# Commission Regulation (EC) No 1424/2007 of 4 December 2007 amending Regulation (EC) No 2304/2002 implementing Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community and allocating the indicative amounts under the 10th European Development Fund

## COMMISSION REGULATION (EC) No 1424/2007

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## amending Regulation (EC) No 2304/2002 implementing Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community and allocating the indicative amounts under the 10th European Development Fund

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community (Overseas Association Decision)[(1)], and in particular Article 23 thereof,

Having regard to Commission Regulation (EC) No 2304/2002 of 20 December 2002 implementing Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (Overseas Association Decision)[(2)],

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States meeting within the Council on the financing of Community aid under the multiannual framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies[(3)] (hereinafter referred to as Internal Agreement establishing the 10th EDF),

Having regard to the Financial Regulation applicable to the 10th EDF[(4)],

Whereas:

(1) The provisions of Regulation (EC) No 2304/2002 adopted pursuant to Article 23 of the Overseas Association Decision should be brought into line with the amendments to that Decision, in the light of the newly established 10th European Development Fund (hereinafter referred to as 10th EDF). They should also be brought into line with the revision of the corresponding Articles in Annex IV of the Partnership Agreement between, on the one hand the members of the African, Caribbean and Pacific Group of States, and on the other hand the European Community and its Member States, signed in Cotonou on 23 June 2000[(5)] (the ACP-EC Partnership Agreement).

(2) Taking into account the specific needs, capabilities and constraints of the overseas countries and territories (hereinafter referred to as OCTs), 10th EDF financial assistance

to the OCTs should be granted as budgetary support, provided the OCTs management of public expenditure presents sufficient transparency, accountability and effectiveness. In addition, the public procurement procedures of the OCTs should satisfy the standards of the 10th EDF Financial Regulation as to transparency and openness. On the basis of the experience acquired under the 9th EDF, 10th EDF financial assistance should only in exceptional circumstances be provided as support for projects or programmes, namely when the conditions for budgetary support are not met.

(3) As a condition for their adoption, it should be verified that the Single Programming Documents (SPDs) contain all the elements required for the Commission to take the financing decision referred to in Article 20(4) of the Overseas Association Decision.

(4) In accordance with Article 3(1) of Annex II Aa to the Overseas Association Decision, the SPDs should, where appropriate, pay particular attention to actions aimed at strengthening the governance and the institutional capacities of the beneficiary OCTs and, where relevant, to the likely timetable of the envisaged actions, including in the financial, tax and judicial areas.

(5) Provision should be made for the programming of the allocation under the 10th EDF to support regional cooperation and integration, with a view to enhancing the resilience of the OCTs in coping with the challenges that they are facing as small island micro-economies, for example by means of regional disaster preparedness and mitigation initiatives. In this connection, coordination should be ensured in particular between support for regional cooperation and integration and support at territorial level. Special attention should also be paid to cooperation between the OCTs, the ACP States and, in coordination with other Community financial instruments, the outermost regions referred to in Article 299(2) of the Treaty.

(6) The indicative amounts allocated to the beneficiary OCTs under the 10th EDF should be determined in accordance with Article 3(5) of Annex II Aa to the Overseas Association Decision.

(7) The measures provided for in this Regulation have been subject to consultation with the OCTs.

(8) The measures provided for in this Regulation are in accordance with the opinion of the EDF-OCTs Committee established by Article 24 of the Overseas Association Decision,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2304/2002 is amended as follows:

1. Article 1 is replaced by the following:

*Article 1*

**Subject matter**

This Regulation lays down the procedures for the programming, implementation and control of the Community financial assistance to the overseas countries and territories (OCTs) managed by the Commission under the Tenth European Development Fund (EDF), in accordance with the provisions of the Overseas Association Decision and the Financial Regulation applicable to the 10th EDF.

2. Article 3 is replaced by the following:

*Article 3*

**Territorial programming**

Operations financed by non-repayable aid under the 10th EDF within the framework of the Overseas Association Decision shall be programmed as soon as possible after the entry into force of the Internal Agreement establishing the 10th EDF by means of the adoption of an SPD following the model in the Annex to this Regulation.

3. Article 4 is replaced by the following:

*Article 4*

**Preparation of the SPD**

1 The competent OCTs authorities shall prepare a proposal for the SPD following consultations with the widest possible range of stakeholders in the development process, and shall draw on lessons learned and best practices.

Each proposal for an SPD shall be adapted to the needs and specific circumstances of each OCTs. It shall identify results-oriented indicators to be monitored and promote local ownership of cooperation programmes.

2 The proposal for the SPD shall be the subject of an exchange of views between the OCTs and Member State concerned and the Commission, via, if applicable, the relevant Delegation.

The OCTs shall provide all the necessary information, including the results of any feasibility studies, to make the appraisal of the draft SPD by the Commission as effective as possible.

3 The 10th EDF financial allocation shall in principle be provided as budgetary support, save in exceptional and duly justified circumstances.

Where the conditions for budgetary support are not met, the SPD shall provide for measures to create the conditions for budgetary support.

Any divergences between the OCTs's own analysis and the Community's shall be noted.

4. Article 5 is replaced by the following:

*Article 5*

**Appraisal of the SPD by the Commission**

The Commission shall appraise the proposal for the SPD to determine whether it contains all the elements required and is consistent with the aims of the Overseas Association Decision, of this Regulation and of the relevant Community policies.

The Commission shall also appraise the proposal for the SPD to determine whether it contains all the elements required for the Commission to take the financing decision referred to in Article 20(4) of the Overseas Association Decision.

It shall inform the European Investment Bank of the draft received.

Without prejudice to Article 4(3), the Commission shall decide whether 10th EDF financial assistance is to be granted as budgetary support, subject to a preliminary assessment of the transparency, accountability and effectiveness of public expenditure management and of the openness and transparency of public procurement in accordance with the standards set out in the Financial Regulation applicable to the 10th EDF, or is to be granted as support for programmes or projects.

5. Article 6 is replaced by the following:

*Article 6*

**Regional programmes**

1 Articles 3 to 5 shall apply *mutatis mutandis* to the financial support for regional cooperation and integration under Article 3(2) of Annex II Aa to the Overseas Association Decision.

In its assessment of the proposals, the Commission shall take particular account of the anticipated impact on the integration of the beneficiary OCTs within the region to which they belong.

As far as possible, coordination shall be ensured with programmes at territorial level and with actions involving ACP countries and/or the outermost regions referred to in Article 299(2) of the Treaty. This may involve the identification of the priorities and specific resources for the purpose of strengthening cooperation with ACP countries and/or outermost regions, and the modalities for identifying and coordinating the selection of common interest actions.

Commitment of expenditure shall be preceded by a Commission financing decision covering support for projects and programmes.

2 In order to achieve an adequate scale and to increase efficiency, regional and territorial funds may be mixed for financing regional programmes with a distinct territorial component.

3 Articles 8 and 16 to 30 apply to regional programmes *mutatis mutandis*.

6. Article 7 is replaced by the following:

*Article 7*

**Use of the reserve**

1 The Commission shall allocate resources from reserve B for the purposes referred to in Article 3(4)(b) of Annex II Aa to the Overseas Association Decision on the basis of the mid-term review referred to in Article 22 of this Regulation. The Commission shall adjust the indicative amounts already allocated accordingly and inform the OCTs and the Member States of its decision regarding the new allocations.

2 For the purposes of committing the resources provided for in Article 28 and Annex II D of the Overseas Association Decision, any OCTs which considers itself to be eligible for the support provided for therein shall submit a complete request on the forms made available by the Commission and include all the information needed for it to be assessed.

The request shall be submitted to the Commission at the latest by the end of the year following the year for which the additional support is required.

The Commission shall inform the OCTs within the shortest possible time of its decision.

7. Article 8 is replaced by the following:

*Article 8*

**Commitments**

1 Expenditure on financial assistance for the OCTs shall be committed by the Commission in accordance with the Financial Regulation applicable to the 10th EDF.

2 Within the scope of the SPD, commitment of expenditure shall be preceded by a Commission financing decision covering in principle budgetary support, save in exceptional and duly justified circumstances.

3 Outside the scope of the SPD, expenditure under the non-allocated reserve B set aside in accordance with Article 3(4) of Annex II Aa to the Overseas Association Decision shall be committed by the Commission and implemented in accordance with the Financial Regulation applicable to the 10th EDF.

8. Article 9 is replaced by the following:

*Article 9*

**Paying agents**

The financial institutions in the OCTs with which the Commission opens accounts in accordance with the Financial Regulation applicable to the 10th EDF for the purposes of implementing cooperation with the OCTs shall exercise the functions of "Paying Agents".

Interest shall be payable on funds deposited with Paying Agents in the Community.