Regulation (EC) No 1934/2004 of the European Parliament and of the Council of 27 October 2004 amending Regulation (EC) No 1726/2000 on development cooperation with South Africa

REGULATION (EC) No 1934/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 October 2004

amending Regulation (EC) No 1726/2000 on development cooperation with South Africa

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(1)],

Whereas:

(1) Pursuant to Regulation (EC) No 1726/2000 of the European Parliament and of the Council of 29 June 2000 on development cooperation with South Africa[(2)] the Commission is to submit to the European Parliament and to the Council a mid-term review by 31 October 2003. On the basis of that mid-term review, certain amendments to Regulation (EC) No 1726/2000 have been suggested.

(2) The mid-term review includes suggestions and proposals for improving the implementation of development cooperation with South Africa, some of which were already made in the Country Strategy Paper of 2002 and have been taken into account in the 2003 to 2005 Indicative Programme. They concern, *inter alia*, mainstreaming of gender issues at all levels of the project cycle from planning to implementation, streamlining of administrative procedures, improving criteria for assessing project and programme design and clarification of the conditions for granting contributions from the European Programme for Reconstruction and Development (EPRD) to regional programmes.

(3) In accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests[(3)], it is possible to provide funding to the Republic of South Africa through direct budget support. Regulation (EC) No 1726/2000 could, however, be interpreted as excluding untargeted budget support. In addition, Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[(4)] contains in Title IV of Part Two specific provisions for ‘External Actions’. It is, therefore, appropriate to bring Regulation (EC) No 1726/2000 into line with Regulation (EC, Euratom) No 1605/2002 and with Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EC) No 1934/2004 of the European Parliament and of the Council. (See end of Document for details)*

rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities[(5)].

(4) In view of the implementation of the EPRD, and in particular of the 2000 to 2002 Multiannual Indicative Programme, Regulation (EC) No 1726/2000 should be adjusted, in particular in relation to the adoption of sector-wide programmes, funding through budget support and the joint funding of projects and programmes in the field of regional cooperation and integration.

(5) Regulation (EC) No 1726/2000 entered into force in 2000 and expires on 31 December 2006. However, Article 6(1) requires triennial indicative programming to be carried out. In order for programmes to correspond to the period of validity of the Regulation, provision should also be made for four-year indicative programmes.

(6) The Partnership Agreement between the members of the African, Caribbean and Pacific group of States, of the one part, and the European Community and its Member States, of the other part[(6)], to which South Africa is a signatory, was signed in Cotonou on 23 June 2000. Protocol 3 of that Agreement defines South Africa's qualified status under the Agreement.

(7) Council Decision 1999/753/EC[(7)] approved the provisional application of the Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic of South Africa. Annex X to that Agreement stipulates that the Community will provide assistance for the restructuring of the South African wine and spirits sector and for the marketing and distribution of South African wines and spirits. The two corresponding Agreements on trade in wine and spirits have been approved by Council Decision 2002/51/EC[(8)] and by Council Decision 2002/52/EC[(9)] respectively. It is, therefore, necessary to include an additional amount in the financial reference amount provided for by Regulation (EC) No 1726/2000.

(8) In practice, the European Development Fund Committee has been acting in the context of Regulation (EC) No 1726/2000 as the ‘South Africa Committee’. It is appropriate formally to establish that Committee.

(9) Article 8(5) of Regulation (EC) No 1726/2000 requests that the Commission consult the Committee on financing decisions it intends to take concerning projects and programmes of a value of over EUR 5 million. For the sake of sound financial management and rationalisation of procedures, it is appropriate to raise this ceiling to EUR 8 million.

(10) Regulation (EC) No 1726/2000 should, therefore, be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1726/2000 is hereby amended as follows:

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

1. Programmes shall focus on the fight against poverty, take into account the needs of the previously disadvantaged communities, integrate the environmental

dimension of development and mainstream gender equality, in particular strengthening women's participation at all levels of policy, programming and implementation. In all these programmes special attention shall be paid to the strengthening of institutional capacities.

2. In Article 2(2), the introductory phrase is replaced by the following:

2. Development cooperation to be carried out pursuant to this Regulation shall focus mainly on the areas of cooperation referred to in Article 8 of Protocol 3 on South Africa to the Cotonou Agreement and in particular on:

3. Article 4 is hereby amended as follows:

(a) paragraph 2 is amended as follows:

(i) in the first subparagraph, the introductory phrase is replaced by the following:

2. Community financing may cover:

(ii) in the first subparagraph, point (a) is replaced by the following:

(a) government budget expenditure to support reforms and policy implementation in the priority sectors identified through a policy dialogue, using the most appropriate instruments including budgetary support and other specific forms of budgetary aid;

(iii) the second subparagraph is replaced by the following:

Part of the financing may be channelled towards targeted final beneficiaries (e.g. emerging entrepreneurs) in the form of risk capital or other forms of financial participation. The European Investment Bank may be associated with the management of these funds, as appropriate. The resources made available under this Regulation shall not be used in a manner that will permit unfair competition.

(b) the following paragraph is inserted:

4a. Financing of individual projects and programmes for regional cooperation and integration shall be provided from the EPRD and/or from regional funds under the European Development Fund (EDF).

The Commission shall strive to ensure balanced funding from both sources at the level of the Multiannual Indicative Programme, by committing to regional cooperation and integration an indicative percentage of the EPRD similar to the share of EDF funds dedicated to regional cooperation and integration in the Financial Protocol to the Cotonou Agreement.

4. Article 5 is deleted.

5. Article 6 is replaced by the following: