II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 23 October 1995
providing further macro-financial assistance for Ukraine

(95/442/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1) submitted after consulting the Monetary Committee,

Having regard to the opinion of the European Parliament (2),

Whereas Ukraine is undertaking fundamental political and economic reforms and is making substantial efforts to implement a market economy model;

Whereas Ukraine and the European Union have signed a Partnership and Cooperation Agreement which will help the development of a full cooperation relationship;

Whereas the authorities of Ukraine have requested financial assistance from the International Financial Institutions, the Community and other bilateral donors;

Whereas Ukraine has agreed with the International Monetary Fund (IMF) on a 'stand-by arrangement' and a second purchase under the 'systemic transformation facility' supporting Ukraine's comprehensive stabilization and reform programme; whereas these facilities amounting to approximately US $ 1,9 billion were approved by the IMF Board on 7 April 1995; whereas policy based loans to Ukraine of approximately US $ 600 million are also expected from the World Bank in 1995;

Whereas, over and above the estimated financing which could be provided by the IMF and the World Bank, a residual financing gap of US $ 3,4 billion remains to be covered in 1995 in order to support the policy objectives attached to the government's reform effort; whereas after rescheduling of Ukrainian debts towards Russia and Turkmenistan, this gap is reduced to US $ 900 million; whereas substantial contributions are also expected from the United States and Japan;

Whereas by Decision 94/940/EC (3), the Council approved macro-financial assistance for Ukraine of up to ECU 85 million; whereas, however, further official support is required in order to support the balance of payments, consolidate the reserve position and facilitate the necessary structural adjustment of that country;

Whereas the Ukrainian authorities are committed to pursuing the prompt implementation of the plan for the closure of the Chernobyl nuclear power plant by the year 2000, in accordance with the modalities supported by the Group of Seven and the European Union;

Whereas an additional Community long-term loan to Ukraine is an appropriate measure to help easing the country's external financial constraints;

Whereas the Community loan should be managed by the Commission;

Whereas the Treaty does not provide, for the adoption of this Decision, powers other than those of Article 235,

(1) OJ No C 164, 30. 6. 1995, p. 10.
(2) Opinion delivered on 22 September 1995 (not yet published in the Official Journal).

(3) OJ No L 366, 31. 12. 1994, p. 32.

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall make available to Ukraine a long-term loan facility of a maximum principal amount of ECU 200 million with a maximum maturity of ten years, with a view to ensuring a sustainable balance-of-payments situation, strengthening the country's reserve position and facilitating the implementation of the necessary structural reforms.

2. To this end, the Commission is empowered to borrow, on behalf of the Community, the necessary resources that will be placed at the disposal of Ukraine in the form of a loan.

3. This loan will be managed by the Commission in close consultation with the Monetary Committee and in a manner consistent with any agreement reached between the IMF and Ukraine.

Article 2

1. The Commission is empowered to agree with the Ukrainian authorities, after consulting the Monetary Committee, the economic policy conditions attached to the loan. These conditions shall be consistent with the agreements referred to in Article 1 (3).

2. The Commission shall verify at regular intervals, in collaboration with the Monetary Committee and in close coordination with the IMF, that the economic policy in Ukraine is in accordance with the objectives of this loan and that its conditions are being fulfilled.

Article 3

1. The loan shall be made available to Ukraine in two instalments. The first instalment of an amount of ECU 100 million shall not be released before one quarter after the release of the ECU 85 million loan approved by Decision 94/940/EC, subject to Article 2 and to progress in Ukraine's application of the 'stand-by arrangement' agreed with the IMF.

2. Subject to Article 2, the second instalment shall be released on the basis of a satisfactory continuation of the 'stand-by arrangement' and not before one quarter after the release of the first instalment.

3. The funds shall be paid to the National Bank of Ukraine.

Article 4

1. The borrowing and lending operations referred to in Article 1 shall be carried out using the same value date and must not involve the Community in the transformation of maturities, in any exchange or interest rate risk, or in any other commercial risk.

2. The Commission shall take the necessary steps, if Ukraine so requests, to ensure that an early repayment clause is included in the loan terms and conditions and that it may be exercised.

3. At the request of Ukraine, and where circumstances permit an improvement in the interest rate on the loans, the Commission may refinance all or part of its initial borrowings or restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with the conditions set out in paragraph 1 and shall not have the effect of extending the average maturity of the borrowing concerned or increasing the amount, expressed at the current exchange rate, of capital outstanding at the date of the refinancing or restructuring.

4. All related costs incurred by the Community in concluding and carrying out the operation under this Decision shall be borne by Ukraine.

5. The Monetary Committee shall be kept informed of developments in the operations referred to in paragraphs 2 and 3 at least once a year.

Article 5

At least once a year the Commission shall address to the European Parliament and to the Council a report, which will include an evaluation, on the implementation of this Decision.

Done at Luxembourg, 23 October 1995.

For the Council

The President

P. SOLBES MIRA