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Framework for Sugar-Cane Producers and
Co-operation on Technology and Market

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DRAFT STATUTES OF THE
GROUP OF AFRICAN SUGAR-PRODUCING COUNTRIES

Background paper*

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* The proposed text for the Statutes of the Group of African Sugar-Producing Countries is based on the Statutes of the Group of Latin American and Caribbean Sugar Exporting Countries (GEPLACEA). The views expressed in this document are those of the author and do not necessarily reflect the views of the Secretariat of UNIDO. This document has not been edited.

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CHAPTER I

Objectives and Functions

As follows are some of the principal objectives and functions of the Group:

- a) To serve as a consultative and co-ordinating mechanism on common issues pertaining to an integral industrial utilization and marketing of sugar, by-products and derivatives.
- b) To foster the harmonious development of the sugar cane agro-industry in the member countries of the Group, through complementary, solidary action in special situations as well as in the regular matters involved.
- c) To exchange scientific and technological knowledge and further joint efforts in this sphere as pertains to field and factory so as to improve the use of cane in the production of sugar, by-products and derivatives.
- d) In so far as international sugar trade is concerned, to establish a system for co-operation and exchange of knowledge and information among the organizations in charge of marketing in each member country. And furthermore, to foster the adoptions to balance the benefits of importers and exporters.
- e) To promote sugar trade among the member countries of the Group, bearing in mind the goal of self-sufficiency in sugar in the region.
- f) With the consultative and co-ordination mechanisms, contribute to the development of integration systems concomitant to the obligations stemming from the agreements signed by member countries and currently in effect.

Proposed Text

Explanatory Remarks/Alternative Proposals

CHAPTER II

Members

Membership in the Group may be open to all African sugar cane producing countries, with any exceptions the Group decides on for any reason. An African country could become a member once its government ratifies the Group Statutes.

African countries that produce only beet sugar may participate and enjoy the benefits of membership in the Group. But it must be borne in mind that, in the sphere of technology, it would be extremely expensive to devote funds to co-operation and an exchange of expertise pertaining to the industrial use of beets, taking into account that very little beet sugar is produced in Africa compared to cane sugar production. For example, beet sugar represented only 6.3 per cent of total output in Africa for the 1988/89 crop year.

If for other reasons it was decided that South Africa will not participate, it must also be borne in mind that this nation is by far the chief cane sugar producer in Africa and has the most up-to-date technology for cultivation and industrial use of cane.

CHAPTER III

Observers

The Group may accept as observer any country or regional or sub-regional intergovernmental organization which has expressed its intention to participate in the Group.

Observers will be granted this status through any voting procedure deemed suitable by the Group.

CHAPTER IV

ORGANIZATION

The Group should have the following two permanent organs:

- a) The Assembly, consisting of all the member countries, is the highest decision body of the Group. Each member country shall appoint one representative to the Assembly and, if it so desires, one or more alternates or consultants.
- b) The Secretariat, consisting of officials elected by the Assembly and the staff deemed necessary.

THE ASSEMBLY

As follows are the principal faculties of the Assembly:

- a) Study all matters of interest to the Group; adopt resolutions, decisions and draft recommendations, according to the Statutes and in line with the Group objectives.
- b) Elect and remove the Executive Secretary and other elected officials.
- c) Fix the contributions of member countries and analyze, modify and manage the Group's annual budget.
- d) Appoint the outside auditors of the Group.
- e) Alter and approve the Secretariat Work Plan.
- f) Elect the bureau at the Assembly sessions.
- g) Approve the participation of observers, in line with the provisions of these Statutes, and establish terms for participation.
- h) Set up special commissions or working groups.
- i) Adopt decisions with regard to the location of Secretariat Headquarters.
- j) Change or approve amendments to the Statutes.
- k) Interpret the Statutes, when necessary.
- l) Modify and approve regulations.
- m) Declare the dissolution of the Group and of the Statutes.

VOTING CRITERIA

The Group may adopt the voting criterion deemed most suitable; simple majority, absolute majority, two-thirds majority, unanimous vote, etc. If, however, the aim is to achieve a reflection of the will of member countries without reaching the strictness of unanimous decision, in general it is advisable to provide for a two-thirds or simple majority vote of the member countries eligible to vote, regardless of whether they are present at Assemblies.

In the proposed text of the Statutes we have taken into consideration the criterion of a two-thirds majority vote of countries eligible to vote, with the understanding that the Group will select the system it deems advisable for general voting procedures as well as for specific cases.

ASSEMBLY SESSIONS

In line with GEPLACEA's experience, it would be recommendable to hold two regular sessions a year during the first few years of the Group's operation, so as to allow for optimum co-ordination of concrete activities. Afterwards, once certain general action lines have been institutionalized, the Group may decide to hold only one regular session annually.

Special sessions would be convened by mandate of the Assembly when deemed necessary by the Group.

ASSEMBLY SESSIONS

The quorum of any Assembly Session shall be two-thirds of the Member Countries with the right to vote.

As a general rule, the Assembly shall hold one or two ordinary meetings every year. The Assembly shall also have the power to hold special meetings when so decided by the Assembly or when requested by the majority of the Members Countries.

The Assembly shall determine the date and place of its regular meetings.

The meetings of the Assembly shall be convened by the Executive Secretary and shall be held at the Secretariat or in any Member Country offering to host the Meeting.

Meeting of the Assembly shall be convened at least thirty days in advance. The official convocation will be sent with the draft agenda of sessions.

The Assembly shall adopt all of its resolutions and decisions, and shall formulate its recommendations by a two-thirds majority of the Member Countries with the right to vote.

Proposed Text

THE SECRETARIAT

- a) The Secretariat is the Group's executive organ, and shall act in accordance with these Statutes, the Regulations and decisions of the Assembly. It shall consist of the officials elected by the Assembly and other members of the staff that may be necessary to hire.
- b) For a candidate to be eligible for election, the government of his country must submit an official nomination within the period stipulated.
- c) The Executive Secretary shall bear the legal representation of the Group.
- d) Each of the Member Countries agrees to respect the exclusively international nature of the duties of the officials and staff of the Secretariat, and not try to influence them in the performance of said duties.
- e) The elected officials shall be nationals of Member Countries and shall be elected on the basis of rotation and geographical distribution.

Explanatory Remarks/Alternative Proposals

THE SECRETARIAT

It is recommendable to establish a permanent body such as a Secretariat to co-ordinate and afford continuity to Group activities. The Secretariat might be set up as follows:

As in other cases, the number of elected officials should be small and might include the following offices:

- Executive Secretary
- Assistant Secretary in Market and Statistics
- Assistant Secretary in Technology

If deemed necessary, a Deputy Executive Secretary might also be elected.

The experience of GEPLACEA has shown that it is advisable for officials to be elected for a short term - 3 or 4 years - and reelection limited to another term of the same length.

In the event this option is adopted, it should be taken into account that an official might be nominated by his country of origin to another post once his first or second term of office has ended. The second post might be one of the same level or higher. The criterion pertaining to geographical distribution with regard to elected officials would continue to prevail, however.

In view of the number of countries eligible for membership in the Group, it is recommendable to apply criteria of rotation and geographical distribution with regard to elected officials. Thus the options of short terms of office and only one reelection would be suitable. Officials must be citizens of member countries.

Secretariat Headquarters

Factors pertaining to geographical location, communications infrastructure, political stability and others must be taken into account in determining the headquarters country of the Secretariat.

DECISION-MAKING CAPACITY

- It would be advisable for each member country to be entitled to one vote.
- In the event a criterion such as the contribution of a member country to the budget or the production level were taken into account in establishing the number of votes, countries with a small cane agro-industry would be at a disadvantage.
- Provisions would also have to be established with regard to the manner, procedure, date and place of exercising the right to vote and the suspension and reinstatement of said right.

Proposed Text

CHAPTER V

FINANCIAL PROVISIONS

The Member Countries shall pay their contributions to the Annual Budget of the Group which shall be determined by The Assembly on the following bases:

- a) Each member country shall pay an equal amount as a minimum quota;
- b) The balance shall be distributed in direct proportion to each country's sugar production volume and international trade corresponding to the average of the three years immediately preceding the budget year for which there is on the first day of the period, information published officially by the International Sugar Organization or by any other source determined by the Assembly.
- c) There shall be established a maximum quota of an amount equivalent to a percentage of the total Annual Budget as determined by the Assembly.
- d) If there is a difference between the amount of the contributions calculated in accordance with the preceding paragraphs and the total amount of the Annual Budget, such difference shall be distributed among the Member Countries in accordance with the provisions of paragraph b).

OTHER CONTRIBUTIONS

- a) Any Member Country may contribute on a voluntary basis to a special Fund, independent of the Annual Budget, for the purpose of financing programs and studies, especially with respect to the interchange in scientific and technological matters which the Assembly may consider to be of special interest to the Group.
- b) The countries admitted as observers in accordance with the pertinent article of these Statutes shall make contributions to the Special Fund in return for the services and benefits which they derive from their participation as observers in the Group;
- c) The Assembly shall fix the level of the Special Fund, estimate the amount of voluntary contributions that may be made by Member Countries, and fix the amount of the contributions of observer countries.
- d) Through its member countries or the Secretariat, the Group will apply for funds from external sources such as international and national co-operation organizations.
- e) The Assembly shall determine the conditions governing the operation of the Special Fund.

Explanatory Remarks/Alternative Proposals

- In view of the fact that sugar is produced in a majority of African countries and that there are few exporting countries, the most suitable criterion for establishing the contribution to the budget would be the production volume. Thus countries with the highest production would contribute the greatest amount to the budget.

Since international marketing will be one of the principal spheres for co-operation of the Group, the Assembly might decide to supplement this criterion with that of the volume of sugar exports or imports.

- A minimum amount might be determined for dues.
- A maximum amount might also be established so as to prevent the Group from becoming financially dependent on any given nation. And to prevent any country from having to bear an onerous financial burden in supporting the Group.

- As follows are some additional sources for funds to supplement the dues fixed for member countries of the Group:
- International and national co-operation organizations.
- Contributions from observers.
- Voluntary contributions from member countries.
- Co-operation from private companies for holding events, training courses and publications.

CHAPTER VI

BUDGET YEAR

- The financial year of the Group shall coincide with the calendar year.
- The expenses of the representatives of member countries and observers at meetings of the Group shall be paid by their respective countries.
- The expenses related to the organization of the Meetings of the Group shall be the responsibility of the host country, unless the meetings take place at Secretariat Headquarters.
- Expenses not budgeted for by the Secretariat when convening special meetings shall be met by the Member Countries in proportion to their contribution to the Annual Budget.

PENALTIES

- The Contributions to the Annual Budget shall be made in freely convertible currency and shall be due on the first day of the financial year.
- If any Member Country fails to pay its total contributions to the Annual Budget within a period of six (6) months from the date on which it falls due, its voting rights in the Meetings of the Assembly shall be suspended.
- The voting rights of any Member Country that have been temporarily suspended due to lack of payment shall be restored once payment has been made.

PENALTIES

- Taking into consideration that the Assembly may meet once or twice a year and that the second session would be held during the second half of the year, it would be advisable to provide for suspension of voting privileges if contributions have not been paid after the first six months of the financial cycle.
- It should be underlined that in these proposed Statutes the only reason for losing the right to vote is failure to pay dues. Nonetheless, the Group may establish the same penalty for any other reason if deemed necessary.

Proposed Text

Explanatory Remarks/Alternative Proposals

CHAPTER VII

PRIVILEGES AND IMMUNITIES

Legal Status

- The Group shall have juridical personality. In particular it shall have the capacity to sign contracts, to acquire and dispose of movable and fixed property, and to institute legal proceedings.

Agreement with the Headquarters Country

- The Group shall conclude with the Government of the Country where the Secretariat Headquarters is located, as soon as possible, an Agreement that shall be approved by the Assembly regarding the legal status, privileges and immunities of the Group, of the Secretariat and of the members of the staff. This Agreement, which shall be independent of these Statutes, shall establish the conditions for its termination.

- Unless other provisions regarding taxes are applied in accordance with the Agreement, the Government of the country where the Secretariat is located shall:

- a) grant tax exemption on the remuneration paid by the Group to its staff; and
- b) grant tax exemption on the property, income and other assets of the Group.

Agreement with the other Member Countries

a) The representatives of the Member Countries shall have during their stay in the territory of a Member Country for the purpose of participating in meetings or other activities of the Group, the privileges and immunities accorded them by the said Member Country to permit them to perform their functions;

b) The members of the Secretariat and the experts appointed by the Group shall have during their stay in the territory of a Member Country the privileges and immunities accorded them by the said Member Country to permit them to perform their functions; and

c) The Group, if it deems it necessary, shall authorize the negotiation of an Agreement on privileges and immunities with the Member Countries.

- In addition to the Agreement with the member country where the Secretariat Headquarters is to be located, and an agreement with any other member country if deemed necessary, the possibility of establishing Secretariat Headquarters in a non-member country would also have to be considered.

In this case, before establishing the headquarters in a given country, the Group would request a guarantee in writing that said nation would enter into an agreement with the Group, similar to a pact of this type with a member country if the headquarters had been established there.

Until an agreement is entered into, the headquarters country would grant the exemptions outlined in this chapter.

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CHAPTER VIII

FINAL PROVISIONS

Ratification

These Statutes shall be subjected to acceptance by signature or signature and ratification by the signatory Governments if this is required by the legislative provisions in force in the respective countries. The instruments of ratification shall be deposited at the Foreign Ministry of the Headquarters country, which shall notify the Member Countries and the Executive Secretary of each one of the deposits.

Entry into Force

These Statutes shall enter into force on the date they are accepted or ratified by two-thirds of the Governments of the countries that constitute the Group.

The countries whose Governments have to ratify these Statutes in accordance with their legislative provisions shall be considered provisional members of the Group with full rights and obligations until they become Member Countries through the deposit of their instruments of ratification.

- The Statutes should include an article stipulating the place and date on which said Statutes will be open to signature by African sugar-producing countries. It is advisable to designate as a trustee the Ministry of Foreign Affairs of the headquarters country of the Group Secretariat to deposit the instruments of ratification, acceptance or approval of the Statutes.

- When a country signs the Statutes it must indicate whether signature is subject to ratification.

- The Assembly will decide if the entry into force of the Statutes is effective following ratification by simple majority, a two-thirds majority or unanimous approval by the countries that had originally signed the Statutes or expressed their will to sign and ratify them.

The same numerical criterion might be applied to procedures for amendments, the dissolving of the Group and termination of the Statutes, but in these cases only the countries with the right to vote would do so.

- In view of the Group objectives, it would be advisable to refrain from establishing reservations with regard to any of the provisions in the Statutes.

In the event it is decided to accept reservations, however, they must be approved by the Assembly; and it should be sought to prevent these reservations from undermining the fulfillment of Group objectives.

WITHDRAWAL AND EXCLUSION

Voluntary Withdrawal

Any Member Country may, at any time, withdraw from the Group and denounce these Statutes after giving prior notification in writing to the Depositary which shall transmit it to the Member Countries and the Executive Secretary.

The withdrawal and denunciation shall take effect ninety (90) days after receipt of the notification by the Depositary.

Exclusion

In the event the Assembly decides that a country has failed to fulfill its obligations stipulated in the Statutes and that the foregoing undermines Group operations, it may exclude this country by a two-thirds majority vote. Said member country will no longer be a member country of the Group ninety days after the Assembly has adopted the decision.

Settling Balances

If any Member Country withdraws at any time, all outstanding accounts shall be settled during the period of ninety (90) days.

No Member Country shall be entitled to any part of the proceeds of the Group's liquidation or assets after withdrawal or exclusion.

Amendments

Each Member Country may propose amendments to these Statutes.

The amendments to these Statutes that are approved by the Assembly shall be formalized in protocols that shall enter into force after they have been accepted or ratified by two-thirds of the Member Countries, through the deposit of the respective instrument.

Duration and Termination

- 1) These Statutes shall continue in force indefinitely.
- 2) The Assembly may, at any time, by a majority of two-thirds of the Members with the right to vote, declare the Group and these Statutes terminated and
- 3) Notwithstanding the termination of the Group and these Statutes, the Assembly shall continue in existence for as long as is necessary in order to liquidate the Group and dispose of its assets, and during this period, it shall have all necessary powers for this purpose.

Languages

The official languages of the Group might be English, French and any other language deemed advisable, such as Arabic for example.