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COMMISSION DECISION

of 20.10.2015

**on the establishment of a European Union Emergency Trust Fund for stability and
addressing root causes of irregular migration and displaced persons in Africa**

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2015/323¹ of 2 March 2015 on the Financial Regulation applicable to the 11th European Development Fund, and in particular Article 42 thereof,

Whereas:

- (1) For many years the Sahel region at large, including the Lake Chad Basin, and the Horn of Africa have faced growing challenges of demographic pressure, environmental stress, extreme poverty, internal tensions, institutional weaknesses, weak social and economic infrastructures, and insufficient resilience to food crises, which have in some places led to open conflict, displacement, criminality, radicalisation and violent extremism, as well as forced and irregular migration, trafficking in human beings and the smuggling of migrants. Security challenges have been increasingly linked to terrorist groups and illicit trafficking of all kinds. In a broader regional perspective, the effects of the crises in Libya and Yemen, as well as the internal conflicts in Sudan, South Sudan, Mali and the Boko Haram, Aqmi and Al-Shabaab terrorist threats, have put the whole region in a crisis situation.
- (2) The various armed conflicts in Africa, as well as social and political upheavals in the EU Neighbourhood region (and beyond), are causing ever increasing forced displacement of people and humanitarian consequences of enormous proportions. The North of Africa serves as transit and, to some extent, final destination for mixed migration movements. In addition, the deteriorated economic environment in the region has caused significant decreases in economic activity and local and foreign investment. This has led to a rise in unemployment in particular among young people. Growing inequalities, lack of safety and protection of vulnerable groups, as well as limited rights and opportunities have produced a widespread sense of exclusion in particular affecting the youngest generations.
- (3) For all these countries, the crisis manifests itself as a growing flow of forced migration, including across the Sahara desert, the Mediterranean and other routes towards Europe. The EU has responded by increasing its humanitarian aid and development assistance to refugees and migrants across the region. But the European Council² and the European Agenda on Migration³ also called for a constructive effort to prevent further loss of lives at sea and to reinforce the EU's overall cooperation with the key countries of transit and origin. It further called to pursue these objectives

¹ OJ L 58, 3.3.2015, p. 17.

² EUCO 22/15, 26/06/2015

³ COM (2015) 240, 13.5.2015

by tackling amongst others the root causes of irregular migration and forced displacement in countries of origin and transit and promoting peaceful and inclusive societies for sustainable development, in particular by strengthening the rule of law, addressing human rights abuses, improving access to education, creating economic and equal opportunities, including through the promotion of decent work, enhancing legal mobility and building better governance, including on border management, the fight against human trafficking and smuggling, and the effective sustainable return, readmission and reintegration of irregular migrants not qualifying for protection. This requires a firm commitment and comprehensive approach to supporting capacity building of third countries in the field of migration and border management, as well as to the stabilisation and development of these regions of Africa, from the Sahel to the Horn of Africa, and the North of Africa.

- (4) The Economic Community of West African States (ECOWAS) Sahel Strategy, the Intergovernmental Authority on Development (IGAD) Peace and Security Strategy, as well as the EU Sahel Strategy⁴ and the EU Strategic Framework to the Horn of Africa⁵, recognise in particular the importance of a dedicated approach to peripheral areas, which are characterised by very low State presence and porosity of borders, as well as the marginalisation and destitution of particular groups of society and increased vulnerability to irregular migration, extremism, trafficking in human beings and smuggling of migrants. Activities addressing migration should focus on regions and countries of origin and transit of migratory routes and should tackle all its aspects in line with the Global Approach to Migration and Mobility, including containing and preventing irregular migration and fight against trafficking of human beings, smuggling of migrants and other related crimes, effective return and readmission, international protection and asylum, legal migration and mobility, enhancing synergies between migration and development.
- (5) The EU-Sahel Regional Action Plan 2015-2020, adopted by the Foreign Affairs Council on 20 April 2015⁶, lists the following priorities: (i) border management and fight against illicit trafficking and transnational organised crime; (ii) prevention and fight against radicalisation; (iii) creation of appropriate conditions for youth; and (iv) migration and mobility. These four domains are considered highly relevant for the stabilisation of the Sahel region. In the Horn of Africa, two key priorities for the countries of the region and the EU are the growing presence of imported and home-grown radicalisation, and the massive levels of displacement of over eight (8) million people fuelled by conflict, resource scarcity and political oppression.
- (6) In the framework of the European Neighbourhood Policy review, migration and mobility is a key area of cooperation for the EU and our partners. Enhancing mobility, especially for education, scientific, cultural, training and professional purposes, has positive effects on economies and societies alike. Increasing engagement with the youngest generations, with a particular focus on the protection of vulnerable children and adolescents, can play a major role in promoting their inclusion into their societies and make them both participants and beneficiaries of economic, social and political development.

⁴ http://eeas.europa.eu/africa/docs/sahel_strategy_en.pdf

⁵ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/foraff/126052.pdf

⁶ <http://www.consilium.europa.eu/en/press/press-releases/2015/04/20-council-conclusions-sahel-regional-plan/>

- (7) The scale and the seriousness of the stability crisis in the region and the difficulties pertaining to the provision of basic services, the lack of economic perspectives for local population and the weak capacities of national authorities require additional financial commitments and a specific vehicle to provide emergency support, specifically tailored to situations of fragility, in complement to traditional development instruments.
- (8) Migration and mobility are a priority in the relation between EU and Africa as the dialogues on migration and mobility, as illustrated by the Rabat and Khartoum Processes, the existing Mobility Partnerships and the Common Agenda on Migration and Mobility.
- (9) Article 187(4) of Regulation (EU, Euratom) No 966/2012⁷ applicable pursuant to Article 42 of Council Regulation (EU) 2015/323, authorises the Commission to set up and manage an EU Trust Fund under an agreement concluded with other donors. These funds are designed to mobilise various sources of EU financing and to receive contributions from EU Member States and from donors from non-member countries. EU Trust Funds have been specifically designed for emergency and post-emergency situations where experience has shown that the weakness of the local administrations combined with a sudden increase in the number of donors require a strong coordination of the international community.
- (10) All the conditions are met for the setting-up an EU Trust Fund for the regions of the Sahel, the Lake Chad, the Horn of Africa and the North of Africa (“the Trust Fund”). The Trust Fund will provide the EU with an innovative and added valued European instrument: (i) it will allow for the effective pooling of resources from various EU funding sources into a single instrument, following a shared strategic framework, in order to respond collectively to the above mentioned challenges; (ii) it will provide the EU and its Member States with a swift and flexible instrument to deliver immediate and concrete results in sensitive and rapidly changing fragile situations; (iii) it will leverage contributions from EU Member States and other donors, bringing greater coherence, reducing the risk of fragmentation of aid and ensuring a new mutualisation of means and capacities; (iv) it will provide the EU with a platform for stronger political visibility and reinforced engagement with countries of origin and transit, showing the EU’s capacity to develop a solid collective response to those challenges; (v) it will ensure a greater degree of coordination and a more integrated and comprehensive approach based on greater research, data gathering and analysis. By themselves, none of the actors and instruments currently willing to contribute to the stability of the region would be able to mobilise the human, financial and knowledge-based resources necessary to design and implement a strategy for the whole region.
- (11) Drawing on the lessons of previous crises and the need to better coordinate reconstruction/development programmes and the building of national and local capacity with the humanitarian response as part of the linking relief, rehabilitation and development process (LRRD), the Commission and the High Representative of the Union for Foreign Affairs and Security Policy have proposed setting up the Trust Fund, which would act collectively on behalf of the European Union and all the contributors to the Trust Fund thanks to strategic and operational coordination.

⁷ Regulation (EU, Euratom) No 966/2012 of the European Parliament and 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).

- (12) Spain has confirmed its intention to contribute to the Trust Fund in a formal letter to the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission and the Commissioner for International Cooperation and Development. Belgium, Denmark, Finland, France, Italy, Luxembourg, Malta, the Netherlands, Norway and Switzerland have shown a strong interest, and discussions are ongoing with other donors. The European Union envisages contributing to this Trust Fund mainly on the basis of the European Development Fund.
- (13) The overall objective and purpose of the Trust Fund shall be to address the crises in the regions of the Sahel and the Lake Chad, the Horn of Africa, and the North of Africa. It will support all aspects of stability and contribute to better migration management as well as addressing the root causes of destabilisation, forced displacement and irregular migration, in particular by promoting resilience, economic and equal opportunities, and security and development. The Trust Fund shall intervene in coordination with national and regional frameworks, the other EU instruments, the bilateral cooperation of Member States, and the instruments of other development partners. The actions identified in the Trust Fund shall feed into the future and ongoing joint programming actions/ documents elaborated jointly by Member States, the Commission, the High Representative of the Union for Foreign Affairs and Security Policy and the recipient countries.
- (14) The geographical scope of the Trust Fund should encompass the countries included in the belt between the Sahel, the Lake Chad, the Horn of Africa, the North of Africa⁸ and African neighbour countries of these countries which could also benefit, on a case by case basis, from projects with a regional dimension in order to deal with the regional migration flows and related challenges.
- (15) The different political and security realities in the three regions, as well as the varying degrees of political dialogue and socio-economic cooperation between the EU and each of these three regional areas, imply nevertheless a differentiated approach to the strategy and to the management of the Trust Fund.
- (16) The Trust Fund will help achieve those objectives through the pooling of resources and of the capacity to analyse, identify and implement the actions and in particular those of donors active in the regions. The aim is to harness the instruments and know-how of the Commission and the EU Member States so as to develop a solid European response to address the crises in the regions, including the increase of migration flows. To avoid duplicating structures on the ground while making the best use of donors' expertise, delegated cooperation with Member States should be used by the trustee of the Trust Fund where the principles of economy, efficiency and effectiveness can be clearly demonstrated. In close coordination with the European Commission, these Member States should contribute to the identification of actions that will be presented to all Trust Funds' donors for funding. The expertise and implementation capacity of other donors may also be mobilised in pursuit of this objective.
- (17) The Trust Fund is a complementary instrument to other initiatives at international level. Regular consultations are taking place between the international donors and the complementarity will be ensured when selecting projects. The Trust Fund will in

⁸ For the Sahel Region and Lake Chad area: Burkina Faso, Cameroon, Chad, the Gambia, Mali, Mauritania, Niger, Nigeria and Senegal; for the Horn of Africa: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Tanzania and Uganda; For the North of Africa: Algeria, Egypt, Libya, Morocco and Tunisia.

particular work closely with the EU Regional Trust Fund in Response to the Syrian Crisis⁹, “the Madad Fund”, in order to coordinate actions and increase synergies regarding the response to the refugee crisis.

- (18) Development cooperation already contributes to a large extent to tackling the root causes of migration and EU current programming both in the EU Neighbourhood region and in Africa already supports African partners to address a number of the most urgent issues. The European Union Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa comes as an additional tool to help the most fragile and affected countries. The Trust Fund will intervene in subsidiarity and complementarity with other EU instruments and/or donors. It will cover the gaps (both in geographical or thematic terms) not covered by other instruments (or other development partners, including EU Member States), for example by targeting actions in areas that are not under the control of the national authorities and/or by implementing necessary activities that might fall outside of the scope of the signed National and Regional Indicative Programmes and/or by using different implementing methods.
- (19) The Agreement establishing the Trust Fund, concluded with the donors (hereinafter referred to as the “Constitutive Agreement”), should define the specific objectives of the Trust Fund and the rules applying to its management and governance.
- (20) In accordance with Article 187(4) of Regulation (EU, Euratom) No 966/2012 applicable pursuant to Article 42 of Regulation (EU) 2015/323, a board chaired by the Commission should be established for each Trust Fund. It is therefore appropriate for the Commission to appoint a representative and an alternate representative to chair the Trust Fund Board on behalf of the Commission and exert its voting rights. In order to ensure efficient implementation, it is also appropriate to ensure the Commission’s representation at the Operational Committee.
- (21) In accordance with the Article 187(7) of Regulation (EU, Euratom) No 966/2012 applicable pursuant to Article 42 of Regulation (EU) 2015/323, the Commission should be authorised to deduct a sum of up to 5% of the amounts contributed to the Trust Fund to cover its management costs. As regards staff to be financed for the management of the Trust Fund, the ceiling for the number of posts to be created, whether for staff based in Brussels or EU delegations, should only depend on the budgetary allocation available within the Trust Fund.
- (22) The establishment of the Trust Fund is in accordance with Council Decision 2010/427/EU¹⁰ on establishing the organisation and functioning of the European External Action Service, and in particular the provisions of Article 9 regarding the division of competences between Commission services and the EEAS on external action instruments and the programming.
- (23) The European Union contributions to the Trust Fund, regardless of the funding financial instrument, should take the form of a financing decision in the sense of Article 84 of Regulation (EU, Euratom) 966/2012 and Article 26 of Regulation (EU) No 2015/323. The adoption of these financial decisions should comply with the

⁹ Commission Decision C(2014)9615 of 10.12.2014 on the establishment of a European Union Regional Trust Fund in response to the Syrian crisis, "the Madad Fund"

¹⁰ OJ L 201 3.8.2010, p. 30.

procedure laid down in Regulation (EU) No 182/2011¹¹ and with the rules applicable to the relevant funding financial instrument, in particular its scope and eligibility rules.

- (24) The Trust Fund should be created for a limited duration and it is thus appropriate to fix an end date of its duration.
- (25) Decisions of the Trust Fund Board and the Operational Committee pursuant to Article 19.1 of the Constitutive Agreement concerning amendments thereto have to be in line and preceded by a decision of the College, in accordance with Article 42 of Regulation No 2015/323, which refers to Article 187(8) of Regulation (EU, Euratom) No 966/2012, and in accordance with the principles of economy, efficiency and effectiveness.
- (26) The establishment of the Trust Fund is in accordance with the opinion of the European Development Fund Committee set up under Article 8 of the 11th European Development Fund Internal Agreement.¹²
- (27) Amendments to the Constitutive Agreement in accordance with its Article 19 require endorsement by the Commission, thereby amending the present Commission Decision in accordance with Article 42 of Regulation No 2015/323 which refers to Article 187(8) of Regulation (EU, Euratom) No 966/2012.

HAS DECIDED AS FOLLOWS:

Article 1

1. A European Union Trust Fund for emergency and post-emergency actions entitled “European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa” (“the Trust Fund”) shall be created upon conclusion of the Constitutive Agreement between the European Commission and the donors who are interested in contributing to the Trust Fund (“the Constitutive Agreement”).
2. The overall objective and purpose of this Trust Fund shall be to address the crises in the regions of the Sahel and the Lake Chad, the Horn of Africa, and the North of Africa. It will support all aspects of stability and contribute to better migration management as well as addressing the root causes of destabilisation, forced displacement and irregular migration, in particular by promoting resilience, economic and equal opportunities and security and development.

The Constitutive Agreement shall define the specific objectives as well as the rules and procedures applying to the management and governance of the Trust Fund, in line with the draft in the Annex A to this Decision.
3. The Director-General of the Commission’s Directorate-General for International Cooperation and Development is authorised to sign the Constitutive Agreement.

¹¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

¹² Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210, 6.8.2013, p. 1).

4. The Trust Fund shall cover: for the Sahel Region and the Lake Chad area: Burkina Faso, Cameroon, Chad, the Gambia, Mali, Mauritania, Niger, Nigeria and Senegal; for the Horn of Africa: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Tanzania and Uganda; and for the North of Africa: Algeria, Egypt, Libya, Morocco and Tunisia. African neighbours of these countries could also benefit, on a case by case basis, from projects with a regional dimension in order to deal with the regional migration flows and related challenges.

Article 2

1. The Constitutive Agreement shall establish:
 - a Trust Fund Board, chaired by the Commission, to ensure the representation of the donors, and of the non-contributing EU Member States as observers, to decide on the overall strategy of the Trust Fund;
 - an Operational Committee, chaired by the Commission and representing the donors with a minimum contribution, to decide on the allocations of the funds to individual actions.
2. The Director-General of the Directorate-General for International Cooperation and Development:
 - shall be the representative of the Commission on the Trust Fund Board and shall designate one or more alternate representatives at the level of Deputy Director-General of the Directorate-General International Cooperation and Development; and
 - shall designate the representative of the Commission and one or more alternate representatives on the Operational Committee at the level of Director or Head of Delegation at least.

The alternate representative(s) of the Commission to the Trust Fund Board as well as the designated representative and alternate representative(s) of the Commission on the Operational Committee shall act under the instructions of the Director-General of the Directorate-General for International Cooperation and Development.

The Secretary General of the European External Action Service may designate a representative and one or more alternate representatives who shall be part of the Commission delegation to the Trust Fund Board and the Operational Committee.

In order to ensure continuity of service in case of unavailability of the representatives and alternate representatives, the rules of deputising of the Commission and of the European External Action Service shall apply.

3. The Director-General of the Directorate General for International Cooperation and Development shall be the authorising officer by delegation responsible for managing this Trust Fund in accordance with Article 65 of Regulation (EU, Euratom) No 966/2012 applicable pursuant to Article 19 of Regulation (EU) No 2015/323.

Article 3

The Director-General of the Directorate-General for International Cooperation and Development may delegate the management tasks to one or more members of the staff of the relevant Commission services, the Manager or Managers of the Trust Fund, in accordance with the rules of procedure of the Commission. The rules and procedures to be followed by

the Manager(s), when implementing the decisions adopted by the Trust Fund Board and Operational Committee, shall be those established by the Constitutive Agreement and by the relevant rules and regulations of the Commission, including those concerning reporting to the governing bodies of the Trust Fund and to the European Parliament and the Council. For the purpose of the implementation of the Trust Fund, the countries referred to in paragraph 4 of Article 1 are considered to be in crisis situation in the sense of paragraph 2 of Article 90 of the Rules of Application¹³ for the duration of the Trust Fund. The Commission shall withdraw a maximum of 5% of the amounts pooled into this Trust Fund to cover its management costs, including additional contractual staff.

Article 4

The contributions of the European Union to the Trust Fund under the general budget and the European Development Fund shall take the form of financing decisions in the sense of Article 84 of Regulation (EU, Euratom) 966/2012 and Article 26 of Regulation (EU) No 2015/323. The adoption of these financial decisions shall comply with the procedure laid down in Regulation (EU) No 182/2011 and with the rules applicable to the relevant funding financial instrument.

Article 5

1. The end date of the Trust Fund which shall be fixed in the Constitutive Agreement shall be 31 December 2020.
2. The duration referred to in paragraph 1 may be extended by an amendment of this decision upon request of the Operational Committee.

Done at Brussels, 20.10.2015

For the Commission
Neven Mimica
Member of the Commission

¹³ Commission Delegated Regulation (EU, Euratom) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p.1).