COUNCIL REGULATION (EEC) No 1172/76

of 17 May 1976

setting up a financial mechanism

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas conditions incompatible with the proper functioning of the Community could arise when a Member State's economy, whilst in a special situation, is forced to bear a disproportionate burden in the financing of the Community budget;

Whereas, in accordance with the guidelines laid down by the Heads of Government at Paris on 10 December 1974 and elaborated by them in Dublin on 10 and 11 March 1975, such conditions should be prevented from arising during the process of convergence of the economies of the Member States by providing that a payment should be made from the budget of the Communities to the Member State in question;

Whereas the Treaty makes no provision for specific powers to create such a financial mechanism; whereas, therefore, Article 235 must be used for this purpose,

HAS ADOPTED THIS REGULATION:

Article 1

A financial mechanism is hereby set up, under the conditions set out in the following Articles, consisting of payments from the budget of the Communities to Member States in a special economic situation whose economies bear a disproportionate burden in the financing of that budget.

Article 2

On a reasoned application from a Member State, submitted not later than 30 June, the Commission shall assess the facts of the situation having established, on the basis of provisional data, that the following conditions are met simultaneously:

(a) the per capita gross national product (GNP) of the Member State is less than 85 % of the average per capita GNP for the Community;

(b) the growth rate of the per capita GNP in real terms of the Member State is less than 120 % of the average rate for the Community;

(c) the payments made by the Member State to the budget of the Communities for the financial year in progress pursuant to Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), exceed by more than 10 % the amount it would have to pay if the part of the budget covered by the aforementioned Decision were financed by the Member States on the basis of the proportion of their GNP to the total GNP of the Member States for the same financial year.

The figures referred to in (a) and (b) shall be calculated, as moving averages, from the results for the previous three years.

The calculations provided for in this Article shall be made using current market exchange rates.

Article 3

On assessing the facts of the situation, the Commission shall if necessary enter in an appropriate subdivision of the preliminary draft budget for the year following the year in which the Member State's application was made an appropriation equal to the provisional amount of the payment, calculated as follows:

(a) the excess amount determined in accordance with Article 2 (c) shall be divided into tranches equal to 5 % of the amount referred to in Article 2 (c) in fine; for the tranches thus obtained, the payment shall be as follows:

Tranches	*Payment*
— from 0 to 5 %	nil
— from 5·0001 % to 10 %	50 %
— from 10·0001 % to 15 %	60 %
— from 15·0001 % to 20 %	70 %
— from 20·0001 % to 25 %	80 %
— from 25·0001 % to 30 %	90 %
— above 30 %	100 %

(b) the payment may in no case exceed the smaller of the following two amounts:

— the net transfers from the Member State during the financial year in progress under Article 38 of

(1) OJ No C 7, 12. 1. 1976, p. 17.

(2) OJ No L 94, 28. 4. 1970, p. 19.

Financial Regulation 73/91/ECSC, EEC, Euratom [1], regardless of net payments made to that State under this Regulation; payments received by the Member States during the financial year in progress shall include payments made on its behalf by other Member States as monetary compensatory amounts paid pursuant to Article 2a of Council Regulation (EEC) No 974/71 of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States [2];

— the payments by the Member State to the budget of the Communities for the financial year in progress in respect of value added tax or pursuant to Article 4 (2) and (3) of Decision 70/243/ECSC, EEC, Euratom.

Article 4

Where the balance of current payments of the Member State, as calculated at current market exchange rates, from a moving average of the three years preceding the financial year in progress, shows a surplus, the amounts to be taken into consideration in respect of the financial year in progress, in the calculation of the excess amount referred to in Article 2 (c) for the purpose of applying Article 3 shall respectively be replaced by:

— the payments by the Member State to the budget of the Communities in respect of value added tax or pursuant to Article 4 (2) and (3) of Decision 70/243/ECSC, EEC, Euratom;

— the amount which that State would have had to pay on the basis of the proportion of its GNP to the total GNP of the Member States to finance the part of the budget not covered by the own resources referred to in Article 2 of Decision 70/243/ECSC, EEC, Euratom.

Article 5

The payments, which shall be calculated at current market exchange rates, shall be converted into the budgetary unit of account in force.

Article 6

The total amount of the payments which may be granted for a given financial year shall not exceed the greater of the following two amounts:

— 250 million units of account;

— 3 % of the total expenditure chargeable to that financial year under Article 17 of Council Regulation (EEC, Euratom, ECSC) No 2/71 of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [3].

Should the total amount of the payments calculated in accordance with this Regulation exceed the above ceiling, the payments shall be reduced proportionately.

Article 7

At the request of the Member State concerned, an advance equal to 75 % of the provisional amount of the payment shall be paid at the beginning of the year following the year of the application.

After the revenue and expenditure account has been drawn up, and as soon as it has at its disposal the final data referred to in this Regulation, the Commission shall, on the basis of this data, calculate the final amount of the payment and determine such adjustments as may be necessary.

Article 8

Where a Member State has received payments under this Regulation for three consecutive years, the Commission shall undertake a special examination of the situation of that State and take all suitable steps reflecting Community solidarity on the basis of the assessment of the convergence of economic situations and policies.

Article 9

For the purpose of Article 4, the balance of current payments shall cover goods, services and unrequited transfers as defined by the Statistical Office of the European Communities.

Article 10

This Regulation shall enter into force on 1 January 1976.

It shall be applicable for a trial period of seven years. Not later than the end of the sixth year, the Commission shall report to the Council on the application of the financial mechanism and make suitable proposals, if necessary.

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[1] OJ No L 116, 1. 5. 1973, p. 1.
[2] OJ No L 106, 12. 5. 1971, p. 1.
[3] OJ No L 3, 5. 1. 1971, p. 1.

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

Done at Brussels, 17 May 1976.

For the Council

The President

R. VOUEL