

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 12 July 2002

providing supplementary macro-financial assistance to Ukraine

(2002/639/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

- (1) The Commission consulted the Economic and Financial Committee before submitting its proposal.
- (2) Ukraine is undertaking fundamental political and economic reforms and is making substantial efforts to implement a market economy model.
- (3) Ukraine, of the one part, and the European Community and its Member States, of the other part, have concluded a Partnership and Cooperation Agreement which will help the development of a full cooperation relationship.
- (4) The Chernobyl nuclear power plant was closed down in December 2000, in line with what was agreed by the Ukrainian authorities, the Group of Seven countries and the European Union in a Memorandum of Understanding signed on 21 December 1995.
- (5) In September 1998, the International Monetary Fund (IMF) approved an 'extended fund facility' (EFF) for Ukraine of approximately USD 2,3 billion, later increased to approximately USD 2,6 billion, in support of an economic programme for the period July 1998 to June 2001. In December 2000, the IMF extended the duration of this financial arrangement to August 2002.

Since 1998 the World Bank has provided substantial support for Ukraine's reform efforts, including through the approval in September 1998 of a USD 300 million Financial Sector Adjustment Loan (FSAL). The World Bank is expected to continue providing substantial financial assistance to Ukraine in the coming years, including through the approval of a number of adjustment loans.

- (6) In July 2001 the Members of the Paris Club agreed on a rescheduling of Ukraine's debts.
- (7) By Decisions 94/940/EC <sup>(3)</sup>, 95/442/EC <sup>(4)</sup> and 98/592/EC <sup>(5)</sup> the Council approved macro-financial assistance for Ukraine of up to a total amount of EUR 435 million to support previous macroeconomic programmes.
- (8) The circumstances that justified the provision of macro-financial assistance to Ukraine pursuant to Decision 98/592/EC have changed and this Decision, including any undisbursed amounts of assistance, should now be replaced.
- (9) However, additional official support from the Community is required in the context of the present programme to support the balance of payments, consolidate the reserve position and facilitate the necessary structural adjustment of the country.
- (10) The Community loan should be managed by the Commission.
- (11) The Treaty does not provide, for the adoption of this Decision, powers other than those of Article 308,

<sup>(1)</sup> OJ C 103 E, 30.4.2002, p. 366.

<sup>(2)</sup> Opinion delivered on 15 May 2002 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 366, 31.12.1994, p. 32.

<sup>(4)</sup> OJ L 258, 28.10.1995, p. 63.

<sup>(5)</sup> OJ L 284, 22.10.1998, p. 45.

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The Community shall make available to Ukraine a long-term loan facility of a maximum principal amount of EUR 110 million with a maximum maturity of 15 years, with a view to ensuring a sustainable balance-of-payments situation, strengthening the country's reserve position and facilitating the implementation of the necessary structural reforms.

2. To this end, the Commission is empowered to borrow, on behalf of the European Community, the necessary resources that will be placed at the disposal of Ukraine in the form of a loan.

3. This loan will be managed by the Commission in close consultation with the Economic and Financial Committee and in a manner consistent with any agreement reached between the IMF and Ukraine.

*Article 2*

1. The Commission shall be empowered to agree with the Ukrainian authorities, after consulting the Economic and Financial Committee, the economic policy conditions attached to the loan. These conditions shall be consistent with the agreements referred to in Article 1(3).

2. The Commission shall verify at regular intervals, in collaboration with the Economic and Financial Committee and in close coordination with the IMF, that the economic policy in Ukraine is in accordance with the objectives of this loan and that its conditions are being fulfilled.

*Article 3*

1. The loan shall be made available to Ukraine in at least two instalments. Subject to Article 2, the first instalment shall be released on the basis of a satisfactory track record of Ukraine's macroeconomic programme agreed with the IMF in the context of the present EFF or of a successor upper credit tranche arrangement.

2. Subject to Article 2, the later instalment(s) shall be released on the basis of a satisfactory continuation of the arrangements referred to in paragraph 1 and not before a period of three months has elapsed after the release of the previous instalment.

3. The funds shall be paid to the National Bank of Ukraine.

*Article 4*

1. The borrowing and lending operations referred to in Article 1 shall be carried out using the same value date and must not involve the Community in the transformation of maturities, in any exchange or interest rate risk, or in any other commercial risk.

2. The Commission shall take the necessary steps, if Ukraine so requests, to ensure that an early repayment clause is included in the loan terms and conditions and that it may be exercised.

3. At the request of Ukraine, and where circumstances permit an improvement in the interest rate on the loans, the Commission may refinance all or part of its initial borrowings or restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with the conditions set out in paragraph 1 and shall not have the effect of extending the average maturity of the borrowing concerned or increasing the amount, expressed at the current exchange rate, of capital outstanding at the date of the refinancing or restructuring.

4. All related costs incurred by the Community in concluding and carrying out the operation under this Decision shall be borne by Ukraine.

5. The Economic and Financial Committee shall be kept informed of developments in the operations referred to in paragraphs 2 and 3 at least once a year.

*Article 5*

At least once a year, the Commission shall address to the European Parliament and to the Council a report, which will include an evaluation of the implementation of this Decision.

*Article 6*

Decision 98/592/EC is hereby repealed.

*Article 7*

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 12 July 2002.

*For the Council*

*The President*

T. PEDERSEN