Commission Regulation (EC) No 1419/2004 of 4 August 2004 on the continuation of the application of the Multiannual Financing Agreements and the Annual Financing Agreements concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia on the other, and providing for certain derogations from the Multiannual Financing Agreements and from Council Regulation (EC) No 1266/1999 and Regulation (EC) No 2222/2000

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on the continuation of the application of the Multiannual Financing Agreements and the Annual Financing Agreements concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia on the other, and providing for certain derogations from the Multiannual Financing Agreements and from Council Regulation (EC) No 1266/1999 and Regulation (EC) No 2222/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession, and in particular Article 41 thereof,

Whereas:

(1) Multiannual Financing Agreements (MAFAs) and Annual Financing Agreements (AFAs) were concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia (hereinafter referred to as ‘the new Member States’) on the other.

(2) In areas falling within the scope of the EU Treaty, the relationship between the new Member States and the EU, as of 1 May 2004, when these States acceded to the EU, is governed by EU law. In principle, bilateral agreements, without any particular legal acts being necessary, continue to apply as far as they do not contradict obligatory EU law in general and Community law in particular. In certain areas, the MAFAs and AFAs provide for rules which are different from Community law whilst not being contrary to any binding provisions. However, it is appropriate to foresee that in respect of Sapard the new Member States should, as far as possible, follow the same rules as those which apply to any other areas of Community law.

(3) It is therefore appropriate to provide for the continuation of the applicability of the MAFAs and AFAs subject to certain derogations and amendments. At the same time, certain provisions are no longer needed given the fact that the Community is no longer dealing with third countries but with Member States and that the new Member States will be directly submitted to provisions under Community law. Such MAFA provisions should therefore no longer apply.

(4) Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89[(1)] and Commission Regulation (EC) No 2222/2000 of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period[(2)] have been the legal bases for the Commission to confer the management of aid under the Special Accession Programme for Agriculture and Rural Development (Sapard) on implementing agencies in the applicant countries, on a case-by-case basis. The MAFAs were concluded based on that possibility. However, in relation to Member States, Community law does not require a conferral of management procedure but an accreditation procedure at national level for paying agencies, referred to in Article 4 of Council Regulation (EC) No 1258/1999 on the financing of the common agricultural policy[(3)]. The MAFAs provide basically for an identical accreditation procedure in their Article 4 of Section A of the Annex. With regard to Member States there is, therefore, no longer a need to provide for a conferral of the management of aid. Therefore, derogation from these provisions is appropriate.

(5) On 3 March 2004 the Commission decided on the conclusion of a new Agreement for the year 2003 amending the AFAs 2000, 2001, 2002 and 2003 and the MAFA with the applicant countries. Meanwhile, the new Member States have joined the EU and there is no room for the conclusion of further bilateral agreements between the EU and these States in areas falling within the competences of the EU. Rather than concluding bilateral agreements with these States, the Commission should therefore include the substance of these envisaged agreements in this Regulation. In particular, the amounts committed in view of the AFA 2003 and decided upon by the Commission in that decision should now be incorporated in the present Regulation.

(6) To allow a smooth transition from the pre-accession requirements, it is appropriate to provide for immediate entry into force and, with regard to certain provisions, a retrospective application of this Regulation.

(7) The Treaty of Accession enables the Commission to adopt transitional measures for a period of three years as of the date of accession. Given the fact that certain programmes under the MAFAs/AFAs may still continue after accession it is appropriate to provide for the applicability of this Regulation until 30 April 2007.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development and of the Committee of the European Agriculture Guarantee and Guidance Fund,

HAS ADOPTED THIS REGULATION:

Article 1

Continuation of the applicability of the MAFAs and the AFAs after accession

1 Without prejudice to the continuation of the validity of the Multiannual Financing Agreements (hereinafter referred to as 'MAFAs') and the Annual Financing Agreements (hereinafter referred to as 'AFAs'), as listed in Annex I, concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia (hereinafter referred to as 'the new Member States') on the other, these Agreements shall continue to apply subject to the provisions of this Regulation.

2 Articles 2 and 4 of the MAFAs shall cease to apply.

3 The following provisions of the Annex to the MAFAs shall cease to apply:

- a Articles 1 and 3 of Section A; however, any references to these Articles in the MAFAs or AFAs shall be construed as referring to the national accreditation decision in accordance with Article 4 of Section A;
- b Article 14(2.6) and (2.7) of Section A;
- c Articles 2, 3, 4, 5, 6 and 8 of Section C;
- d Item 8 of Section F;
- e Section G.

4 Article 12(2) of Regulation (EC) No 1266/1999 and Article 3 of Regulation (EC) No 2222/2000 shall no longer apply to the new Member States with regard to the Special Accession Programme for Agriculture and Rural Development (Sapard).

Article 2

Derogations from MAFA provisions and from Regulation (EC) No 2222/2000

By way of derogation from the last subparagraph of Article 4(7) and Article 5(4) of Section A of the Annex to the MAFAs and Article 5(4) of Regulation (EC) No 2222/2000, the Commission shall immediately be informed of any modifications in the implementation or paying arrangements of the Sapard Agency after its accreditation.

I[F1] Article 3

Amendment of the MAFAs

1 Article 7(8) of Section A of the Annex to the MAFAs is replaced by the following:

The final balance of the programme shall be paid:

(a) if the National Authorising Officer submits to the Commission within the deadline for payment laid down in the final Annual Financing Agreement, a certified statement of expenditure actually paid in accordance with Article 9 of this Section;

(b) if the final report on implementation has been submitted to and approved by the Commission;

(c) when the Decision referred to in Article 11 of this section has been adopted.

The payment shall not prejudice the adoption of a subsequent decision pursuant Article 12 of this section.

2 The following subparagraph is added to Article 10(3) of section A of the Annex to the MAFAs:

However, interest not accounted for by projects assisted under the programme of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, respectively, shall be paid to the Commission in euro.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 1155/2005 of 18 July 2005 amending and correcting Regulation (EC) No 1419/2004 on the continuation of the application of the Multi-annual Financing Agreements and the Annual Financing Agreements concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia on the other, and providing for certain derogations from the Multi-annual Financing Agreements and from Council Regulation (EC) No 1266/1999 and Regulation (EC) No 2222/2000.

[F1 Article 4]

Replacement of the amounts provided for in Article 2 of AFA 2003

The amount provided for in Article 2 of the AFA 2003 for the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, respectively, shall be replaced by the amounts referred to in Annex II.

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 1155/2005 of 18 July 2005 amending and correcting Regulation (EC) No 1419/2004 on the continuation of the application of the Multi-annual Financing Agreements and the Annual Financing Agreements concluded between the European Commission, representing the European Community, on the one hand and the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia on the other, and providing for certain derogations from the Multi-annual Financing Agreements and from Council Regulation (EC) No 1266/1999 and Regulation (EC) No 2222/2000.

Article 5

Amendment of Article 3 of AFAs 2000 to 2003

At the end of Article 3 of each of the AFAs, the following subparagraph is added:

Any part of the Community contribution referred to in Article 2 for which no contracts with the final beneficiaries have been signed as of the date referred to in the second subparagraph shall be notified to the Commission within three months of this amount being known.

Article 6

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply as of its entry into force and shall continue to apply until 30 April 2007. However, Article 1(2) and (3) and Article 2 shall apply as of 1 May 2004. Any communications which were sent to the Commission between 1 May 2004 and the entry into force of this Regulation in accordance with the last subparagraph of Article 4(7) and Article 5(4) of Section A of the Annex to the MAFAs and Article 5(4) of Regulation (EC) No 2222/2000, shall be construed as having been sent in accordance with Article 2 of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.