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2013/0319 (NLE)

Proposal for a

**COUNCIL DECISION**

**regarding transitional EDF management measures from 1 January 2014 until the entry  
into force of the 11th European Development Fund**

## **EXPLANATORY MEMORANDUM**

According to Article 1(5) of the 10th EDF Internal Agreement, the funds of the 10th EDF shall no longer be committed beyond 31 December 2013 unless the Council decides otherwise unanimously, on a proposal from the Commission.

The Internal Agreement establishing the eleventh European Development Fund (11<sup>th</sup> EDF) was signed by the Member States, meeting within the Council, in June 2013. This Internal Agreement will only enter into force after ratification by all the Member States. This process will probably not be concluded before January 2014.

Therefore the Commission proposes transitional measures ('Bridging Facility') to ensure the availability of funds for cooperation with African, Caribbean and Pacific countries and with Overseas Countries and Territories, as well as for support expenditure, between January 2014 and the entry into force of the Internal Agreement establishing the 11<sup>th</sup> EDF. This facility shall be financed from balances and decommitted funds of the 10<sup>th</sup> and previous EDFs.

It is also proposed that funds committed under this Bridging Facility shall be accounted for under the 11th EDF, which means that they would not constitute additional resources to the 11th EDF, and that the necessary measures shall be adopted as soon as possible for the operational and financial management of this Bridging Facility.

The Commission therefore suggests that the Council adopt the attached decision.

Proposal for a

## **COUNCIL DECISION**

**regarding transitional EDF management measures from 1 January 2014 until the entry into force of the 11th European Development Fund**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific (ACP) Group of States, of the one part and the European Community and its Member States, of the other part, signed in Cotonou, on 23 June 2000<sup>1</sup>,

Having regard to the Council Decision on the association of the Overseas Countries and Territories (OCTs) with the European Community ('Overseas Association Decision')<sup>2</sup>,

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community aid under the multi-annual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies<sup>3</sup> (hereinafter referred to as Tenth EDF Internal Agreement), and in particular Article 1(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 1(5) of the 10th EDF Internal Agreement provides that the funds of the 10<sup>th</sup> EDF shall no longer be committed beyond 31 December 2013 unless the Council decides otherwise unanimously, on a proposal from the Commission.
- (2) Paragraph 5 of Annex Ib<sup>4</sup> (Multi-annual financial framework for the period 2008 to 2013) to the ACP-EU Partnership Agreement provides that the funds of the 10th EDF, apart from amounts allocated to the Investment Facility, excluding the related interest rate subsidies, shall no longer be committed beyond 31 December 2013, unless the Council of the European Union decides otherwise by unanimity, on a proposal from the Commission.
- (3) Article 1(2) of Annex IIAa of the Council Decision of 27 November 2001 on the association of the Overseas Countries and Territories with the European Community provides that the funds of the 10<sup>th</sup> EDF may no longer be committed after 31

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<sup>1</sup> OJ L 317, 15.12.2000, p. 3. Agreement as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 287, 28.10.2005, p. 4) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).

<sup>2</sup> Council Decision of 27 November 2001, 2001/822/EC, OJ L 314, 30.11.2001, p. 1, amended by Council Decision 2007/249/EC of 19 March 2007, OJ L 109, 26/04/2007, p. 33.

<sup>3</sup> OJ L 247, 9.9.2006, p. 32.

<sup>4</sup> Annex Ib as contained in Annex to Decision No 1/2006 of the ACP-EC Council of Ministers (OJ L 247, 9.9.2006, p. 22).

December 2013, unless the Council decided otherwise unanimously, on a proposal from the Commission<sup>5</sup>.

- (4) Article 13(3) of the 10th EDF Internal Agreement provides that it is concluded for the same duration as the multiannual financial framework of the ACP-EC Partnership Agreement, and that it shall remain in force for as long as is necessary for all the operations financed under the ACP-EC Partnership Agreement and the Association Decision and the said multiannual financial framework to be fully executed.
- (5) The organisation and functioning of the European External Action Service are described in Council Decision 2010/427/EU.
- (6) The entry into force of the 11th EDF may be delayed beyond 1 January 2014. It is therefore appropriate to provide for transitional measures (a 'Bridging Facility') to ensure the availability of funds for cooperation with African, Caribbean and Pacific countries and with Overseas Countries and Territories, as well as for support expenditure, between January 2014 and the entry into force of the Internal Agreement, to be financed from balances and decommitted funds of the 10th and previous EDFs.

HAS ADOPTED THIS DECISION:

#### *Article 1*

Pending entry into force of the Internal Agreement of the 11th EDF, transitional measures in the form of action programmes, individual measures and special measures for ACP partners, financing decisions in support of OCTs, and specific action programmes for support expenditure shall be financed from a Bridging Facility for the 11th EDF, composed of balances from the previous EDFs and from funds decommitted from projects or programmes under these EDFs. This Bridging Facility may also cover the grants to finance the interest-rate subsidies and project-related technical assistance allocated to the European Investment Bank as provided for in Articles 1, 2 and 4 of Annex II of the ACP-EU Partnership Agreement and in the new Overseas Association Decision. These transitional financing measures shall aim at facilitating the implementation of programming documents and at responding to emergency assistance requirements.

Funds committed under this Bridging Facility shall be accounted for under the 11th EDF. The shares of Member States contributions stated in Article 1(2)(a) of the Internal Agreements of the 9th and 10th EDF shall be reduced accordingly.

#### *Article 2*

Notwithstanding the state of the national ratification process of the Internal Agreement by the Member States, the Council shall adopt as soon as possible the regulations on the implementation of the 11th EDF, which shall include the measures for the operational and financial management of this Bridging Facility. Until the adoption of these regulations, for the implementation of the Bridging Facility, Council Regulation (EC) No 617/2007 of 14 May 2007 on the implementation of the 10th EDF and Council Regulation (EC) No 215/2008 of 18 February 2008 on the Financial Regulation applicable to the 10th EDF shall continue to apply.

#### *Article 3*

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<sup>5</sup> OJ L 314 of 30.11.2001 p.1, as amended by Council decision of 19 March 2007 (OJ L 109 of 26.4.2007, p.37)

The application of this Decision shall be in accordance with Council Decision 2010/427/EU, establishing the organisation and functioning of the European External Action Service.

*Article 4*

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*. It shall be applicable from the 1 January 2014 until the entry into force of the 11th EDF Internal Agreement.

Done at Brussels,

*For the Council  
The President*