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(Acts whose publication is obligatory)

**COUNCIL REGULATION (EURATOM, EEC) No 2053/93**

of 19 July 1993

**concerning the provision of technical assistance to economic reform and recovery in the independent States of the former Soviet Union and Mongolia**

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 Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Whereas pursuant to the European Council in Dublin and in Rome in 1990 the European Community introduced a technical assistance programme in favour of economic reform and recovery in the former Union of Soviet Socialist Republics;

Whereas Council Regulation (EEC, Euratom) No 2157/91 of 15 July 1991 concerning the provision of technical assistance to economic reform and recovery in the Union of Soviet Socialist Republics<sup>(2)</sup> laid down the conditions for the provisions of this technical assistance and foresaw such an operation under the 1991 and 1992 budgetary periods;

Whereas such assistance will be fully effective only in the context of progress towards free and open democratic systems that respect human rights, and towards market-oriented economic systems;

Whereas since the said reform and recovery in the former Union of Soviet Socialist Republics is still under way, it is necessary to continue this effort;

Whereas it is necessary expressly to take account of the consequences of the dissolution of the Union of Soviet Socialist Republics, of which Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine

and Uzbekistan, hereinafter called 'the independent States' were part;

Whereas Mongolia has officially requested that it be made eligible under the Tacis programme; whereas close links have existed between Mongolia and the former Union of Soviet Socialist Republics; whereas Mongolia is in the process of transition to a market economy; whereas it has need of technical assistance with economic construction, comparable with the needs of the independent States; whereas it is therefore appropriate to extend technical assistance to Mongolia;

Whereas the independent States and Mongolia should benefit from technical assistance pursuant to this Regulation only in so far as they do not benefit from financial and technical assistance pursuant to 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<sup>(3)</sup>;

Whereas the implementation of such technical assistance should enable conditions favourable to private investment to be established;

Whereas it is appropriate to establish priorities for this technical assistance;

Whereas to ensure that unforeseen circumstances do not unduly hamper the process of recovery in the independent States, it is necessary to permit a certain amount of the financial allocation to be used exceptionally for humanitarian aid;

Whereas the European Council at its meeting in Rome also stressed the importance of effective coordination by the Commission of the efforts made in the former Union of Soviet Socialist Republics by the Community and its Member States acting individually;

Whereas it is appropriate that the Commission be assisted in the implementation of Community aid by a committee made up of Member States' representatives;

<sup>(1)</sup> Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 201, 24. 7. 1991, p. 2.

<sup>(3)</sup> OJ L 52, 27. 2. 1992, p. 1.

Whereas the requirements of economic reform and restructuring now in progress, and the effective management of this programme require a multiannual approach ;

Whereas assistance for economic reform and recovery may require specific types of expertise particularly available in the Phare beneficiary countries and in certain other States ;

Whereas the continued provision of technical assistance will contribute to the attainment of the Community's objectives ;

Whereas the Treaties have not provided, for the adoption of this Regulation, powers other than those of Article 235 of the EEC Treaty and Article 203 of the EAEC Treaty,

HAS ADOPTED THIS REGULATION :

#### Article 1

A programme to assist economic reform and recovery in the States listed in Annex I (hereinafter called 'the beneficiary States') shall be implemented by the Community from 1 January 1993 to 31 December 1995 in accordance with the criteria laid down in this Regulation. Assistance shall be concentrated on sectors and, where appropriate, on selected geographical areas where it can play a central role and serve as an example in support of the reform process.

The level and intensity of assistance shall take into account the extent and progress of the reform efforts. The modalities of the assistance shall be decided upon in accordance with the procedure provided for in Article 8 (2) and (3).

#### Article 2

The beneficiary States listed in Annex I shall benefit from Tacis technical assistance in so far as they do not benefit from financial and technical assistance pursuant to Regulation (EEC) No 443/92.

#### Article 3

The budget authority shall determine the appropriations available for each financial year, taking into account the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities and with due regard for the financial perspectives and budget discipline.

#### Article 4

1. The programme referred to in Article 1 shall take the form of technical assistance for the economic reform under way in the beneficiary States for measures aimed at

bringing about the transition to a market economy and thereby reinforcing democracy. It shall also, case by case and in accordance with the procedure set out in Article 8 (2) and (3), cover reasonable costs of supplies required in support of the implementation of the technical assistance. In particular cases, such as nuclear safety programmes, a significant supply element may be included.

The cost of the projects in local currency shall be covered by the Community only to the extent strictly necessary.

2. The assistance shall also cover costs related to the preparation, implementation, monitoring and evaluation of the execution of these operations, as well as costs concerning information.

3. Technical assistance shall be concentrated in particular in the indicative areas referred to in Annex II taking into account the evolving needs of the beneficiaries.

Due regard shall be taken of environmental considerations when designing and implementing programmes.

4. Operations to be financed pursuant to this Regulation shall be selected taking account, *inter alia*, of the recipients' preferences and on the basis of an assessment of their effectiveness in achieving the objectives aimed at by the Community assistance.

5. Technical cooperation shall be implemented on a decentralized basis. The final recipients of Community assistance shall be closely involved in the evaluation and execution of the projects.

Regular coordination shall be established between the Commission and the Member States, including on-the-spot coordination in their contacts with the beneficiary States, both in the programme-definition and in the programme-implementation stage.

6. At the request of a beneficiary State, humanitarian aid and technical assistance for its implementation can exceptionally be provided.

Measures in this connection shall be decided on an emergency basis in accordance with the procedure referred to in Article 8 (2) and (3).

7. When an essential element for the continuation of cooperation is missing, the Council may, on a proposal from the Commission, acting by a qualified majority, decide upon measures concerning the assistance to a beneficiary State.

#### Article 5

1. Community assistance shall take the form of grants which shall be released in tranches as projects materialize.

2. Financing decisions and any contracts resulting therefrom shall expressly provide, *inter alia*, for supervision by the Commission and the Court of Auditors to be carried out on the spot, if necessary.

*Article 6*

1. Indicative programmes covering the period referred to in Article 1 shall be established for each of the beneficiary States in accordance with the procedure provided for in Article 8 without this being a multiannual budget commitment. They shall define the principal objectives of and guidelines for Community assistance in the indicative areas referred to in Article 4. They may be amended in accordance with the same procedure during the period of their application. Before the establishment of indicative programmes, the Commission shall inform the Committee referred to in Article 8, on the priorities identified with the beneficiary States.

2. Action programmes based on these indicative programmes shall be adopted each year in accordance with the procedure provided for in Article 8 (2) and (3). These action programmes shall include a list of the main projects to be financed within the indicative areas referred to in Article 4. The content of the programmes shall be determined in detail so as to provide the Member States with the relevant information to enable the Committee referred to in Article 8 to deliver its opinion.

*Article 7*

1. The Commission shall implement operations in accordance with the action programmes referred to in Article 6 (2).

2. Supply contracts shall be awarded by means of open invitations to tender except in the cases provided for in Article 116 of the Financial Regulation applicable to the general budget of the European Communities.

Services contracts shall, as a general rule, be awarded by restricted invitations to tender and by private treaty for operations up to ECU 300 000. This amount may be revised by the Council on the basis of a Commission proposal, account being taken of experience gained in similar cases.

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

Participation by natural and legal persons from the countries benefiting from Phare as well as in specific cases from Mediterranean countries with traditional economic, trade or geographical links may be authorized by the Commission on a case-by-case basis if the programmes or projects concerned require specific forms of assistance specifically available in such countries.

3. Taxes, duties and the purchase of immovable property shall not be funded by the Community.

4. In the case of co-financing, the participation of third countries concerned in invitations to tender and contracts may be authorized by the Commission, but on a

case-by-case basis. In the cases participation of undertakings from third countries shall only be acceptable if reciprocity is granted.

*Article 8*

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission, hereafter referred to as the 'Tacis Committee'.

2. The representative of the Commission shall submit to the Tacis Committee a draft of the measures to be taken. The Tacis Committee shall deliver its opinion on the draft within a time limit the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the EEC Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Tacis Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Tacis Committee.

If the measures envisaged are not in accordance with the opinion of the Tacis Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of six weeks from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

4. The Tacis Committee may examine any other question relating to the implementation of this Regulation which may be put to it by its chairman, possibly at the request of the representative of a Member State and, in particular, any question relating to general implementation, the administration of the programme, co-financing and the coordination referred to in Article 9.

5. The Committee shall adopt its rules of procedure by qualified majority.

6. The Commission shall report every six months to the Tacis Committee on the progress of activities.

The report shall contain specific, detailed information (undertakings, nationality, etc.) on the contracts awarded for the implementation of the projects and programmes.

For projects expected to be put out for restricted invitations to tender in accordance with Article 7 (2), the Commission shall, before drawing up short lists, provide in good time advance information which shall include selection and evaluation criteria so as to facilitate participation by economic operators.

*Article 9*

The Commission shall, together with the Member States, ensure the effective coordination of the technical assistance efforts undertaken in the beneficiary States by the Community and individual Member States on the basis of the information supplied by the Member States.

In addition coordination and cooperation with the international financial institutions and other donors shall be encouraged.

The Commission will also examine the various ways in which co-financing between the technical assistance pursuant to this Regulation and the bilateral assistance of the Member States might be promoted.

*Article 10*

At the end of each financial year the Commission shall present a progress report on the implementation of the technical assistance programme. This report shall also include, where feasible, an evaluation of the technical assistance already provided. This report shall be addressed to the European Parliament, the Council and the Economic and Social Committee.

*Article 11*

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

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

Done at Brussels, 19 July 1993.

*For the Council*

*The President*

W. CLAES

*ANNEX I***Beneficiary States referred to in Article 1**

Armenia  
Azerbaijan  
Belarus  
Georgia  
Kazakhstan  
Kyrgyzstan  
Moldova  
Russian Federation  
Tajikistan  
Turkmenistan  
Ukraine  
Uzbekistan  
Mongolia

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*ANNEX II***Indicative areas referred to in Article 4 (3):**

Technical assistance shall give priority to the following areas :

**1. Human Resources Development :**

- training including manpower training,
- restructuring of public administration,
- employment services and social security advice,
- strengthening of the civic society,
- policy and macro-economic advice,
- legal assistance including approximation of legislation ;

**2. Enterprise restructuring and development :**

- support in the form of technical assistance for development of small and medium sized enterprises,
- conversion of defence related industries,
- restructuring and privatization,
- financial services ;

**3. Infrastructures :**

- transport,
- telecommunications ;

**4. energy, including nuclear safety ;****5. food production, processing and distribution.**