II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 July 2003

on the reallocation of funds received by the European Investment Bank for operations carried out in the Democratic Republic of Congo under the second, third, fourth, fifth and sixth EDFs

(2003/583/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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, signed in Cotonou on 23 June 2000 [1], hereinafter referred to as the 'Partnership Agreement',

Having regard to the Internal Agreement of 12 September 2000 between representatives of the Governments of the Member States, meeting within the Council, on the financing and administration of Community aid under the Financial Protocol to the Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States signed in Cotonou (Benin) on 23 June 2000 and the allocation of financial assistance for the overseas countries and territories to which part four of the EC Treaty applies, and in particular Article 7(1) thereof [2],

Having regard to the proposal from the Commission drafted in agreement with the European Investment Bank (EIB),

Whereas:

(1) In its conclusions of 27 January 2003 regarding the Democratic Republic of Congo, the Council (General affairs and external relations) stated that it was prepared to assist the transition to free and transparent elections by the deadlines laid down in the Pretoria Agreement and reaffirmed its willingness to support the transition, as soon as its institutions were in place, with projects by the European Union and its Member States designed in particular to promote aid to the population, the strengthening of State structures, the economic reconstruction of the country and disarmament, demobilisation, reintegration, repatriation and resettlement (DDRRR) of former combatants.

(2) The Democratic Republic of Congo received a reduced allocation of EUR 25,7 million under the eighth EDF.

(3) The funds allocated to the Democratic Republic of Congo under the ninth EDF are insufficient to enable the Community to cover the cost of the commitments made by the Council on behalf of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

An additional allocation in the form of a grant equivalent to EUR 105 million shall be allotted to the Commission for the implementation of operations to be conducted in the Democratic Republic of Congo to ensure the country's democratic transition to free and transparent elections, to strengthen State structures, to contribute to the reconstruction of the country and to set up a programme of demobilisation and reintegration of former combatants.

Article 2

The amount of the additional allocation referred to in Article 1 shall constitute a ceiling.

[1] OJ L 317, 15.12.2000, p. 3.
[2] OJ L 317, 15.12.2000, p. 355.

Article 3

The additional allocation referred to in Article 1 shall be financed by the debt service payments relating to risk capital and special loans granted under the Yaoundé I [1] and II [2] Conventions and the first [3], second [4] and third [5] Lomé Conventions which are to be made to the European Investment Bank by the Democratic Republic of Congo.

Article 4

The Member States shall authorise the EIB to transfer the sums received from the Democratic Republic of Congo directly to an account opened in the name of the Commission, after deduction of any commission due to the Bank on such operations. Any interest accruing on the amount transferred into the account will be capitalised. At the end of a period of four years from the date on which the account is opened, the account will be closed and the balance returned to the EIB, which will refund it to the Member States.

This procedure is exceptional in nature and may not, in any event, constitute a precedent for operations benefiting other ACP States.

Article 5

A maximum amount of 5 % of the additional allocation, after deduction of any commission due to the Bank on such operations, shall be intended to cover the administrative costs of management of the additional allocation by the Commission.

Article 6

The Commission shall implement the financial resources allocated to the Democratic Republic of Congo under the additional allocation under centralised management in accordance with Article 14 of the Financial Regulation for the ninth EDF.

Article 7

The procedures for deciding on financing from the additional allocation referred to in Article 1 shall be those set out in Articles 24 to 27 of the Internal Agreement.

Article 8

The Commission shall be authorised to approve the breakdown of the additional allocation according to the types of operation referred to in Article 1 after consulting the EDF Committee, which shall give its opinion in accordance with Article 27 of the Internal Agreement.

The Commission shall be authorised to approve a different breakdown of the allocation without requesting the EDF Committee's opinion in advance if the changes do not exceed 20 % of the total additional allocation.

Article 9

This Decision shall enter into force on the day of its publication.

It shall apply for the same period as the Internal Agreement.

Article 10

This Decision is addressed to the Member States.

Done at Brussels, 21 July 2003.

For the Council

The President

F. FRATTINI

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[1] Convention of Yaoundé I between the European Community and its Member States and the associated African and Malgache countries, 1963 (OJ 93, 11.6.1964, p. 1431/64).

[2] Convention of Yaoundé II between the European Community and its Member States and the associated African and Malgache countries, 1969 (OJ L 282, 28.12.1970, p. 2).

[3] First Lomé Convention between the European Community and the African, Caribbean and Pacific States (ACP), 1975 (OJ L 25, 30.1.1976, p. 2).

[4] Second Lomé Convention between the European Community and the African, Caribbean and Pacific States (ACP) 1980, (OJ L 347, 22.12.1980, p. 1).

[5] Third Lomé Convention between the European Community and the African, Caribbean and Pacific States (ACP) 1985, (OJ L 86, 31.3.1986, p. 1).