Commission Regulation (EC) No 2304/2002 of 20 December 2002 implementing Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community ('Overseas Association Decision')

COMMISSION REGULATION (EC) No 2304/2002

of 20 December 2002

implementing Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community ('Overseas Association Decision')

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/822/EC[(1)], and in particular Article 23 thereof,

Having regard to the Internal Agreement between Representatives of the Governments of the Member States, meeting within the Council, on the Financing and Administration of Community Aid under the Financial Protocol to the Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States signed in Cotonou (Benin) on 23 June 2000 and the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies[(2)],

Having regard to the Council Regulation on a Financial Regulation for the European Development Fund[(3)] (EDF Financial Regulation),

Whereas:

(1) Decision 2001/822/EC (Overseas Association Decision) requires the Commission to adopt implementing provisions concerning Part III and Annexes II(A) to (D) in cooperation with the overseas countries and territories (OCT) within the framework of the partnership procedure. In particular, Article 4 lays down that OCT shall have primary responsibility for the preparation of Single Programming Documents (SPD) and cooperation programmes.

(2) The provisions adopted by the Commission pursuant to Article 23 of the Overseas Association Decision should be consistent with the principles of sound financial management, partnership, complementarity and subsidiarity and ensure ownership by the OCT of the development process as well as adequate monitoring and auditing by the OCT themselves and the Commission.

(3) Taking into account the specific needs, capabilities and constraints of the OCT, financial assistance should be granted to the OCT as budgetary support, provided the OCT management of public expenditure presents sufficient transparency, accountability and effectiveness. In addition, the public procurement procedures there should satisfy to the standards of the EDF Financial Regulation as to transparency and openness. Alternatively to budgetary support, financial assistance may be provided as support

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2304/2002. (See end of Document for details)*

for projects or programmes when this is deemed to ensure a more effective or safer implementation.

(4) Provisions should be established for the preparation of the SPD, its follow-up, audit, evaluation, review and implementation, as well as for reporting and financial corrections. Such provisions should cover the participation of the Commission in those activities. Subject to any necessary adaptation to the specific OCT situation, they should be consistent with the corresponding ones in the context of structural funds, in order to enhance and facilitate the effectiveness of the Commission participation.

(5) In order to facilitate regional cooperation and integration between the OCT and the ACP countries, identical rules should in principle apply. However, taking into account the geographical situation of certain OCT, which in practice cannot establish close cooperation with ACP countries or other OCT, the possibility should also be provided for regional funds to be allocated at the request of only one OCT.

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

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

HAS ADOPTED THIS REGULATION:

PART 1

SUBJECT MATTER AND PRINCIPLES

[F1 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.**]**

Textual Amendments

F1 Substituted by 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.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 2304/2002. (See end of Document for details)*

Article 2

Complementarity and partnership

1 The programming, implementing, monitoring and evaluation of EDF support shall be carried out in close consultation between the OCT, the Member States concerned and the Commission.

2 The OCT shall ensure that all the actors of cooperation listed in Article 5(1), second and third indent of the Overseas Association Decision are adequately consulted during the programming process.

3 The OCT, the Member States concerned and the Commission shall promote coordination and consistency between both measures undertaken pursuant to this Regulation, measures undertaken with contributions from the Community budget, and operations undertaken by the European Investment Bank, other international institutions and the Member States concerned.

PART II

PROGRAMMABLE AND NON-PROGRAMMABLE AID

CHAPTER 1

Programmable aid

[[F1]*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.**]**

Textual Amendments

F1 Substituted by 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2304/2002. (See end of Document for details)*

[F1 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.**]**

Textual Amendments

F1 Substituted by 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.

[F1 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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 2304/2002. (See end of Document for details)*

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.**]**

Textual Amendments

F1 Substituted by 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.

[F1 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*.**]**

Textual Amendments

F1 Substituted by 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.