as per Regulation C/REG.18/11/08 of 29 November 2008 adopted by the ECOWAS Council of Ministers. Other project funding

needs shall be met by this Fund, as well as by the donors and development partners participating in the financing of the PPDU.

### **Article 15 – Final provisions**

1. This Regulation abrogates all contrary previous provisions, particularly the provisions of Regulation C/REG.18/01/05 of 18 January, 2005 establishing within the ECOWAS Executive Secretariat, a Unit for the development and implementation of NEPAD infrastructure projects.
2. It shall be published by ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National *Gazette* within thirty (30) days after notification by the Commission.

Done at Abuja this 19<sup>th</sup> day of August 2011

H.E. Olugbenga Ashiru

Chairman for Council