

## CHAPTER 12: MANAGEMENT AND IMPLEMENTATION ARRANGEMENTS

### 1 Introduction

#### 1.1 General

In accordance with the requirements of Art. 19.3 (d) of Council Regulation (EC) No 1260/1999 of 21 June 1999, this chapter sets out the implementation provisions for the Cornwall and Scilly Objective 1 Single Programming Document.

These have been developed taking into account the requirements of the Council Regulation referred to above and of those of the enabling Commission regulations on the euro, information and publicity, eligibility of expenditure and financial corrections, which are in the process of being formally adopted<sup>1</sup>.

These programmes will be subject to any regulations adopted under Article 53(2).

#### 1.2 The Programme Complement

Within three months of the Commission decision approving this single programming document, the UK government will send the programme complement to the Commission as a single document.

As defined in Art. 9(m), the programme complement is the document implementing the programme strategy and priorities and containing detailed elements at measure level. It is drawn up by the Managing Authority (as defined in Section 2.2.) after the agreement of the Monitoring Committee (as defined in Section 3.2.) and contains the information requested by Art. 18.3. These are the following:

- Measures implementing the corresponding priorities;
- Ex-ante evaluation, in accordance with Art 41.3, of quantified measures where they lend themselves to quantification in order to demonstrate consistency with the aims of the corresponding priorities, quantifying their specific targets where the priorities lend themselves thereto and subsequently verifying the relevance of the selection criteria, which have to be approved within six months of the Commission's decision;

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<sup>1</sup> All articles quoted in the text are those of Council Regulation (EC) No 1260/99 of 21 June 1999, except where otherwise stated. In terms of legal basis, this text does not substitute the above regulation..

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- Relevant monitoring indicators in accordance with Article 36;
  - Definition of the types of final beneficiary of measures;
  - The financing plan at measure level. The financing plan will be accompanied by a description of the arrangements for providing the co-financing for measures taking account of the UK institutional, legal and financial systems;
  - Measures intended to publicise the SPD and in particular the communication plan required by the enabling Commission Regulation on information and publicity;
  - Description of arrangements agreed between the Commission and the UK for the computerised exchange, where possible, of the data required to fulfil the management, monitoring and evaluation requirements of the regulation.

The programme complement is sent to the Commission for information.

The presentation to the Commission of the programme complement containing the required information is one of the conditions subject to which interim payments will be made by the Commission.

## **2 Management**

### **2.1 General**

This section deals with the arrangements for managing the SPD and details the role of the different institutional and financial partners of the managing authority involved in the management and implementation of the SPD.

### **2.2 Managing authority**

The Managing Authority in accordance with Article 34 is responsible for the efficiency and correctness of management and implementation.

The Managing Authority for the Cornwall and Scilly Objective 1 programme will be the Department of the Environment, Transport and the Regions. The address is Eland House, Bressenden Place, London SW1E 5DU. The Department takes the general policy lead in the co-ordination of the English Objective 1 and 2 Structural Fund programmes and, in particular, in European Regional Development Fund matters.

The Department operates in conjunction with the Department for Education and Employment and the Ministry of Agriculture, Fisheries and Food, which are responsible for the co-ordination of activities of individual Structural Funds as follows:

- The European Social Fund Unit, Department for Education and Employment, (Address: Caxton House, Tothill Street, London SW1H 9NF) will lead on the European Social Fund - ESF;

- Rural Division, Ministry of Agriculture, Fisheries and Food, (Address: Nobel House, 17 Smith Square, London SW1P 3JR) will lead on the European Agricultural Guidance and Guarantee Fund - EAGGF;
- Fisheries I Division, Ministry of Agriculture, Fisheries and Food, (Address: Nobel House, 17 Smith Square, London SW1P 3JR) will lead on the Financial Instrument for Fisheries Guidance - FIG.

The Managing Authority will delegate the day-to-day administration of the Cornwall and Scilly Objective 1 programme to the Government Office for South West (Mast House, Shepherd's Wharf, 24 Sutton Road, Plymouth, Devon) under Article 34, except in respect of Article 34(d) which it delegates to the RDA, in accordance with the following table:

Art. 34(a)	Managing Authority (DETR) responsible for ERDF IT system, DfEE for ESF system and MAFF for EAGGF and FIG systems.	Government Office responsible for gathering financial, statistical and monitoring information for ERDF and ESF, MAFF Regional Office for EAGGF and MAFF HQ for FIG, the Government Office, Regional Office and MAFF HQ will forward data to the Commission.
Art. 34(b)		Government Office responsible.
Art. 34(c)		Government Office responsible.
Art. 34(d)		Regional Development Agency responsible.
Art. 34(e)		Government Office responsible for ERDF and ESF. If Action plans used, the Accountable Body. MAFF for EAGGF and FIG.
Art. 34(f)		Government Office for ERDF and ESF. MAFF Regional Office for EAGGF and MAFF HQ for FIG.
Art. 34(g)		Government Office for ERDF and ESF. MAFF Regional Office for EAGGF and MAFF HQ for FIG.
Art. 34(h)		Government Office responsible.

### 2.3 Paying authority

According to Art. 9(o), the Paying Authority is responsible for drawing up and submitting certified payment applications and receiving payments from the Commission.

For the Cornwall and Scilly Objective 1 programme, the Paying Authorities will be the Department of the Environment, Transport and the Regions for the ERDF, the Department for Education and Employment for the ESF and the Ministry of Agriculture Fisheries and Food for the EAGGF and FIG.

### **2.3.1 Delegation of powers**

The Paying Authority for ERDF will delegate these functions to the Government Office for the South West. The Paying Authority for the EAGGF and FIFG will be MAFF Headquarters and for ESF it will be DfEE Headquarters.

## **2.4 Management of the programme**

### **2.4.1 General**

The involvement of the partnership in the definition of the programme will extend to programme implementation. The Government Office will manage the programme, and with the Regional Development Agency and the wider partnership will develop the strategy of the Programme. The lead contact will be the Government Office. Ministers will review the proposed future role of the Regional Development Agencies in Structural Funds programmes, in time for any new arrangements to be put into place, by January 2001. The Commission will be informed as soon as the new arrangements are finalised.

### **2.4.2 Secretariat**

The Managing Authority shall be assisted by a Secretariat. The Secretariat for the programme will be provided by Government Office for the South West and will be resourced by civil servants and may include secondees from the partnership. The Secretariat will be located in Mast House, Shepherd's Wharf, 24 Sutton Road, Plymouth, Devon, with an additional office located within the Objective 1 area.

#### **2.4.2.1 Tasks and responsibilities of the Secretariat**

The detail of its tasks and responsibilities for the day to day administration of the programme will be agreed at the first programme Monitoring Committee meeting. However, key secretarial responsibilities will include:

- Assisting the Managing Authority in ensuring the efficient and correct management and implementation of the programme;
- Drawing up a work programme to present to the first programme Monitoring Committee for consideration;
- Advising on the regulations and on drawing up applications;
- Drafting guidance on implementation;
- Receiving applications, other than any which go through an Action plan approach;
- Assessing applications, other than any which are the responsibility of an action plan partnership;
- Contributing towards publicity material;
- Drawing up framework and co-ordinating work on drafting annual reports;
- Gathering financial and monitoring information.

And in support of the Programme Monitoring Committee:

- Preparing and circulating invitations, agendas and papers;
- Drafting the minutes of meetings.

The use of technical Assistance for resourcing of the secretariat is described in the Technical Assistance measures.

### **2.4.3 Management Arrangements**

#### **2.4.3.1 General**

The Government Office, on behalf of the Managing Authority, seeks the advice of the Programme Monitoring Committee on what sort of management arrangements should be used to assist the Managing Authority in managing and implementing the programme. The Government Office will also consult the Programme Monitoring Committee on changes to those arrangements which become necessary during the course of the programme.

It is the Government Office, on behalf of the Managing Authority, who will agree the management arrangements for the programme taking into account the advice of the Programme Monitoring Committee. The Government Office will ensure that such arrangements are recorded. The Government Office (acting on behalf of the Managing Authority), remains responsible at all times for the management of the programme.

In managing the programmes, the Managing Authority, in consultation with the Programme Monitoring Committee, will seek inter alia to ensure the following, putting in place, monitoring, and adapting arrangements as necessary to achieve:

- The effective delivery of priorities and measures, and their outputs and targets
- Encouragement to and support for the development of projects, particularly amongst those who have little experience of obtaining assistance from the Structural Funds. Capacity building where necessary
- The effective implementation of cross-cutting themes
- Conversion of the strategic focus into good quality projects
- Effective, fair and timely appraisal of project proposals
- The effective dissemination of good practice.

Details of the management arrangements in place at any one time will be held by the programme secretariat and be available on request.

In respect of management arrangements, the Programme Monitoring Committee (whose composition and duties are detailed in section 3.2.1) also:

- advises the Government Office on whether any part of the programme should be delivered through Action Plans (see below);
- advises the Government Office on whether there is any need for any working groups (see below).

To encourage the full participation of partnerships in the decision making process for the programme, the Managing Authority, in consultation with the Programme Monitoring Committee will set up project working groups to consider and appraise projects (except those falling within the delegation to Accountable Bodies). The approval of projects by the Government Office shall take full account of the recommendations of the working group. Offer letters will be sent out by the Government Office on behalf of the Managing Authority (with the exception of Actions Plans).

The Managing Authority, in consultation with the Programme Monitoring Committee may decide to establish other working groups. The membership and remit of these groups will be proposed by the Programme Monitoring Committee. They report through the Programme Monitoring Committee to the Government Office. They may operate on a limited or long term basis.

Working groups may for example be set up on the basis of priority, measure, theme, geographical area, particular expertise or cross cutting issues (such as publicity or evaluation). The membership of the groups will depend on the remit of the working group. Working groups may also report to the Programme Monitoring Committee on matters such as best practice and progress. They may carry out other functions agreed by the Programme Monitoring Committee and by the Government Office

Two forms of delivery mechanisms are envisaged: 1) project selection organised through competitive bidding rounds and 2) Action Plans. If any further delivery mechanisms are considered necessary, the PMC will advise the Government Office, which on behalf of the Managing Authority will take the decision.

#### **2.4.3.2 Project selection**

The programme will be implemented through the support of operations as defined in Art 9(m). Partners proposing to submit projects for appraisal will be encouraged, where appropriate, to group these as a coherent and integrated response to an identified need or opportunity as defined in the Single Programming Document.

Normally, individual applications for support from the programme, will be sent to the Secretariat in response to the publication of a call for applications on either a priority, thematic or rolling basis. Applicants submit their applications to the Government Office by the announced date, detailing the project proposed and its contribution to the programme objectives.

The Secretariat on behalf of the Managing Authority appraises the application against project selection criteria agreed by the Programme Monitoring Committee. Those which meet an agreed standard, are then referred to a selection working group for qualitative analysis. Where any member of the group has an interest in the project being assessed, this must be declared and they will normally take no further part in the proceedings that relate to that project. If they do so, this fact should be recorded, along with the outcome of the decision reached on that project.

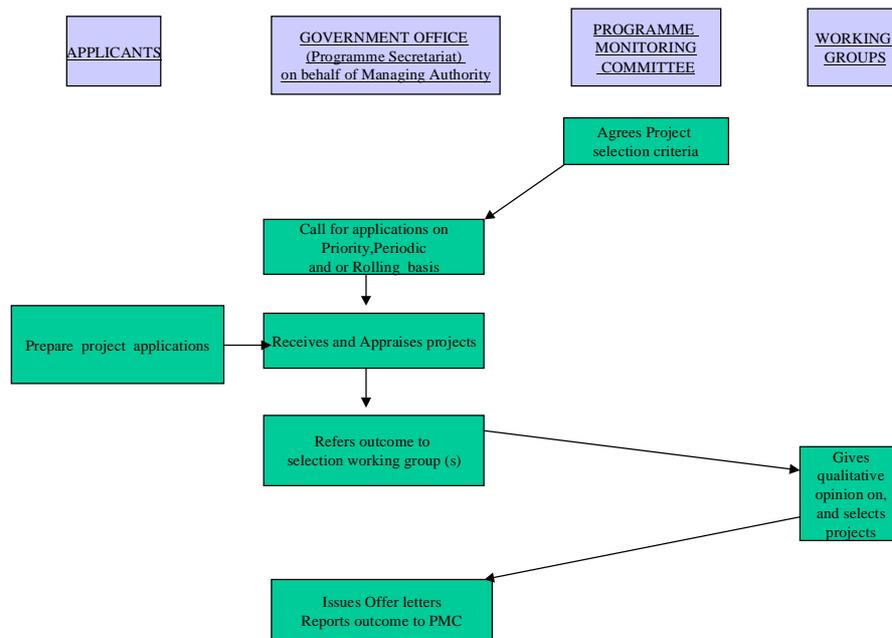
The Working Group then gives its opinion on which of the projects presented to it should receive support.

The Government Office, on behalf of the Managing Authority, issues grant offer letters accordingly. This should specify the outputs and financial performance expected of the project.

Project applicants must keep full records of their activities, expenditure and outputs in a form agreed with the Government Office, to provide the audit trails required under Regulation 2064/97. They must also report the progress of their projects when presenting grant claims to the Government Office.

The Government Office must monitor the progress of projects regularly and record on a computer system, financial and statistical information on the projects and carry out physical checks on project expenditure as well as on progress towards the achievement of targets as agreed in the offer letter.

The arrangements are illustrated in the following flow chart:



### 2.4.3.3 Action Plans

There is an option to implement the whole or part of the programme through 'Action Plans'. Action Plans are drawn up by partnerships who will be representative of all those with a key interest in the proposed activities to be carried out in the Action Plan. They will reflect the content of the Action Plan proposal and the characteristics of the area or socio-economic group at which it is aimed. The Managing Authority will ensure that the partnerships are genuine, with the active involvement of the relevant players and interests for the duration of the Action Plan.

Action Plans will bring together a number of related projects so as to maximise co-ordination between structural funds and domestic regeneration and economic development. They may target small geographical areas to provide focussed support for areas in need or to cover larger geographical areas; or to target specific themes such as business support or tourism. They can combine both geographical and thematic objectives.

- In deciding whether priorities can be implemented in whole or in part through an Action Plan and in considering individual applications for Action Plans the managing authority will take into account the nature of the priorities concerned. An Action Plan

may contribute to the implementation of one or more priorities The Managing Authority will ensure that the Action Plans conform with the overall strategy, including the geographic and thematic targeting of the approved programme.

- The managing authority will establish a financial limit (a maximum amount of structural funds grant applied for) above which it will have responsibility for project appraisal and approval. Responsibility for the appraisal and approval of projects below this 'delegation limit' will be delegated to the Action Plan Accountable Body.
- In approving the appointment of an Accountable Body the managing authority must ensure that the Accountable Body is solvent and has proven competence and experience in administration and financial management and capacity to fulfil the tasks and in particular has effective systems of management in place to appraise and approve projects (below their agreed delegation limit) and to monitor their subsequent performance.
- The managing authority will also ensure that the Accountable Body has sound financial systems in place which provide for the proper disbursement of structural funds and compliance with all relevant regulations and conditions. In particular it will be for the managing authority to ensure the Accountable Body can maintain a sufficient audit trail in line with Annex I of Regulation 2064/97 and can provide for a proper separation of the functions of grant claims checking, authorisation and payment.
- Where the final beneficiary is also the Accountable Body under the action plan, there must be a functional separation between those responsible for the project implementation and those responsible for fulfilling the tasks and obligations delegated under the Action Plan.
- In approving an application for an Action Plan the managing authority must set out clearly all the tasks and responsibilities of the Accountable Body and specify all the targets to be achieved by the Action Plan. The approval process must include a formal, legally binding declaration of acceptance of these terms by the Accountable Body.  
To safeguard against conflicts of interest in handling project appraisal and approval the Accountable Body must show that it has formal written procedures for projects below the delegation limit which include the following:
  - Project appraisal is carried out by a panel made up of representatives of the Action Plan partnership.
  - As a general rule, members of the appraising panel must be independent of and have no interest in the project being appraised.
  - Arrangements to ensure that those who develop a project or will be responsible for its implementation should not normally be involved in its appraisal.
  - The approval of projects will be carried out by the appraisal panel using criteria determined by the PMC and a project appraisal checklist.
  - Clear instructions that in the event members of the appraisal panel do find that they have an interest in a project that they declare that interest and normally take no further part in the proceedings that relate to that project. If they do, this fact should be recorded, along with the outcome of the decision reached on the project.
 Three groups are responsible for monitoring the progress of Action Plans; project applicants; the Action Plan Accountable Body and the managing Authority. The following safeguards must be in place to ensure Action Plan monitoring is effective:

### **Project Applicants:**

- Must keep full records of their activities, expenditure and outputs in a form agreed with the Action Plan Accountable Body;
- Must report the progress of their projects to the Accountable Body accurately and on time.

**Action Plan Accountable Body:**

- Must monitor the progress of projects regularly and report in accordance with the requirements of the managing authority;
- Must maintain records of each project within the Action Plan to provide an audit trail to comply with regulation 2064/97 (Annex I).
- Must carry out physical checks on project expenditure.

**Managing Authority (Programme Secretariat)**

- Specify the outputs and financial performance expected of the Action Plan in its letter of approval.
- Carry out the controls required in Regulation 2064/97 and include physical checks of a sample of Action Plan projects.
- Carry out checks on the implementation of the management and financial control systems (including the operation of the appraisal and approval mechanisms).
- Require Accountable Bodies to provide annual, externally audited statements of grant expenditure.

## **2.5 Management of the operations**

### **2.5.1 General**

This section deals with management at the level of the operation, defined in accordance with Art 9 (k) as any project or action carried out by the final beneficiaries of assistance.

### **2.5.2 Eligibility**

In accordance with Art. 30, expenditure in respect of operations is eligible for a contribution from the Structural Funds only if these operations form part of the programme.

The starting date for the eligibility of expenditure for the Cornwall and Scilly Objective 1 Programme is 15 November 1999, i.e. the date when the draft SPD has reached the Commission. Expenditure may not be considered eligible for a contribution from the Funds if it has actually been paid by the final beneficiary before this date.

The final date for the eligibility of expenditures relates to payments made by the final beneficiaries. For this programme, the final date for eligibility, as laid down in the decision is 31 December 2008. This date is extended to 30 April 2009 for expenditure incurred by bodies granting aid in the case of aid schemes. The final date for eligibility of expenditure may be extended by the Commission at the duly justified request of the United Kingdom.

The relevant national rules shall apply to eligible expenditure except where, as necessary, the Commission lays down common rules on the eligibility of expenditure. Common rules of eligibility are contained in the Commission regulation, which will soon enter into force, laying down detailed rules for the implementation of Council

Regulation (EC) No 1260/99 as regards eligibility of expenditure of operations co-financed by the Structural Funds.

The United Kingdom will ensure that an operation retains the contribution from the Funds only if that operation does not, within five years of the date of the decision on the contribution of the Funds, undergo a substantial modification:

- (a) affecting its nature or its implementation conditions or giving to a firm or a public body an undue advantage; and
- (b) resulting either from a change in the nature of ownership in an item of infrastructure or a cessation or change of location in a productive activity.

The United Kingdom will inform the Commission of any such modification. Where such a modification occurs, provisions in terms of financial corrections, as defined in Section 7, will apply.

### **2.5.3 Eligibility criteria**

Before operations can be considered for funding under the Programme they must:

- As a general rule, operations must be located in the programme eligible area. According to Rule 12 of the Commission regulation on the eligibility of expenditure, provided certain conditions are satisfied, the managing authority may accept for co-financing operations located outside in those cases where the programme area will benefit wholly or partly from them.
- Contribute to one or more of the Programme objectives.
- Correspond to one or more of the activities defined in the programming complement.
- Quantify outputs and provide details of clear and attainable targets.
- Demonstrate an additional and sustainable benefit to the socio-economic development of the area.
- Be eligible for Structural Funds assistance.
- Have a sound funding package in place, identifying the recipient of the funds and the sources of match funding.
- Not duplicate existing activity.
- Not substitute for existing or planned expenditure.

### **2.5.4 Selection**

Eligible operations will be processed, with a view to select those for which assistance will be granted.

### **2.5.5 Selection Criteria**

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The Monitoring Committee will consider and approve the criteria for selecting the operations financed under each measure within six months of approval of the SPD. Priority considerations which will help to measure the desirability of the operation will include:

- Job creation, or attainment of other specified relevant outputs (for ESF, the Objective 3 CSF minimum list)
- Value for money
- Leverage of extra investment, especially from the private sector
- The strategic nature of the scheme in its regional context
- Synergy with other schemes and measures, including linkage between different Structural Funds schemes
- Demonstration of a positive environmental impact where possible or minimisation of any negative impacts.

## **2.6 Compliance with Community policies**

### **2.6.1 Introduction**

According to Art. 12, operations financed by the Structural Funds must be in conformity with the provisions of the Treaty, with the instruments adopted under it and with Community policies and actions, including the rules on competition, on the award of public contracts, on environmental protection and improvements and on the elimination of inequalities and the promotion of equality between men and women.

This compliance is verified in the appraisal of the operations as well as during their implementation through monitoring.

### **2.6.2 Competition policy**

#### **2.6.2.1 General**

If the Community is to part-finance State aid schemes, the Commission must approve such aid in accordance with Articles 87 and 88 of the EC Treaty. Under Article 88 (3), Member States must notify the Commission of any measure granting, altering or extending State aids to firms.

#### **2.6.2.2 Treatment of aid schemes in the SPD**

In accordance with Articles 9(m), 18.2(b) and 19.3(b) the Single Programming Document contains a summary description of the measures planned to implement the priorities, including the information needed to check compliance with *state aid* pursuant to Article 87 of the Treaty.

In order to fulfil the requirements of the above regulation, the UK authorities have provided a list of *state aids* by measure, according to the format requested by the Commission. The list of state aids is included in Annex 3 to this programme.

As a general rule, the list referred to above covers all *state aids* already notified and approved by the Commission and which shall be co-financed by the various measures of the programmes.

Besides *state aid* already notified and approved, state aids or ad hoc aid granted under the measures will be either compatible with the de minimis rule or will be applied, when adopted, under an exemption regulation in accordance with Council Regulation No 994/98 of 07.05.1998 (O.J.E.C. L 142 of 14.05.1998).

As regards new aid schemes and new notifiable ad hoc grants not foreseen in the initial decision approving the SPD, the following provisions shall apply:

- The UK will notify to the Commission (DG Competition) for approval any new aid schemes and ad hoc grants;
- Once the new aid schemes or ad hoc grants have been approved, and following the approval by the Programme Monitoring Committee of the insertion of these additional approved aid schemes and ad hoc grants in the SPD, the UK will submit a revised list of state aid schemes and ad hoc grants to the Commission (DG Regional Policy);
- In accordance with Art 30 of the General Regulation, the starting date for eligibility of expenditure will be the date on which the UK submits to the Commission the request to modify the assistance by a formal Commission decision.

The above provisions deal with *state aids* co-financed by the European Social Fund and the European Regional Development Fund. As regards EAGGF co-financed state aids, articles 51 and 52 of Council Regulation (EC) 1257/1999, on support for rural development under EAGGF, will apply. As regards FIFG co-financed state aids, provisions under Council Regulation (EC) No 1263/1999 on the FIFG and articles 18 and 19 of Council Regulation 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector will apply.

### **2.6.2.3 De minimis**

Aid which complies with the conditions as defined in the Commission Communication 96/C68/06 on "de minimis" rules need not be notified and does not require prior approval. The ceiling for aid covered by the "de minimis" rule is 100,000 euro over a three-year period beginning when the first "de minimis" aid is granted. The method of calculating the cash grant equivalent of aid received in forms other than grant is explained in the letter sent to Member States on 23 March 1993 by the Commission. The ceiling applies to the total of all public assistance considered to be "de minimis" aid and will not affect the possibility of the recipient obtaining other aid under schemes approved by the Commission. This ceiling applies to all kinds, irrespective of the form it takes or the objective pursued, with the exception of export aid, which is excluded from the benefit of the "de minimis" rule. The public assistance which is allowed up to the 100,000 euro ceiling comprises all aid granted by the national, regional or local authorities, regardless whether the resources are provided from domestic sources or are part-financed by the European Union. The Managing Authority must establish an adequate machinery to ensure that for the same recipient of aid under separate measures, all of which are covered by the "de minimis" rule, the total amount of aid does not exceed 100,000 euro over a period of three years. The

"de minimis" rule does not apply to State aid relating to agricultural products listed in Annex I of the EC treaty.

#### **2.6.2.4 Block exemptions**

By Council Regulation No 994/98 of 7 May 1998, the Commission has been enabled for the first time to adopt regulations declaring certain categories of State Aid compatible with the common market and exempting them from the notification requirements laid down in Art. 88(3) of the EC Treaty. At the same time, this regulation has provided a legal basis for the "de minimis" rule.

Guidelines and frameworks from the Commission have during recent years governed the categories covered by the future block exemption regulations. These will be abolished once the block exemption regulations will have been adopted.

Three draft block exemptions are being prepared. These are the following:

"De minimis" (see point 2.6.2.3. above).

Small and Medium-Sized Enterprises, as defined in Section 2.6.5.

Training Aid.

Until block exemptions on SMEs and training aid are adopted, notification will be required.

#### **2.6.2.5 Specific sectors**

Specific obligations as regards notification apply to aid granted in certain industrial sectors:

Steel

Coal

Shipbuilding and repair

Synthetic fibres

Motor vehicle Industry

Transport

Agriculture

Fisheries and Aquaculture

#### **2.6.2.6 Employment Aid**

In the field of employment aids the guidelines on aid to employment 95/C 334/04 which specify the scope of Articles 87 and 88 of the Treaty and clarify the concept of State aid to employment and the notification obligations are applicable.

#### **2.6.2.7 Regional Aid**

As regards maximum aid intensity ceilings, the total amount of public aid, independently of its origin in State resources (central, regional, local authorities) Community funding or combination of both, should not exceed the aid intensity ceiling determined by the map of assisted areas for the UK. Structural Fund support to aid schemes can be granted only once the new Regional Aid map for the UK (2000-2006) is approved.

#### **2.6.2.8 Large Investment Projects**

As regards large investment projects, pursuant to Article 88(3) of the EC Treaty, any proposal to award regional investment aid within the scope of an approved scheme or ad hoc aid where either of the following criteria are met has to be notified to the Commission:

- the total project cost is at least 50 million € (15 million in the case of projects carried out in the textile and clothing sector), and the cumulative aid intensity expressed as a percentage of the eligible costs is at least 50% of the regional aid ceiling for large companies in the area concerned and aid per job created or safeguarded amounts to at least € 40,000 (€ 30,000 in the case of projects carried out in the textile and clothing sector);
- the total aid is at least 50 million €

### **2.6.3 Award of contracts**

Implementation of measures part-financed by the Structural Funds must comply with Community requirements as set out in as set out in the EC Treaty (Art. 12, 28, 43 and 49) and in the Public Procurement Directives (Directives 92/50 - services, 93/36 public supplies, 93/37 - public works as modified by Directive 97/52 implementing the WTO agreement on public procurement within EC law; Directive 93/38 - public procurement contracts in the telecommunications, water, energy and transport sector as modified by Directive 98/4, implementing the WTO public procurement agreement.

In accordance with Art. 34.1 (g), notices sent for publications in the Official Journal of the European Communities will specify those projects in respect of which a contribution from the Structural Funds has been applied for or granted.

### **2.6.4 Protection of the environment**

In the interests of proper programming of structural spending and, at a later stage, proper implementation of programmes, Member States must have fulfilled their obligations under the Community policies and schemes for protecting and improving the environment, in particular the "Natura 2000" network. Where this is not yet the case, the Commission considers that Member States should submit their lists of sites to be protected under Natura 2000, together with the related scientific information, as soon as possible. The programming documents for these countries (CSFs, SPDs and OPs) must contain clear and irrevocable commitments to guarantee consistency of their programmes with the protection of sites as provided for under Natura 2000. An explicit part of such a commitment should be to send in proposed lists under the "Habitats" Directive (Article 4(1)) together with the related scientific information within a stipulated time, which should be as short as possible. This list was due to be formally presented to the Commission by January 2001. Since that date the United Kingdom has submitted a series of part lists with a view to completing its national list. It should be noted that this commitment relates solely to presentation by the Member State of lists at the right geographical level. In line with its commitments and pending presentation of its list, the United Kingdom gives a formal guarantee that it will not allow sites protected under Natura 2000 to deteriorate during operations part-financed by the Structural Funds. It also committed itself to providing the Commission, when presenting the programming complement for this programme, with information about the steps they have taken to prevent the deterioration of sites protected or to be protected under Natura 2000. The Commission will be formally notifying Member States concerned when it is about to take immediate and appropriate action in the event of irregularities concerning the conditions of implementation, in accordance with the General Regulation on the Structural Funds (Regulation (EC) No 1260/1999), i.e. in this case specifically a failure to comply with the commitment to present lists of sites protected or to be protected. Such appropriate action will include recourse by the Commission to Article 39(2) of the General Regulation on the Structural Funds regarding the suspension of payments, except where the individual circumstances warrant otherwise and consistent with the principle of proportionality. As regards actual operations, it is important to note that the Commission will apply Article 12 of the General Regulation on the Structural Funds on the compatibility of operations with the provisions of the EC Treaty and with Community schemes and the policies. Infringements of Community legislation will be acted upon under Article 226 of the EC

Treaty. The fact that a Member State has committed itself to submitting a list within a stated deadline will have no effect on current infringement proceedings. Finally, the Commission may introduce individual monitoring of measures taken or envisaged by Member States which are likely to affect sites protected under Natura 2000. The Commission may in particular, in co-operation with the Member State concerned, have recourse to Article 38(2) of the General Regulation on the Structural Funds concerning controls on the ground. At meetings of the Monitoring Committee responsible for an assistance package, the Commission representative will pay close attention to any measure or project likely to affect sites protected under Natura 2000 and will make any necessary recommendations to the management authority concerned. The Commission will also consider carefully all complaints that may be notified to it.

#### **2.6.4.1 Polluter Pays Principle**

The application of the Polluter Pays Principle will have regard to the Commission Technical Paper 1 on the same subject. In relation to the disposal of waste, waste charges will apply in accordance with the polluter pays principle as set out in Art. 15 of the Waste Framework Directive 75/442/EEC).

#### **2.6.4.2 Environmental Impact Assessment**

All projects enjoying co-financing from the Structural Funds will be in compliance with Directive 85/337/EEC as amended by 97/11/EEC. As a result of this consideration, it should either be stated that they do not have any significant, negative environmental impact, or a description of a possible, negative impact as well as of the mitigating measures should be presented.

In accordance with Art. 26, applications for assistance concerning major projects as defined in Section 2.8 must include information allowing an evaluation to be made of the environmental impact and the implementation of the precautionary principle and the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay and compliance with the Community rules on the environment).

### **Waste**

In relation to waste project Community funding may be used to finance waste infrastructure which is in conformity with up-to-date waste plans prepared for the regions and local authorities concerned in accordance with the requirements of these directives.

### **Urban Waste Water Treatment Directive**

In proposing Community funded interventions in urban wastewater treatment, project promoters should make provision for the probability that additional water bodies will be designated as sensitive areas under Article 5 and Annex IIA of Directive 91/271/EEC on Urban waste Water Treatment.

### 2.6.5 Small and Medium-Sized Enterprises

The provisions of Commission Recommendation of 3 April 1996 (OJ L 107 of 30.04.1996) concerning the definition of an SME shall apply to the SMEs which benefit from Structural Fund assistance under this programme, without affecting the continuation of aid schemes approved by the Commission before entry into force of this recommendation.

For the purpose of this programme, SMEs are defined as enterprises which:

- Have fewer than 250 employees,
- Have either an annual turnover not exceeding 40 Million euro, or an annual balance-sheet not exceeding 27 million euro,
- Conform to the criterion of independence (as defined in paragraph 3 of OJ L 107 of 30.04.1996, page 8). Independent enterprises are those, which are not owned as to 25% or more of the capital or the voting rights by one enterprises, or jointly by several enterprises, falling outside the definition of an SME or a small enterprise, whichever may apply. This threshold may be exceeded in the following two cases:
  - If the enterprise is held by public investment corporations, venture capital companies or institutional investors, provided no control is exercised either individually or jointly;
  - If the capital is spread in such a way that it is not possible to determine by whom it is held and if the enterprise declares that it can legitimately presume that it is not owned as to 25% or more by one enterprise, or jointly by several enterprises, falling outside the definition of an SME or a small enterprise, whichever may apply.

Where it is necessary to distinguish between small and medium-sized enterprises, the "small enterprise" is defined as an enterprise which:

- Has fewer than 50 employees,
- Has either an annual turnover not exceeding 7 million euro, or an annual balance-sheet not exceeding 5 million euro,
- Conform to the criterion of independence as defined above.

### 2.6.6 Equal opportunities for men and women

Operations part-financed by the Structural Funds must comply with, and where appropriate contribute to, Community policy and legislation on equal opportunities for men and women. In particular, consideration should be given to opportunities concerning investments and training which facilitate the return to the labour market of people with children.

The appraisal of operations seeking co-financing from Structural Funds and which are not specifically oriented towards the improvements of equal opportunities, should include an assessment as regards their impact of equal opportunities. This should be taken into account for the purposes of modulating the grant rate in accordance with Art. 29.

The managing Authority will produce disaggregated statistics by gender on the basis of available data. It will also ensure that evaluations measure the extent to which the principle of promoting equal opportunities has been taken into account in the implementation of this programme, with particular regard to the involvement of women in general measures and to the implementation, the relevance and the outcome of such measures. It intends to develop, where appropriate, adequate evaluation procedures, tools and indicators to this end. Technical assistance will be made available to support the mainstreaming of equal opportunities between men and women.

The annual and final implementation reports referred to in Section 2.10.1 will contain a specific chapter describing the actions taken in the framework of the programme in order to ensure the implementation of equal opportunities objectives of the Programme, and to state to which extent the targets set out in the Programme have been met.

### **2.6.7 Common fisheries policy**

Structural measures implemented under this SPD in the fisheries sector, in aquaculture and the processing and marketing of fishery and aquaculture products must comply with the common fisheries policy. In particular they are subject to the specific provisions laid down in Council Regulations (EC) N° 1263/99 and N° 2792/99 even if, exceptionally, another Structural Fund other than FIFG is asked to contribute.

Measures for the renewal of the fleet and the modernization of fishing vessels must comply with the Council's decisions pursuant to Article 11 of Council Regulation (EEC) N° 3760/92 and with the multi-annual guidance programmes for the fishing fleets referred to in Article 4 of Regulation (EC) N° 2792/99 and finally with the provisions of Title II of the latter Regulation. To this end, priority will be given to the implementation of measures to adjust fishing effort, particularly those involving the permanent withdrawal of fishing capacity which constitutes a priority measure in the sector.

Measures concerning the development and protection of aquatic resources, aquaculture, fishing port facilities, processing and marketing and inland fishing must contribute to lasting economic benefits from the structural improvement in question, offer an adequate guarantee of technical and economic viability, and in particular must not create surplus production capacity.

## **2.7 Information and publicity**

Information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds shall conform to the provisions of Art. 46 and the enabling Commission Regulation on information and publicity, which is in the process of being adopted.

The enabling Commission Regulation puts forward a common methodology and approach for persons responsible for carrying out information and publicity measures which takes account of the specific situation of each Member State. The Managing Authority responsible for implementing the programme will be responsible for publicity on the spot. Publicity will be carried out in co-operation with the European Commission, which will be informed of measures taken for this purpose.

The information and publicity measures put in place will be presented in a structured form ("communication plan"), clearly setting out the aims and target groups, the content and strategy of the measures and an indicative budget. The communication plan will be set out in the programming complement in accordance with Art. 18.3(d).

The amounts set aside for information and publicity are specified in the Technical Assistance measure.

The Government Office will designate one or more persons to be responsible for information and publicity and will inform the Commission of those designated.

## **2.8 Major projects**

As part of the programme, the Structural Funds may finance expenditure in respect of major projects, as defined in Article 25, i.e. those:

- which comprise an economically indivisible series of works fulfilling a precise technical function and which have clearly identified aims, and
- whose total cost taken into account in determining the contribution of the Funds exceeds EUR 50 million.

Where the managing authority envisages the Funds' contributing to a major project, it shall inform the Commission in advance and provide the information necessary for the Commission's appraisal of the project as set out in Art. 26. To this end a standard application form to assist the Managing Authority in the submission of the necessary information for major projects has been prepared by the Commission.

The Managing Authority will ensure that a cost-benefit analysis, referred to in Art. 26, will be drawn up by an organisation truly independent of the project applicant. The cost may be supported by technical assistance from the programme, with co-financing provided either by the managing authority or the project applicant at the request of the managing authority.

The Commission will appraise major projects, consulting the European Investment Bank where necessary, in the light of the following factors:

- the type of investment planned and, where applicable, the revenue expected;
- the results of the cost-benefit analysis;
- the results of the evaluation of the impact on the environment;
- consistency with the priorities of the programme;
- compliance with other community policies;
- the expected economic and social benefits particularly in terms of employment, having regard to the financial resources deployed;
- the co-ordination of the financial instruments and the combination of grants and loans;

Within two months of receipt of the information referred to above (or three months where consultation of the EIB proves necessary), the Commission shall decide to confirm or amend the level of Community assistance to the project. If it considers that the project appears not to justify either part or all of the contribution from the Structural Funds, it may decide to withhold part or all of that contribution, stating the reasons for so doing.

Separate notification pursuant to Art. 88 of the EC Treaty is required for large investment projects meeting the criteria of the multisectoral framework on regional aid for large investment projects as indicated in Section 2.6.2.7.

## **2.9 Global grants**

The UK Government is committed to implementing a reasonable share of the Cornwall and Scilly Objective 1 programme by means of small grants, in line with the requirements of the Article 4.2 of the ESF Regulation (EC) No 1262/99. Global grants are made to intermediary bodies to fund small organisations or individuals, in order to achieve one or more objectives of the programme. The small organisations assisted do not need to find funding to match the ESF grant. The grants are particularly suited to local social capital projects. Under the terms of the Cornwall and Scilly Objective 1 SPD the match funding will be provided by the organisation making the grant.

Intermediary organisations will be able to apply to make grants to small organisations or individuals, within any of the priorities and measures. Selection of the intermediaries will take place as part of the normal regional selection round, and the application will be in competition with other applicants across the whole priority/measure. The intermediary organisation must be able to provide the appropriate match funding and undertake to monitor the use of the grant and provide the necessary beneficiary and outcome information for monitoring and evaluation purposes. The standards of financial control, audit, monitoring and evaluation shall be compatible with those applicable to other project organisers. The reasonable administrative costs of operating the system may be included in the total project costs, and an intermediary contributing its own staff to the administration may count the costs of such staff as contributing match funding in kind. There will be no upper limit to the share of the programme which can be implemented via global grants but we will aim to ensure that at least 1% of the programme is spent through global grants.

## **2.10 Implementation Reports**

### **2.10.1 Annual report**

In accordance with art. 37, the managing authority submits to the Commission within six months of the end of each full calendar year of implementation an annual implementation report. The first report will be due by 30 June 2002.

The report must be examined and approved by the Monitoring Committee before it is sent to the Commission.

Once the Commission has received the report, it shall indicate within a period of two months if the report is considered unsatisfactory, giving its reasons; otherwise, the report shall be deemed to be accepted.

The annual report shall include the following information:

- Any change in general conditions which is of relevance to the implementation of the programme, in particular the main socio-economic trends, changes in national, regional or sectoral policies or in the frame of reference (i.e. the document which sets the context for assistance concerning employment and human resource development throughout the UK territory, and which identifies the relationship with the priorities set out in the National Action Plan for Employment), and, where applicable, their implications for the mutual consistency of assistance from the different Funds and consistency between Fund assistance and that from other financial instruments;
- The progress in implementation of priorities and measures for each of the Funds in relation to their specific targets, with a quantification, wherever and whenever they lend themselves to quantification, of the physical indicators and indicators of results and of impact referred to in Article 36 at the appropriate level (priority or measure);

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- The financial implementation of the programme summarising for each measure the total expenditure actually paid out by the paying authority and a record of the total payments received from the Commission and quantifying the financial indicators referred to in Article 36.2.c.
  - Financial implementation of the EAGGF Guidance Section for the measures referred to in Art. 33 of Council Regulation (EC) No 1257/1999 will be presented at the level of the total amount of the financial implementation;
  - The steps taken by the managing authority and the Monitoring Committee to ensure the quality and effectiveness of implementation, in particular:
    - Monitoring, financial control and evaluation measures, including data collection arrangements;
    - A summary of any significant problems encountered in managing the programme and any measures taken, including action on recommendations for adjustments made following the review between the Commission and the Member State or requests for corrective measures;
    - The use made of Technical Assistance;
    - The measures taken to ensure publicity for the programme.
  - The steps taken to ensure compatibility with Community policies and to ensure co-ordination of all the Community Structural Assistance, having regard to the frame of reference and rural development and fishery structures
  - A separate section, where appropriate, on the progress and financing of major projects and global grants.

### **2.10.2 Final report**

A final report will be submitted to the Commission at the latest six months after the final date of eligibility of expenditure.

The same content and procedure (submission to the Commission by the managing authority after examination and approval by the Monitoring Committee) for annual reports apply to the final report.

In the case of a final report, the Commission will indicate if the report is considered acceptable within a period of five months from receipt of the report.

## **2.11 Annual implementation review**

In accordance with Art. 34.2, every year, when the annual implementation report is submitted, the Commission and the Managing Authority shall review the main outcomes of the previous year, in accordance with the following arrangements agreed between the Commission and the UK within six months of the approval of the programme:

After this review, the Commission may make comments to the UK Government and the managing authority. The UK shall inform the Commission of the action taken on these comments. Where in duly substantiated cases the Commission considers that the measures taken are inadequate, it may make recommendations to the UK Government and the managing authority for adjustments aimed at improving the effectiveness of the monitoring or management arrangements for the programme, together with the reasons for any such recommendations. If it receives any such recommendations, the managing authority shall subsequently demonstrate the steps taken to improve the monitoring or management arrangements or it shall explain why such steps have not been taken.

According to Art.32.3, the acting upon the Commission recommendations within the specified time period (or the communications by the United Kingdom of the reasons why no measures have been taken), where those recommendations are intended to remedy serious shortcomings in the monitoring or management system which undermine proper financial management of the programme, is one of the conditions subject to which interim payments shall be made by the Commission.

## **3 MONITORING**

### **3.1 General**

Monitoring will be carried out by the Managing Authority assisted by the Programme Monitoring Committee. This monitoring will ensure the quality and effectiveness of implementation through assessment of progress towards achievement of the financial, physical and impact indicators defined in the SPD. It will involve the organisation and co-ordination of the data relating to the financial, physical and impact indicators and those concerning qualitative aspects of implementation.

### **3.2 The Programme Monitoring Committee**

#### **3.2.1 General provisions**

In accordance with Art. 35, the programme will be supervised by a programme Monitoring Committee which will be set up no more than three months after the programme has been approved.

#### **3.2.2 Composition**

The membership of the Monitoring Committee will include the principal regional partners including the Government, the private sector, the voluntary sector, and economic and social partners, members of local authorities, and those representing the environment and equal opportunities, the latter particularly taking account of the need to promote equality between men and women.

A balanced participation of men and women will be a consideration in representation on this Committee.

The Commission and, where appropriate, the EIB shall participate in an advisory capacity.

The Monitoring Committee will be chaired by a representative of the managing authority.

### **3.2.3 Duties of the Monitoring Committee**

The Programme Monitoring Committee will be chaired by the Government Office Regional Director or his/her nominee. The Committee will draw up its own rules of procedure and agree them with the Government Office secretariat acting on behalf of the Management Authority. The Committees duties are defined in Article 35 and 36.

At its first meeting the Committee shall approve detailed provision for the proper and efficient discharge of the duties assigned to it, including, the frequency of its meetings. These provisions shall include particularly:

The procedures and arrangements for selecting individual projects and actions, including the selection methodology and the operational selection criteria:

The arrangements for informing it about the fate of individual projects submitted for Community assistance;

Arrangements to review progress towards achieving the specific objectives of the programme.

The Programme Monitoring Committee shall satisfy itself as to the effectiveness and the quality of the implementation of the SPD. To this end:

- It shall confirm or adjust the programme complement, including the physical and financial indicators to be used to monitor the assistance. Its approval must be obtained before any further adjustments are made and approved by the MC;
- Within six months of approval of SPD, it shall consider and approve the criteria for selecting the operations financed under each measure;
- It shall periodically review progress made towards achieving the specific objective of the programme;
- It shall examine the results of implementation, particularly the achievement of the targets set for the different measures and the mid-term evaluation referred to in section 4.2;
- It shall consider and approve the annual and final implementation reports before they are sent to the Commission;
- It shall consider and approve any proposals to amend the contents of the approved SPD;
- It may propose to the managing authority any adjustments or review of the programme and programme complement in order to help attain the SPD objectives, or to improve the management of the programme, including financial management.

Computer systems will be set up to gather reliable financial and statistical information on implementation. They will keep records and provide common information for all projects.

### **3.3 Monitoring indicators**

According to Art. 36, the managing authority and the Monitoring Committee will carry out the monitoring by reference to the physical and financial indicators specified in the SPD and in the programme complement. These are developed taking into account the indicative methodology and the list of examples of indicators published by the Commission in its Working Paper 3 "Indicators for monitoring and evaluation: an indicative methodology" sent to the UK on 29 July 1999. For the labour market and HRD interventions support by the ESF, the programme is expected to use the Objective 3 Community Support Framework indicators for monitoring.

- The indicators relate to the specific character of the programme, its objectives and the socio-economic, structural and environmental situation of the UK and its regions as appropriate. These indicators include those used for allocating the performance reserve and referred to under Section 5.
- The indicators will show the specific targets, quantified where they lend themselves to quantification, for the measures and priorities and their mutual consistency
- The stage reached in the programme in terms of physical implementation, results and, as soon as practicable, its impact at the appropriate level (priority or measure)

The progress of the financing plan

Where the nature of the programme permits, the statistics will be broken down by sex and by the size of the recipient undertakings.

### **3.4 Categorisation of fields of intervention**

In accordance with Art. 36, the Commission has drawn up a proposed list of categories of fields of intervention of the Structural Funds in order to assist with the tasks relating to the reporting on the activities of the Structural Funds.

The list will also facilitate follow-up and monitoring and provide solid foundations on which to base the evaluations. The programme complement will show the link between each measure in the programme and the corresponding category in the list. The annual implementation reports should also show the link.

### **3.5 Annual Monitoring Business Plan**

As well as the review mechanism to be operated under Article 37, it is agreed that there will be supplementary arrangements made to enable the Programme Monitoring Committee to satisfy itself that projects are coming forward as quickly as anticipated; and if they are actually producing the projected outputs.

The supplementary review will therefore be based upon estimates of commitment and payment each year against each measure, and subsequent reporting of actual outturn in terms of commitments, payments and outputs against targets.

At its first meeting, the Programme Monitoring Committee will receive a report from the secretariat which will set out their best estimate of anticipated operations for the rest of the calendar year 2000. The report will include a list of the expected and identified operations, where these are possible to be identified, and the expected outputs to be achieved by the end of the calendar year. This will be viewed as the first step toward attaining the goals set out in the programme document.

Within three months of the end of 2000, the Programme Monitoring Committee will receive and consider a report on actual progress during the first period of implementation. This will be accompanied by a list of the estimated operations/targets for the year 2001.

The process will be repeated at the end of each calendar year of the programme's implementation.

In this way, the programme partnership will be able to assess the extent to which operations coming forward to the programme as expected, and if they are on course to achieve the programme objectives.

## **4 Evaluation**

### **4.1 General provisions**

In order to gauge its effectiveness, Community Structural Assistance will be subject of an ex-ante, mid-term and ex-post evaluation.

An evaluation steering group for all ESF in the UK will be established for the 2000-2006 programming period. This group will agree a common framework for the evaluation of ESF, which will seek to ensure that comparable information is gathered to assess the impact of ESF with reference to the NAP; the group will also commission research so that lessons can be learnt and good practice and good practice identified, with a particular focus on the horizontal issues. The evaluation of ESF activity in the programme will be carried out in line with the common framework.

### **4.2 Mid-term evaluation**

In accordance with Article 42, the mid-term evaluation will be carried out under responsibility of the Managing Authority in co-operation with the Commission and the UK government.

This mid-term evaluation will examine, in the light of the ex-ante evaluation, the initial results of the programme.

It will be carried out by an independent assessor, be submitted to the Programme Monitoring Committee and sent to the Commission no later than 31 December 2003, with a view to re-examining the programme and if necessary adapt it at the initiative of the UK or the Commission. The Commission will examine the relevance and quality of the evaluation on the basis of criteria established beforehand by the Commission and the UK in partnership, with a view to review the assistance and allocate the performance reserve.

Independent assessors will be required to observe confidentiality when dealing with the Monitoring Committee's data to which they have access.

### **4.3 Ex-post evaluation**

In accordance with Art. 43, the ex-post evaluation will be the responsibility of the European Commission, in collaboration with the UK and the managing authority. It will cover the utilisation of resources and the effectiveness and efficiency of the programme and its impact and it will draw conclusions regarding policy on economic and social cohesion. It will cover the factors contributing to the success or failure of implementation and the achievements and results, including their sustainability.

It will be carried out by independent assessors and be completed not later than three years after the end of the programming period.

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## **5 PERFORMANCE RESERVE**

### **5.1 General provisions**

Article 44 of the General Regulation requires each member state to assess the performance of its Single Programming Documents (SPDs) using selected monitoring indicators reflecting management, financial implementation and effectiveness. These indicators will be chosen by the Member State from among the monitoring indicators listed when the programme (or programme complement) was drawn up. In identifying its set of indicators, the Member State will work in consultation with the Commission (which has drawn up its own indicative list). The Member State, again working closely with the Commission, will also establish ex ante mid-term targets for these indicators against which actual mid-term performance can be compared and will be responsible for monitoring progress towards these targets at mid-term. The assessment of actual against target performance will be made not later than 31 December 2003.

The performance of SPDs will thus be assessed on the basis of their mid-term achievement of their own aims. If the initial objectives are considered to have been achieved in terms of the indicators selected, the intervention in question will be considered to have been successful. At the proposal of the Member State, the Commission will then allocate the amount of the reserve (representing 4% of the total Objective 1 commitment appropriations included in the indicative breakdown for the Member State in question) to all successful programmes. The allocation will reflect the specific institutional features of the Member State and its corresponding programming. The SPD in question will be adapted to reflect the change in resources.

In the case of the three English SPDs, performance reserve resources will be reallocated according to programme performance.

## Indicators for the allocation of the Performance Reserve

<b>CRITERIA</b>		<b>DESCRIPTION</b>	
<b>EFFECTIVENESS CRITERIA</b>	<b>LEVEL</b>		
Baskets of Outputs	Project	Comparison of actual and planned results for some outputs (covering at least half the value of the programme)	See tables under 'Performance Reserve' Section
Basket of Results	Programme & Priority	Comparison of actual and planned results for employment (temporary/permanent jobs created or maintained) or employability of target groups	
<b>MANAGEMENT CRITERIA</b>	All		
Quality of Monitoring Systems		Percentage share of the programme measures (in terms of value) covered by the annual financial and monitoring data compared with target	Set at 100% of mid term level
Quality of Financial Control	Prog	Percentage of expenditure covered by financial monitoring audit compared with target	Set at 5% of the funding committed by mid-term.
Quality of Project selection systems	Project	Percentage of expenditure committed by projects selected using clearly identified selection criteria or appraised through cost-benefit analysis compared with target	Set at 100%
Quality of Evaluation System	Prog	An independent intermediary evaluation of acceptable quality which demonstrates that, on balance, the evaluation has sufficiently satisfied, in the opinion of the PMC and the Commission, the MEANS criteria in Commission Working Paper 4.	Set at 100%
<b>FINANCIAL CRITERIA</b>			
Description of Funds	Prog	Percentage of expenditure reimbursed or requested receivable in relation to annual commitment (expenditure corresponding to 100% of commitments in first two years)	Set at 100%
Leverage Effect	Prog	Percentage of private sector resources provided compared to planned target	Set at 30%

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## **6 FINANCIAL IMPLEMENTATION**

### **6.1 Financial contributions by the Funds**

In accordance with Article 28(1), any operation within the programme may benefit from a contribution from a single Structural Fund only. An operation may not be financed simultaneously by more than one programme (e.g. Objective 1, 2, 3) or Community Initiative. An operation financed by a Fund under Objective 1, 2, 3 or a Community initiative may not be simultaneously financed under the EAGGF Guarantee Section.

In accordance with Article 28(2), the contribution of the Funds must be consistent with the financial plan laid down in the decision approving the SPD.

In accordance with Article 28(2), the contribution of the Funds shall principally take the form of non-repayable direct assistance (hereafter referred to as 'direct assistance'), as well as other forms, such as repayable assistance, an interest-rate subsidy, a guarantee, an equity holding, a venture capital holding or another form of finance.

Assistance repaid to the managing authority shall be reallocated to the same purpose.

### **6.2 Differentiation of rates of contribution**

In accordance with Article 29.4, the contribution of the Funds shall be subject to the following ceilings:

- a maximum of 75% of the total eligible cost, and at least 50% of the eligible public expenditure
- in the case of investments in infrastructure generating substantial net revenue, 40% of the total eligible cost.
- in the case of investments in firms, 35% of the total eligible cost. This rate may be increased, in the case of investments in small and medium-sized undertakings for forms of finance other than direct assistance, provided that this increase does not exceed 10% of the total eligible cost.

In the case of investments in firms, the contribution of the Funds shall comply with the ceilings on the rate of aid and on combinations of aid set in the field of State aids.

### **6.3 Community budget commitments**

#### **6.3.1 General**

In accordance with Article 31(1) and 31(2), Community budget commitments are made on the basis of the decision approving the SPD. The first commitment is made when the Commission adopts this decision and subsequent commitments will be effected as a general rule by 30 April each year.

#### **6.3.2 Decommitments**

In accordance with Article 31(3), the Commission will automatically decommit any part of a commitment (other than any part which has been settled by the payment on account) for which it has not received an acceptable payment application by the end

of the second year following the year of commitment. The contribution from the Funds will be reduced by that amount.

In other terms, at the end of 2002 the Commission will decommit (and automatically reduce the amount of contribution of the Funds allocated to the programme) any part of the first commitment, less the payment on account, for which an acceptable payment claim has not been received. Similarly, at the end of 2003, the Commission will decommit any part of the second year commitment, less any payment on account if this is split over two years, for which it has not received an acceptable payment application. For subsequent years there can be no payment on account, and therefore the Commission will decommit any part of a commitment which has not been the subject of an acceptable payment claim. Finally the Commission will decommit any part of the total commitment to the programme for which an acceptable payment application has not been received by the deadline for the transmission of the final report referred to in section 2.11.2 (end of June 2009).

The period for automatic decommitment shall cease to run for that part of the commitment corresponding to operations which, at the specified date of decommitment, are the subject of a judicial procedure, or an administrative appeal having suspensory effects, subject to the Commission receiving prior information giving reasons from the UK government and to information being issued by the Commission.

In any case, the Commission shall in good time inform the UK government and the paying authority whenever there is a risk of application of a automatic decommitment as referred to above.

## **6.4 Payments**

### **a. Payments at Community level**

Following provisions of Article 32, payments by the Commission of the contribution from the Funds shall be made, in accordance with the corresponding budget commitments, to the paying authority (defined in section 2.3.).

Payment may take the form of: payments on account; interim payments; payments of the final balance.

#### **1. Payments on Account**

In accordance with Article 32(2), the Commission will pay to the paying authority 7% of the total contribution from the Funds to the present programme. In principle, the payment on account may be subdivided over two budget years at most, depending on the availability of budget funds.

In accordance with Article 32(2), all or part of the payment on account depending on progress towards implementation of the programme will be repaid to the Commission if no payment application has been received within 18 months of the decision approving the SPD.

## **2. Interim payments**

In accordance with Article 32(2) and 32(3), the payments on account are used to pay end beneficiaries. The Commission will make further payments (interim payments) based on declarations of expenditure certified by the Paying Authority, to reimburse expenditure paid to end beneficiaries. These further payments, the content of which is set out at paragraph 6.5, are subject to the following conditions:

- programme complement, containing the information specified in section 1.2., submitted on time to the Commission;
- latest annual implementation report, containing the information specified in section 2.11., forwarded to the Commission;
- mid-term evaluation of the programme, as referred to in section 4.2., when due, submitted to the Commission.

The Member State will, as far as possible, present applications for interim payments to the Commission in batches three times a year. The last application should be presented no later than 31 October.

As required by Article 32(7), the Member State shall send the Commission their updated forecasts of applications for payment for the current year and the forecast for the following year, by 30 April each year.

## **3. Payments of the final balance**

The final balance of the assistance will be paid if:

- within six months of the deadline laid down by the decision approving the SPD, the paying authority submits to the Commission a certified statement of expenditure actually paid out.
- the final report, containing the information specified in section 2.11.2., has been forwarded to and approved by the Commission.
- in accordance with Article 38(1)f, the Member State has presented to the Commission a declaration drawn up by an independent person or department, the content of which is specified in Regulation 2064/97.

As set out in Article 32(5), the final payment may no longer be corrected at the request of the Member State if the paying authority has not forwarded an application to the Commission within nine months from the date of transfer of the final balance.

### **b. Payments by the Member State**

In accordance with Article 32(1), the paying authority shall ensure that final beneficiaries receive payment in full and as quickly as possible. No deduction, retention or further specific charge which would reduce these amounts shall be made.

#### **a) Payments on account**

In accordance with Article 32(2), throughout the lifetime of assistance, the paying authority shall use the payment on account to pay the Community contribution to expenditure relating to the assistance. Any interest earned on the payment on account will be allocated by the paying authority to the SPD.

## 6.5 Declaration of expenditure

In accordance with Article 32(2 and 32(a)), interim payments and payment of the final balance must correspond to expenditure actually paid out as certified by the paying authority, which must correspond to payments effected by the final beneficiaries, supported by receipted invoices or accounting documents of equivalent probative value. This constitutes the declaration of expenditure.

Payments will be calculated at the level of measures contained in the financing plan of the programme complement. In order to demonstrate the link between the financing plan and expenditure actually paid out, the declaration of expenditure should present financial information in the following manner:

- i. broken down by year
- ii. broken down by priority and measure
- iii. distinguishing for each priority between expenditure made in areas receiving full and transitional support

## 6.6 Transparency of financial flows

In the UK, the treatment of Structural Funds expenditure is based on the principle that receipts from the Commission should be managed, disbursed and monitored in exactly the same way and using the same systems as the UK's own public expenditure. The basic principles of the UK Government Accounting apply to these receipts, the most important being:

- Parliamentary scrutiny and accountability;
  - The identification of an Accounting Officer responsible for the funds under his or her control;
  - A statutory basis for all expenditure, whether from National or EC source.
- Detailed provisions for handling transactions are contained in the Treasury's procedural guide "Government Accounting".

A feature of the UK public sector financial management and control is the obligatory requirement to submit all public expenditure operations to periodic audits. This covers both the financial systems in operation and an annual audit of specific payments made by the Member State. Financial control is further maintained through the separation of duties between those responsible for the certifying and authorising of payment claims, to safeguard against the possibility of personal involvement in a project, or of fraud.

Payments from the Commission in respect of operations part-financed by the Structural Funds will be received in a Treasury Account at the Bank of England, where they be converted into sterling.

For the ERDF, each sterling amount will then be transferred immediately to the Government Office. It will hold the amount in a specifically identified account. For ESF grants, the monies will be transferred to DfEE which will hold the amount in a specifically identified account. For the EAGGF and FIGG, the Sterling amounts will be held by MAFF in a similar manner. This is consistent with the standards of financial control applied to national expenditure.

In accordance with Article 32(1), the paying authority shall ensure that final beneficiaries receive payment in full and as quickly as possible. No deduction, retention or further specific charge which would reduce these amounts shall be made.

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In order to facilitate the verification of expenditure by Community and National control authorities, the Member State will ensure that all bodies involved in the management and implementation of Structural Fund operations shall maintain either a separate accounting system or an adequate accounting codification capable of providing detailed and complete summaries of all transactions involving Community assistance.

#### **6.6.1 Financial management and control arrangements for ERDF and ESF Funds**

The Government Office for the South West Region is authorised by the Managing Authority to undertake financial management and control arrangements for all Funds on behalf of the Member State. The Court of Auditors and the European Commission undertake audits on their own behalf. The Government Office also acts as the Paying Authority for the ERDF. DfEE is the Paying Authority for ESF and receives and holds ESF monies.

All monies from the European Union are treated in the same way as domestic funding for the purposes of financial management and control, as well as being subject to EU Regulations. It is subject to Treasury Handbook on Government Accounting and there is a Structural Funds Manual which sets out many aspects of UK Structural Funds administration so there is a consistency of treatment both within and between secretariats.

The Government Office receives and holds ERDF monies which have been sent from the Commission in the form of advances, and interim and final payments. They issue offers of ERDF grant, other than in the case of agreed Action Plans, where some offers may be made by the relevant Accountable Body DfEE HQ receives and holds ESF monies; the Government Office approves ESF projects. The Government Office, and if applicable the Accountable Body, receive payment claims from the final beneficiaries to which they have issued offers. All payment claims are backed up by invoices or other accounting documents.

The Government Office or Accountable Body checks the payment claims against the offer of grant and the project papers, and ensure consistency with the performance targets set and eligibility. If acceptable they authorise and pay out grants on the basis of eligible expenditure incurred. The functions of checking, authorisation and payments are separated within the Government Office or Accountable Body. For ESF, checking and authorisation are done by the GO; payments are made by DfEE HQ.

The Government Office draw up and certify the payment applications for ERDF to the Commission based on the payment claims received from the final beneficiaries or Accountable Bodies. DfEE draw up and certify the payment applications for the ESF on the same basis. These payment applications will be in euro, the conversion from sterling being in accordance with the regulatory requirement

The Government Office is responsible for carrying out the majority of the 5% verification checks on total eligible expenditure across the programme. They are also responsible for working with HQ Departments to investigate and draw up reports on any alleged irregularities. These are then forwarded to the Department of Trade and Industry which submits the quarterly returns to the Commission together with details of follow-up actions. Where Action Plan arrangements operate the Government Office will, during the course of their 5% checks, pay particular attention to projects where the Accountable Body is also the end beneficiary.

Where Action Plan arrangements are in place, the Government Office, acting on behalf of the Managing Authority, will issue an approval letter to the partnership concerned, authorising the relevant body to issue offers of grant for activities under that Action Plan, within the agreed delegations. Each Accountable Body will have sound financial systems in place to ensure compliance with all relevant Regulations and conditions and, in

particular, to provide audit trails in line with Annex 1 of Regulation 2064/97. To this end, they will maintain records to provide proper audit trails; carry out physical checks on project expenditure; and provide actual, externally audited, statements of grant expenditure to the Government Office.

The Internal Audit Units of the Departments which have responsibility for the ERDF and ESF, mainly, DETR, DTI and DfEE, undertake audits of the management and control systems implemented by the Government Office and provide the declaration to accompany the final payment application. The various Internal Audit Units act in a joint way to maximise effectiveness and consistency, and eliminate duplication. This declaration will relate to the extent to which the Government Office has provided for and implemented the regulatory financial management and control requirements determined during the audit visits.

The Government Office is authorised by the Managing Authority to undertake some of the financial management and control arrangements for all the Funds on behalf of the Member State. The Court of Auditors and the European Commission undertake audits on their own behalf. MAFF acts as the paying authority for FIFG and is responsible for the following financial management and control arrangements for FIFG funds.

All monies from the European Union are treated in the same way as domestic funding for the purposes of financial management and control. It is subject to Treasury Guidance on Government Accounting and there is a Structural Funds Manual which sets out many aspects of UK Structural Funds administration so there is a consistency of treatment both within and between secretariats.

#### **6.6.2 Financial management and Control Arrangements for EAGGF Funds**

The Government Office is authorised by the Managing Authority to undertake some of the financial management and control arrangements for all funds on behalf of the Member State. The Court of Auditors and the European Commission undertakes audits on their own behalf. MAFF acts as the Paying Authority for EAGGF and is responsible for the following financial management and control arrangements for EAGGF funds.

All monies from the European Union are treated in the same way as domestic funding for the purposes of financial management and control. It is subject to Treasury Guidance on Government Accounting and there is a Structural Funds Manual which sets out many aspects of UK Structural Funds administration so there is a consistency of treatment both within and between secretariats.

MAFF receives and holds EAGGF monies which have been sent from the Commission in the form of advances, and interim and final payments. MAFF issues offers of EAGGF grant other than in the case of agreed Action Plans where some offers may be made by the Accountable Body or Bodies. MAFF, and if applicable, the Accountable Body or Bodies, receive payment claims from the financial beneficiaries to which they have issued offers. All payment claims are backed up by invoices or other accounting documents.

MAFF or Accountable Body or Bodies check the payment claims against the offer of grant and the project papers and ensure consistency with the performance targets and eligibility. If acceptable, they authorise and pay out grants on the basis of eligible expenditure incurred. The functions of checking, authorisation and payments are separated within MAFF or the Accountable Body.

MAFF draw up and certify the four monthly payment applications to the Commission based on the payment claims received from the financial beneficiaries and as

checked and paid. These payment applications will be in euro, the conversion from sterling being in accordance with the regulatory requirement.

MAFF is responsible for carrying out the 5% verification checks on payment claims. They are also responsible for investigating and drawing up reports on any alleged irregularities. These are then forwarded to the Department of Trade and Industry which submits the four monthly returns to the Commission together with details of follow-up actions.

The Internal Audit Units of MAFF undertake audits of the management and control systems implemented by MAFF and provide the declaration to accompany the final payment application. The Internal Audit Unit act to maximise effectiveness and consistency and eliminate duplication. This declaration will relate to the extent to which MAFF has provided for and implemented the regulatory financial management and control requirements determined during the audit visits.

### **6.6.3 Financial management and Control Arrangements for FIGG Funds**

MAFF receives and holds FIGG monies which have been sent from the Commission in the form of advances, and interim and final payments. MAFF issues offers of FIGG grant and receives payment claims from the financial beneficiaries to which they have issued offers. All payment claims are backed up by invoices or other accounting documents.

MAFF checks the payment claims against the offer of grant and the project papers, and ensure consistency with the performance targets set and eligibility. If acceptable it authorises and pays out grants on the basis of eligible expenditure incurred. The functions of checking, authorisation and payments are separated within MAFF.

MAFF draws up and certifies the four-monthly payment applications to the Commission based on the payment claims received from the final beneficiaries and as checked and paid. These payment applications will be in euro, the conversion from sterling being in accordance with the regulatory requirement.

MAFF is responsible for carrying out the 5% verification checks on payment claims. They are also responsible for investigating and drawing up reports on any alleged irregularities. These are then forwarded to the Department of Trade and Industry which submits the four-monthly returns to the Commission together with details of follow-up actions.

The Internal Audit Unit of MAFF undertakes audits of the management and control systems implemented by MAFF and provides the declaration to accompany the final payment application. The Internal Audit Unit acts to maximise effectiveness and consistency, and eliminate duplication. This declaration will relate to the extent to which MAFF has provided for and implemented the regulatory financial management and control requirements determined during the audit visits.

### **6.7 Use of Euro and conversion rates**

In accordance with Article 33, all commitments and payments are made in euros. Statements of expenditure have also to be made in euros. Since the United Kingdom does not have the euro as its national currency, amounts of expenditure incurred in sterling will be converted into euros by applying the rate in force on the last but one working day at the Commission in the month preceding the month during which the expenditure was recorded in the accounts of the Paying Authority.

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## **7 CONTROL AND FINANCIAL CORRECTIONS**

### **7.1 General provisions**

In accordance with Article 38(1), primary responsibility for the financial control of assistance lies with the UK.

In accordance with Article 38(2), officials of the Commission may carry out checks without prejudice to checks carried out by the UK, in accordance with national laws, regulations and administrative provisions.

In accordance with Article 38(3), the Commission and the UK shall on the basis of bilateral administrative arrangements co-operate to co-ordinate plans, methods and implementation checks so as to maximise the usefulness of those carried out. The UK and the Commission will immediately exchange the results of checks carried out.

In accordance with Article 38(3), at least once a year the Commission and the UK shall jointly examine and evaluate the results of checks carried out by the UK and the Commission, any comments made by other national or Community control bodies or institutions and the financial impact of irregularities noted (including steps taken or required to correct them and, where necessary, adjustments to the management and control systems). This evaluation should in any case take place before the annual implementation review detailed in paragraph 2.11.

In addition to the requirements made in the Council regulation 1260/1999, the arrangements for control and financial corrections shall comply with Commission regulation 2064/97, establishing detailed arrangements for financial control by the Member States of operations co-financed by the Structural Funds.

### **7.2 Financial control by the Member State**

In accordance with Article 38(1a) and 38(1c), the UK will establish financial management and control arrangements in such a way as to ensure that Community funds are used efficiently and correctly and that assistance is managed in accordance with all the applicable Community rules and in accordance with the principles of sound financial management. The detailed requirements set out in Commission Regulation 2064/97 shall apply throughout.

In accordance with Article 38(1d) and Article 38(1f), and in the first instance, in accordance with Commission Regulation 2064/97, Article 4, the UK is responsible for certifying the accuracy of declarations of expenditure presented to the Commission, the specific procedures for which are detailed at paragraph 6.5.

In accordance with Article 38(1e), the UK is responsible in the first instance, for preventing, detecting and correcting irregularities and for notifying these to the Commission and keeping the Commission informed of the progress of administrative and legal proceedings. In accordance with Commission Regulation 2064/97, Article 5, the controls shall establish whether any problems encountered are of a systematic character. The arrangements for handling irregularities and financial corrections are given at paragraph 7.4.

In accordance with Article 38(6), the UK shall keep available for the Commission all supporting documents regarding expenditure and checks on the assistance for a period of three years following the payment by the Commission of the final balance.

This period may be interrupted in the case of legal proceedings or at the duly motivated request of the Commission. The UK shall keep a clear audit trail in compliance with the definition set out in Commission Regulation 2064/97 and annex.

### **7.3 Financial control by the Commission**

In accordance with Article 38(2), the Commission may carry out on the spot checks, including sample checks, on the operations financed by the Funds and on management control systems with a minimum of one day's notice; The Commission will give notice to the UK with a view to obtaining all the assistance necessary and UK officials may take part in such checks.

In accordance with Article 38(2), the Commission may require the UK to carry out an on the spot check to verify the correctness of one or more transactions and Commission officials may take part in such checks.

Also under Regulation 2064/97, there is an annual review of financial control arrangements at the level of the United Kingdom.

### **7.4 Irregularities and financial corrections**

#### **a. Role of the Member State**

In accordance with Article 39(1), the UK has in the first instance, responsibility for investigating irregularities, acting upon evidence of any major change affecting the nature or conditions for the implementation or supervision of assistance and for making the financial corrections required.

Financial corrections shall be made in connection with the individual or systematic irregularity and shall consist of the cancelling of all or part of the Community contribution. Community Funds released in this way may be re-used by the UK for the assistance concerned.

A In accordance with article 39(4), any sum found to have been received unduly and to be recovered shall be repaid to the Commission together with the interest.

#### **b. Role of the Commission**

In accordance with Article 38(4), the Commission may make observations following examinations and evaluations, particularly regarding the financial impact of any irregularities detected. These observations shall be addressed to the UK and the managing authority and shall be accompanied, where necessary, by requests for corrective measures to remedy the management shortcomings found and correct those irregularities, which have not already been corrected. The UK shall have the opportunity to comment on these observations. Where the Commission adopts conclusions, the UK will take the necessary steps within the deadline set by the Commission and will inform the Commission of its actions.

In accordance with Article 38(5), the Commission may suspend all or part of an interim payment linked to a serious and uncorrected irregularity. The Commission shall inform the UK of the action taken and the reasons for it.

If, in accordance with Article 39(2), after completing the necessary verifications, the Commission finds that the UK has not complied with its obligations as agreed in paragraphs 7.1 and 7.2, or finds that all or part of the operation does not justify either part or whole of the contribution from the Funds, or finds that there are serious failings in the management or control systems which could lead to systematic irregularities, then again, the Commission may suspend the interim payment in question and,

stating its reasons, request that the UK submit its comments and, where appropriate, carry out any corrections within a specified time period.

In accordance with Article 39(2), if the UK objects to the Commission's observations it shall be invited to a hearing by the Commission, in which both sides in co-operation based on the partnership make efforts to reach an agreement.

In accordance with Articles 38(5) and 39(3), if five months after the Commission requested corrective measures to remedy a financial irregularity the reasons for the suspension remain or the UK has not notified the Commission of the measures taken to correct the serious irregularity, or if at the end of the set period no agreement has been reached and the UK has not taken account of the comments made, the Commission may, within three months, decide to:

- i. reduce the payment on account referred to in paragraph 6.4(a)
- ii. make the financial corrections required by cancelling all or part of the contribution from the Funds to the assistance concerned.

Corrections of this type will have regard to proportionality, the type of irregularity or change and the extent of the financial implications.

In the absence of a decision to do either i or ii, the suspension of interim payments shall cease.

## **8 PROCEDURES FOR THE AMENDMENT OF THE PROGRAMME**

### **8.1 Amendments of the SPD**

As a general rule, modifications of the SPD approved by the Monitoring Committee, have to be made following the procedures applied for its adoption. These include consultation of the Committees referred to in Articles 48, 49, 50 and 51. However, any amendments to the decision approving the SPD, which does not alter the total Community contribution, can be approved by the Commission in agreement with the UK Government, if the modification of the total cost or Community financing to any priority is up to a maximum of 25% of the total Community Contribution to the SPD throughout the programme period or up to 60 million euro, whichever is the greater.

Any modification is subject to the availability of funds and must remain compatible with the Commission's budgetary rules. It may entail transfers of resources between the Community Structural Funds and a change in the rate of assistance.

Whenever the amounts of finance are altered, the notification shall be accompanied by the revised financing plan of the SPD.

The Monitoring Committee may in any event propose to the management authority any adjustment or review of the programme likely to make possible the attainment of the Objective set out in Art. 1, or to improve the management of programme, including financial management.

Any financial adjustment shall be accompanied by the revised financing plan.

Any amendment of the SPD shall be decided by the Commission, in agreement with the UK Government, within four months of delivery of the Monitoring Committee's approval.

### **8.3 Amendments of the programme complement**

According to Article. 34.3, the management authority may, at the request of the Monitoring Committee or on its own initiative, adjust the programme complement, without changing the total amount of the contribution from the Funds granted to the priority concerned nor its specific targets.

After approval of this adjustment by the Monitoring Committee, the management authority shall inform the Commission of the adjustment within one month.

## **9 TECHNICAL ASSISTANCE**

An enabling Commission regulation lays down detailed rules for the implementation of Council Regulation 1260/1999 as regards eligibility of expenditure of operations co-financed by the Structural Funds.

According to Rule 11 on "Costs incurred in managing and implementing the Structural Funds", Technical Assistance can be used under point 2 of this Rule to co-finance expenditure incurred for management, implementation and control expenditure under certain conditions. The implementation of this point has to be agreed between the Commission and the Government and is laid down in the Chapter on Technical Assistance. For the purposes of monitoring, the costs made available under point 2 are the subject of a specific measure within Technical Assistance.

Technical Assistance can also be used to co-finance other actions under this programme, for example studies, seminars, information and evaluation.