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►B DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL

of 26 November 2007

amending Decision No 2005/446/EC setting the deadline for the commitment of the funds of the Ninth European Development Fund (EDF)

(2007/792/EC)

(OJ L 320, 6.12.2007, p. 31)

Corrected by:

►C1 Corrigendum, OJ L 43, 19.2.2008, p. 40 (2007/792/EC)
►C2 Corrigendum, OJ L 352, 31.12.2008, p. 63 (2007/792/EC)

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DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL

of 26 November 2007

amending Decision No 2005/446/EC setting the deadline for the commitment of the funds of the Ninth European Development Fund (EDF)

(2007/792/EC)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES, MEETING WITHIN THE COUNCIL,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission,

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]) as revised in Luxembourg on 25 June 2005 ([2]) (hereinafter referred to as the ACP-EC Partnership Agreement),

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (Overseas Association Decision) ([3]), and in particular Article 33a thereof,

Having regard to the Internal Agreement 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 ACP-EC Partnership Agreement ([4]) (hereinafter referred to as Ninth EDF Internal Agreement), and in particular Article 2(4) thereof,

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 ([5]) (hereinafter referred to as Tenth EDF Internal Agreement),

Whereas:

(1) Decision 2005/446/EC of the Representatives of the Governments of the Member States meeting within the Council of 30 May 2005 ([6]) sets at 31 December 2007 the date beyond which the funds of the Ninth European Development Fund (hereinafter referred to as EDF) managed by the Commission, the interest subsidies managed by the European Investment Bank (hereinafter

([1]) OJ L 317, 15.12.2000, p. 3.
([2]) OJ L 209, 11.8.2005, p. 27.
([3]) OJ L 314, 30.11.2001, p. 1. Decision as amended by Decision 2007/249/EC (OJ L 109, 26.4.2007, p. 33).
([4]) OJ L 317, 15.12.2000, p. 355.
([5]) OJ L 247, 9.9.2006, p. 32.
([6]) OJ L 156, 18.6.2005, p. 19.

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referred to as the EIB) and the revenue accruing from the interest on these appropriations are no longer to be committed.

(2) Point 4 of Annex Ib ([1]) (Multi-annual financial framework for the period 2008 to 2013) to the ACP-EC Partnership Agreement provides an exception to the general rule for balances and funds decommitted after 31 December 2007 resulting from the system guaranteeing the stabilisation of export earnings from primary agricultural products (STABEX) under EDFs prior to the Ninth EDF and for the remaining balances and reimbursements of the amounts allocated for the financing of the Investment Facility, excluding the related interest subsidies.

(3) That same point further provides that funds may still be committed after 31 December 2007 to ensure the working ability of the EU administration and to cover the ongoing costs to sustain running projects until the Tenth EDF comes into force.

(4) The entry into force of the Tenth EDF may be delayed beyond 1 January 2008.

(5) Decision 2005/446/EC and point 4 of Annex Ib to the ACP-EC Partnership Agreement need to be reconciled.

(6) Due to *force majeure*, the establishment of the projects and programmes, funded from financial allocations available under the Ninth EDF after the mid-term review reallocation Decision of the Commission No C(2007) 3856 of 16 August 2007, has been delayed by six months in the French Overseas Countries and Territories (hereinafter referred to as OCTs) in the Pacific Region to which Part Four of the Treaty applies,

HAVE DECIDED AS FOLLOWS:

Sole Article

Articles 1 and 2 of Decision 2005/446/EC shall be replaced by the following:

'Article 1

1. The date beyond which the funds of the Ninth EDF managed by the Commission will not be committed shall be set at 31 December 2007, except for the balances and funds decommitted resulting from the system guaranteeing the stabilisation of export earnings from primary agricultural products (STABEX) under the EDFs prior to the Ninth EDF and for the balances of the Ninth EDF allocations to finance the initiatives referred to in the Single Programming Documents of the French OCTs in the Pacific Region. This date could be reviewed if need be.

2. Balances and funds decommitted after 31 December 2007 resulting from the system guaranteeing the stabilisation of export earnings from primary agricultural products (STABEX) under EDFs prior to the Ninth EDF shall be transferred to the Tenth EDF and shall be allocated to the indicative programme of the respective ACP States and OCTs. The date beyond which the funds of the Ninth EDF managed by the Commission to finance the initiatives referred to in the Single Programming Documents of the French OCTs in the Pacific Region will no longer be committed, shall be set at 30 June 2008.

3. When the entry into force of the Tenth EDF falls after 31 December 2007, balances from the Ninth EDF or from previous EDFs and funds decommitted from projects under these EDFs may be

([1]) 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).

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committed during the period between 31 December 2007 and the entry into force of the Tenth EDF, in which case they will be used exclusively to ensure the working ability of the EU administration and to cover the ongoing costs to sustain running projects until the Tenth EDF comes into force.

4. The revenue accruing from the interest on the appropriations of the EDF shall be used to cover the costs linked to implementation of the resources of the Ninth EDF in line with Article 9 of the Ninth EDF Internal Agreement until the Tenth EDF comes into force, whereafter they shall be reserved for support expenditures linked to the EDF as described in Article 6 of the Tenth EDF Internal Agreement.

Article 2

▼C2

1. The date beyond which the interest rate subsidies managed by the European Investment Bank (EIB) will not be committed, shall be set at 31 December 2007 or the date of entry into force of the Tenth EDF, whichever is the later.

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2. The remaining balances and reimbursements of the amounts allocated for the financing of the Investment Facility managed by the EIB, excluding the related interest subsidies, shall be transferred to the Tenth EDF and shall remain allocated to the Investment Facility.'