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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1932/84

of 19 June 1984

amending Regulation (EEC) No 355/77 on common measures to improve the conditions under which agricultural products are processed and marketed and Regulation (EEC) No 1820/80 on the stimulation of agricultural development in the less-favoured areas of the west of Ireland

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

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

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 16 of Regulation (EEC) No 355/77 (4), as last amended by Regulation (EEC) No 3164/82 (5), provides that the period envisaged for the achievement of the common measure referred to in Regulation (EEC) No 355/77 shall be seven years from 1 January 1978 ;

Whereas to achieve the objective of the aforesaid measure fixed pursuant to Article 6 (2) (a) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (6), it is necessary, in accordance with Article 6 (2) (c) of that Regulation, to extend the period envisaged for the achievement of the aforesaid measure ;

Whereas it is necessary at the same time to adapt the common measure to the needs of the common agricultural policy and especially to the state of the market for many agricultural products, taking account at the same time of the experience gained in the application of Regulation (EEC) No 355/77 ;

Whereas the greater number of the programmes approved in pursuance of Regulation (EEC) No 355/77 or their approval expires at the end of the initial period set for the achievement of the common measure ;

Whereas, in view of the foregoing, the up-dating of these programmes or the drawing up of new programmes for the same sectors, requires special justification ; whereas, in addition, special efforts should be made with a view to developing new products and new technologies ;

Whereas on the basis of the products in question and the structural situation of a region, the implementation of certain projects may be better ensured through aiding also the purchase of harvesting equipment ; whereas a contribution from the Fund must however pay particular attention to the conditions of competition in that field ;

Whereas the processing industry should be encouraged to develop new processing techniques, reduce energy consumption and improve the recycling of industrial residues or waste ; whereas it is therefore necessary to extend the scope of the measure to these fields ;

Whereas the procedure for the admission of projects concerning the processing of basic products not included in Annex II to the Treaty should be more flexible ; whereas as a result, the Commission should be authorized to decide on such an admission, subject to certain conditions, in particular if new products, new outlets or secondary goods arising from the processing of basic products are involved ;

Whereas to ensure the due performance of approved projects, it is necessary further to specify the conditions of their establishment, approval and execution ;

Whereas under Article 6 (2) of Regulation (EEC) No 729/70 the Council shall determine *inter alia* the estimated cost of the measures ; whereas this determination cannot be made until the Council has decided on the question of the total amount for each five-year

(1) OJ No C 347, 22. 12. 1983, p. 15.
(2) OJ No C 127, 14. 5. 1984, p. 173.
(3) OJ No C 103, 16. 4. 1984, p. 29.
(4) OJ No L 51, 23. 2. 1977, p. 1.
(5) OJ No L 332, 27. 11. 1982, p. 1.
(6) OJ No L 94, 28. 4. 1970, p. 13.

period currently laid down in paragraph 5 of that Article ; whereas pending this decision the determination of the said estimated cost should be postponed until later in the current year ;

Whereas it is necessary to extend the specific conditions adopted for Italy and Greece to the less-favoured areas of the west of Ireland and to the French overseas departments ; whereas it is necessary, therefore, to amend Regulation (EEC) No 1820/80 (1) ;

Whereas the particular situation in certain areas of France necessitates extending the specific conditions adopted for those areas with regard to projects in the wine sector to other products in the same areas ;

Whereas fixing the rate of contribution of a beneficiary to financing a project must take into account the particular situations on the capital market ; whereas provision should therefore be made for the possibility of reducing that contribution ;

Whereas to permit a financial contribution by the Community to projects introduced before 31 December 1984 which form part of programmes, for which the period of time envisaged or for which the period of approval is to expire prior to 31 December 1984, provision must be made for a transitional period in order to permit the financing of those projects before a new programme or the up-dating of the programme is adopted,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 355/77 is hereby amended as follows :

1. 'and of fish' is inserted in the title between 'agricultural' and 'products'.

2. Article 2 is replaced by the following :

   'Article 2

   The specific programmes, hereafter referred to as "programmes", shall be designed to further the development or the rationalization of the treatment, processing or marketing of one or more agricultural or fish products in all or part of the Community, and in particular also products intended for new outlets or new technologies.

   They shall be drawn up by the Member States.'

3. In Article 3 (1) :

   (i) the introductory sentence is replaced by the following :

   'The programmes must show clearly that they contribute towards achieving the objectives of the common agricultural policy and, in particular, towards the proper functioning of the markets in agricultural and fish products. They shall, in addition, include at least the following details :' ;

   (ii) in (b) the third indent is replaced by the following :

   '— the situation of the sector processing and marketing the agricultural or fish products coming under the programme in the region concerned by the programme and in surrounding regions in the Member State and, in particular, the existing capacities of the undertakings concerned and their geographical distribution.' ;

   (iii) the following are added to (e) :

   '... and the Member State's financial contribution ;'.

4. In Article 3, the following paragraphs are added :

   '3. If a programme concerns only the introduction of new technologies, it shall include, as well as the items referred to at paragraph 1 (a), (b), (f) and (g), the following items :

   — a description of the new technologies and an assessment of their potential economic importance in connection with the relevant products,

   — an estimate of the capacities which could be achieved by the introduction of the new technologies, and an indication of the overall total investment needed to achieve these capacities.

   4. If the original period planned by a Member State for the implementation of a programme approved according to Article 5 has expired, an updating of an expired programme or a new programme relating to the same objects must include as well as the items referred to in paragraph 1, an account of :

   — the state of implementation of the expired programme, including the public resources made available for its implementation,

   — a description of changes in the situation with regard to the processing and marketing of the products concerned by the programme showing that there is still a need for updating the programme or for a new programme.'

(1) OJ No L 180, 14. 7. 1980, p. 1.

5. The following paragraph is added to Article 5 :

'Within the framework of a decision provided for in the first paragraph, the Commission may, on the basis of the products involved and the structural situation of the region covered by the programme, and taking account of the possible consequences as regards conditions of competition, decide as to whether the financial contribution by the Fund may relate to the purchase of the harvesting equipment referred to in Article 6.'

6. The following points are added to Article 6 (1) :

'(d) verifying the technical and economic feasibility of new processing techniques on an industrial scale (pilot projects) and especially the development of new products and by-products ;

(e) saving energy or removing, recovering and recycling industrial residues or waste in the context of the facilities referred to under (a), (b), (c) and (d) ;

(f) subject to a decision taken pursuant to the second paragraph of Article 5, to harvesting primary products of the soil, provided that the equipment concerned cannot qualify for a Community financial contribution under Council Directive 72/159/EEC of 17 April 1972 on the modernization of farms (1) :

— equipment forming part of a project concerning the processing of the products concerned, the said equipment not representing more than 10 % of the total investment in that project,

— specific equipment indispensable to the achievement of the objective of the project,

— a first acquisition of equipment the use of which is economically justified and the acquisition of which yields economic benefits for the producers of the products concerned in the project.'

(1) OJ No L 96, 23. 4. 1972, p. 1.

7. Article 7 (2) is replaced by the following :

'2. Where necessary in order to attain the objective of a programme, the Commission may, within the framework of a decision as provided for in the first paragraph of Article 5 and having regard to the products concerned and the structural situation of the region covered by the programme and taking account of possible consequences as regards conditions of competition, decide that a project may also relate to the processing of products set out in Annex II to the Treaty into goods not covered by that Annex or the marketing of such goods provided that these projects ensure economic benefits for the producer of the basic product and that :

— such goods consist of new products which increase significantly at Community level the prospects for disposing of the basic products concerned, or

— such goods constitute, at Community level, a new important outlet for the basic products concerned, or

— such goods consist of secondary products, arising from the processing of basic products, the processing and marketing of which are likely to increase the receipts of the producers of the basic products concerned.

3. The Council, acting on a proposal from the Commission, by a qualified majority according to the voting procedure provided for in Article 43 (2) of the Treaty, may decide that a project may also include the processing of products set out in Annex II to the Treaty into goods not covered by that Annex other than those referred to in paragraph 2.

8. The following paragraph is added to Article 9 :

'3. However, the conditions referred to in paragraph 1 may be waived in the case of pilot or experimental projects concerning new technologies and products intended for new outlets, provided that the new technologies or the new envisaged outlets can permit an improvement in the economic situation of the producers of the basic products concerned.'

9. In Article 13, paragraphs 3 and 4 are replaced by the following text :

'3. In order to receive aid from the Fund a project must have been approved by the Member State on the territory of which it is to be carried out and, in the case of projects submitted after 30 April 1986, must be accompanied by a formal decision concerning that Member State's financial contribution.

4. An application for aid must be based on an estimate of the actual cost of the project, calculated by reference to the date for the commencement of the work involved in the project. It must also be accompanied by information making it possible to establish that the project fulfils the requirements laid down in Title II.'

10. In Article 16 :

(i) paragraphs (1) and (2) are replaced by the following :

'1. The estimated time required for carrying out the common measure is 17 years from 1 January 1978.

2. At the end of a five-year period starting on 1 January 1985 the procedures of this Regulation will be reviewed by the Council on a proposal from the Commission.' ;

(ii) the following is added to paragraph 3 :

'The estimated cost of the common measure chargeable to the Fund for the period 1 January 1985 to 31 December 1989 shall be fixed by the Council acting by a qualified majority on a proposal from the Commission not later than 31 December 1984.'

11. Article 17, paragraphs (2) and (3) are replaced by the following :

'2. For each project, as a proportion of the total investment :

(a) the financial contribution of the beneficiary must be at least 50 % ; this minimum shall, however, be only :

— 35 % for projects carried out in Languedoc-Roussillon and in the departments of Vaucluse, Bouches-du-Rhône, Var, Ardèche and Drôme,

— 25 % for projects carried out in the Mezzogiorno, in the less-favoured regions of the west of Ireland, in all the regions of Greece with the exception of Greater Athens and in the French overseas departments.

Moreover, if the situation on the capital market of a Member State so justifies, the Commission may, in accordance with the procedure set out in Article 22, authorize that Member State to reduce the contribution of the beneficiary from 50 to 45 % ;

(b) the financial contribution of the Member State on the territory of which the project is to be executed must be not less than 5 % ;

(c) the aid granted by the Fund shall not exceed :

— 50 % for projects carried out in the Mezzogiorno, in the less-favoured regions of the west of Ireland, in all the regions of Greece with the exception of Greater Athens and in the French overseas departments,

— 35 % for projects carried out in Languedoc-Roussillon and in the departments of Vaucluse, Bouches-du-Rhône, Var, Ardèche and Drôme,

— 25 % in the other regions ; however, the Commission may, under the procedure laid down in Article 22, raise the ceiling to 30 % in the case of projects referred to in Article 11 (c).

3. As regards Fund assistance for the purchase of harvesting equipment referred to in Article 6 (f), the rates referred to in (2) shall be fixed as follows :

(a) the financial contribution of the beneficiary must be at least 80 % and, as regards Greece, Italy and Ireland for projects submitted before 31 December 1986, 70 %.

However, it shall be reduced to :

— 70 %, and to 60 % for projects submitted before 31 December 1986 for projects carried out in the Mezzogiorno, in all the less-favoured areas of the west of Ireland, and in all regions of Greece except that of Greater Athens,

— 70 % for projects carried out in the French overseas departments, in Languedoc-Roussillon and in the departments of Vaucluse, Bouches-du-Rhône, Var, Ardèche and Drôme ;

(b) the subsidy granted by the Fund shall not exceed :

— 20 %, and 30 % for projects submitted before 31 December 1986, for projects carried out in the Mezzogiorno, in the less-favoured areas of the west of Ireland and in all regions of Greece except that of Greater Athens,

— 20 % for projects carried out in the French overseas departments, in Languedoc-Roussillon and in the departments of Vaucluse, Bouches-du-Rhône, Var, Ardèche and Drôme,

— 10 % in the other regions and 20 % for projects submitted before 31 December 1986 in the other regions of Greece, Ireland and Italy.' ;

12. Article 17a is deleted ;

13. in the second subparagraph of Article 19 (2) :

(i) the third indent is replaced by the following :

'— if the beneficiary, unless the decision granting the aid lays down, following a reasoned request from the beneficiary, different time limits :

— has not begun the work within two years,

— has not finished the work within four years of the date of notification of the Commission's decision,' ;

(ii) the following indent is added :

'— if the beneficiary sells equipment or buildings having received aid from the Fund within six or 10 years respectively of the date of their acquisition or of the completion of the work, without prior authorization from the Commission.'

14. The second sentence of Article 20 (1) is replaced by the following :

'This report shall be submitted two years after full payment of the aid.'

15. In Article 24 :

(i) in paragraph 4 '30 April 1984' is replaced by '30 April 1995' ;

(ii) the following paragraph is added :

'5. Assistance from the fund can be approved for projects introduced before 31 December 1984 falling within the field of specific programmes of which the original duration provided for by a Member State expired before 31 December 1984 or which form part of specific programmes of which the original duration has not yet expired but of which the approval period under Article 5 expired on 31 December 1984, without a new programme or an updating of the programme being approved in accordance with Article 3 (4) or without the Commission having approved extension of the approval period.'

Article 2

Article 19 of Regulation (EEC) No 1820/80 is hereby deleted.

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

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

Done at Luxembourg, 19 June 1984.

For the Council

The President

M. ROCARD