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COM(2016) 651 final

2016/0318 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the financial contributions to be paid by Member States to finance the European Development Fund, including the third instalment for 2016.**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

- **Reasons for and objectives of the proposal**

The proposal concerns a draft Council Decision on the 3<sup>rd</sup> instalment of the financial contributions to the European Development Fund (EDF) to be paid by Member States in 2016.

The 11<sup>th</sup> EDF and other EDF funds which are still open (i.e. 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> EDF) are managed under the following set of rules:

The current Partnership Agreement between the members of the African, Caribbean and Pacific Group of States on one side, and the European Community and its Member States on the other side (The 'ACP-EU Partnership Agreement') as last amended<sup>1</sup>,

The Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies<sup>2</sup> (the 11<sup>th</sup> EDF 'Internal Agreement'),

Council Regulation (EU) 2015/323 on the Financial Regulation applicable to the 11<sup>th</sup> European Development Fund<sup>3</sup> ("the 11<sup>th</sup> EDF Financial Regulation").

The documents mentioned above contain multi-annual commitments by Member States to support financially the EDF treasury. The 11<sup>th</sup> EDF Financial Regulation provides for regular contributions to be made by Member States to the EDF treasury against pre-determined financial commitments. Regular contributions are triggered by technical Council Decisions which reflect the implementation of financial commitments previously decided.

Some of the headings in the explanatory memorandum are therefore not applicable to regular contribution calls such as this one.

- **Consistency with existing policy provisions in the policy area**

Refer to point 1. Reasons for and objectives of the proposal.

- **Consistency with other Union policies**

Refer to point 1. Reasons for and objectives of the proposal.

### **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

In accordance with Article 21(7) of the 11<sup>th</sup> EDF Financial Regulation, the amount managed by the Commission and the amount managed by the European Investment Bank (EIB) are specified separately.

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<sup>1</sup> OJ L 317, 15.12.2000, p.3

<sup>2</sup> OJ L 210, 6.8.2013, p. 1

<sup>3</sup> OJ L 58, 3.3.2015, p. 17-38

In accordance with Article 52 of the 11<sup>th</sup> EDF Financial Regulation, the EIB has sent the Commission its updated estimates of commitments and payments under the instruments it manages.

In accordance with Article 22(1) of the 11<sup>th</sup> Financial Regulation calls for contributions shall first use up the amounts available from previous EDFs, one after the other. The calls for contributions in this proposal therefore concern amounts under the 10<sup>th</sup> EDF for both the EIB and the Commission.

In accordance with Article 21(5) of the 11<sup>th</sup> EDF Financial Regulation, the Council shall decide on this proposal at the latest 21 calendar days following the presentation by the Commission of its proposal.

In accordance with Article 1 of Council Decision 2013/759/EU establishing the Bridging Facility<sup>4</sup>, the shares of Member States' contributions set out in Article 1(2) (a) of the Internal Agreements of the 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> EDF shall be reduced accordingly, after the entry into force of the 11<sup>th</sup> EDF Internal Agreement. The reduction will have an impact on 2015, 2016 and 2017 Member States' contributions according to the option for adjustment chosen by each Member States.

Article 23(1) of the 11<sup>th</sup> EDF Financial Regulation provides that a Member State which fails to pay the instalment of the contribution due by the deadline will be required to pay interest on the amount unpaid; the arrangements for the payment of interest are specified in the same Article.

- **Subsidiarity (for non-exclusive competence)**

Refer to point 1. Reasons for and objectives of the proposal.

- **Proportionality**

Refer to point 1. Reasons for and objectives of the proposal.

- **Choice of the instrument**

Refer to point 1. Reasons for and objectives of the proposal.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not relevant

- **Stakeholder consultations**

Not relevant

- **Collection and use of expertise**

Not relevant

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<sup>4</sup> OJ L 335, 14.12.2013, p. 48-49

- **Impact assessment**

Not relevant

- **Regulatory fitness and simplification**

Not relevant

- **Fundamental rights**

Not relevant

#### **4. BUDGETARY IMPLICATIONS**

Not relevant

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not relevant

- **Explanatory documents (for directives)**

Not relevant

- **Detailed explanation of the specific provisions of the proposal**

Not relevant

Proposal for a

## **COUNCIL DECISION**

**on the financial contributions to be paid by Member States to finance the European Development Fund, including the third instalment for 2016.**

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 Group of States of the one part, and the European Community and its Member States, of the other part, as last amended<sup>5</sup> ("ACP-EU Partnership Agreement"),

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies<sup>6</sup> ("the Internal Agreement") and in particular Article 7(2) thereof,

Having regard to the Council Regulation (EU) 2015/323 of 2 March 2015 on the Financial Regulation applicable to the 11<sup>th</sup> European Development Fund ("the 11<sup>th</sup> EDF Financial Regulation")<sup>7</sup>, and in particular Article 21(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with the procedure laid down in Article 21(5) of the 11<sup>th</sup> EDF Financial Regulation, the Commission shall present a proposal by 10 October 2016 specifying (a) the amount of the third instalment of the contribution for 2016, (b) a revised annual amount of the contribution for 2016, in cases where the amount deviates from actual needs.
- (2) In accordance with Article 52 of the 11<sup>th</sup> EDF Financial Regulation, the European Investment Bank sent on 28 July 2016 to the Commission its updated estimates of commitments and payments under the instruments it manages.
- (3) Article 22(1) of the 11<sup>th</sup> EDF Financial Regulation provides that calls for contributions first use up the amounts provided for in previous EDFs. Therefore a call for funds under the 10<sup>th</sup> EDF should be made.
- (4) The Council has adopted on the 24 November 2015, on a proposal by the Commission, the Decision to set the ceiling for the annual amount of the Member States' EDF

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<sup>5</sup> OJ L 317, 15.12.2000, p. 3

<sup>6</sup> OJ L 210, 6.8.2013, p. 1

<sup>7</sup> OJ L 58, 3.3.2015, p. 17-38

contributions for 2016 at EUR 3 450 000 000 for the Commission, and at EUR 150 000 000 for the European Investment Bank<sup>8</sup>.

- (5) The Council has adopted the creation of the Bridging Facility on 12 December 2013 regarding transitional EDF management measures from 1 January 2014 until the entry into force of the 11<sup>th</sup> European Development Fund<sup>9</sup>.

HAS ADOPTED THIS DECISION:

*Article 1*

The individual European Development Fund contributions to be paid by the Member States to the European Commission and the European Investment Bank as the third instalment for 2016 are set out in the table in the Annex 1.

Payments of those contributions may be combined with adjustments under the implementation of the deduction of the funds committed under the Bridging Facility, following an adjustment plan communicated by each Member State to the Commission at the adoption of the third instalment 2015.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*

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<sup>8</sup> COM/2015/0524 - Interinstitutional File 2015/0248 (NLE) - CELEX Adopted acts: 32015D2288.

<sup>9</sup> OJ L 335, 14.12.2013, Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund.