



OPERATIONAL REGULATION OF THE SPECIAL FUND

ASSOCIATION OF CARIBBEAN STATES (ACS)

PREPARATORY AND TWELFTH ORDINARY MEETING OF THE MINISTERIAL
COUNCIL

Guatemala City, Guatemala, **January 24-26, 2007**

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GENERAL PROVISIONS

Article 1: Definitions: For the purpose of this Operational Regulation, definitions of Article 1 of the Convention Establishing the Association of Caribbean States, hereinafter referred to as "the Convention", shall be adopted.

In accordance with Agreement 4/96 approved by the Ministerial Council, the following definitions shall be taken into consideration:

Special Fund: Refers to the Special Fund established in accordance with Article XIII of the Convention.

Authorities of the Fund: Refers to the four authorities established in Appendix 1 of Agreement No. 4/96 approved by the Ministerial Council.

Council of National Representatives of the Fund: Refers to the body comprising High Level representatives of the Member States and Associate Members of the ACS, the Chairpersons of the Special Committees and the Secretary General of the ACS, in accordance with Appendix 1, Article 4 of Agreement 4/96, hereinafter referred to as the "Council of the Fund".

Article 2: Application: This Operational Regulation shall govern the functions and the decisions of the Authorities of the Fund.

Article 3. Supplementary Provisions: Cases not foreseen in the Convention or in this Regulation shall be resolved by the Ministerial Council.

Article 4: Hierarchy: In the event of conflict between any provision of this Regulation and the Convention, the latter shall be enforced.

II. COMPOSITION OF THE BOARD OF DIRECTORS

Article 5. Members of the Board of Directors: Refers to the body comprising five (5) representatives of Member States and Associate Members of the Association. In no case will the Board of Directors consist of fewer than three (3) Member States.

Members shall be elected from representatives of the Council of the Fund, in accordance with the provisions of Appendix 1 chapter 4.iii of Agreement 4/96.

Positions on the Board of Directors shall be:

Chairman
First Vice Chairman
Second Vice Chairman
Rapporteur

The Council of the Fund shall elect members to the Board of Directors every year at an ordinary meeting. Members of the Board of Directors shall be eligible for re-election twice to the same position or a different one, for a similar period.

Members of the Board of Directors shall maintain their positions until their successors are elected and shall exercise functions for the entire meeting.

Article 6. Participation of Representatives of Member States and Associate Members on the Board of Directors: The fundamental criteria for the election of members to the Board of Directors shall be the need to guarantee a high level of competence, specialization, experience and fulfillment of the principles of geographic distribution and linguistic representation.

III. FUNCTIONS OF THE AUTHORITIES OF THE FUND

Article 7. Ministerial Council: Shall be the highest authority of the Special Fund and shall determine the general framework for programmes to be funded with the resources of the Special Fund. The Council of the Fund and the Special Committees, in conjunction with the Secretariat, shall advise the Ministerial Council on the determination of this general framework, in accordance with the provisions of Article XIII of the Convention and Appendix I chapter 4.1.i of Agreement No. 4/96.

Article 8. Board of Directors: Shall be the body responsible to the Ministerial Council for the functions of the Council of the Fund.

Apart from exercising functions conferred upon it in this Regulation, members of the Board of Directors shall also exercise the following functions:

1. Chairman:

- a) To specify agenda items for meetings, in conjunction with the Secretariat.
- b) To chair sessions and to submit items which appear on the agenda, for the consideration of the Council of the Fund.
- c) To grant representatives the opportunity to make interventions in the order which they make their request.
- d) To call to order, any representative who may deviate from the subject being discussed.
- e) To decide on questions of order which may arise from discussions.
- f) To submit points in the discussion which may require a decision by vote, and to announce the decision emanating from the vote.

- g) To coordinate the necessary support for the fulfillment of his functions with the Secretariat.
- h) The Chairman of the Board of Directors who is demitting office shall present a performance report on his term to the new Board of Directors elected by the Council of the Fund.
- i) To define and implement in coordination with the Secretariat the necessary follow-up measures for the activities of Member States, Associate Members, other States, governmental, non-governmental, international, regional, sub-regional and private sector organizations involved in programmes and projects under execution including those whose arrangements can be expedited.

j) In the event of the temporary absence of the Chairman at a session or part of the same, the Vice Chairman next in order shall act in his stead.

2. Vice Chairmen:

The Vice Chairmen shall exercise the same functions as the Chairman.

In the event that the Chairman resigns or it becomes impossible for him to complete his mandate, and the Member State or Associate Member of the Association which he represents does not designate a successor, the Council of the Fund shall designate one of the Vice Chairmen as Interim Chairman.

3. Rapporteur:

a) To present to the Council of the Fund, the report of each meeting, after prior approval of the other members of the Board of Directors.

b) To draft the minutes of meetings and to present the draft resolutions emanating from the deliberations.

c) To read the motions proposed, the resolutions and the minutes to the Plenary Sessions, whenever the Chairman may deem it necessary.

d) To coordinate the necessary support for the fulfillment of his functions with the Secretariat.

e) In the absence of the Rapporteur, the Council of National Representatives of the Fund will appoint from among its members a person to act in such capacity during the meeting in question.

Article 9. Council of National Representatives of the Special Fund

9.1 The Council of National Representatives of the Special Fund shall be the authority responsible for receiving, evaluating and selecting the programme and project proposals and for authorizing the related financial resources.

9.2 Programme and Project proposals shall be approved by the issue of a resolution of the Council of the Fund provided that when a project requires prompt approval and external resources have been committed for this project, the Secretariat shall circulate the proposal to Member States and Associated Members who must approve, disapprove or submit their comments within 21 calendar days from the date of dispatch. If no objection is made during the 21-day period, the President of the Special Fund shall authorize the Secretariat to continue the relevant negotiations.

9.3 The evaluation and selection of programme and project proposals shall be undertaken taking into consideration the following administrative and technical criteria:

a) That the programmes and projects are encompassed within the Priority Areas of the Association.

b) That their period of execution may not be more than five years. If necessary, the Council shall renew the programmes and projects or broaden their scopes according to their relevance and the availability of funds.

c) That programme and project proposals include and benefit to the largest number of Member States and Associate Members belonging to at least two (2) different groups of countries of the Association.

- d) That the proposals determine the beneficiary population in a concrete manner.
- e) That the proposals determine the origin and amount of resources.

- f) That the viability of the projects is evident, in terms of the technical, administrative and economic capacity of the proposer and executor.

Article 10. Other functions of the Council of the Fund: Apart from the responsibilities stipulated in this Operational Regulation, and other decisions of the Ministerial Council, the Council of the Fund shall exercise the following functions:

- a) To present an Annual Report on its activities to the Ministerial Council.

- b) To formulate recommendations on the execution of tasks and support activities for the fulfillment of the mandates and functions which it may be assigned, by the Ministerial Council.

- c) To fulfill the mandates assigned to it by the Ministerial Council.

- d) To formulate recommendations on the planning, programming, budgeting, management control, follow-up and evaluation of programmes, projects and activities being executed, to the Ministerial Council.

Article 11. Functions of the Secretariat: Shall be the authority responsible for assisting in the receipt of programme and project proposals which shall be submitted to the Council of the Fund for consideration, along with the following documents:

- a) Financial Statement of the Special Fund

- b) Certification of the amount of money available in the budget to enable the allocation of resources for programmes and projects, which may be selected.

- c) Consultative opinion on the following aspects:
 - 1. Fulfillment of each of the requirements stipulated in the Methodology Manual for the presentation of programmes and projects
 - 2. Application of the programme and project selection criteria

If the proposal does not fulfill the criteria established in this Regulation and in the Programme and Project Presentation Manual, the Secretariat shall immediately notify the interested party and the Board of Directors of the Council of the Fund.

Article 12. Other functions of the Secretariat: Apart from the responsibilities stipulated in this Operational Regulation and other decisions of the Ministerial Council, the Secretariat shall have the following functions:

- a. To assist the Chairman of the Board of Directors in the implementation of the necessary follow-up measures to the activities referenced in Article 8.1.i of the present Regulation.

- b. To examine the execution of programmes and projects periodically, to evaluate the development of the same, and to formulate pertinent recommendations to the other authorities of the Fund.

- c. To recommend the inclusion of special proposals to be included in the programmes of the Association, to the other authorities of the Fund.
- d. To assist the Board of Directors in the exercise of its functions.
- e. To follow-up resolutions which may be adopted by the Council of the Fund.
- f. To establish the necessary mechanisms in order to ensure the comprehensive coordination of activities and decisions of the other authorities of the Special Fund.

IV. MEETINGS

Article 13. Meetings of the Council of the Fund: The Rules of Procedure of the Ministerial Council stipulated in Annex 1 of Agreement No. 9/95, shall be adopted for the convocation of meetings of the Council of the Fund.

Cases not foreseen in the Convention, Annex 1 of Agreement No 9/95 and in this Operational Regulation shall be resolved by the Ministerial Council.

Article 14. Minutes of the Council of the Fund: Resolutions shall consist of all decisions made during meetings of the Council of the Fund.

Article 15. Discussions and Voting: All decisions on the selection, approval or rejection of programmes and projects, shall be made in accordance with the majority of votes of members present.

Procedural matters shall be resolved by the majority vote of two thirds of the voting members present.

Article 16. Notification of decisions on the evaluation of programme and project proposals: The Secretariat shall forward directly to the interested parties, decisions on the selection, approval or rejection of programme and project proposals presented. To this end, it shall forward a copy of the Minutes prepared to the proposers.

V. ACQUISITION OF GOODS, SELECTION AND IMPLEMENTATION OF PROGRAMME AND PROJECT PROPOSALS

Article 17. Financing. Projects financed by the Special Fund can be:

- i) **Studies on pre-investment and technical assistance that are associated with the programmes and projects to be financed in the context of the operations of this Fund,**
- ii) **Investment projects in the framework of the programmes developed or approved by the ACS.**

Article 18. Entities eligible to present programmes and projects: The following entities shall present programme and project proposals in accordance with the provisions of Appendix 1 chapter 6.1 of Agreement No. 4/96:

- a) Member States and Associate Members of the Association through their National Representatives to the Council of the Fund.
- b) States, Countries and Territories accepted as Observers by the Ministerial Council.
- c) Any State, Country or Territory, which may not be a Member of the Association or have

Observer status may present programme and project proposals within an area encompassed in any of the spheres of competence of the Special Committees or Technical Groups, on condition that it contributes at least 50% of financing for the project.

- d) International Organizations of an inter-governmental nature, on condition that they contribute at least 50% of financing for the project.
- e) Special Committees of the ACS through their Chairpersons.

Article 19. Resources: Programmes and projects developed by the Special Fund are eligible to be financed from the following sources:

- The special Fund's own resources means those resources that are contributed voluntarily by Member States, non-members or other entities. They are available and are not restricted to financing a specific programme or project.
- Shared resources means resources that are secured from another donor in addition to the Special Fund's own resources.
- Additional resources means those resources which come from any donor outside of the ACS

The origin and amount of shared resources that the proposer presents, shall be taken into account in the evaluation.

Article 20. Entities eligible to execute programmes and projects: Entities apart from those, which have presented programme and project proposals and which may be contracted by the proposer, shall be eligible to execute approved programmes and projects. The Council of the Fund shall determine the level of responsibility of the proposer and the executor to the Association.

The proposer shall appoint or contract an institution or public or private entity of a Member State, an Associate Member, a territory of the region, a state outside of the region, a governmental or inter-governmental organization of a national character, a bilateral, multilateral or non-governmental organization of an international character respectively, as project executor.

The appointment and/or contracting mentioned above will cease to be in effect once the programmes and projects under their responsibility no longer serve their objectives.

The proposer shall entrust full legal powers to the person responsible for the execution of the programme or project, who shall be the Association's counterpart for all matters related to the execution.

Article 21. Selection and contracting of the project executor: The proposer shall be ~~responsible for the selection and contracting of the project executor with the prior approval of the Secretariat~~ except when the proposal is made by a Member State or Associate Member. Selection shall be done from a minimum of three candidates, taking into consideration the provisions of Article 20 of this Operational Regulation.

Once the proposer makes a selection, he shall forward a report on the selection process, experience, suitability and capacity of the executor, to the Secretariat.

The proposer shall sign a contract with the executing entity, which shall be signed on three original and equally valid copies, one of which shall be forwarded by the proposer to the Secretariat of the Association at least twenty (20) working days in advance of the commencement of the execution of the project. The project shall specify the following aspects:

- a) Objective
- b) Terms of reference, in particular objectives to be reached, impact of the project, direct and indirect beneficiaries and methodology.
- c) Location of contract and meetings
- d) Time frame for work
- e) Periodic reports on execution and the Final Report
- f) Cost of work contracted
- g) Form of payment
- h) Currency
- i) Taxes
- j) Identification of supervisors
- k) Responsibility of executing entity by contracting of personnel
- l) Property Rights and information base
- m) Responsibility of opinions expressed by the executing entity and non-commitment to the Association
- n) Non-fulfillment of the contract
- o) Legal address

Article 22. Acquisition of goods and services: In the event that the project envisages the possibility of acquiring goods, this shall not surpass 15% of the execution cost of the project; and if the value exceeds the sum of US\$20,000.00, a bidding process shall be undertaken, taking into consideration the provisions of Appendix 1 chapter 6.2 of Agreement No. 4/96.

The responsibility for acquiring goods shall be that of the project executor and shall comply with the provisions of international quality standards, functioning and guarantee.

The acquisition process shall respect the principle of objectivity and competitive methods which shall consider three (3) offers presented in writing, in order to ensure reasonable prices and quality of goods.

The use of competitive methods shall have exceptions in the following circumstances:

Emergencies such as rescue, in the case of disasters, repairs and other activities which may be urgently required to protect lives or goods.

Acquisition of urgently needed technical equipment and scientific material to save or protect lives or goods.

All acquisitions shall be subject to subsequent verification by Auditors designated for the project.

Article 23. Total cost of the programme or project: The total cost of the programme or project shall be the sum total of the total execution cost including its evaluation, management and auditing costs, when the latter may be required.

The cost of Management and Auditing shall not be greater than 10% of the cost of the project's execution.

VI. APPROVED PROGRAMME AND PROJECT PROPOSALS

Article 24. Obligations of the proposer: Approval of proposals through the issue of Resolutions by the Council of the Fund, shall constitute an obligation by the proposer to sign an Agreement,

with the Secretary General in his capacity of legal representative of the Association and as Administrator of the Special Fund, which shall specify the following aspects:

- a) Conditions under which the approved project shall be executed
- b) Objective
- c) Terms of reference, and in particular, the objectives to be reached, the impact of the project, direct and indirect beneficiaries and methodology
- d) Cost
- e) Form of disbursement of the value of financing
- f) Term of execution
- g) Responsibilities of each party
- h) Selection and contracting procedure when the executor may be a person or entity different from the proposer
- i) Periodic execution reports and Final Report
- j) Identification of supervisors for the execution
- k) Suspension or termination
- l) Legal address
- m) Links with other projects developed by the Association

Article 24. Disbursements: Approval of programmes and projects through the issue of Resolutions by the Council of the Fund, shall constitute the authorization of the Secretary General to make disbursements on behalf of the legal representative of the executing entity, in accordance with the quantities and terms approved.

Article 26. Periodic disbursements: All payments shall be made on the basis of the presentation of documentation to support the assurance that such payment may have expired, and in the event that goods and services are involved, these shall be received by the legal representative of the executing agency.

Article 27. Control of programme and project execution: The Secretariat shall exercise control by means of a Data Base, which registers all phases of programme or project execution and the results reached and to be reached. It will likewise contain information on disbursements and the status of accounts.

Article 28. Evaluation of the results of programme and project execution: When project or programme execution has ended, the Secretariat shall prepare for the consideration of the Council of the Fund and in conjunction with the proposer, an ex-post termination and evaluation report to determine the level at which the expected benefits were attained.

If the proposer is the same as the executor of the programme or project, the Secretariat shall contract an expert to undertake joint evaluation. The said cost shall be specified in accordance with the provisions of Article 23 of this Regulation.

Article 29. Budgets of programmes and projects

Each project shall include an entry that shall allow to finance:

- a) The evaluation, provided that the proposer and the executor are different
- b) The programme or project management

VII. RESOURCES AND ADMINISTRATION OF THE SPECIAL FUND

Article 30. The Special Fund's own resources shall consist of resources contributed voluntarily by Member States, non-members or other entities, in accordance with the provisions of Article XIII of the Convention.

Entities can be any Associate Member, Observer, territories of the region, states outside of the region and inter-governmental organizations of a national character, governmental, bilateral, multilateral, and non-governmental organizations of and international character, in accordance with the provisions of Article XIII of the Convention and Appendix 1 chapter 5.1 of Agreement No. 4/96.

Article 31. Contributions: Contributions can be made in United States dollars or in any freely convertible currency, and deposited into the bank account which the Secretariat may make available for this purpose, taking into consideration the procedure stipulated in Appendix 1 chapter 5.1 of Agreement 4/96.

Article 32. Administration: The Secretariat shall manage the Special Fund's resources thereby seeking its greatest income yielding capacity, and placing it in prestigious financial institutions, which may offer the most favorable rates upon prior authorization by the Board of Directors.

Article 33. Financial period: The Special Fund shall have a financial period of one calendar year beginning January 1 and ending December 31 of the same year.

Article 34. Budget:

34.1. Once a year, during the Meeting of the Council of National Representatives that was established by Article 4 of these operational rules, the Council of the Special Fund will approve the budget presented by the Secretariat, in US dollars. The budget will estimate the incomes and the expenses of the corresponding financial year.

34.2. The Council of National Representatives of the Special Fund authorizes the Board of Directors, with the support of the Secretary General, to make the necessary financial readjustments during the year, in order to finance the unexpected expenses and to facilitate the implementation of the programmes and projects of the Association already approved by the Council of National Representatives of the Special Fund.

34.3. The financial contributions of the Member States and Associate Members to the budget of the Secretariat shall not be allocated for the management of programmes or projects or to the Special Fund.

Article 35. Commitment of resources: Resources of the Special Fund shall be committed only in the event that they may be covered by necessary income. They shall not be committed if there is no available budget allocation.

Only a maximum of 25% of the Special Fund's own resources shall be allocated for the co-financing of programmes and projects of the Association.

Article 36. Non-committed resources: At the end of the financial year, the Secretary General shall transfer the non-committed resources to the following financial year.

Article 37. Financial Report: The Secretary General shall present an Annual Report on the management of the Council of the Fund. The report shall be compiled in accordance with the provisions of Appendix 1 chapter 7 of Agreement 4/96 and shall contain the following aspects:

- a) Contributions received and disbursements made during the financial year
- b) Financial statement
- c) Budget allocation
- d) Level of accumulated interests

Article 38. Auditing: The Accounts of the Special Fund shall be subject to the provisions of Appendix 1 chapter 7 of Agreement 4/96.

VIII. FINAL PROVISIONS

Article 39. Other Documents: The guidelines, models of agreements on commitments, contracts and certificates of budget availability among others which are stipulated by the Secretariat and approved by the Board of Directors as the authority of the Special Fund and Manager of resources of the Special Fund for its improved functioning shall complement this Operational Regulation.

Article 40 Amendment: This Operational Regulation can be modified with the consensus of the Council of the Fund.

Article 41. Enforcement: This Operational Regulation shall enter into force once the provisions of Appendix 1 chapter 9 of Agreement 4/96 are fulfilled.