II

*(Acts whose publication is not obligatory)*

# COMMISSION

## COMMISSION DECISION

**of 22 July 1982**

**on the designation of areas eligible for regional aid in Denmark from 1 January 1982**

**(Only the Danish text is authentic)**

(82/691/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having given notice [1] to the parties concerned to submit their comments in accordance with Article 93, and having regard to those comments,

Whereas :

I

By letter dated 27 October 1981 the Danish Government notified the Commission, in accordance with Article 93 (3) of the EEC Treaty, of changes which it proposes to make with effect from 1 January 1982 to the list which has been in force since 1977 of designated areas eligible for assistance under the Law of 7 June 1972 [2] on regional development aid.

The new list of designated areas is intended to apply for five years. However, a temporary measure is envisaged whereby regions which are to lose the status of assisted area or be downgraded from special to ordinary assisted area will be allowed to apply for aid from the Danish authorities on the basis of their former status for one year up to 31 December 1982.

The Danish Law of 7 June 1972 provides for three categories of aid : grants, loans at concessionary rates, and State guarantees. It makes a distinction between two types of region eligible for assistance : special assisted areas, where all three categories of aid may be applied, and ordinary assisted areas, where grants are excluded. This distinction means that the maximum level of aid differs from one type of region to another.

The Danish Government based the new list of assisted areas on a recent study by the Danish Regional Development Council of all areas in Denmark. This showed that since the list of assisted areas was last revised in 1977, progress had been made in several of the assisted areas, while a decline had been recorded in some of the non-assisted areas. Changes in designation were therefore called for.

To select the areas eligible for assistance, the Danish Government used a composite indicator comprising six criteria : age distribution, employment, income, activity rate, activity in the services sector, and activity in the manufacturing sector (excluding building and

[1] OJ No C 25, 2. 2. 1982, p. 3.
[2] Law No 219 of 7 June 1972.

construction, extraction of raw materials and public works ; double weighting was given to the income and employment figures for 1979 and 1980. Before aggregating the points attributed for each criterion in order to obtain the value of the composite indicator, a correction was made for the standard deviation applicable to each criterion.

For the application of this method of analysis to the whole of Denmark, the country was divided into 57 groups of municipalities, each group containing between two and 20 municipalities, which were ranked in decreasing order of prosperity on the basis of an index calculated from the composite indicator. With few exceptions, the Danish Government then classified the 29 groups which were worst off according to this ranking as either ordinary or special assisted areas.

The net result was that the population of assisted areas was reduced by 2·3 percentage points to 25·2 % of the Danish population. Allowing for changes in the status of some of the assisted areas and the abolition of assisted status in some areas, ordinary assisted areas and special assisted areas would account for 8·5 % and 16·7 % respectively of the Danish population, as against 9·6 % and 17·9 % respectively under the 1977 list.

II

Upon scrutinizing the Danish Government's proposal, the Commission found that the grouping of municipalities as carried out by the Danish authorities resulted in many groups with such a small population that to rule them as eligible for aid would be tantamount to approving regional aid to resolve local problems. As this would conflict with point 9 (iii) of the Principles of Coordination of Regional Aid Systems [1], which states that regional aids must not be granted in a pinpoint manner, the Commission combined these municipalities into larger groups for the purposes of scrutiny.

To assess compatibility of the aid proposed by the Danish Government with the common market under Article 92 of the EEC Treaty, the Commission first compared the regions concerned in a Community context, and secondly examined whether serious disparities existed between the regions at national level which might justify regional aid.

On completing its scrutiny the Commission decided to initiate the procedure laid down in Article 93 (2) of the EEC Treaty with regard to the Danish Government's proposals to grant regional aid in the following municipalities : Møn, Højreby, Nakskov, Ravnsborg, Rudbjerg, Holeby, Maribo, Nysted, Rødby and Sakskøbing in the County of Storstrøm, Blåbjerg, Blåvandshuk, Ølgod and Varde in the County of Ribe, and Egvad, Holmsland, Ringkøbing, Skjern, Trehøje, Videbæk, Åskov and Brande in the County of Ringkøbing ; and with regard to the proposals to classify as special assisted areas the following municipalities : Bredebro, Højer, Løgumkloster, Skærbæk, Tønder, Tinglev, and Bov in the County of Sønderjylland. On 23 December 1981 the Commission accordingly sent written notice to the Danish Government asking it to submit its comments.

III

By letter dated 19 February 1982 the Danish Government submitted its comments, which were subsequently expanded and discussed at bilateral meetings between the Danish authorities and the Commission.

The Danish Government advanced a number of general arguments : that the Commission's analysis did not take account of Danish town and country planning ; that the Commission considered only two of the six socio-economic indicators used by the Danish Government, one of which — unemployment — was so highly cyclical that it could not of itself bring to light individual areas' structural problems ; that in assessing national designated areas, the Commission should consider national disparities rather than any disparities with other regions in the Community ; and finally, that special consideration should be given to the fact that Denmark, unlike other Member States, had no industry aid scheme which might be used in combination with regional aid.

As to the areas in respect of which the Commission initiated the procedure of Article 93 (2) of the EEC Treaty, the Danish Government put forward a number of specific arguments : in the case of the municipalities on Lolland and Møn, while the socio-economic situation of that area may appear favourable at present, serious job losses can be expected in the coming year, because of the worsening situation of the Nakskov shipyard, on which the whole economic future of the region depends. In the case of the municipalities in the County of Ringkøbing, this area contains two groups of municipalities which, if analyzed separately rather than in conjunction with the area formed by the County of Ribe, which is what the Commission has done, come out fairly low in the ranking. According to the latest figures this area has seen unemployment rising, particularly in the east, at a rate considerably above the national average. In the case of municipalities in the County of Ribe, it is inaccurate to claim, as the Commission does, that the shipping of North Sea

[1] OJ No C 31, 3. 2. 1979, p. 11.

oil and gas to the southern part of the region will significantly assist the development of the northern part of that region within the next five years. Finally, in the case of the municipalities in the County of Sønderjylland, a distinction should be made between the eastern and western parts of the County. In the west, the high level of employment in agriculture, the poor soil and the low population density all warrant the granting of aid ; in addition, that area borders on assisted areas in Germany, and the ceiling of aid intensity should be the same on both sides of the frontier, i.e. 20 % net grant equivalent of investment.

Two other Member States have submitted comments in the course of the procedure under Article 93 (2) of the EEC Treaty. One considers that when evaluating regional imbalances at national level, the Commission should also take into account the corresponding problems confronting the less developed countries, whereas the other Member State is of the opinion that the Commission does not do justice to the national situation of a region if it takes Community indicators as the starting point for its analysis and considers national disparities only at a later stage.

IV

The assistance proposed by the Danish Government for certain regions is likely to affect trade between Member States and distorts or threatens to distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring certain undertakings or the production of certain goods.

Article 92 (1) provides that aid answering the criteria it contains is in principle incompatible with the common market. The derogations provided for in Article 92 (3) (a) and (c) — the only ones which might be applicable to the regional aid case in question — specify the pursuit of objectives which are in the interests of the Community rather than in the interests of recipients. These derogations must be strictly interpreted when any regional or industry aid scheme or any individual case of application of a general aid scheme is scrutinized. In particular, they must be allowed only in cases where the Commission can establish that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the aims of the derogations.

To grant a derogation in respect of aid where no such aim can be served would be tantamount to agreeing to a distortion of intra-Community trade and competition with no justification on grounds of the Community interest, while granting certain Member States undue advantages.

In applying the principles set out above to the scrutiny of regional aid schemes, the Commission must satisfy itself that the regions concerned are experiencing difficulties which are serious enough, in a Community-wide comparison, to warrant the grant of aid, at the level proposed, in other words that the aid is necessary to ensure attainment of the objectives set out in Article 92 (3) (a) or (c). Where this cannot be demonstrated, it is evident that the aid does not contribute to the attainment of the objectives of the derogations, but is essentially designed to favour the undertakings in question.

Following a communication from the Commission on the coordination of general systems of regional aid, the representatives of the Governments of the Member States meeting in the Council recognized in their first resolution of 20 October 1971 [1] that regional aid, when it is adequate and judiciously applied, forms one of the essential instruments of regional development and enables the Member States to follow regional policies aimed at a more balanced growth of the various regions of the same country and of the Community. Accordingly, and on the basis of the principles of coordination of regional aid systems in force, which aim to limit the risks of outbidding, the Commission must, when assessing the compatibility of regional aid with Article 92 (3) (a) and (c), take account both of the socio-economic situation in the regions concerned in comparison with the rest of the Community, and of any serious disparities between regions in the same country.

When it scrutinized the Danish regional aid scheme in 1977, the Commission found that because of the prosperous situation of Denmark as a whole compared with the rest of the Community, only the derogation provided for in Article 92 (3) (c) could apply. As the situation has not altered since then, this was the only derogation which the Commission could consider when assessing the Danish proposal for a new list of designated assisted areas.

The Commission applied the principles outlined above in order to determine whether the aid which the Danish Government proposed to grant to certain regions was compatible with the common market. Accordingly, after considering the Danish regions in question in a Community context, by comparing *per capita* gross domestic product and the unemployment situation in those regions with the relevant Commu-

[1] OJ No C 111, 4. 11. 1971, p. 1 (English version : OJ Special Edition, Second Series, IX : resolutions of the Council and of the representatives of the Member States, January 1974).

nity averages, the Commission sought to establish whether disparities existed between the regions at national level which might justify the grant of regional aid. For this purpose the Commission used a number of indicators, viz. taxable income, unemployment, employment in the services sector, employment in the manufacturing sector, employment in the primary sector, population density, and net migration.

On the basis of the socio-economic analysis of the regions, carried out as stated above, the Commission found that the aid which the Danish Government proposed to grant to the following special assisted areas could be considered compatible with the common market: the County of Nordjylland and the County of Bornholm and the municipalities of Hanstholm, Sydthy, Thisted, Morsø, Sallingsund, Sundsøre, Møldrup and Ålestrup in the County of Viborg, the municipalities of Lemvig, Thyborøn-Harboør, Thyholm and Ulfborg-Vemb in the County of Ringkøbing, the municipalities of Mariager and Samsø in the County of Århus, the islands of Langeland and Ærø in the County of Fyn, and all small inhabited islands which do not constitute municipalities and each of which has a population of less than 1 000. Similarly, the Commission has raised no objections to the Danish Government's proposal to grant aid to the following ordinary assisted areas: the municipalities of Fjends, Skive and Spøttrup in the County of Viborg, the municipalities of Bramming, Ribe and Holsted in the County of Ribe, the municipalities of Gram, Nørre-Rangstrup, Rødding, Lundtoft, Rødekro and Åbenrå in the County of Sønderjylland, the municipalities of Langå, Nørhald, Purhus, Randers, Rougsø, Sønderhald, Ebeltoft, Grenå, Midtdjurs and Nørre-Djurs in the County of Århus, and the municipalities of Struer and Vinderup in the County of Ringkøbing.

Following the comments submitted by the Danish Government, the Commission found that the southern part of the County of Ringkøbing could be analyzed in conjunction with the assisted area in the north and east of that County. The analysis shows that the socio-economic situation in that region warrants maintenance of its assisted area status. The Commission is therefore able to consider the aid which the Danish Government proposes to grant to the municipalities of Trehøje, Videbæk, Åskov and Brande, with the status of ordinary assisted area, as compatible with the common market. However, it is unable to consider aid to the municipalities of Egvad, Holmsland, Ringkøbing and Skjern as compatible with the common market, unless these are classified as ordinary assisted areas, given the more favourable situation of that part of the County in comparison with the north of the region, which is classed as a special assisted area.

On the basis of additional information supplied by the Danish Government concerning Lolland, the Commission recognizes that this region does indeed have a specific regional problem in the difficulties affecting its major industrial employer, and that the Danish authorities' forecasts are well-founded. It therefore seems justified to retain the municipalities in Lolland as assisted areas, as envisaged in the notification from the Danish Government. However, as this decision is based on forecasts and it remains to be seen whether these are proved correct, the Commission is able to consider aid to the municipalities in Lolland as compatible with the common market only until 31 December 1983, and reserves the right to review the status of the area after that date.

The attraction to investors of the assisted areas in Germany bordering on the south-western part of the County of Sønderjylland as an alternative location for their investment justifies maintenance of the same ceiling on aid levels on either side of the frontier.

For that reason, and given that the advantages will attract new, footloose investment rather than investment in existing firms, and that few new firms have been set up in the western part of the region over the last 10 years, the Commission is able to regard as compatible with the common market maintenance of the status of special assisted area for the municipalities of Bredebro, Højer, Løgumkloster, Skærbæk, Tønder, Tinglev and Bov in the County of Sønderjylland for the purpose of setting up firms, on condition that the ceiling of aid is reduced to 15 % net grant equivalent of investment for other purposes.

On the other hand, the Commission regards as incompatible with the common market the aid which the Danish Government proposes to grant to the municipality of Møn in the County of Storstrøm, and to the municipalities Blåbjerg, Blåvandshuk, Ølgod and Varde in the County of Ribe; Møn is connected by a bridge to the municipalities in the southern part of Sjælland and must therefore be grouped with them for the purposes of the socio-economic analysis, which shows that the situation in the region is satisfactory compared with Denmark as a whole. In the case of the municipalities in the north of the County of Ribe, the Commission considers that the oil and gas finds in the North Sea are bound to have a favourable influence on investment in the area, given the proximity of the port of Esbjerg, the main centre for operations in the North Sea, and the existing road and rail network. Accordingly, these municipalities may no longer be classified as assisted areas.

However, regions which in the new list will lose the status of assisted area or be downgraded from special to normal assisted areas should be allowed a period of adjustment expiring on 31 December 1983 or 31 December 1982 respectively, during which they may apply for aid from the Danish authorities on the basis of their former status.

To enable the Commission to keep the Danish regional aid system under constant review, in accordance with Article 93 (1) of the EEC Treaty, the Danish Government will submit an annual report to the Commission, in particular specifying the total amount of aid granted, the amount of aided investment, and the number of cases involved. The Commission reserves the right to examine a certain number of individual cases.

This Decision is without prejudice to any specific rules on aid to certain industries applicable either at present or in the future,

HAS ADOPTED THIS DECISION :

*Article 1*

The regional aid which the Danish Government proposes to grant to the municipalities of Møn in the County of Storstrøm, and Blåbjerg, Blåvandshuk, Ølgod and Varde in the County of Ribe are hereby found to be incompatible with the common market within the meaning of Article 92 of the EEC Treaty.

Consequently, those municipalities may no longer be classified as assisted areas.

Nonetheless, as a temporary measure, those municipalities may retain until 31 December 1983 the status of assisted area accorded to them in the list of designated assisted areas in force since 1977.

*Article 2*

The regional aid which the Danish Government proposes to grant for a five-year period to the municipalities of Trehøje, Videbæk, Åskov and Brande in the County of Ringkøbing as ordinary assisted areas, may be regarded as compatible with the common market within the meaning of Article 92 of the EEC Treaty.

*Article 3*

The regional aid which the Danish Government proposes to grant for a five-year period to the municipalities of Egvad, Holmsland, Ringkøbing and Skjern may be considered compatible with the common market within the meaning of Article 92 of the EEC Treaty only if they are classified as ordinary assisted areas.

Accordingly, these municipalities may neither retain nor acquire the status of special assisted area.

However, as a temporary measure, those municipalities which in the list of designated assisted areas in force since 1977 were classified as special assisted areas may continue to be so classified until 31 December 1982.

*Article 4*

The regional aid which the Danish Government proposes to grant to the municipalities of Højreby, Nakskov, Ravnsborg, Rudbjerg. Holeby, Maribo, Nysted, Rødby and Sakskøbing in the County of Storstrøm may be considered compatible with the common market within the meaning of Article 92 of the EEC Treaty only until 31 December 1983. Before that date the Commission shall re-examine the socio-economic situation in the region and decide on its future status.

For this purpose Denmark shall submit annual reports to the Commission, the first of which shall be provided one year from the date of this Decision, on the economic development of Lolland and more particularly on the employment situation at the Nakskov shipyard. This report shall specify the net number of jobs lost at the shipyard, and forecasts for the future, together with the number of jobs created in other industries.

*Article 5*

The regional aid which the Danish Government proposes to grant for a five-year period to the municipalities of Bredebro, Højer, Løgumkloster, Skærbæk, Tønder, Tinglev and Bov in the County of Sønderjylland may be considered compatible with the common market within the meaning of Article 92 of the EEC Treaty only if the aggregate regional aids granted to these municipalities does not exceed 20 % net grant equivalent of the investment for the purpose of setting up firms, and 15 % net grant equivalent of the investment for other purposes.

Nevertheless, as a temporary measure, the above municipalities may retain until 31 December 1982 the status of special assisted area accorded to them in the list of designated assisted areas in force since 1977.

*Article 6*

Before the end of June each year Denmark shall submit a report to the Commission specifying the amount of regional aid granted, the amount of aided investment, and the number of cases involved. The regional breakdown of this information shall be based on the level III regions of the Nomenclature of Territorial Statistical Units of the Statistical Office of the European Communities, and the Sectoral Breakdown on the two-digit classes of the General Industrial Classification of Economic Activities within the European Communities, also produced by the Statistical Office.

In addition, Denmark shall provide the Commission, on request, with such information as it needs to examine a certain number of individual cases.

*Article 7*

The provision of aid pursuant to this Decision shall be without prejudice to compliance with any specific rules on aid to certain industries applicable either at present or in the future.

*Article 8*

Denmark shall inform the Commission within two months of the date of notification of this Decision of the measures it has taken to comply herewith.

*Article 9*

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 22 July 1982.

*For the Commission*

Frans ANDRIESSEN

*Member of the Commission*