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Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2013/003 DE/First Solar from Germany)

EXPLANATORY MEMORANDUM

Point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹ allows for the mobilisation of the European Globalisation Adjustment Fund (EGF) through a flexibility mechanism, within the annual ceiling of EUR 500 million over and above the relevant headings of the financial framework.

The rules applicable to the contributions from the EGF are laid down in Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund².

On 12 April 2013, Germany submitted application EGF/2013/003 DE/First Solar for a financial contribution from the EGF, following redundancies in First Solar Manufacturing GmbH in Germany.

After a thorough examination of this application, the Commission has concluded in accordance with Article 10 of Regulation (EC) No 1927/2006 that the conditions for a financial contribution under this Regulation are met.

SUMMARY OF THE APPLICATION AND ANALYSIS

| Key data: | |
|---|--------------------------------|
| EGF Reference no. | EGF/2013/003 |
| Member State | Germany |
| Article 2 | (a) |
| Primary enterprise | First Solar Manufacturing GmbH |
| Suppliers and downstream producers | 0 |
| Reference period | 15.11.2012 – 15.3.2013 |
| Starting date for the personalised services | 1.1.2013 |
| Application date | 12.4.2013 |
| Redundancies during the reference period | 959 |
| Redundancies before and after the reference period | 285 |
| Total eligible redundancies | 1 244 |
| Redundant workers expected to participate in the measures | 875 |
| Expenditure for personalised services (EUR) | 4 375 715 |
| Expenditure for implementing EGF ³ (EUR) | 235 000 |
| Expenditure for implementing EGF (%) | 5.1 |
| Total budget (EUR) | 4 610 715 |
| EGF contribution (50 %) (EUR) | 2 305 357 |

1. The application was presented to the Commission on 12 April 2013 and supplemented by additional information up to 14 August 2013.
2. The application meets the conditions for deploying the EGF as set out in Article 2(a) of Regulation (EC) No 1927/2006, and was submitted within the deadline of 10 weeks referred to in Article 5 of that Regulation.

¹ OJ C 139, 14.6.2006, p. 1.

² OJ L 406, 30.12.2006, p. 1.

³ In accordance with the third paragraph of Article 3 of Regulation (EC) No 1927/2006.

Link between the redundancies and major structural changes in world trade patterns due to globalisation

3. In order to establish the link between the redundancies and major structural changes in world trade patterns due to globalisation, Germany states that First Solar is a US company founded in 1999 with the objective of creating solar energy and contributing to a more ecological model of electricity generation. In 2007, it set up two sites in Frankfurt (Oder) in Germany and began to produce solar modules there. In 2011, a collapse in prices by about 40 % compared with the previous year caused the company to take the decision that Frankfurt (Oder) was no longer viable as a production site. This led to negotiations on a social plan in 2012 and the closure of the two plants in 2013, with the redundancies spread over the period between 1 January and 1 June.
4. First Solar Manufacturing GmbH is only one of many European solar enterprises that have become insolvent, quit the solar business, shut down production wholly or partially, or sold out to Chinese investors over the past couple of years (2010 to 2012)⁴. The Photovoltaic Sustainable Growth Index for 2011⁵ concludes that "the total revenue pool of all 33 PV companies in the study increased by 79% from \$21bn to \$36bn in a market where installations grew by 129 %. Chinese and Taiwanese companies were able to grow revenue faster than German and US companies. Market share of German companies continued to slide. US companies gave up market share after four years of gains." Thus, between 2005 and 2011, the revenue share of China increased from 11 % to 45 %, while that of Germany fell from 64 % to 21 %. The only other EU Member State with a production significant enough to be listed, is Spain with 1 %.
5. China has built up huge overcapacities in solar modules, which neither its own consumers nor the world market can absorb; this coupled with the worldwide decline in demand has led to a collapse in prices. As a result of locally available financial support for manufacturers in China, and the priority given to the sector by the current Chinese 5-year plan (2011-2015), these companies are able to survive and grow by selling their output cheaply on markets abroad. More than 90 % of production is exported, of which 80 % into the EU⁶.

Demonstration of the number of redundancies and compliance with the criteria of Article 2(a)

6. Germany submitted this application under the intervention criteria of Article 2(a) of Regulation (EC) No 1927/2006, which requires at least 500 redundancies over a four-month period in an enterprise in a Member State, including workers made redundant in its suppliers and downstream producers.
7. The application cites 959 redundancies in First Solar Manufacturing GmbH during the four-month reference period from 15 November 2012 to 15 March 2013 and a further 285 redundancies outside the reference period, but related to the same collective redundancies procedure and the same event which triggered the redundancies during the reference period. These redundancies occurred after the reference period and have in the meantime been confirmed by the Member State. All

4 <http://prosun.org/en/fair-competition/alarmed-situation.html>

5 http://www.nationalsolartraders.com.au/NST%20DATA/Data%20Sheets/Trina/PRTM_PVSGI_2011_Summary_July2011_v2.pdf

6 EU ProSun

of these redundancies were calculated in accordance with the second indent of the second paragraph of Article 2 of Regulation (EC) No 1927/2006.

Explanation of the unforeseen nature of those redundancies

8. The German authorities argue that First Solar had been producing solar modules in Frankfurt (Oder) since 2007, and that it had started to construct a second factory (estimated cost : EUR 173 million) in the autumn of 2010. In June 2011, this second site started production and was scheduled to reach full capacity during the third quarter of the same year. The company had further long-term investment plans for the site, had bought additional property in Frankfurt (Oder) and announced that it would open two more factories. The suddenness of the market changes caused it to re-evaluate its investments in Germany and to take the decision in July 2012 to stop any further expansion and close both plants.

Despite its set-backs, First Solar continues to be one of the top producers of solar modules in the world. The decision to close the Frankfurt (Oder) site could not have been foreseen by its workers or the public authorities.

Identification of the dismissing enterprises and workers targeted for assistance

9. The application relates to 1 244 redundancies, all of which in First Solar Manufacturing GmbH and in several waves (1 January, 1 March and 1 June 2013).
10. The break-down of the workers expected to participate in the measures is as follows:

| Category | Number | Percent |
|-----------------|---------------|----------------|
| Men | 667 | 76.2 |
| Women | 208 | 23.8 |
| EU citizens | 871 | 99.5 |
| Non EU citizens | 4 | 0.5 |
| 15-24 years old | 36 | 4.1 |
| 25-54 years old | 723 | 82.6 |
| 55-64 years old | 116 | 13.3 |
| > 64 years old | 0 | 0.0 |

11. Among the targeted workers, there are 45 with long-term health problems or disabilities.
12. In terms of occupational categories, the break-down is as follows:

| Category | Number | Percent |
|--|---------------|----------------|
| Legislators, senior officials and managers | 91 | 10.4 |
| Professionals | 33 | 3.8 |
| Technicians and associate professionals | 201 | 23.0 |
| Clerks | 18 | 2.1 |
| Craft and related trade workers | 14 | 1.6 |
| Plant and machine operators and assemblers | 492 | 56.2 |
| Elementary occupations | 26 | 3.0 |

13. In accordance with Article 7 of Regulation (EC) No 1927/2006, Germany has confirmed that a policy of equality between women and men as well as non-discrimination has been applied, and will continue to apply, during the various stages of the implementation of and, in particular, in access to the EGF.

Description of the territory concerned and its authorities and stakeholders

14. These redundancies concern the city of Frankfurt (Oder), population around 60,000, located in the eastern part of Germany (Land of Brandenburg), about 80 km from Berlin and right on the German-Polish border. The region is characterised by a preponderance of SMEs, particularly in the construction sector, and a high proportion of older persons, as the younger population is inclined to migrate to the larger cities. The municipality has been attempting to create a solar industry hub, with various enterprises settling there and offering employment.

Both the construction sector and the previously important military base in the area have been reducing the numbers of jobs offered, and it is a severe blow to the region that the main solar producer has now shut down.

Expected impact of the redundancies as regards local, regional or national employment

15. The redundancies in First Solar (1,244 persons) leads to an immediate increase of the rate of unemployment by 4 percentage points, unless new jobs can be created quickly. The area is already suffering from an above-average rate of unemployment (11.3 % compared with a national average of 7.4 % in February 2013). The unemployment rate in the city of Frankfurt (Oder) is even higher, at 14.1 % (December 2012).
16. There are few alternative job options within a range of 200 km of the city; this is a significant factor in the planning of the measures for the workers. The most promising sectors are in the health and caring professions, as well as in the traditional trades such as welders, electricians, mechanics, roofers, plasterers, carpenters, tilers and plumbers. Openings may also be found in catering and tourism, particularly in the food industry and specialised gastronomy.
17. The workers made redundant by First Solar are mostly well qualified, but many of them never worked in the fields where they obtained their qualifications. They will therefore need upskilling measures to revitalise and update their original qualifications or to obtain qualifications in the fields of their work experience.

Co-ordinated package of personalised services to be funded and a breakdown of its estimated costs, including its complementarity with actions funded by the Structural Funds

18. The social partners involved in First Solar agreed in July 2012 on a social plan which includes the services of a transfer company. The organisation chosen by the stakeholders to provide transfer company services is the TÜV Rheinland Personal GmbH, which will be active at three sites convenient to the redundant workers, i.e. Frankfurt (Oder), Beeskow and Berlin. Workers will receive the transfer company services from 1 January, 1 March and 1 June 2013, depending on the dates when they leave First Solar, with a small number starting at a later date. During the initial phase of 6 months, while Germany awaits the approval of its EGF application, the transfer company are partly paid for by the dismissing employer under its social plan and co-funded by the ESF via its Federal programme. Following the initial six months, the transfer company services will be extended and new measures introduced, and the entire package will be co-funded by the EGF.
19. All the following measures combine to form a co-ordinated package of personalised services which aims at re-integrating the redundant workers into employment:

- Subsistence allowance (Transferkurzarbeitergeld) : This amounts to 60 % of the worker's previous net income, or 67 % if one or more children are resident in the recipient's household. It is payable for nine months from the date when the worker enters the transfer company, including the initial period, when the measures provided by the transfer company are co-funded by the ESF. The Transferkurzarbeitergeld also functions as the German cofunding of the ESF measures provided to the workers during the initial phase of the Transfergesellschaft. Care is therefore taken in the accountancy system to differentiate the Transferkurzarbeitergeld under ESF from that under EGF, so that there is no risk of double financing. The allowance is charged to the EGF only for those periods when the eligible workers are engaged in active measures, but is reduced to 49.4 % of the eligible amount, corresponding to the percentage of time spent by workers in preparation or follow-up of activities provided by the transfer company and for which no timesheets are kept ⁷.
- Training courses leading to qualifications (Qualifizierungen) : These are offered to the eligible workers following profiling and career guidance interviews, and with the intention of helping them to benefit from perceived opportunities in the labour market. As the majority of the eligible workers are already well qualified, most of the measures will provide upskilling or refreshing of existing skills. Both individual and group courses will be organised, and some internships will be made available. Workers will also be helped to start their own businesses if they decide to pursue this option. For 22 hearing impaired workers, courses will be modified to take account of their needs.
- Training management (Qualifizierungsmanagement) : Training managers prepare and implement training measures. Their main task is to provide individualised course matching, i.e. to find the most suitable course for each worker, based on the career path designed with the career guidance counsellor. They are also responsible for any legal matters, e.g. with respect to procurement and competition rules. It is to be noted here that the choice of courses for each individual is entirely open, and that expertise is required to help each person make the best possible selection given their circumstances.
- Workshops and peer groups : These will be group fora assisted by a facilitator, helping participants to exchange ideas and reflections. Peer groups may be composed in various ways, e.g. by age group, need, family composition or previous work experience. A number of workers suffered health problems due to the 12-hour shift system practised by First Solar; they will be offered health care and advice.
- Support services and international job search (flankierende Leistungen und internationale Arbeitssuche) : This comprises all necessary measures from the procurement of documentation to translations of qualifications, attendance at job fairs and language courses, placement of job ads and intercultural training. It is expected that a small number of eligible workers may be interested in this offer.
- In-depth business creation advice (vertiefte Existenzgründungsberatung) : This will comprise expert advisory services for those contemplating a business start-up. Workers will be helped to draw up their business plan and to obtain start-up grants

⁷ As approved by the Commission following the study by the University of Duisburg Essen (October 2009).

from the Agentur für Arbeit. Seminars will be held to give them the necessary knowledge in business administration.

- Job search (Stellensuche / Stellenresearcher) : A professional job searcher will use his or her contacts and experience in order to locate potential job vacancies not yet published, which could suit the eligible workers.
- Activation grant / sprinter premium (Aktivierungszuschuss in Form einer Sprinterprämie) : This degressive premium will be paid to workers quickly finding their own new jobs without further assistance after the conclusion of the measures provided by the transfer company.
- Follow-up and aftercare (Beratung und Betreuung bei Arbeitsaufnahme und Arbeitslosigkeit) : Workers can benefit from further guidance and counselling after they take up a new job, so that the risk of job loss can be minimised. Those who have not yet found a new job can be cared for until the end of the EGF implementation period, in close co-operation with the public employment services. They are also provided with portfolios containing their profiles, the services and qualifications received, and their possible need for further assistance.

20. The expenditure for implementing the EGF, which is included in the application in accordance with Article 3 of Regulation (EC) No 1927/2006, covers preparatory, management and control activities as well as information and publicity.

21. The personalised services presented by the German authorities are active labour market measures within the eligible actions defined by Article 3 of Regulation (EC) No 1927/2006. The German authorities estimate the total costs at EUR 4 610 715, of which the expenditure for personalised services at EUR 4 375 715 and the expenditure for implementing the EGF at EUR 235 000 (5.1 % of the total amount). The total contribution requested from the EGF is EUR 2 305 357 (50 % of the total costs).

| Actions | Estimated number of workers targeted | Estimated cost per worker targeted (EUR) | Total costs (EGF and national cofinancing) (EUR) |
|---|--------------------------------------|--|--|
| Personalised services (first paragraph of Article 3 of Regulation (EC) No 1927/2006) | | | |
| Subsistence allowance (Transferkurzarbeitergeld) | 875 | 2 714 | 2 374 750 |
| Training courses leading to qualifications (Qualifizierungen) | 245 | 3 421 | 838 145 |
| Training management (Qualifizierungsmanagement) | 245 | 325 | 79 625 |
| Workshops and peer groups | 350 | 340 | 119 000 |
| Support services and international job search (Flankierende Massnahmen und internationale Arbeitssuche) | 35 | 1 160 | 40 600 |
| In-depth business creation advice (Vertiefte Existenzgruendungsberatung) | 5 | 619 | 3 095 |
| Job search (Stellensuche / Stellenresearch) | 770 | 200 | 154 000 |
| Activation grant / sprinter premium (Aktivierungszuschuss / Sprinterpraemie) | 200 | 1 869 | 373 800 |
| Follow-up and aftercare (Beratung und Betreuung bei Arbeitsaufnahme und Arbeitslosigkeit) | 770 | 510 | 392 700 |
| Sub total personalised services | | | 4 375 715 |
| Expenditure for implementing EGF (third paragraph of Article 3 of Regulation (EC) No 1927/2006) | | | |
| Preparatory activities | | | 52 000 |
| Management | | | 130 000 |
| Information and publicity | | | 7 000 |
| Control activities | | | 46 000 |
| Sub total expenditure for implementing EGF | | | 235 000 |
| Total estimated costs | | | 4 610 715 |

| | | |
|---|--|------------------|
| <i>EGF contribution (50 % of total costs)</i> | | <i>2 305 357</i> |
|---|--|------------------|

22. Germany confirms that the measures described above are complementary with actions funded by the Structural Funds and that the necessary measures are in place to prevent any double financing. The ESF together with the dismissing employer will co-fund the transfer company services during the first six months, while Germany awaits the approval of its EGF application. This practice has already been used in the previous EGF cases implemented in Germany and has been positively highlighted at EU level as a good practice in complementarity between the ESF and the EGF.

Date(s) on which the personalised services to the affected workers were started or are planned to start

23. Germany started the personalised services to the affected workers included in the co-ordinated package proposed for co-financing to the EGF on 1 January 2013. This date therefore represents the beginning of the period of eligibility for any assistance that might be awarded from the EGF.

Procedures for consulting the social partners

24. The planned package of EGF measures was built on the support measures negotiated by the social partners as the social plan for the redundant workers. Two Round Tables (25 September 2012 and 19 February 2013) were organised between the EGF managing authority and the workers' representatives of First Solar to discuss the possibility of seeking EGF support. The plans of the transfer company TÜV Rheinland Personal GmbH were presented, and the concept was welcomed by all concerned.

Information on actions that are mandatory by virtue of national law or pursuant to collective agreements

25. As regards the criteria contained in Article 6 of Regulation (EC) No 1927/2006, the German authorities in their application:
- confirmed that the financial contribution from the EGF does not replace measures which are the responsibility of companies by virtue of national law or collective agreements;
 - demonstrated that the actions provide support for individual workers and are not to be used for restructuring companies or sectors;
 - confirmed that the eligible actions referred to above do not receive assistance from other EU financial instruments.

Management and control systems

26. Germany has notified the Commission that the financial contribution will be administered by the same bodies within the Federal Ministry for Labour and Social Affairs (Bundesministerium für Arbeit und Soziales) which administer the ESF. However, within the 'Gruppe Europäische Fonds für Beschäftigung', it is the 'Referat EF 4' which acts as the managing authority for the EGF, while the managing authority for the ESF is Referat EF 1. The 'Organisationseinheit Prüfbehörde' is the control authority for both EGF and ESF. These bodies also administered the previous EGF contributions to Germany.

Financing

27. On the basis of the application from Germany, the proposed contribution from the EGF to the coordinated package of personalised services (including expenditure to implement EGF) is EUR 2 305 357, representing 50 % of the total cost. The Commission's proposed allocation under the Fund is based on the information made available by Germany.
28. Considering the maximum possible amount of a financial contribution from the EGF under Article 10(1) of Regulation (EC) No 1927/2006, as well as the scope for reallocating appropriations, the Commission proposes to mobilise the EGF for the total amount referred to above, to be allocated under heading 1a of the financial framework.
29. By presenting this proposal to mobilise the EGF, the Commission initiates the simplified dialogue procedure, as required by Point 28 of the Interinstitutional Agreement of 17 May 2006, with a view to securing the agreement of the two arms of the budgetary authority on the need to use the EGF and the amount required. The Commission invites the first of the two arms of the budgetary authority that reaches agreement on the draft mobilisation proposal, at appropriate political level, to inform the other arm and the Commission of its intentions. In case of disagreement by either of the two arms of the budgetary authority, a formal dialogue meeting will be convened.
30. The Commission presents separately a transfer request in order to enter in the 2013 budget specific commitment appropriations, as required in Point 28 of the Interinstitutional Agreement of 17 May 2006.

Source of payment appropriations

31. Appropriations allocated to the EGF budget line in the 2013 budget will be used to cover the amount of EUR 2 305 357 needed for the present application.

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2013/003 DE/First Solar from Germany)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management⁸, and in particular point 28 thereof,

Having regard to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 establishing the European Globalisation Adjustment Fund⁹, and in particular Article 12(3) thereof,

Having regard to the proposal from the European Commission¹⁰,

Whereas:

- (1) The European Globalisation Adjustment Fund (EGF) was established to provide additional support for workers made redundant as a result of major structural changes in world trade patterns due to globalisation and to assist them with their reintegration into the labour market.
- (2) The Interinstitutional Agreement of 17 May 2006 allows the mobilisation of the EGF within the annual ceiling of EUR 500 million.
- (3) Germany submitted an application to mobilise the EGF, in respect of redundancies in the enterprise First Solar Manufacturing GmbH, on 12 April 2013 and supplemented it by additional information up to 14 August 2013. This application complies with the requirements for determining the financial contributions as laid down in Article 10 of Regulation (EC) No 1927/2006. The Commission, therefore, proposes to mobilise an amount of EUR 2 305 357.
- (4) The EGF should, therefore, be mobilised in order to provide a financial contribution for the application submitted by Germany,

⁸ OJ C 139, 14.6.2006, p. 1.

⁹ OJ L 406, 30.12.2006, p. 1.

¹⁰ OJ C [...], [...], p. [...].

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the European Union for the financial year 2013, the European Globalisation Adjustment Fund (EGF) shall be mobilised to provide the sum of EUR 2 305 357 in commitment and payment appropriations.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament
The President

For the Council
The President