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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	9 June 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 265 final
Subject:	Proposal for a COUNCIL DECISION on the financial contributions to be paid by the parties to the European Development Fund, including the second instalment for 2022

Delegations will find attached document COM(2022) 265 final.

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Proposal for a

COUNCIL DECISION

on the financial contributions to be paid by the parties to the European Development Fund, including the second instalment for 2022

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The proposal concerns a draft Council Decision on the second instalment of the financial contributions to the 11th European Development Fund to be paid by parties to the European Development Fund ('EDF') in 2022.

The 11th EDF and other EDF funds that are still open (that is to say the Ninth and 10th EDF) are managed under the following set of rules:

(a) the current Partnership Agreement between the members of the African, Caribbean and Pacific ('ACP') 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[1];

(b) Decision No 2/2020[2] of the ACP-EU Committee of Ambassadors of 4 December 2020 to amend Decision No 3/2019[3] of the ACP-EU Committee of Ambassadors to adopt transitional measures pursuant to Article 95(4) of the ACP-EU Partnership Agreement to further extend the application of the provisions of the ACP-EU Partnership Agreement until 30 November 2021, or until the entry into force of a new ACP-EU Agreement ('the new Agreement'), or the provisional application between the Union and the ACP States of the new Agreement, whichever comes first;

(c) Council Decision (EU) 2020/2233 concerning the commitment of the funds stemming from reflows under the ACP Investment Facility from operations under the 9th, 10th and 11th European Development Funds[4];

(d) 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[5] (the 11th EDF 'Internal Agreement');

(e) Council Regulation (EU) 2018/1877 on the Financial Regulation applicable to the 11th European Development Fund[6] (the '11th EDF Financial Regulation').

The documents referred to in points (a) to (e) contain multi-annual commitments by the parties to the EDF to support the EDF treasury financially. The 11th EDF Financial Regulation provides for regular contributions to be made by the parties to the EDF to the EDF treasury against pre-determined financial commitments. Regular contributions are triggered by technical Council Decisions that reflect the implementation of financial commitments previously decided.

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1 OJ L 317, 15.12.2000, p. 3
2 OJ L 420, 14.12.2020, p.32
3 OJ L 1, 3.1.2020, p.3
4 OJ L 437, 28.12.2020, p.188-191
5 OJ L 210, 6.8.2013, p. 1
6 OJ L 307, 3.12.2018, p. 1-21

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

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

In accordance with Article 19(3) of the 11th EDF Financial Regulation, the Council must decide on this proposal at the latest 21 calendar days following the presentation, by the European Commission acting on behalf of the European Union, of this proposal.

2022/0180 (NLE)

Proposal for a

COUNCIL DECISION

on the financial contributions to be paid by the parties to the European Development Fund, including the second instalment for 2022

THE COUNCIL OF THE EUROPEAN UNION,

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

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[7] and in particular Article 7(2) in conjunction with Article 14(3) thereof,

Having regard to the Council Regulation (EU) 2018/1877[8] of 26 November 2018 on the financial regulation applicable to the 11th European Development Fund, and repealing Regulation (EU) 2015/323[9], and in particular Article 19(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In accordance with the procedure laid down in Articles 19 to 22 of Council Regulation (EU) 2018/1877, the European Commission is to present a proposal by 15 June 2022 specifying the amount of the second instalment of the contribution for 2022 and a revised annual amount of the contribution for 2022, where the amount deviates from actual needs.

(2) In accordance with Article 46 of Regulation (EU) 2018/1877, the European Investment Bank ('EIB') is to send to the Commission its updated estimates of commitments and payments under the instruments it manages.

(3) Pursuant to Article 20(1) of Regulation (EU) 2018/1877 calls for contributions are to first use up the amounts provided for in previous European Development Funds ('EDF'). Therefore a call for funds pursuant to Regulation (EU) 2018/1877, for the EIB and for the Commission should be made.

(4) Pursuant to Article 152 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('the withdrawal agreement'), the United Kingdom of Great Britain and Northern Ireland (the 'United Kingdom') is to remain party to the

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7 OJ L 210, 6.8.2013, p.1

8 Council Regulation (EU) 2018/1877 of 26 November 2018 on the Financial Regulation applicable to the 11th European Development Fund, and repealing Regulation (EU) 2015/323 (OJ L 307, 3.12.2018, p.1.)

9 OJ L 58, 3.3.2015, p.17-38

EDF until the closure of the 11th EDF and all previous unclosed EDFs. However, pursuant to Article 153 of the withdrawal agreement the United Kingdom's share in decommitted funds from projects under the 11^{th} EDF, where those funds have been decommitted after 31 December 2020, or previous EDFs are not to be reused.

(5) Council Decision (EU) 2021/1941[10], sets the annual amount of the contribution to be paid by the parties to the EDF for 2022 at EUR 2 500 000 000[11] for the European Commission, and at EUR 300 000 000 for the European Investment Bank.

(6) In order to allow for the prompt application of the measures provided for in this Decision, this Decision should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

Article 1

The individual European Development Fund contributions, as the second instalment for 2022, shall be paid by the parties to the European Development Fund to the European Commission and the European Investment Bank, in accordance with the Annex.

Article 2

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

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10 Council Decision (EU) 2021/1941 of 9 November 2021 on the financial contributions to be paid by the parties to the European Development Fund to finance that Fund, including the ceiling for 2023, the annual amount for 2022, the amount of the first instalment for 2022 and an indicative and non-binding forecast for the expected annual amounts of contributions for the years 2024 and 2025 (OJ L 396, 10.11.2021, p. 61).

11 Council Regulation (EU) 2018/1877 of 26 November 2018 on the Financial Regulation applicable to the 11th European Development Fund, and repealing Regulation (EU) 2015/323 (OJ L 307, 3.12.2018, p.1.), Art. 20(5):"Where negative interest is applied to the account referred to in paragraph 3 of this Article, the Member State concerned shall, at the latest on the date of payment of each instalment referred to in Article 19, credit the account with an amount corresponding to the amount of such negative interest applied until the first day of the month preceding the payment of the instalment."