COUNCIL DECISION

of 21 November 1994

concerning the rules for the dissemination of the research results from the specific programmes of research, technological development and demonstration of the European Community

(94/762/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130j in conjunction with 130o, second paragraph thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure referred in Article 189c of the Treaty (3),

Whereas Title XV of the Treaty sets out a coherent framework of provisions for Community actions in the field of research and technological development;

Whereas Article 130f of the Treaty states that the Community is to encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality and to support their efforts to cooperate with one another;

Whereas Article 130i of the Treaty provides for a multiannual framework programme setting out all the activities of the Community in the field of research, technological development and demonstration (hereinafter referred to as 'RTD');

Whereas the fourth framework programme of the European Community activities in the field of RTD (1994 to 1998) was adopted by Decision No 1110/94/EC of the European Parliament and of the Council (4);

Whereas Article 130j of the Treaty states that, for the implementation of the multiannual framework programme, the Council is to lay down the rules governing the dissemination of research results;

Whereas Article 130i of the Treaty states that the multiannual framework programme is to be implemented by specific RTD programmes adopted in accordance with paragraph 4 thereof;

Whereas the activities for the dissemination of knowledge resulting from the specific programmes should be carried out in a coherent and coordinated manner;

Whereas such coherence is to be based on general rules which guarantee the protection of legitimate interests of the contracting parties and of rights linked to obtaining and exploiting the RTD results, as well as their exploitation in conformity with the interests of the Community, in particular taking account of the objectives of strengthening the international competitiveness of Community industry and economic and social cohesion;

Whereas Article 130m of the Treaty states that in implementing this framework programme the Community make provision for cooperation in Community research, technological development and demonstration with third countries or international organizations; whereas the fourth framework programme for 1994 to 1998 provides for such cooperation; whereas it is necessary to take this into account in establishing the rules for dissemination of research results;

Whereas it is necessary that the specific RTD programmes should be able to detail, supplement, or subject to conditions or limitations, the rules laid down by this Decision, for the dissemination of RTD results to the extent necessary for implementing objectives or measures specific to those programmes;

Whereas RTD activities should be implemented in accordance with the principles of sound financial

(1) OJ No C 81, 18. 3. 1994, p. 15.
(2) OJ No C 295, 22. 10. 1994, p. 31.
(3) Opinion of the European Parliament of 5 May 1994. (OJ No C 205, 25. 7. 1994, p. 313), Council common position of 18 July 1994 (OJ No C 244, 31. 8. 1994, p. 76) and Decision of the European Parliament of 27 October 1994 (OJ No C 323, 21. 11. 1994).
(4) OJ No L 126, 18. 5. 1994, p. 1.

management and in particular those of economy and cost effectiveness as provided for in the Financial Regulation applicable to the general budget of the European Communities,

HAS DECIDED AS FOLLOWS:

Article 1

For the implementation of specific research, technological development and demonstration (RTD) programmes adopted in accordance with Article 130i (4) of the Treaty, the following rules, whilst respecting pre-existing rights, shall apply to the dissemination and exploitation of knowledge resulting from the specific RTD programmes (hereinafter referred to as 'knowledge'):

(a) the knowledge resulting from direct actions or from actions the cost of which is wholly supported by the Community shall, in principle, be the property of the Community.

The knowledge resulting from work under a shared cost contract shall be the property of the contractors, including, where applicable, the Community, who carry out the work (hereinafter referred to as 'the contractors'). They shall agree between themselves on particular arrangements for such ownership;

(b) knowledge which could be used in an industrial or commercial application shall be protected in any appropriate form to the extent required in the light of the interests of the Community and the contractors and in accordance with any applicable legislation or convention;

(c) the Community and the contractors shall be required to exploit the knowledge in their possession, or have it exploited, in conformity with the interests of the Community, in particular, taking account of:

— the objective of strengthening the international competitiveness of Community industry, and

— the objective of strengthening economic and social cohesion in the Community, and

— the needs of other Community policies in support of which the RTD activities are carried out, and

— the existence of scientific and technical cooperation agreements between the Community and third countries, or international organizations.

(d) knowledge belonging to the Community should be made available to the contractors and to interested third parties which are established in the Community or in a third country associated with and contributing financially to the implementation of the relevant specific programme through an agreement concluded with the Community in accordance with Article 130m of the Treaty, and which undertake to exploit it, or have it exploited in conformity with the interests of the Community. Such provision of knowledge may be subject to appropriate conditions, particularly concerning the payment of fees.

The contractors shall make the knowledge in their possession, together with any information necessary for its use, available to each other and to interested third parties under contractually defined conditions, provided that the interests of the Community and the legitimate interests of the contractors including those relating to the use of background information are safeguarded;

(e) the Commission shall ensure that knowledge suitable for dissemination according to the contractual terms is disseminated or published either by the Commission itself, or by the contractors, without any restrictions other than those imposed by the need to safeguard intellectual and industrial property, confidentiality or legitimate commercial interests.

The coordinating contractor of each RTD project shall be required to produce a dissemination plan, an outline of which shall be included in the proposal submitted in response to a call for a Community RTD action.

Article 2

1. The Commission shall lay down the arrangements for implementing the rules laid down in Article 1.

2. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

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

4. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

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

If, on the expiry of a period of three months from referral of the matter to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 3

To the extent necessary for fulfilling objectives or measures specific to a programme, the rules in this decision may be set out in more detail, supplemented or subjected to conditions or limitations in the decision adopting the specific programme.

Article 4

1. The annual report that the Commission submits to the European Parliament and the Council, in accordance with Article 4 (1) of Decision No 1110/94/EC, shall contain information on the implementation of this Decision.

2. This Decision shall apply to activities arising from the fourth multiannual framework programme 1994 to 1998.

Before the end of the programme referred to in the first subparagraph, the Commission shall submit a report to the Council on the application of this Decision accompanied by appropriate proposals for its extension or adaptation.

Done at Brussels, 21 November 1994.

For the Council

The President

M. WISSMANN