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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

I

(Legislative acts)

REGULATIONS

REGULATION (EU) No 1232/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 December 2010
concerning European Union financial contributions to the International Fund for Ireland
(2007 to 2010)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 175 and Article 352(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure and the requirement for unanimity in the Council provided for in the first sentence of Article 352(1) of the Treaty on the Functioning of the European Union ⁽²⁾,

Whereas:

- (1) The International Fund for Ireland ('the Fund') was established in 1986 by the Agreement of 18 September 1986 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland ('the Agreement') in order to promote economic and social advancement, and to encourage contact, dialogue and reconciliation between nationalists and unionists

throughout Ireland, in the implementation of one of the objectives specified by the Anglo-Irish Agreement of 15 November 1985.

- (2) The Union, recognising that the objectives of the Fund are a reflection of those pursued by itself, has provided financial contributions to the Fund from 1989. For the period 2005 to 2006 EUR 15 million was committed from the Community budget for each of the years 2005 and 2006 in accordance with Council Regulation (EC) No 177/2005 of 24 January 2005 concerning Community financial contributions to the International Fund for Ireland ⁽³⁾. That Regulation expired on 31 December 2006.
- (3) The assessments carried out in accordance with Article 5 of Regulation (EC) No 177/2005 have confirmed the need for further support for activities of the Fund, while continuing to reinforce synergies of its objectives and coordination with Structural Funds interventions, in particular with the Special Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland ('the PEACE programme') set up in accordance with Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽⁴⁾.
- (4) The peace process in Northern Ireland requires a continuation of Union support to the Fund beyond 31 December 2006. In recognition of the special effort for the peace process, the PEACE programme has been allocated additional support from the Structural Funds for the period 2007 to 2013 pursuant to paragraph 22 of Annex II to Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ⁽⁵⁾.

⁽¹⁾ Opinion of 29 April 2010 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 15 June 2010 (not yet published in the Official Journal) and decision of the Council of 10 December 2010.

⁽³⁾ OJ L 30, 3.2.2005, p. 1.

⁽⁴⁾ OJ L 161, 26.6.1999, p. 1.

⁽⁵⁾ OJ L 210, 31.7.2006, p. 25.

- (5) At its meeting in Brussels on 15 and 16 December 2005, the European Council called on the Commission to take the necessary steps with a view to continued Community support for the Fund as it enters the crucial final phase of its work until 2010.
- (6) The main purpose of this Regulation is to support peace and reconciliation through a wider range of activities than those covered by the Structural Funds, and which extend beyond the scope of the Union policy on economic and social cohesion.
- (7) The Union contributions to the Fund should take the form of financial contributions for the years 2007, 2008, 2009 and 2010, thus terminating at the same time as the life of the Fund.
- (8) In allocating the Union contributions, the Fund should give priority to projects of a cross-border or cross-community nature, in such a way as to complement the activities funded by the PEACE programme for the period 2007 to 2010.
- (9) In accordance with the Agreement, all financial contributors to the Fund should participate as observers at the meetings of the Board of the Fund.
- (10) It is vital to ensure proper coordination between the activities of the Fund and those financed under the Structural Funds provided for by Article 175 of the Treaty on the Functioning of the European Union, in particular the PEACE programme.
- (11) This Regulation lays down a financial envelope for the entire duration of the Fund constituting the prime reference, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, for the budgetary authority during the annual budgetary procedure.
- (12) The amount of the Union contributions to the Fund should be EUR 15 million for each of the years 2007, 2008, 2009, and 2010, expressed in current values.
- (13) The Fund's strategy launched for the final phase of its activities (from 2006 to 2010) and entitled 'Sharing this Space' focuses on four key areas: building foundations for reconciliation in the most marginalised communities, building bridges for contact between divided communities, moving towards a more integrated society, and leaving a legacy. Consequently, the ultimate aim of the Fund and of this Regulation is to encourage inter-community reconciliation.
- (14) Union support will contribute to reinforcing solidarity between the Member States and between their peoples.
- (15) Assistance from the Fund should be regarded as effective only in so far as it brings about sustainable economic and social improvement and is not used as a substitute for other public or private expenditure.
- (16) Council Regulation (EC) No 1968/2006 of 21 December 2006 concerning Community financial contributions to the International Fund for Ireland (2007 to 2010) ⁽²⁾ established the financial reference amount for the implementation of the Fund for the period 2007 to 2010.
- (17) In its judgment of 3 September 2009 in Case C-166/07 (European Parliament v Council of the European Union) ⁽³⁾, the Court of Justice annulled Regulation (EC) No 1968/2006 as it was based only on Article 308 of the Treaty establishing the European Community (EC Treaty), ruling that the third paragraph of Article 159 EC Treaty and Article 308 EC Treaty were the appropriate legal bases. However, the Court also ruled that the effects of Regulation (EC) No 1968/2006 were to be maintained until the entry into force, within a reasonable period, of a new regulation adopted on the appropriate legal bases and that the annulment of Regulation (EC) No 1968/2006 was not to affect the validity of payments made or of undertakings given under that Regulation. In this respect it is necessary, for the sake of legal certainty, to provide for the application with retroactive effect of Article 6 of this Regulation because it relates to the whole programme period of 2007 to 2010,
- HAVE ADOPTED THIS REGULATION:
- Article 1*
- The financial envelope for the implementation of the International Fund for Ireland ('the Fund') for the period 2007 to 2010 shall be EUR 60 million.
- Annual appropriations shall be authorised by the budgetary authority within the limit of the financial framework.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 409, 30.12.2006, p. 86.

⁽³⁾ Case C-166/07, *Parliament v. Council* [2009] ECR I-7135.

Article 2

Contributions shall be used by the Fund in accordance with the Agreement of 18 September 1986 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the International Fund for Ireland ('the Agreement').

In allocating contributions, the Fund shall give priority to projects of a cross-border or cross-community nature, in such a way as to complement the activities financed by the Structural Funds, and especially those of the Special Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland ('the PEACE Programme').

Contributions shall be used in such a way as to bring about sustainable economic and social improvement in the areas concerned. They shall not be used as a substitute for other public and private expenditure.

Article 3

The Commission shall represent the Union as an observer at the meetings of the Board of the Fund.

The Fund shall be represented as an observer at the Monitoring Committee meetings of the PEACE programme, and of other Structural Funds interventions as appropriate.

Article 4

The Commission shall, in cooperation with the Board of the Fund, determine appropriate procedures to foster coordination at all levels between the Fund and the managing authorities and implementing bodies set up under the Structural Funds interventions concerned, in particular under the PEACE programme.

Article 5

The Commission shall, in cooperation with the Board of the Fund, determine appropriate publicity and information procedures in order to publicise the Union contributions to the projects financed by the Fund.

Article 6

By 30 June 2008, the Fund shall submit to the Commission its strategy for the closure (closure strategy) of its activities, including:

- (a) an action plan with projected payments and a foreseen winding-up date;
- (b) a de-commitment procedure;
- (c) the treatment of any residual amounts and interest received at the closure of the Fund.

Subsequent payments to the Fund shall be conditional on the Commission's approval of the closure strategy. If the closure strategy is not submitted to the Commission by 30 June 2008, payments to the Fund shall be interrupted until the strategy is received.

Article 7

1. The Commission shall administer the contributions.

Subject to paragraph 2, the annual contribution shall be paid, in instalments, as follows:

- (a) a first advance payment of 40 % shall be made after the Commission has received an undertaking, signed by the Chairman of the Board of the Fund, to the effect that the Fund will comply with the conditions for the grant of the contribution set out in this Regulation;
- (b) a second advance payment of 40 % shall be made 6 months later;
- (c) a final payment of 20 % shall be made after the Commission has received and accepted the Fund's annual activity report and audited accounts for the year in question.

2. Before paying out an instalment the Commission shall carry out an assessment of the Fund's financial needs on the basis of the Fund's cash balance at the time scheduled for each payment. If, following that assessment, the Fund's financial needs do not justify payment of one of those instalments, the payment concerned shall be suspended. The Commission shall review that suspension on the basis of new information provided by the Fund and shall continue payments as soon as they are considered justified.

Article 8

A contribution from the Fund may be allocated to an operation which receives or is due to receive financial assistance under a Structural Funds intervention only if the sum of that financial assistance plus 40 % of the contribution from the Fund does not exceed 75 % of the operation's total eligible costs.

Article 9

A final report shall be submitted to the Commission 6 months before the winding-up date provided for in the closure strategy or 6 months after the final payment referred to in point (c) of the second subparagraph of Article 7(1), whichever is the sooner, and shall include all the necessary information to enable the Commission to evaluate the implementation of the assistance and the attainment of the objectives of the Fund.

Article 10

The final-year contribution shall be paid following the financial needs analysis referred to in Article 7(2) and provided the Fund's performance respects the closure strategy.

Article 11

The final date of eligibility of expenditure is 31 December 2013.

Article 12

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

Article 6 shall apply from 1 January 2007.

This Regulation shall expire on 31 December 2010.

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

Done at Strasbourg, 15 December 2010.

For the European Parliament

The President

J. BUZEK

For the Council

The President

O. CHASTEL

REGULATION (EU) No 1233/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 December 2010

amending Regulation (EC) No 663/2009 establishing a programme to aid economic recovery by
granting Community financial assistance to projects in the field of energy

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (c) of Article 194(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Regulation (EC) No 663/2009 of the European Parliament and of the Council ⁽³⁾ established the European Energy Programme for Recovery (EPR) to aid economic recovery by granting a financial envelope of EUR 3,98 billion for 2009 and 2010.
- (2) This Regulation should be without prejudice to the aim of granting as much of the financial envelope of EUR 3,98 billion as possible by the end of 2010 to the sub-programmes referred to in Chapter II of Regulation (EC) No 663/2009. However, it has been established that part of that amount will not be committed under those sub-programmes.
- (3) In the spirit of the Europe 2020 strategy for sustainable growth and jobs, and in line with the EU climate and energy package and the 2006 Action Plan for Energy Efficiency, the development of further renewable energy sources and the promotion of energy efficiency would contribute to green growth, building a competitive and sustainable economy, and tackling climate change. By supporting those policies, the Union will create new jobs and green market opportunities, thereby fostering

the development of a competitive, secure and sustainable economy. Cooperation among the various tiers of government (multi-level governance) is essential in this context.

- (4) Providing increased financial incentive is a key element in lowering the barriers that high up-front costs represent and in stimulating sustainable energy improvements. A dedicated financial facility (the facility) should therefore be created to use the funding under Chapter II of Regulation (EC) No 663/2009 which cannot be committed by the end of 2010. The creation of the facility should be considered in the light of the Sustainable Energy Financing Initiative proposed by the Commission. The facility should support the development of energy efficiency and renewable energy projects and facilitate the financing of investment projects related to energy efficiency and renewable energy by local, regional and national public authorities, in particular in urban settings. In this process, attention should be paid to synergies with other financial resources available in the Member States, such as the Structural and Cohesion Funds, the European Local Energy Assistance (ELENA) Facility and the European Regional Development Fund under Regulation (EC) No 397/2009 ⁽⁴⁾, in order to avoid overlaps with other financial instruments.
- (5) Investment support in sustainable energy can be most effective and beneficial when targeted at local level. However, in duly justified cases it may be more effective to aim at the national level, e.g. for reasons related to the availability or functioning of relevant administrative structures.
- (6) To maximise the impact of the Union funding in the short term, the facility should be managed by one or more financial intermediaries such as international financial institutions. The selection of such financial intermediaries should take place on the basis of their demonstrated ability to use the funding in the most efficient and effective way, with the objective of maximising the participation, within the shortest possible time, of other public and private investors and of achieving the highest leverage between the Union funding and the total investment with a view to raising significant investments in the Union. However, in times of financial and economic crises which have a particularly adverse effect on the finances of local and regional authorities, it should be ensured that the difficult budgetary situation of those authorities does not hinder them from being able to access the funding.

⁽¹⁾ Opinion of 15 September 2010 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 11 November 2010 (not yet published in the Official Journal) and decision of the Council of 7 December 2010.

⁽³⁾ OJ L 200, 31.7.2009, p. 31.

⁽⁴⁾ Regulation (EC) No 397/2009 of the European Parliament and of the Council of 6 May 2009 amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of energy efficiency and renewable energy investments in housing (OJ L 126, 21.5.2009, p. 3).

- (7) In compliance with Regulation (EC) No 663/2009, investment projects should be financed under the facility only if they have a rapid, measurable and substantial impact on economic recovery within the Union, increased energy security and the reduction in greenhouse gas emissions. Such investment projects contribute to green growth, the development of a competitive, connected, sustainable and green economy, as well as to the protection of employment, job creation and tackling climate change, in accordance with the 'Europe 2020' objectives.
- (8) The criteria set out in Regulation (EC) No 663/2009 should apply to the selection and eligibility of the projects financed under the facility. The geographical balance of the projects should also be taken into account as an essential element, to ensure the impact of this Regulation on economic recovery throughout the Union, and in recognition of the fact that in some Member States, projects have not or have only partially been financed under Chapter II of Regulation (EC) No 663/2009.
- (9) In view of the required short-term economic impact of this Regulation, the period between receipt of an application for a project and the final decision thereon should not exceed 6 months.
- (10) Individual legal commitments implementing budgetary commitments under Chapter IIa should be made by 31 March 2011.
- (11) The facility should not constitute a precedent with regard to the use of the general budget of the Union and possible future funding measures, including in the energy sector, but should be considered rather as an exceptional measure adopted during a period of economic difficulty.
- (12) Due to the urgent need to address the economic crisis, expenditure incurred under Chapter II of Regulation (EC) No 663/2009 should be eligible as from 13 July 2009 as many applicants requested the eligibility of expenditure from the submission of the grant application in line with Article 112 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ (the Financial Regulation). Expenditure incurred under Chapter IIa should be eligible as from 1 January 2011.
- (13) Due to the urgent need to address the economic crisis, this Regulation should enter into force immediately on publication,
- HAVE ADOPTED THIS REGULATION:
- Article 1*
- Amendments to Regulation (EC) No 663/2009**
- Regulation (EC) No 663/2009 is hereby amended as follows:
1. in Article 1, the following paragraph is added:
- 'This Regulation provides for the creation of a financial facility (the facility) to support energy efficiency and renewable energy initiatives.;
2. Article 3 is amended as follows:
- (a) paragraph 2 is replaced by the following:
- '2. Individual legal commitments under Chapter II implementing the budgetary commitments made in 2009 and 2010 shall be made by 31 December 2010. Individual legal commitments under Chapter IIa shall be made by 31 March 2011.;
- (b) the following paragraph is added:
- '3. The financial intermediaries described in Annex II shall endeavour to allocate all the funding from the Union contribution available in the facility to investment projects and to technical assistance for energy efficiency and renewable energy projects by 31 March 2014. No funding from the Union contribution shall be allocated after that date. All funding from the Union contribution not allocated by the financial intermediaries by 31 March 2014 shall be returned to the general budget of the Union. The funding from the Union contribution allocated to investment projects shall remain invested for a specified length of time that may not extend beyond 31 March 2034. The Union shall be entitled to returns on its investment in the facility throughout the lifetime of the facility, in proportion to its contribution to the facility and in accordance with its shareholder rights.;

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

3. the following Chapter is inserted:

‘CHAPTER IIa

FINANCIAL FACILITY

Article 21a

Funding that cannot be committed under Chapter II

1. Funding which according to Article 3(2) cannot be subject to individual legal commitments under Chapter II for an amount of EUR 146 344 644,50 shall be for the facility referred to in the fourth paragraph of Article 1, for the purpose of developing suitable funding instruments in cooperation with financial institutions, so as to give a major stimulus to energy efficiency projects and projects for the exploitation of renewable energy sources.

2. The facility shall be implemented in compliance with Annex II. Article 23(1) shall not apply to the facility.

3. The Union's exposure to the facility, including management fees and other eligible costs, shall be limited to the amount of the Union contribution to that facility specified in paragraph 1, and there shall be no further liability on the general budget of the Union.’;

4. Article 22 is deleted;

5. Article 23 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. EEPR assistance shall cover only project-related expenditure incurred by the beneficiaries and, as regards projects under Article 9, also by third parties responsible for the implementation of a project. Expenditure incurred under Chapter II may be eligible as from 13 July 2009.’;

(b) the following paragraph is inserted:

‘2a. Financial assistance given under Chapter IIa shall cover expenditure relating to investment projects and to technical assistance for energy efficiency and renewable energy projects incurred by the beneficiaries described in point 3 of Part A of Annex II. Such expenditure may be eligible as from 1 January 2011.’;

6. Article 27 is amended as follows:

(a) the following paragraph is inserted:

‘1a. By 30 June 2013 the Commission shall submit to the European Parliament and the Council a mid-term evaluation report on the measures taken under Chapter IIa focusing in particular on:

(a) the cost-effectiveness, leverage effect and additionality demonstrated by the facility;

(b) evidence of sound financial management;

(c) the extent to which the facility has achieved the objectives set out in this Regulation;

(d) the extent to which continued support under the facility for projects relating to energy efficiency and energy from renewable sources is required.

The mid-term evaluation report shall, if appropriate, and in particular if the Commission's assessment of the measures taken under Chapter IIa is positive, be accompanied by a legislative proposal for the continuation of the facility.’;

(b) paragraph 3 is replaced by the following:

‘3. The Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an evaluation report on the results achieved by the EEPR and in accordance with Article 27(4) of the Financial Regulation.’;

7. in Article 28, the following paragraph is added:

‘The report shall include information about all overhead costs related to the establishment and implementation of the facility set up under Chapter IIa.’;

8. the Annex is renamed ‘Annex I’ and the following Annex is added:

‘ANNEX II

FINANCIAL FACILITY**A. Implementation of the financial facility for sustainable energy projects***1. Scope of the facility*

The financial facility (the facility) shall be used for the development of energy saving, energy efficiency and renewable energy projects and shall facilitate the financing of investments in those areas by local, regional and, in duly justified cases, national public authorities. The facility shall be implemented in accordance with the provisions on the delegation of budgetary execution tasks laid down in the Financial Regulation and its implementing rules.

The facility shall be used for sustainable energy projects, in particular in urban settings. This shall include, in particular, projects concerning:

- (a) public and private buildings incorporating energy efficiency and/or renewable energy solutions including those based on the usage of Information and Communication Technologies (ICT);
- (b) investments in high energy efficient combined heat and power (CHP), including micro-cogeneration, and district heating/cooling networks, in particular from renewable energy sources;
- (c) decentralised renewable energy sources embedded in local settings and their integration in electricity grids;
- (d) microgeneration from renewable energy sources;
- (e) clean urban transport to support increased energy efficiency and integration of renewable energy sources, with an emphasis on public transport, electric and hydrogen vehicles and reduced greenhouse gas emissions;
- (f) local infrastructure, including efficient lighting of outdoor public infrastructure such as street lighting, electricity storage solutions, smart metering, and smart grids, that make full usage of ICT;
- (g) energy efficiency and renewable energy technologies with innovation and economic potential using the best available procedures.

The facility may be also used to provide incentives and technical assistance as well as to raise the awareness of local, regional and national authorities so as to ensure optimal use of the Structural and Cohesion Funds, in particular in the areas of energy efficiency and renewable energy improvements in housing and other types of buildings. The facility shall sustain investment projects demonstrating an economic and financial viability, in order to refund the investments allocated by the facility and to attract public and private investments. Thus, the facility may, inter alia, include provisioning and capital allocation for loans, guarantees, equity and other financial products. Furthermore, up to 15 % of the funding referred to in Article 21a may be used to provide technical assistance to local, regional or national, authorities on the setting up of, and on the initial deployment phase of technology related to, energy efficiency and renewable energy projects.

2. Synergies

When granting financial or technical assistance, attention shall also be paid to synergies with other financial resources available in the Member States, such as the Structural and Cohesion Funds and the ELENA Facility, in order to avoid overlaps with other instruments.

3. Beneficiaries

The beneficiaries of the facility shall be public authorities, preferably at local and regional level, and public or private entities acting on behalf of those public authorities.

B. Cooperation with financial intermediaries*1. Selection and general requirements, including costs*

The facility shall be set up in cooperation with one or more financial intermediaries, and shall be open to participation by appropriate investors. The selection of the financial intermediaries shall take place on the basis of their demonstrated ability to use the funding in the most efficient and effective way, in accordance with the rules and criteria set out in this Annex.

The Commission shall ensure that the total amount of overhead costs related to the establishment and implementation of the facility, including management fees and other eligible costs invoiced by the financial intermediaries, remains as limited as possible, in line with best practice for similar instruments and whilst safeguarding the required quality of the facility.

The Union contribution to the facility shall be implemented by the Commission in accordance with the provisions set out in Articles 53 and 54 of the Financial Regulation.

The financial intermediaries shall comply with the relevant requirements on the delegation of budgetary execution tasks set out in the Financial Regulation and its implementing rules, in particular as regards procurement rules, internal control, accounting and external audit. No funding other than management fees or costs related to the establishment and implementation of the facility shall be made available to those financial intermediaries.

The detailed terms and conditions of the establishment and the framework conditions of the facility, including monitoring and control, shall be laid down in one or more agreements between the Commission and the financial intermediaries.

2. Availability of information

The facility shall make available online all information on programme management that is relevant for interested parties. This shall include, notably, application procedures, information on best practices and an overview of projects and reports.

C. Funding conditions and eligibility and selection criteria*1. Scope of financing*

In accordance with this Annex, the facility shall be limited to the financing of:

- (a) investment projects that have a rapid, measurable and substantial impact on economic recovery within the Union, increased energy security and the reduction in greenhouse gas emissions; and
- (b) technical assistance for energy efficiency and renewable energy projects.

2. Factors to be taken into account

As regards the selection of projects, particular attention shall be paid to the geographical balance.

As regards the financing of investment projects, due attention shall be paid to reaching a significant leverage factor between the total investment and the Union funding in order to raise significant investments in the Union. However, the leverage factor for individual investment projects may vary, depending on a number of factors such as the actual size and type of a project and on local conditions including the size and financial capabilities of the beneficiary.

3. Conditions for public authorities' access to financing under the facility

Public authorities requesting financing for investment projects or technical assistance for energy efficiency and renewable energy projects shall comply with the following conditions:

- (a) they have made, or are in the process of making, a political commitment to mitigate climate change, where appropriate including concrete objectives, for example relating to increasing energy efficiency and/or the use of energy from renewable sources;

(b) they are either working towards developing multi-annual strategies to mitigate climate change and, where appropriate, to attain their objectives, or are participating in a multi-annual strategy at local, regional or national level to mitigate climate change;

(c) they agree to be publicly accountable for the progress in their overall strategy.

4. Eligibility and selection criteria for investment projects financed under the facility

Investment projects financed under the facility shall comply with the following eligibility and selection criteria:

(a) the soundness and technical adequacy of the approach;

(b) the soundness and cost effectiveness of the funding for the full investment phase of the action;

(c) the geographical balance of all projects covered by this Regulation;

(d) maturity, defined as reaching the investment stage, and incurring substantial capital expenditure as soon as possible;

(e) the extent to which lack of access to finance is delaying the implementation of the action;

(f) the extent to which funding from the facility will stimulate public and private finance;

(g) quantified socioeconomic impacts;

(h) quantified environmental impacts.

5. Eligibility and selection criteria for technical assistance projects financed under the facility

Technical assistance projects financed under the facility shall comply with the eligibility and selection criteria referred to in point 4(a), (c), (e), (f) and (g).'

Article 2

Entry into force

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

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

Done at Strasbourg, 15 December 2010.

For the European Parliament

The President

J. BUZEK

For the Council

The President

O. CHASTEL

REGULATION (EU) No 1234/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 December 2010

amending Council Regulation (EC) No 1234/2007 (Single CMO Regulation) as regards the aid granted in the framework of the German Alcohol Monopoly

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 42 and Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) The specific rules on the aid that Germany may grant in the framework of the German Alcohol Monopoly (‘the Monopoly’) as provided for in Article 182(4) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽³⁾ will expire on 31 December 2010.

(2) According to the report submitted by the Commission pursuant to Article 184(3) of Regulation (EC) No 1234/2007, the importance of the Monopoly has decreased in recent years. Between 2001 and 2008, about 70 agricultural bonded distilleries (*landwirtschaftliche Verschlussbrennereien*) left the Monopoly. The volumes sold by the Monopoly have fallen since 2003 and the budget decreased from EUR 110 million in 2003 to EUR 80 million in 2008. Some distilleries have thus already made efforts to prepare for their entry into the free market by creating cooperatives, investing in less energy-consuming equipment to reduce production costs and increasingly marketing their alcohol directly. However, more time is

needed to facilitate this adaptation process and to enable distillers to survive on the free market. An extension of several more years is deemed necessary to complete the process of abolishing the Monopoly, as well as the aid, and to allow for its definitive phasing-out.

(3) In some parts of Germany, alcohol distilleries are traditionally linked to small and medium-sized farms and play an important role for the farms to continue their activities by providing an additional income to farmers and securing employment in rural areas. Agricultural bonded distilleries processing mainly cereals and potatoes should therefore continue to be able to receive aid through the Monopoly until 31 December 2013. By that date, all bonded distilleries should have entered the free market. This deadline also coincides with the beginning of the new programming period for rural development 2014-2020, meaning, for Germany, the possibility of transferring parts of the funds used for the Monopoly into its rural development programme.

(4) The small-scale flat-rate distilleries (*Abfindungsbrennereien*), distillery users (*Stoffbesitzer*) and fruit cooperative distilleries (*Obstgemeinschaftsbrennereien*) contribute in particular to the preservation of traditional landscapes and biodiversity by helping to preserve orchards, which supply distillers with raw material. Taking this into account, as well as the fact that the production of those distilleries is local and very limited, they should continue to be able to benefit from the aid granted under the Monopoly for a final period until 31 December 2017. By this date, the Monopoly is to be abolished. In order to ensure that this aid is indeed in the course of being phased out, Germany should present, on a yearly basis, annual phasing-out plans, as from 2013.

(5) The production of ethyl alcohol in the framework of the Monopoly is limited and corresponds at present to less than 10 % of the total production of ethyl alcohol of agricultural origin in Germany. Since, in particular, all bonded distilleries will have entered the free market by 31 December 2013, that percentage will decrease considerably after that date.

(6) In order to ensure continuity in the granting of the aid, this Regulation should apply from 1 January 2011.

(7) Regulation (EC) No 1234/2007 should therefore be amended accordingly,

⁽¹⁾ Opinion of 15 September 2010 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 23 November 2010 (not yet published in the Official Journal) and decision of the Council of 10 December 2010.

⁽³⁾ OJ L 299, 16.11.2007, p. 1.

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 182 of Regulation (EC) No 1234/2007, paragraph 4 is replaced by the following:

‘4. The derogation contained in the second paragraph of Article 180 of this Regulation shall apply to aid payments granted by Germany in the existing national framework of the German Alcohol Monopoly (“the Monopoly”) for products marketed after further transformation by the Monopoly as ethyl alcohol of agricultural origin listed in Annex I to the Treaty on the Functioning of the European Union (TFEU). That derogation shall operate only until 31 December 2017, shall be without prejudice to the application of Article 108(1) and the first sentence of Article 108(3) TFEU and shall be conditional upon compliance with the following provisions:

- (a) the total production of ethyl alcohol under the Monopoly benefiting from the aid shall gradually decrease from the maximum of 600 000 hl in 2011 to 420 000 hl in 2012 and to 240 000 hl in 2013 and may amount to a maximum of 60 000 hl per year from 1 January 2014 until 31 December 2017, on which date the Monopoly shall cease to exist;
- (b) the production by agricultural bonded distilleries benefiting from the aid shall gradually decrease from 540 000 hl in 2011 to 360 000 hl in 2012 and to 180 000 hl in 2013. By 31 December 2013, all agricultural bonded distilleries shall leave the Monopoly. Upon leaving the Monopoly, each agricultural bonded distillery shall be allowed to receive a compensatory aid of EUR 257,50 per hl of nominal distilling rights within the meaning of the applicable German legislation. This

compensatory aid may be granted no later than 31 December 2013. It may, however, be paid in several instalments, of which the last shall be no later than 31 December 2017;

- (c) the small-scale flat-rate distilleries, distillery users and fruit cooperative distilleries may benefit from the aid granted by the Monopoly until 31 December 2017, on condition that the production benefiting from the aid does not exceed 60 000 hl per year;
- (d) the total amount of aid paid from 1 January 2011 to 31 December 2013 shall not exceed EUR 269,9 million and the total amount of aid paid from 1 January 2014 to 31 December 2017 shall not exceed EUR 268 million; and
- (e) before 30 June each year, Germany shall submit a report to the Commission on the functioning of the Monopoly and the aid granted in the framework thereof in the previous year. The Commission shall forward that report to the European Parliament and the Council. Moreover, the annual reports to be submitted in the years 2013 to 2016 shall include an annual phasing-out plan for the following year concerning the small-scale flat-rate distilleries, distillery users and fruit cooperative distilleries.’

Article 2

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 from 1 January 2011.

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

Done at Strasbourg, 15 December 2010.

For the European Parliament
The President
J. BUZEK

For the Council
The President
O. CHASTEL

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