



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.9.2004
COM(2004) 610 final

Proposal for a

COUNCIL DECISION

**adjusting the financial resources of the 9th European Development Fund
further to the accession of the Democratic Republic of Timor-Leste
to the ACP-EC Partnership Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 16 May 2003¹, Timor-Leste was accepted as a signatory to the ACP-EC Partnership Agreement, hereinafter called the Cotonou Agreement. The Decision of the ACP-EC Council of Ministers approving accession stipulated that Timor-Leste would not have immediate access to the resources of the 9th European Development Fund (EDF), but would only benefit, as a temporary special arrangement, from funds earmarked for regional cooperation.

The Joint Council Decision did not take account of the fact that after ratification of the Cotonou Agreement, Timor-Leste will no longer qualify for the development assistance which has been provided until now under Council Regulation 443/92 (the ALA Regulation)². So far Timor-Leste has not ratified the Cotonou Agreement.

In order to enable Timor-Leste to ratify and become a full Party to the Agreement, the Commission proposes to make funds available from the 9th EDF to meet the development needs of Timor-Leste until the successor to the 9th EDF enters into force.

Article 1 of the Financial Protocol to the Cotonou Agreement lays down the overall amount of the Community's financial assistance to the ACP States which originally signed the Agreement. Since Council Decision No 1/2003 of 16 May 2003 approved the accession of Timor-Leste to the Cotonou Agreement and since, pursuant to Article 94(1) of that Agreement, the accession of a State may not infringe on the benefits enjoyed by the ACP States signatory to the said Agreement under the provisions on development cooperation financing, the Commission proposes that the EU Council of Ministers, in accordance with Article 62(2)(a) of the Cotonou Agreement³ and Article 1(5) of the Internal Agreement on the Financing and Administration of Community Aid under the Financial Protocol to the ACP-EC Partnership Agreement (2000/770/EC)⁴, adjust the overall amount of the Community's financial assistance to the ACP States under the 9th EDF to allow Timor-Leste to benefit from EDF funds for the rest of the period covered by the 9th EDF.

In order to maintain the level of assistance to be committed for Timor-Leste in 2005 under the ALA Regulation, namely €9 million, the financial resources required to cover Timor-Leste's development needs during the transition period until the successor to the 9th EDF enters into force are estimated at €18 million.

¹ Decision No 1/2003 of the ACP-EC Council of Ministers of 16 May 2003 regarding the accession of the Democratic Republic of Timor-Leste to the ACP-EC Partnership Agreement (O.J. L 141, 7.6.2003, p.25)

² Article 1 of the ALA Regulation: "The Community shall continue and broaden Community cooperation with the Asian and Latin American developing countries, hereinafter referred to as 'the ALA developing countries', which are not signatories to the Lomé Convention (*or mutatis mutandis of the Cotonou Agreement*) and do not benefit from the Community's cooperation policy with Mediterranean third countries....".

³ "..... Adjustment of the financial resources shall (also) apply upon the accession to the Agreement of new ACP States".

⁴ "Financial resources may also be adjusted, by a decision of the Council acting unanimously, in accordance with Article 62-(2) of the ACP-EC Partnership Agreement".

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission⁵,

Having regard to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000,

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, and in particular Article 1(5) thereof,

Whereas:

- (1) By Decision No 1/2003 of the ACP-EC Council of Ministers of 16 May 2003, Timor-Leste became a signatory to the ACP-EC Partnership Agreement. This Decision stipulated that Timor-Leste would not have immediate access to the resources of the 9th European Development Fund (EDF) but would only benefit, as a temporary special arrangement, from funds earmarked for regional cooperation.
- (2) The Council Decision did not take into account the fact that after ratification of the Cotonou Agreement, Timor-Leste will no longer qualify for the development assistance which has been provided until now under Council Regulation 443/92 (the ALA Regulation).
- (3) Article 94(1), third paragraph, of the ACP-EC Partnership Agreement states that a State acceding to this Agreement shall enjoy the same rights and be subject to the same obligations as the ACP States. Its accession may not infringe on the benefits enjoyed by the ACP States signatory to the Agreement under the provisions on development cooperation financing.
- (4) Article 62(2)(a) states that the Parties shall adjust the amounts of resources provided for in the Financial Protocol set out in Annex I after the accession to the Agreement of new ACP States which did not take part in its negotiation. Article 1(5) of the Internal Agreement states that financial resources may also be adjusted, by a decision of the

⁵ OJ C , , p. .

Council acting unanimously, in accordance with Article 62(2) of the ACP-EC Partnership Agreement.

- (5) In order to enable Timor-Leste to ratify the ACP-EC Agreement and become a full Party to the Agreement, it is proposed to make funds available from the 9th EDF to meet the development needs of Timor-Leste until the successor to the 9th EDF enters into force.
- (6) The financial resources which would be required to cover Timor-Leste's development needs during the transition period until the successor to the 9th EDF enters into force are estimated at €18 million.

HAS DECIDED AS FOLLOWS:

Article 1

The Member States shall adjust the financial resources of the 9th EDF stated in Article 1 of the Internal Agreement, increasing them by €18 million.

This amount will be constituted by the following contributions from Member States:

Member State	Contribution in million EUR
Belgium	0,71
Denmark	0,39
Germany	4,20
Greece	0,23
Spain	1,05
France	4,37
Ireland	0,11
Italy	2,26
Luxembourg	0,05
Netherlands	0,94
Austria	0,48
Portugal	0,17
Finland	0,27
Sweden	0,49
United Kingdom	2,28
	18,00

Article 2

This Decision shall enter into force on the day of its adoption. It shall be communicated to the ACP Council of Ministers.

Done at Brussels,

*For the Council
The President*