

COUNCIL

COUNCIL DECISION

of 5 June 1998

concerning the Community contribution to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund

(98/381/EC, Euratom)

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 Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

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

Whereas a Memorandum of Understanding (MOU) was signed on 21 December 1995 between the governments of the G7 countries and the Commission of the European Communities and the government of Ukraine on the closure of the Chernobyl nuclear power plant by the year 2000;

Whereas Article III(4) of the MOU provided that Ukraine and the G7 will continue to cooperate in the development of a cost effective and environmentally sound approach to the shelter for Chernobyl IV, including the definition, as soon as possible, of technical and cost options as the basis for reviewing financial requirements;

Whereas the Commission, through the TACIS programme, participated actively in the development of such an approach which resulted in the definition of the 'shelter implementation plan' (SIP) endorsed by the Ukrainian authorities;

Whereas at their Denver Summit of June 1997, the G7 Heads of State and Government and the President of the European Commission decided to add to the commitments undertaken in the MOU with Ukraine and endorsed the setting up of a multilateral funding mechanism to assist Ukraine in transforming the existing Chernobyl sarcophagus into a safe and environmentally stable system, with measures as described in the SIP;

Whereas the implementation of the SIP will be placed in the context of the MOU between the G7 and Ukraine on the closure of Chernobyl by the year 2000;

Whereas, for the purpose of implementing the SIP, the Chernobyl Shelter Fund has been established at the European Bank for Reconstruction and Development (EBRD) and will be administered by the EBRD;

Whereas the Community pursues a clear policy of supporting Ukraine in its efforts to eliminate the consequences of the nuclear accident which occurred on 26 April 1986 at the Chernobyl Nuclear Power Plant and is thus willing to contribute to the Chernobyl Shelter Fund; whereas the Community assumes through its contribution no liability whatsoever for any resulting damage;

Whereas due account will be taken by the Fund of the fulfilment by Ukraine of its undertakings under the Framework Agreement, signed with the EBRD on 20 November 1997;

Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;

Whereas the contribution will be taken from existing TACIS credits and will thus not imply any supplementary budgetary expenditures from the 1998 and 1999 budgets;

Whereas EBRD procurement policies and rules will apply to grants made from the resources of the Chernobyl Shelter Fund, with the understanding that procurement shall in principle be limited to goods and services produced in or supplied from the countries of the contributors or the countries of EBRD operations; whereas these rules are not identical to those applied for operations directly financed through the TACIS programme, which can notably for this reason not cover the present contribution;

⁽¹⁾ OJ C 364, 2. 12. 1997, p. 16.

⁽²⁾ OJ C 138, 4. 5. 1998.

Whereas it is however appropriate to ensure that no discrimination is made between operators of individual Member States of the European Community with regard to procurement arrangements relating to grants made from the Chernobyl Shelter Fund, irrespective of whether the Member States have concluded individual agreements with the EBRD or not;

Whereas the Community contribution to the Chernobyl Shelter Fund with the EBRD shall be administered by the European Commission in accordance with the principles of sound and efficient management;

Whereas this contribution will contribute to the achievement of the Community's objectives in particular in relation to nuclear safety; whereas the Treaties do not provide for the adoption of this Decision powers other than those of Article 235 of the EC Treaty and 203 of the EAEC Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall contribute to the Chernobyl Shelter Fund at the European Bank for Reconstruction and Development (EBRD), in accordance with the rules of this Fund, an amount of up to ECU 100 million to be paid over the two years 1998 and 1999.
2. This contribution to the Fund shall be administered by the Commission in accordance with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽¹⁾ in force, with particular regard for the principles of sound and efficient management.

3. The Commission will take all necessary steps to ensure that, with respect to procurement arrangements relating to grants made from the resources of the Fund, no discrimination is made between operators of individual Member States.

Article 2

1. The financial reference amount for the implementation of this programme for the period 1998 and 1999 shall be a maximum of ECU 100 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 3

1. The Commission will forward all relevant information to the Court of Auditors and will request from the EBRD any supplementary information that the Court of Auditors may wish to receive, as regards the financial operation of the Chernobyl Shelter Fund to the extent that it is related to the Community's contribution.
2. The Commission shall submit, on a yearly basis, a progress report on the implementation of the Chernobyl Shelter Fund to the European Parliament and the Council.

Done at Luxembourg, 5 June 1998.

For the Council
The President
G. BROWN

⁽¹⁾ OJ L 356, 31. 12. 1977, p. 1.