Commission Regulation (EC) No 2182/2002 of 6 December 2002 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 with regard to the Community Tobacco Fund

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco[(1)], as last amended by Regulation (EC) No 546/2002[(2)], and in particular Article 14a thereof,

Whereas:

(1) Regulation (EC) No 546/2002 amended Article 13 of Regulation (EEC) No 2075/92, with regard to the establishment of a Community Tobacco Fund. The amendments concern the areas of activity of the Fund. As a result, detailed rules for the application of that provision should be adopted.

(2) Assistance should be provided for measures to discourage smoking, and in particular for improving public awareness of the dangers of tobacco consumption, and funding should be provided for specific measures to encourage tobacco producers to switch production, in collaboration with the quota buy-back programme, and for studies into the possibilities for encouraging producers to switch to other crops or activities.

(3) The funding should be divided appropriately between the two main objectives of the Fund, which are providing information and encouraging producers to switch production. However, if the funds earmarked for one of these objectives are not used up in full, the distribution of the initial allocation between the objectives should be adjusted.

(4) The Tobacco Fund is financed by a deduction from the premiums granted to tobacco producers and it is therefore justified to propose that all public assistance for measures financed under the Fund be provided from the Community own resources in the Fund.

(5) For the information programmes, the various proposals presented under the procedures adopted should be assessed in accordance with criteria that will ensure the best possible choice. Provision should be made also for projects to be carried out on the initiative and on behalf of the Commission. To that end, a call for proposals or, as appropriate, a public invitation to tender seem the most appropriate course.

(6) Eligibility criteria should be laid down for natural or legal persons who may present proposals under the information programmes.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2182/2002. (See end of Document for details)*

(7) In the interests of sound administration of the information programmes, the projects approved by the Commission should be carried out within a specified period. The time limit originally envisaged may prove difficult to meet in exceptional cases. Provision should be made, therefore, for the time limit to be extended under certain conditions.

(8) In order to make the best possible choice of projects financed within the context of the information programmes and ensure the proper implementation of the approved projects, provision should be made for the Commission to be assisted in the selection of the projects by a scientific and technical committee. The Commission should have access to the services of independent experts in assessing the projects.

(9) In order to guarantee the proper implementation of each project financed within the context of the information programmes, it is necessary for details of the conditions of implementation to be included in the contracts concluded with the Commission. Where an application is made for an advance, contractors must lodge a security in favour of the Commission on the conditions laid down in Title III of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products[(3)], as last amended by Regulation (EC) No 1932/1999[(4)].

(10) Regarding the information programmes, provision should be made to prevent the unjustified cumulation of measures for the same project, and for payments to be recovered in certain cases, particularly in the event of irregularities.

(11) As regards the specific measures to promote a switch of production, individual measures should be laid down to promote a switch of production, as well as general interest measures and studies into the possibilities for tobacco producers to switch production, that are eligible for financing by the Fund. The beneficiaries of each type of measure should also be defined.

(12) To ensure that the measures to support the switch of production are sufficiently effective, the intensity of the aid to be granted for each measure and the total amount of assistance per producer should be determined for all the measures. The intensity of the aid for each measure should be set at a sufficiently attractive level to encourage producers to take up the opportunity to switch production, given the major changes that this entails to how production is organised on their holding.

(13) The Fund must guarantee assistance for producers to switch production across the whole Community and must operate in collaboration with the quota buy-back programme. To this end, the distribution of financing under the Fund should be determined for each tobacco-producing Member State. In order to respond to the actual rate of withdrawal from tobacco production in each Member State, provision should also be made for a second distribution of the financing, based on applications for assistance received.

(14) To guarantee that the assistance granted to promote the switch of production by tobacco producers is implemented in the proper framework, a programme must be drawn up by each producer Member State. The content of these programmes should therefore be determined, together with the obligation on Member States to inform the Commission

of the monitoring they have carried out on the progress made by the programmes each year.

(15) Any risk of a funding overlap for the same project from the Tobacco Fund and other assistance schemes must be avoided. Moreover, all decisions by tobacco producers to withdraw from tobacco production should be facilitated. The conditions should be determined in which an application for assistance from the Tobacco Fund can be accepted, and provision made for the possibility of having the project financed by another scheme where no further funding is available under the Tobacco Fund. The type of controls to be carried out and the penalties to apply should also be determined.

(16) To give Member States sufficient time to draw up financing plans for production-switching measures for 2003, that year's deadline for notifying the Commission of these plans — and, consequently, the deadline for the definitive distribution of the resources among the Member States — should be deferred.

(17) Commission Regulation (EC) No 1648/2000 of 25 July 2000 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 with regard to the Community Tobacco Fund[(5)] should therefore be repealed and replaced. However, the provision of that Regulation must continue to apply to projects approved before the entry into force of this Regulation.

(18) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

This Regulation lays down the conditions for financing by the Community Tobacco Fund, hereinafter called ‘the Fund’, of the measures in the two areas referred to in Article 13(2) of Regulation (EEC) No 2075/92 in the form of information programmes and measures to promote a switch of production.

Article 2

Expenditure by the Fund in each of the two categories of measures referred to in Article 1 may amount to a maximum 50 % of the total amount of the Fund.

However, where the amount available for one of these categories is not used up in full, the Commission shall reallocate the remaining amount to the other, provided that, in the latter area, there are eligible projects still in need of funding.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2182/2002. (See end of Document for details)*

CHAPTER II

INFORMATION PROGRAMMES

Article 3

1 The aim of the information programmes financed by the Fund shall be to improve public awareness of the dangers of all forms of tobacco consumption.

2 The programmes shall consist of projects involving information and education, data collection and studies. The projects concerned shall focus in particular on:

a raising public awareness of the harmful effects of tobacco consumption, including passive smoking;

b improving the relevance and effectiveness of the messages put across about the harmful effects of tobacco consumption, and the methods of communication used (language and images);

c preventing and stopping smoking;

d disseminating the results to the national authorities and the relevant sectors, in the areas referred to in (a), (b) and (c).

Article 4

1 The Commission, with the assistance of a scientific and technical committee, shall be responsible for the management of the Fund as regards the information programmes.

2 The scientific and technical committee shall be made up of nine members appointed by the Commission. The Committee shall be chaired by the Commission. The Commission shall ensure that members of the Committee are independent as regards the projects submitted to them.

Article 5

Projects shall be the subject, as appropriate, of a call for proposals or a public invitation to tender, in accordance with the relevant provisions, published in the C series of the *Official Journal of the European Communities*, within the period set in the notice.

Article 6

1 Proposals for projects may be submitted by any natural or legal persons established in the Community who:

a possess recognised competence and at least five years' professional experience in the field in question;

b undertake to contribute from their own resources at least 25 % of the total financing of the project. However, projects carried out on the initiative and on behalf of the Commission shall be financed by the Fund at a rate of up to 100 % of the total cost;

c undertake to carry out the proposed programme within the time limit laid down;

d agree to provide regular reports on the progress of the work;

e agree to make their accounts and other supporting documents on expenditure available for verification by the Commission;

f agree to the conditions laid down in Articles 9, 10 and 11.

2 Projects may be carried out on an annual basis, and may be renewed, but may not however exceed five years from the date on which the contract is signed.

However, the time limit for implementation may be extended if the interested party requests the Commission to extend it and provides proof that, because of exceptional circumstances beyond that party's control, it is not able to comply with the time limit initially laid down.

Article 7

1 Projects submitted in response to a call for proposals shall be assessed by a group of independent experts selected by the Commission. The following factors must be taken into account in the assessment:

a the work must be done on a collaborative basis by natural or legal persons established in several Member States;

b the projects must pay particular attention to the cultural and linguistic characteristics of the Member States, notably in the case of information campaigns directed at the public at large, and to groups at risk;

c the projects must show that they have a methodology and firm scientific backing. They must be innovative and take account of work that has been carried out already and of experience gained under past or present national or Community programmes, so as to avoid any likelihood of duplication in the allocation of Community funding;

d the projects must, as appropriate, contribute objectively and effectively to improving public awareness of the harmful effects on health of using tobacco, to collecting and analysing relevant epidemiological data or to ensuring the rapid implementation of practical preventive measures;

e contractors must ensure that the results of their projects are disseminated in recognised scientific journals and/or presented at international conferences;

f priority will be given to projects covering the whole of the territory of the Community and submitted by public health organisations which are recognised and/or are expressly supported by national or regional health authorities.

2 On the basis of the assessment, the Commission shall submit a list of the projects shortlisted for financing to the scientific and technical committee referred to in Article 4. The committee shall deliver an opinion on the list.

3 As part of the public tendering procedure, projects to be carried out at the initiative and on behalf of the Commission, and shortlisted for financing, shall also be submitted by the Commission to the scientific and technical committee referred to in Article 4. The committee shall deliver an opinion on those projects.

4 Pursuant to Article 5(4) of Decision No 646/96/EC of the European Parliament and of the Council[6], the Commission shall inform the Committee referred to in Article 5 of that Decision which projects have been shortlisted for financing, and shall provide it with the opinion of the scientific and technical committee referred to in Article 4 of this Regulation.

Article 8

1 On the basis of the opinions referred to in Article 7(2) and (3), the Commission shall select the projects and decide on their financing by the Fund. It may decide not to proceed with any of the projects.

2 Projects accepted for financing by the Fund shall be the subject of a contract concluded by the Commission. A list of the projects financed shall be published in the *Official Journal of the European Communities*.