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COUNCIL REGULATION (EEC) No 443/92

of 25 February 1992

on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America

(OJ L 52, 27.2.1992, p. 1)

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NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COUNCIL REGULATION (EEC) No 443/92

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on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposals from the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

Whereas the Community has been pursuing a policy of financial and technical cooperation with the Asian and Latin American (ALA) developing countries since 1976 and has, more recently, also embarked on economic cooperation with those countries; whereas these forms of cooperation are part of an overall policy of cooperation with the developing countries as a whole, which includes expansion of their trade by integration into the multilateral trading system, by appropriate measures to be taken within the relevant international organizations and by specific measures such as the Community system of generalized preferences;

Whereas the current process of European construction and the growing influence of the Community in the developing countries worldwide justify the continuation, with due regard for the complementary nature of Community action, of mutually advantageous economic cooperation with, and Community development aid to, the Asian and Latin American developing countries, the extension of cooperation to other countries or sectors in the two regions, increased financing for such policies and efforts to ensure that they are better adapted to national and local needs within each region;

Whereas the European Council has on a number of occasions confirmed the Community's political will to reinforce its cooperation with regions of the world where the level of development is still inadequate and to do so via an increased, coordinated and multi-faceted effort on the part of the Community and its Member States;

Whereas the European Council, meeting in Luxembourg on 28 and 29 June 1991, asked the Community and its Member States, through Community cooperation policy and by including clauses on human rights in economic and cooperation agreements with third countries, actively to promote human rights and the participation, without discrimination, of all individuals or groups in the life of society, bearing in mind particularly the role of women;

Whereas the European Parliament has examined the matter in detail on a number of occasions and has called for reinforced cooperation and for a revision of present legislation in order to ensure that aid is more efficient and more transparent;

Whereas, on 4 February 1991, the Council adopted final conclusions on guidelines for cooperation with the Asian and Latin American developing countries, covering in particular the priorities and sectors for consideration and the desirability of increasing the resources to be allocated to them and of enabling indicative medium-term programming for those resources to be undertaken;

Whereas both the European Parliament and the Council, while confirming traditional fields of action, have identified new priorities relating, in particular, to the environment, the human dimensio of development and the need for economic cooperation to take place in the mutual interest of the Community and its partner countries;

([1]) OJ No C 119, 4. 5. 1991, p. 6 and
OJ No C 284, 31. 10. 1991, p. 4.

([2]) OJ No C 267, 14. 10. 1991, p. 35.

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Whereas provision should be made for funding the aid referred to in this Regulation and other aid to the Asian and Latin American developing countries;

Whereas an amount of ECU 2 750 million is deemed necessary for the implementation of the aid covered by this Regulation and of other aid to the Asian and Latin American developing countries for an initial five-year period (1991-1995);

Whereas the amount deemed necessary for the funding period 1991-1992, under the present financial perspective, is ECU 1 069,8 million;

Whereas the amounts to be committed for funding the aid during the period 1993 to 1995 should be included in the existing Community financial framework and whereas the Asian and Latin American developing countries should be given the same priority in the budget for 1993 to 1995 as they were in the period 1991 to 1992;

Whereas the volume of Community aid for the period after 1995 should be determined in accordance with existing procedures;

Whereas the rules governing the administration of financial and technical assistance to, and economic cooperation with, the Asian and Latin American developing countries should be established;

Whereas it is necessary to repeal Council Regulation (EEC) No 442/81 of 17 February 1981 on financial and technical aid to non-associated developing countries ([1]);

Whereas the Treaty does not provide specific powers of action for the adoption of this Regulation, other than those contained in Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall continue and broaden Community cooperation with the Asian and Latin American developing countries, hereinafter referred to as 'the ALA developing countries', which are not signatories to the Lomé Convention and do not benefit from the Community's cooperation policy with Mediterranean third countries. This cooperation, which shall be in addition to assistance from the Member States, shall involve financial and technical development assistance and economic cooperation. In this connection, the Community shall attach the utmost importance to the promotion of human rights, support for the process of democratization, good governance, environmental protection, trade liberalization and strengthening the cultural dimension, by means of an increasing dialogue on political, economic and social issues conducted in the mutual interest.

Article 2

The aim of Community development and cooperation policies shall be human development.

Aware that respect for, and the exercise of, human rights and fundamental freedoms and democratic principles are preconditions for real and lasting economic and social development, the Community shall give increased support to the countries most committed to those principles, particularly for positive initiatives to put them into practice.

In the case of fundamental and presistent violations of human rights and democratic principles, the Community could amend or even suspend the implementation of cooperation with the States concerned by confining cooperation to activities of direct benefit to those sections of the population in need.

([1]) OJ No L 48, 21. 2. 1981, p. 8.

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Article 3

All ALA developing countries shall be eligible for financial and technical assistance and economic cooperation. The recipients of aid and partners in cooperation may include not only States and regions but decentralized authorities, regional organizations, public agencies, local or traditional communities, private institutes and operators, including cooperatives and non-governmental organizations. The needs and priorities of each country and each region shall be taken into account when granting the aid covered by this Regulation.

Financial and technical assistance

Article 4

Financial and technical assistance shall be targeted primarily on the poorest sections of the population and the poorest countries in the two regions, through the implementation of programmes and projects in whatever sectors Community aid is likely to play an important role. In particular, measures shall be implemented in areas where domestic, economic and human resources are difficult to mobilize, but which are of strategic importance either for the development of the countries concerned or for the international community as a whole.

Article 5

Financial and technical assistance shall give priority to developing the rural sector and improving the level of food security. In this regard, integrating food aid into other development instruments may help this form of aid to fulfil its specific role and objectives. Community support for the rural sector must also include measures in small towns serving rural areas, in order to promote employment. The improvement of the economic, legal and social environment for the private sector, including small and medium-sized undertakings, must also be taken into account.

Protection of the environment and natural resources, and sustainable development, shall be long-term priorities. 10 %, being the weighted average of the necessary financial resources of the aid, for the period 1991 to 1995, shall be set aside for projects specifically aimed at protecting the environment, in particular tropical forests.

Furthermore, consideration shall be given in all operations to protecting the environment and natural resources.

Special attention must be given to measures to combat drugs. Community cooperation with the ALA developing countries to promote the fight against drugs shall be stepped up on the basis of a dialogue within the more general context of the economic development of the producer countries and their cooperation with the European Community. This cooperation shall cover measures involving both humanitarian and development aid.

The human dimension of development shall be present in all areas of action, given the objective of this form of cooperation.

The cultural dimension of development must remain a constant objective in all activities and programmes with which the Community is associated.

Aid should accordingly be allocated, *inter alia,* to specific projects for the spread of democracy, good governance and human rights.

Furthermore, care should be taken to ensure not only that the changes brought in by the projects and programmes do not have any detrimental effects on the position and role of women, but that, on the contrary, specific measures, or even projects, are adopted in order to increase their active participation, on an equal footing, in the productive process and its results, and in social activities and decision making.

Special attention shall also be given to child protection.

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Ethnic minorities warrant special attention through measures designed to improve their living conditions while respecting their cultural identity.

Special attention shall be given to demographic questions, in particular those relating to population growth.

Community aid for development projects and programmes must take account of macro-economic and sectoral problems and favour operations which have an effect on the structural make-up of the economy, on the development of sectoral policies and on the development of institutions. In order to increase their effectiveness and obtain greater synergy, dialogue and cooperation with the relevant international institutions and bilateral financiers should be sought.

Support for the national institutions of the developing countries, so as to strengthen their capacity to manage development policies and projects, represents an area of action likely to assume a strategic role in the development process.

Maintaining a suitable dialogue between the developing countries and the Community is an important element in this context.

Regional cooperation between developing countries shall be considered a priority area for financial and technical assistance, particularly in the following fields:

— cooperation on the environment,
— the development of intra-regional trade,
— the strengthening of regional institutions,
— support for regional integration and the establishment of joint policies and activities among developing countries,
— regional communications, particularly as regards standards, networks and services, including telecommunications,
— research,
— training,
— rural development and food security,
— cooperation in the sphere of energy.

Part of the aid may be used for rehabilitation and reconstruction following disasters of all kinds and for disaster-prevention measures.

Article 6

Financial and technical assistance, shall be extended to the relatively more advanced ALA developing countries, in particular in the following specific fields and cases:

— the spread of democracy and human rights,
— prevention of natural disasters and reconstruction in their wake,
— the fight against drugs,
— the environment and natural resources,
— strengthening institutions, especially public authorities,
— pilot schemes to help particularly under privileged strata of the population especially in large conurbations,
— regional cooperation and integration, with special attention being paid to regional cooperation and integration schemes allowing partnerships to be formed between poor and relatively advanced countries.

Economic cooperation

Article 7

Economic cooperation, devised to serve the mutual interests of the Community and its partner countries, shall contribute to the development of the ALA developing countries by helping them build up their institutional capacity so as to create an environment more favourable to investment and development and make the most of the prospects opened up by the growth of international trade, including the European

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single market, and by enhancing the role of businessmen, technology and know-how from all the Member States, particularly in the private sector and in small and medium-sized undertakings.

Economic cooperation shall be aimed in particular at establishing a climate of confidence by supporting countries which pursue macro-economic and structural policies that are open to trade and investment and conducive to technology transfer, in particular by protecting intellectual property rights.

Article 8

Economic cooperation shall include three sectors:

1. Improvement of scientific and technological potential and of the economic, social and cultural environment in general by means of training schemes and the transfer or know-how. Scientific and technological cooperation, including such cooperation in the field of high technology programmes, may derive benefit also from the implementation of the multiannual framework research programme and from the provisions of Article 130N of the Treaty. Economic cooperation shall be directed chiefly at executives, economic decision-makers and instructors and shall cover all economic, technical and scientific fields, in particular energy, industrial and urban ecology and services technology. It should promote links between institutes and research centres on both sides and take account of their capacity for the rapid acquisition of know-how and modern technology which can then be disseminated in the recipient country;
2. Improvement of the institutional structure, which must go hand in hand with a closer dialogue with partners, in order to make the economic, legislative, administrative and social climate more conducive to development;
3. Support for undertakings, for example by means of trade promotion, training and technical assistance schemes, by establishing contacts between undertakings and by schemes to facilitate cooperation between them.

Regional cooperation must be regarded as an important sector for economic cooperation, in particular with respect to:

— cooperation on industrial ecology,

— intra-regional trade,

— regional institutions for economic integration,

— regional policies,

— communications, including telecommunications,

— research and training,

— cooperation in the sphere of energy,

— industrial cooperation.

Implementing procedures

Article 9

Financial and technical assistance and expenditure on economic cooperation shall be provided mainly in the form of grants financed from the general budget of the European Communities.

Wherever possible, indicative five-year programming shall be established for each objective, country or, if appropriate, region.

Co-financing with the Member States or other donors shall be sought through greater coordination. The Community nature of the aid must be maintained.

Article 10

1. Community funding of the aid referred to in Article 9 shall cover an initial five-year period (1991-1995).

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2. The amount of Community funding deemed necessary for the implementation of the aid shall be ECU 2 750 million, 10 % of which shall be allocated to the environment, especially the protection of tropical forests. An amount of ECU 1 069,8 million shall be earmarked for the period 1991-1992 under the financial perspective for 1988-1992.

For the period 1993-1995, the amount shall be included in the Community financial framework then in force.

3. The budget authority shall determine the appropriations available for each financial year, account being taken of the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

4. For the subsequent period covered by this Regulation, the amount of aid shall be determined in accordance with the procedures then in force.

Article 11

Financial and technical assistance may cover all foreign currency costs and local costs for carrying out projects and programmes, including, whenever necessary, integrated programmes and sectoral projects.

Maintenance and operating expenses for economic cooperation operations, training and research programmes and development projects and programmes may, in particular, be covered. However, except for training and research programmes, such expenses may be covered only at the launching stage and in gradually decreasing amounts.

Systematic efforts must be made to seek contributions, particularly in financial form, from partners (countries, local communities, undertakings, individual recipients) within the limits of their possibilities and according to the nature of each operation.

The payment of taxes, duties and charges, and the purchase of land, shall be excluded from Community financing.

Study costs and the short- and long-term use of experts to assist the recipients and the Commission in devising general policies, identifying and preparing operations and monitoring and evaluating them shall normally be covered by Community funds, either as part of the financing for individual operations or separately.

Article 12

1. Part of the financial and technical assistance and of the economic cooperation shall be set aside for measures to deal with exceptional circumstances, in particular projects to promote reconstruction in the wake of disasters, and to meet unforeseen priorities, particularly in countries in which the human rights situation or other political conditions did not previously allow Community aid to be given. An amount of, at most, 15 % shall be provided for to this end when the budgetary authority adopts the annual appropriations.

2. Any unallocated amount equivalent to the 15 % portion of the annual appropriations shall be released on 31 July of the same year to be allocated in some other way.

Article 13

Participation in invitations to tender and purchasing and other contracts shall be open on equal terms to all natural or legal persons of the Member States.

With regard to financial and technical assistance, such participation shall usually be extended to the recipient State and may also be extended, case by case, to other developing countries.

In exceptional cases which are duly justified, other countries of origin may be allowed for specific components.

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Article 14

Aid projects and programmes for which Community funding exceeds ECU 1 million, and any substantial modifications and possible overruns of approved projects and programmes which exceed 20 % of the amount initially agreed, shall be adopted according to the procedure laid down in Article 15 (3).

The same procedure shall be followed for adopting the acts required to establish:

— the indicative multiannual guidelines that apply to the main partner countries,

— the areas of cooperation according to subject or sector.

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Article 15

1. The Commission shall administer the financial and technical assistance and the economic cooperation.

2. The Commission shall be assisted by a committee.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC ([1]) shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

4. On a regular basis, at least once a year, the Commission shall send the Member States whatever information it has on known sectors, projects and operations which could be supported under this Regulation.

5. In addition, coordination between Community cooperation schemes and bilateral schemes undertaken by Member States shall be carried out in this committee, through an exchange of information.

6. The committee shall adopt its rules of procedure.

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Article 16

The Commission shall submit to the European Parliament and the Council an annual report on the implementation of this Regulation. The report shall set out the results of implementation of the budget as regards commitments and payments and presenting the projects and programmes financed during the year. The report shall contain, as far as possible, information on the funds committed at national level during the same financial year. It shall also contain specific, detailed information (undertakings, nationality, etc.) on the contracts awarded for the implementation of the projects and programmes.

In addition, at the end of each five-year period the Commission shall submit a comprehensive report giving the results of the regular evaluation undertaken to show not only how the projects and programmes have been implemented but also the advisability of maintaining or amending the aid guidelines.

Article 17

1. Regulation (EEC) No 442/81 is hereby repealed.

2. Any reference to the repealed Regulation shall be deemed to be a reference to this Regulation.

Article 18

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

([1]) OJ L 184, 17.7.1999, p. 23.

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