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2017/0213 (APP)

Proposal for a

COUNCIL DECISION

amending Decision 2003/76/EC establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In the context of the quantitative-easing-policy led by the European Central Bank combined with the security principle that governs the management of the assets of the European Coal and Steel Community in liquidation (ECSC i.l.), the revenues assigned to the funding of research projects for Coal and Steel are decreasing at a substantial rate from one year to the other, leading to a situation where the critical level of funding for organising an annual call for proposals may not be met.

The budgetary envelope of the RFCS programme has decreased from EUR 46 m in 2017 based on 2015 ECSC i.l.'s revenues to EUR 27 m in 2018 based on 2016 ECSC i.l.'s revenues and the amount is expected to be even lower for 2019 (between EUR 14 m and EUR 18 m).

A bridging solution which would maintain for a certain period an acceptable level of funding of Coal and Steel research projects while waiting for a change in monetary policy and an increase of asset returns on public bonds markets can be found in the recycling of unused appropriations put at the disposal of the research programme of the Research Fund for Coal and Steel (RFCS) and in particular the amounts corresponding to cancellations of commitments made under this programme.

The adoption of the proposed revision will authorise the recycling of all the de-commitments (including the amounts recovered) made in the RFCS research programme since 2003 which have been returned to the assets of the ECSC in liquidation and represent a possible complementary funding for the RFCS research programme of EUR 40.3 m. It will also provide an extra funding of about EUR 5 m per year (average flow of annual de-commitments over the three past years in RFCS research programme).

• Consistency with existing policy provisions in the policy area

The RFCS programme is complementary to other Union instruments that can be used to support the adaptation of the industry at several levels. These include the European Fund for Strategic Investments, the European Structural and Investment Funds, Horizon 2020 with the Public-Private Partnership 'SPIRE' (Sustainable Process Industry through Resource and Energy Efficiency) and the European Social Fund.

This proposal is in line with the 4th priority of Juncker Commission "A Deeper and Fairer Internal Market with a Strengthened Industrial Base". It is also consistent with the Union support to the competitiveness of the Steel industry and to the reconversion of the Coal industry, which are among the objectives of the RFCS research programme.

• Consistency with other Union policies

The proposal is fully consistent with initiatives taken at Union level in the context of the industrial policy. In particular, it is consistent with the 2014 Communication "For a European Industrial Renaissance"[1] which sets out the Union's priorities for industrial policy and the 2016 Communication "Steel: Preserving sustainable jobs and growth in Europe"[2].

[1] COM (2014)14
[2] COM (2016)155

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The rules concerning de-commitments are enshrined in Article 4 of the Council Decision 2003/76/EC which establishes the measures necessary for the implementation of the Protocol[3].

The proposed revision is limited to two paragraphs of Article 4 of the Council Decision 2003/76/EC and aims at applying the same treatment (automatic carry-over to the next year) for both categories of unused funds: appropriations not committed at year-end and cancellations of commitments.

• Subsidiarity (for non-exclusive competence)

The measures implementing the Protocol are established in a Council decision the revision of which belongs to the Commission exclusive right of initiative for legislative proposals.

• Proportionality

Internal consultations within the Commission lead to the conclusion that the recycling of de-commitments cannot be done through the interpretation of the current legal basis. A revision of paragraphs 4 and 5 of Article 4 of the Council Decision 2003/76/EC is therefore necessary.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

Not applicable - The 2013 Monitoring and Assessment exercise affirmed that the RFCS has fulfilled its mandate to support the competitiveness of the sectors related to the coal and steel industry, and has confirmed that an adequate level of funding is necessary

• Stakeholder consultations

The Programme Committee of the RFCS research programme (COSCO) has been informed about the decrease of the available budget (from EUR 46 m for 2017 to EUR 27 m for 2018).

The European Steel Technology Platform (ESTEP representing the steel stakeholders) has expressed its full support to the Council Decision revision as otherwise many actors would suffer from the drastic reduction of the RFCS fund.

• Collection and use of expertise

Not relevant

• Impact assessment

Not applicable.

The proposed revision has a limited and technical scope, without any significant political, economic or budget implications (bridging measure).

[3] Protocol n°37 to the Treaty on the functioning of the European Union, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel

- **Regulatory fitness and simplification**

Not applicable.

However, the proposed revision will simplify the internal workload of the Commission for the annual closure of ECSC i.l. accounts, as the de-committed amounts will no longer be registered and booked in the balance sheet of ECSC i.l.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

None. The proposal has no implications on Staff level and do not create any new liabilities to be charged to the General Budget under the current MFF.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

A rapid adoption of the present proposal by the legislative authority by the first Semester of 2018 would allow the commission to top up the expected envelope of the RFCS programme for 2018 (EUR 27 m) to reach an amount of EUR 40 m for the next annual call.

The remaining amount may be used for 2019 to maintain the RFCS funding at the same level (EUR 40 m).

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

It is proposed to treat in the same way:

a) the amounts de-committed : sums which have been committed with the signature of grant agreements and which are no longer payable to beneficiaries (eligible costs are lower than expected) or recovered, and

b) the amounts which have not been committed at the end of the year with the signature of grant agreements. These unused funds are currently automatically carried over to the next year in the general budget in accordance with Article 4 (4) of the Council decision 2003/76/EC.

Therefore, the de-committed amounts would be assimilated to the unused funds covered by Article 4(4).

Furthermore, the amounts recovered under the RFCS Programme will follow the same treatment and will also be automatically carried over, in accordance with the relevant provisions of the Financial Regulation (FR) on assigned revenues (Articles 14 and 21 of the FR).

This justifies the complete deletion of the current Article 4(5) of the Council decision 2003/76/EC.

The revision is then limited to the following provisions:

(1) Paragraph 4 of Article 4 is replaced by the following:

4. Unused revenue and appropriations deriving from this revenue still available on 31 December in any given year ***as well as de-commitments made under the research programme of the Research Fund for Coal and Steel*** *shall be carried over automatically to the following year. These appropriations may not be transferred to other budget items.*

The amount corresponding to cancellations of commitments made since 6 February 2003 to the research programme of the Research Fund for Coal and Steel shall be made available upon the entry into force of the present Decision*.*

(2) Paragraph 5 of Article 4 is deleted.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Protocol, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, and in particular Article 2, first paragraph thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Under Article 97 of the Treaty establishing the European Coal and Steel Community (ECSC), the Treaty expired on 23 July 2002.

(2) The Protocol annexed to the Treaty establishing the European Community, (hereinafter referred to as 'the Protocol') transferred the assets and liabilities of the ECSC to the European Community and allocated the net worth of these assets, as they appear in the balance sheet of the ECSC of 23 July 2002 to research in the sectors related to coal and steel industry.

(3) The Protocol also assigned the revenue from these assets for research, outside the research framework programme, in the sectors related to the coal and steel industry in accordance with the provisions of the Protocol and of acts adopted on the basis hereof.

(4) Due to the exceptional decrease of the revenue stemming from the assets ECSC in liquidation due to the low interest situation on the capital markets in recent years, dedicated to research in the sectors related to the coal and steel industry, it is necessary to revise the rules on the cancellation of commitments made under the research programme of the Research Fund for Coal and Steel so as to authorise their recycling in the research programme.

(5) For the same reason, it is also necessary to revise the rules on the amounts recovered under the research programme of the Research Fund for Coal and Steel so as to

authorise their recycling in the research programme under the relevant provisions of the Financial Regulation on assigned revenues[4].

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/76/EC is amended as follows:

(1) In Article 4, paragraph 4 is replaced by the following:

‘4. Unused revenue and appropriations deriving from this revenue still available on 31 December in any given year as well as de-commitments made under the research programme of the Research Fund for Coal and Steel shall be carried over automatically to the following year. These appropriations may not be transferred to other budget items.

The amount corresponding to cancellations of commitments made since 6 February 2003 to the research programme of the Research Fund for Coal and Steel shall be made available upon the entry into force of the present Decision.’.

(2) In Article 4, paragraph 5 is deleted.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President

[4] Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).