REGULATION (EEC) No 398/75 OF THE COUNCIL

of 17 February 1975

implementing Regulation (EEC) No 397/75 concerning Community loans

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation (EEC) No 397/75 (1) of 17 February 1975 concerning Community loans, and in particular Article 7 thereof ;

Having regard to the proposal from the Commission, which has for this purpose consulted the Monetary Committee ;

Whereas Regulation (EEC) No 397/75 provides that the Community shall, where necessary, undertake operations to raise funds to re-lend to one or more Member States in balance of payments difficulties due to the increase in the price of petroleum products ;

Whereas, in order to ensure that the Community debt is at all times duly serviced, as regards both capital and interest, it is essential to define the conditions under which the Community shall be entitled to receive from the other Member States the necessary foreign exchange if the debtor Member State finds itself unable to make payment on one or more due dates ;

Whereas a procedure must be provided for examining both the circumstances preventing a debtor Member State from meeting its obligations in respect of the debt and those in which a Member State might be exempted from the arrangements for the Member States to provide the Community with the foreign exchange due from the debtor Member State,

HAS ADOPTED THIS REGULATION :

Article 1

Where it is found, pursuant to the procedure laid down in Article 6, that a Member State which has received a loan from the Community is wholly or partially unable to provide the necessary foreign exchange to make a payment falling due in respect of such loan, the other Member States shall be under an obligation to provide the Community with this foreign exchange in the proportions specified in Article 2.

Article 2

The allocation among the Member States of the foreign exchange to be provided by them pursuant to Article 1 shall be calculated by applying, in the manner set out in this Article, the following scale :

	%
Germany	22·02
United Kingdom	22·02
France	22·02
Italy	14·68
Belgium/Luxembourg	7·34
Netherlands	7·34
Denmark	3·30
Ireland	1·28

This scale shall be applied by dividing the total financing requirement among the other Member States in the above proportions without taking account of the debtor Member State's quota.

Article 3

Where, pursuant to the procedure laid down in Article 7, one or more Member States are temporarily exempted in whole or in part from the obligation to provide the Community with foreign exchange due from the debtor Member State, the scale laid down in Article 2 shall be applied without taking account of the quotas of those Member States, to the extent that they have been exempted.

Article 4

1. However, no Member State may be required to provide the Community with a total amount of foreign exchange which exceeds the percentage laid down in Article 6 of Regulation (EEC) No 397/75 applied to the total amount of the basic loan plus interest.

2. If this limit is reached and there remains a balance to be financed, the balance shall only be divided, in accordance with the scale laid down in Article 2, among the Member States other than the Member State which has received the loan which otherwise would have been temporarily exempted in whole or in part from participating in the operation ; for the Member States only partially exempted, the percentage allotted to them in the scale laid down in Article 2 shall be reduced by the percentage taken into account in calculating their share of the allocation which left the balance to be financed.

Article 5

Member States which have provided foreign exchange pursuant to Articles 2 to 4 shall *ipso facto* acquire a claim against the Community for the foreign exchange provided.

(1) See page 1 of this Official Journal.

Any outstanding sums shall bear interest at the rate set out in the original loan, subject to a decision taken by the Council by a qualified majority to amend this rate.

Article 6

1. When a Member State receives a loan from the Community, the Commission, in collaboration with the Monetary Committee, shall take the necessary measures to verify that the economic policy of this State accords with the conditions laid down by the Council pursuant to Article 3 of Regulation (EEC) No 397/75. Subject to any arrangements which may be made in connection with individual loans, this verification shall take place at regular and frequent intervals. To this end, the Member State shall place all the necessary information at the disposal of the Commission.

2. This surveillance shall be closer as the date for the first repayment approaches, or if recourse is had to the re-financing arrangements provided for in Articles 2 to 4.

3. Should it appear that difficulties may arise in making a payment on the due date, the Commission, in collaboration with the Monetary Committee and the Committee of the Governors of the Central Banks shall, sufficiently in advance of the due date, make a special examination of the situation. This examination shall be concerned in particular with the financing arrangements available to the debtor Member State both inside and outside the Community.

4. If this examination indicates that the debtor Member State will be partly or wholly unable to make payment on the due date, the Commission shall propose that the Council, by a unanimous decision, implement the re-financing arrangements described in Articles 2 to 4.

If the examination raises serious doubts as regards the debtor Member State's alleged incapacity to pay, the Commission shall make a report to the Council which may include a proposal that it implement the re-financing arrangements. In the absence of such a proposal, the debtor Member State may make application to the Council. The Council shall take a unanimous decision after consulting the Monetary Committee and the Committee of the Governors of the Central Banks.

Article 7

Any Member State which wishes to be temporarily exempted in whole or in part from participating in any re-financing arrangements owing to balance of payments difficulties or serious deterioration in its foreign exchange reserves shall make known its reasons at the examination provided for in Article 6 (3). The procedure provided for in Article 6 (4) shall apply to such request.

Article 8

In any event, both in the case of a debtor Member State being unable to pay, as envisaged in Article 1, and in the case of other Member States being temporarily exempted in whole or in part from contributing, as envisaged in Article 3, all possibilities open to the Member States concerned for obtaining finance either inside or outside the Community must first have been exhausted before recourse is had to the re-financing arrangements provided for in Articles 2 to 4.

Article 9

Any Member State which has been temporarily exempted in whole or in part, whether as regards a payment due from it or as regards participation in re-financing arrangements, shall be under an obligation to make payment or to provide its share to the Community as soon as its balance of payments situation and foreign exchange reserves so permit.

Article 10

The European Monetary Cooperation Fund shall make the necessary arrangements for the administration of the loans.

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

Done at Brussels, 17 February 1975.

For the Council

The President

R. RYAN