Regulation (EC) No 923/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 1692/2006 establishing the second 'Marco Polo' programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo II) (Text with EEA relevance)

REGULATION (EC) No 923/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 September 2009

amending Regulation (EC) No 1692/2006 establishing the second 'Marco Polo' programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo II)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71(1) and 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) The mid-term review of the Commission's 2001 Transport White Paper entitled 'Keep Europe moving — Sustainable mobility for our continent', of 22 June 2006, highlights the potential of the Marco Polo Programme, established by Regulation (EC) No 1382/2003 of the European Parliament and of the Council of 22 July 2003 on the granting of Community financial assistance to improve the environmental performance of the freight transport system (the Marco Polo Programme)[(3)], as a source of financing that offers operators on congested roads alternatives by using other modes of transport. The Marco Polo Programme is therefore one basic element in the current transport policy.

(2) If no decisive action is taken, total road freight transport in Europe is set to grow by more than 60 % by 2013. The effect would be an estimated growth in international road freight of 20,5 billion tonne-kilometres per year for the European Union by 2013, with negative consequences in terms of additional road infrastructure costs, accidents, congestion, local and global pollution, environmental damage and the unreliability of the supply chain and of logistics processes.

(3) In order to cope with this growth, greater use must be made of short sea shipping, rail and inland waterways than at present, and it is necessary to stimulate further powerful initiatives from the transport and logistics sector, including dry ports and other platforms that facilitate intermodality, to encourage new approaches and the use of technical innovations in all transport modes and their management.

(4) It is an objective of the European Union to strengthen modes of transport that are environmentally friendly, irrespective of whether this objective leads to a specific modal shift or avoidance effect in the case of road haulage.

(5) According to Regulation (EC) No 1692/2006[(4)] the Commission was required to carry out an evaluation of the Marco Polo II Programme (hereinafter 'the Programme') and submit proposals to amend that Programme if necessary.

(6) An external evaluation on the results of the Marco Polo Programme estimated that that Programme would not achieve its objectives in terms of modal shift and gave some recommendations for improving its effectiveness.

(7) The Commission has carried out an impact analysis of the measures proposed by the external evaluation and other measures aimed at increasing the efficiency of the Programme. That analysis showed the need for a number of amendments to Regulation (EC) No 1692/2006 in order to facilitate participation by small and micro enterprises, to lower the action eligibility thresholds, to increase the funding intensity and to simplify the Programme's implementation and administrative procedures.

(8) The participation by small and micro enterprises in the Programme should be increased by allowing single undertakings to apply for funding and by lowering the eligibility thresholds for proposals submitted by inland waterway transport enterprises.

(9) The eligibility thresholds for proposals for funding should be lowered and expressed in terms of yearly tonne-kilometres shifted, except for common learning actions. Those thresholds should be computed over the entire implementation period of the actions referred to in the Annex, without setting any yearly rate of implementation. There should be no further need for a specific threshold applying to traffic avoidance actions, and a minimum duration should be established for this kind of action, catalyst actions and Motorways of the Sea actions.

(10) The funding intensity should be increased by introducing a definition for 'freight', in order to include the transport element in the calculation of the modal shift, and allowing exceptional extensions of the maximum duration for actions with start-up delays. The update of the funding intensity from EUR 1 to EUR 2 following the procedure set out in Annex I to Regulation (EC) No 1692/2006 should be reflected in the text of that Annex as amended.

(11) In order to simplify the implementation of the Programme, Annex II to Regulation (EC) No 1692/2006 on funding conditions for ancillary infrastructure should be deleted. Furthermore the committee procedure for the yearly selection of actions to be funded should be eliminated.

(12) A more detailed link between the Programme and the Trans-European Transport Network (hereinafter 'TEN-T') setting out the framework for the Motorways of the Sea should be established and the environmental considerations should be extended to include the whole external costs of the actions.

(13) Regulation (EC) No 1692/2006 should therefore be amended accordingly.

(14) In order to ensure that the measures provided for in this Regulation can be applied in the most expedient and speedy manner, this Regulation should enter into force as soon as possible after its adoption,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1692/2006 is hereby amended as follows:

1. in Article 2, the following point is added:

(p) "freight" means, for the purpose of the calculation of "tonne-kilometre" shifted off the road, the goods transported, the intermodal transport unit plus the road vehicle, including empty intermodal transport units and empty road vehicles, in the event that these are shifted off the road.;

2. Article 4(1) is replaced by the following:

1. Actions shall be submitted by undertakings or consortia established in Member States or participating countries, as provided for in Article 3(3) and (4).;

3. Article 5 is amended as follows:

(a) point (b) of paragraph 1 is replaced by the following:

(b) Motorways of the Sea actions; within the European Union such actions shall be consistent with the features of the Motorways of the Sea priority project defined in the framework of Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network[(5)];;

(b) paragraph 2 is replaced by the following:

2. The specific funding conditions and other requirements for the various actions are set out in the Annex.;

4. Article 7 is replaced by the following:

Article 7

State aid

Community financial assistance for the actions covered by the Programme shall not prevent those actions from being granted State aid at national, regional or local level, insofar as such aid is compatible with the State aid arrangements laid down in the Treaty and within the cumulative limits established for each type of action set out in the Annex.;

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EC) No 923/2009 of the European Parliament and of the Council. (See end of Document for details)*

5. Article 8 is replaced by the following:

Article 8

Submission of actions

Actions shall be submitted to the Commission in accordance with the detailed rules issued pursuant to Article 6. Submissions shall contain all the information necessary to enable the Commission to make its selection in accordance with the criteria set out in Article 9.

If required, the Commission shall provide assistance to applicants to facilitate their application process, for instance by way of an online helpdesk.;

6. Article 9 is replaced by the following:

Article 9

Selection of actions for financial assistance

The actions submitted shall be evaluated by the Commission. When selecting actions for financial assistance under the Programme, the Commission shall take account of the following:

(a) the objectives referred to in Article 1;

(b) the conditions set out in the appropriate column of the Annex;

(c) the contribution of the actions to reducing road congestion;

(d) the relative environmental merits of the actions and the relative merits of the actions in terms of reduction of external costs, including their contribution to reducing negative environmental effects caused by short sea shipping, rail and inland waterway transport. Specific attention shall be paid to actions going beyond legally binding environmental requirements;

(e) the overall sustainability of the actions.

The Commission shall, after having informed the committee referred to in Article 10, adopt the decision to grant financial assistance.

The Commission shall inform the beneficiaries of its decision.;

7. Article 14 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. The Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a Communication on the results achieved by the Marco Polo Programmes for the period 2003-2010. It shall do so before drawing up a proposal for a third Marco Polo Programme and shall take account of the Communication's findings when drawing up that proposal.;

(b) the following paragraph is added:

2a. The Communication referred to in paragraph 2 shall in particular deal with the following:

— the impact of this Regulation as amended by Regulation (EC) No 923/2009 of the European Parliament and the Council of 16 September 2009 amending Regulation (EC) No 1692/2006 establishing the second "Marco Polo" programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo II)[(6)],

— the experience of the Executive Agency for Competition and Innovation with programme management,

— the need to differentiate between transport modes with regard to the conditions for funding, on the basis of safety, environmental performance and energy efficiency,

— the effectiveness of traffic avoidance actions,

— the need to set up demand-driven assistance at the application stage, taking into account the needs of small and micro transport enterprises,

— the recognition of economic recession as an exceptional reason for extending the duration of actions,

— the lowering of the eligibility thresholds for product-specific actions,

— the possibility of indicating the targets for minimum funding thresholds for proposed actions in terms of energy efficiency and environmental benefits in addition to tonne-kilometres shifted,

— the appropriateness of including the transport unit in the definition of the term "freight",

— the availability of complete yearly overviews of actions which have been co-financed,

— the possibility of ensuring consistency between the Programme, the Logistics Action Plan and the TEN-T by taking the appropriate measures in order to coordinate the allocation of community funds, in particular for Motorways of the Sea,

— the possibility of making costs incurred in a third country eligible if the action is carried out by undertakings from a Member State,

— the need to take into account the specific characteristics of the inland waterway sector and its small- and medium-sized enterprises, for example by way of a dedicated programme for the inland waterway sector,

— the possibility of extending the Programme to neighbouring countries; and,

— the possibility of further adapting the Programme to the insular and archipelagic Member States.;

8. Article 15 is replaced by the following: