



Brussels, 29 September 2017
(OR. en)

12439/17

FIN 562
PE-L 37

'I/A' ITEM NOTE

| | |
|----------------|--|
| From: | Budget Committee |
| To: | Permanent Representatives Committee/Council |
| No. Cion doc.: | 11560/17 FIN 500 (COM(2017) 485 final) |
| Subject: | Draft amending budget No 5 to the general budget for 2017: Providing the financing for the European Fund for Sustainable Development (EFSD) and increasing the Emergency Aid Reserve (EAR) further to the revision of the Multiannual Financial Framework regulation |

1. On 28 July 2017, the Commission submitted to the Council draft amending budget (DAB) No 5 to the general budget for 2017.

This DAB provides the financing of the European Fund for Sustainable Development (EFSD), further to the adoption of the related legal base, as agreed by the European Parliament, the Council and the Commission in the outcome of the Conciliation Committee on the 2017 budgetary procedure. The amount requested is EUR 275 million in commitment and payment appropriations.

It also reflects the outcome of the mid-term revision of the MFF regulation¹ as regards the increase of the annual amount of the Emergency Aid Reserve, from EUR 280 million to EUR 300 million in 2011 prices.

¹ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

Overall, this DAB increases the level of commitment appropriations by EUR 297.8 million, whereas the level of payment appropriations remains unchanged.

2. On 4 and 21 September 2017, the Budget Committee examined the Commission proposal and was able to accept it without any changes.
3. At the close of its examination, the Budget Committee agreed, by a qualified majority¹, to suggest that the Permanent Representatives Committee advises the Council to:
 - adopt the Council's position on DAB No 5/2017 as set out in point 2;
 - instruct the Presidency to prepare the budgetary documents to be sent to the European Parliament and to approve the draft letter in Annex 2 to that effect;
 - have the Council's position published in the *Official Journal of the European Union* as set out in Annex 1;
 - record in its minutes the statements set out in Annex 3.

¹ UK abstaining.

COUNCIL DECISION

adopting the Council's position on draft amending budget No 5 of the European Union for the financial year 2017

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to 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 1605/2002¹ and in particular Article 41 thereof,

Whereas:

- the Union's budget for the financial year 2017 was definitively adopted on 1 December 2016²,
- on 28 July 2017, the Commission submitted a proposal containing draft amending budget No 5 to the general budget for the financial year 2017,

¹ OJ L 298, 26.10.2012, p. 1.

² OJ L 51, 28.2.2017, p. 1.

HAS DECIDED AS FOLLOWS:

Sole Article

The Council's position on draft amending budget No 5 of the European Union for the financial year 2017 was adopted on 10 October 2017.

The full text can be accessed for consultation or downloading on the Council's website:

<http://www.consilium.europa.eu/>.

Done at Luxembourg, on 10 October 2017.

*For the Council
The President*

DRAFT LETTER

from : President of the Council

to : President of the European Parliament

Sir,

I am forwarding under separate cover the Council's position on draft amending budget No 5 for the financial year 2017¹, adopted by the Council on 10 October 2017.

(Complimentary close).

¹ Doc. 12441/17 BUDGET 29.

STATEMENTS TO BE RECORDED IN THE COUNCIL MINUTES**1. Common statement on the technical adjustment for 2018 by Austria, Denmark, Finland, France, Germany, the Netherlands and Sweden¹**

"In light of the publication on 18 September 2017² of the technical adjustment of the financial framework for 2018 and with regard to the current annual budgetary procedure, Austria, Denmark, Finland, France, Germany, the Netherlands and Sweden wish to again register their interpretation of council regulation No 1311/2013 of 2 December 2013 that payments for special instruments must be accounted for within the payment ceilings established under the 2014-2020 multiannual financial framework (MFF).

In the technical adjustment exercise, the Commission, when calculating the global margin for payments (GMP), has on the contrary of the above maintained that payments associated with special instruments are not accounted for within the payment ceilings established under the 2014-2020 MFF.

Taking into account this difference of interpretation and its significant implications for the calculation of the Global Margin for Payments, Austria, Denmark, Finland, France, Germany, the Netherlands and Sweden consider that the GMP for 2014, 2015 and 2016 requires recalculation and call on the Commission to amend the technical adjustment as soon as possible in order that payments under the special instruments are accounted for within the ceilings of the MFF.

¹ Draft amending budget No 5 to the general budget for 2017, submitted on 28 July 2017, suggests increasing the Emergency Aid Reserve (EAR) in respect to the revision of the multiannual financial framework for the years 2014-2020. With regard to the payments for special instruments, Austria, Denmark, Finland, France, Germany, the Netherlands and Sweden wish to make a common statement.

² Communication from the Commission to the Council and the European Parliament: Technical adjustment of the financial framework for 2018 in line with movements in GNI (ESA 2010) (Article 6 of Council Regulation No 1311/2013 laying down the multiannual financial framework for the years 2014-2020) updating and replacing Communication COM(2017) 220 final of 24 May 2018.

Austria, Denmark, Finland, France, Germany, the Netherlands and Sweden will take positions on any budgetary proposal on the basis of the correct interpretation as outlined above."

2. **Common statement on the technical adjustment for 2018 by Bulgaria, Croatia, Cyprus, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia**

"In the context of the publication of the technical adjustment of the financial framework for 2018, Bulgaria, Croatia, Cyprus, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia would like to recall that in accordance with Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 both commitment and payment appropriations of the special instruments shall be counted over and above the ceilings of the multiannual financial framework (MFF). This is fully in line with the European Council Conclusions of 7/8 February 2013 on the 2014-2020 multiannual financial framework¹, which requested specific and maximum possible flexibility to allow the Union to fulfil its obligations in compliance with Article 323 of the Treaty on the Functioning of the European Union (TFEU).

Therefore the above mentioned Member States reiterate their support to the Commission's way of calculating the global margin for payments as part of the annual technical adjustments to the MFF. We believe that any other approach would fundamentally contradict the commitment established in the Article 323 of the TFEU, and hinder the capacity of the MFF to react to unforeseen circumstances.

Moreover we would like to recall that according to Article 6(4) of Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 no ex-post corrections shall be made to the technical adjustments of previous years."

¹ Paragraph 101 of the Conclusions: *"The MFF will include, as a rule, all items for which EU financing is foreseen, as a means of ensuring transparency and appropriate budget discipline. However, given their specificities, the Flexibility Instrument, the Solidarity Fund, the European Globalisation Adjustment Fund, the Emergency Aid Reserve and the European Development Fund will be placed outside the MFF."*