COUNCIL REGULATION (EEC) No 3637/85

of 17 December 1985

amending Regulation (EEC) No 2619/80 instituting a specific Community regional development measure contributing to the improvement of the economic and social situation of the border areas of Ireland and Northern Ireland

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3634/85 of 17 December 1985 on the establishment of specific Community regional development measures in 1985 (1), and in particular Article 1 thereof,

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Economic and Social Committee (4),

Whereas Article 48 of Council Regulation (EEC) No 1787/84 of 19 June 1984 on the European Regional Development Fund (5) provides that, subject to the application of Article 45 thereof, Regulation (EEC) No 724/75 (6), including Title III relating to specific Community measures, is repealed; whereas, however, Article 1 of Council Regulation (EEC) No 3634/85 provides that the Council may, until 31 December 1985, in accordance with the provisions of Article 13 of Regulation (EEC) No 724/75, institute specific Community measures on the basis of proposals submitted by the Commission before 31 December 1984;

Whereas the said Article 13 provides for participation by the Fund in financing specific Community regional development measures; whereas the Council has stated its willingness to examine, within this framework, on a proposal from the Commission, any requests for aid relating to border problems in the most deserving regions of the Community submitted jointly by two or more Member States concerned;

Whereas, under the said Article 13, the Council adopted on 7 October 1980 Regulation (EEC) No 2619/80 (7), which instituted a measure hereinafter referred to as a 'specific measure';

Whereas, pursuant to that Regulation and in particular Article 3 thereof, the Commission has approved special programmes relating to certain border areas in Ireland, on the one hand, and Northern Ireland on the other, and has at the same time allocated appropriations to those programmes;

Whereas the Member States concerned have provided the Commission with information on regional problems which might be the subject of a specific measure and whereas, taking account of the extent of difficulties both economic and in terms of employment, the specific measure in force should be extended to those zones particularly concerned by these problems and should be supplemented by new provisions;

Whereas the encouragement of small and medium sized undertakings (SMUs) could be accelerated by allowing them better to adapt their production potential, in particular through investment aids, and by facilitating access to innovation and risk capital;

Whereas economic promotion in the zones concerned should be further stimulated by especially active management of the public aids and services available, particularly those provided for under the special programme and whereas, to this end, there is a need to establish or extend services responsible for informing existing or potential undertakings of the availability of such aids and services and to help those undertakings to take advantage of them;

Whereas the natural gas supply and consumption in some of these areas located in Ireland could, while enabling the economic development base of these areas to be reinforced, contribute to the realization of Community energy policy objectives by reducing dependence on oil, by increasing security of energy supply through diversification of energy resources, and by improving the balance of trade of the Member State concerned;

Whereas, to this effect, necessary infrastructure operations should be provided for with a view to increasing the availability of natural gas through the development of transport and distribution networks and through feasibility studies, as well as a package of measures intended to stimulate the use of gas in the industrial and service sectors, comprising consultancy aid and technical assistance, aid for the promotion of consumer awareness and aid to investment in SMUs;

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(1) See page 6 of this Official Journal.
(2) OJ No C 70, 18. 3. 1985, p. 4. and OJ No C 258, 10. 10. 1985, p. 8.
(3) OJ No C 229, 9. 9. 1985, p. 135.
(4) Opinion delivered on 25/26 September 1985 (not yet published in the Official Journal).
(5) OJ No L 169, 28. 6. 1984, p. 1.
(6) OJ No L 73, 21. 3. 1975, p. 1.
(7) OJ No L 271, 15. 10. 1980, p. 28.

Whereas, in order to accelerate the implementation of the special programmes, the provisions of Regulation (EEC) No 2619/80 concerning budgetary commitments, payment of aid from the Fund and advances made from the Fund should be amended;

Whereas additional financial resources are required to implement the specific measure so extended and strengthened;

Whereas each of the Member States concerned should submit to the Commission an amended special programme,

HAS ADOPTED THIS REGULATION:

Section 1

Article 1

Regulation (EEC) No 2619/80 is hereby amended in accordance with the following Articles.

Article 2

Article 2 shall be replaced by the following:

'Article 2

The specific measure shall apply to the following border areas:

(a) Ireland: the Counties of Donegal, Leitrim, Cavan, Monaghan, Louth and Sligo;

(b) Northern Ireland, with the exception of the Belfast urban area.'

Article 3

The following subparagraph shall be added to Article 3 (2):

'Moreover, the aim of the special programme, in certain areas located in Ireland, shall be the strengthening of economic competitiveness and growth potential, by the improvement of the regional energy situation, through the development of natural gas supply and demand, by means of appropriate measures in the fields of investment, technical assistance and consultancy services and the promotion of potential consumer awareness.'

Article 4

The following paragraph shall be inserted in Article 3:

'2a. The preparation and implementation of the special programme shall be closely coordinated with national and Community policies and financial instruments, in particular the European Agricultural Guidance and Guarantee Fund (EAGGF), Guidance Section, the Social Fund, the European Investment Bank and the New Community instrument. (NCI).'

Article 5

The following paragraph shall be inserted in Article 3:

'6a. When approving the special programme, the Commission shall satisfy itself that the programme is compatible with Article 44 of Regulation (EEC) No 1787/84.'

Article 6

Article 3 (8) shall be replaced by the following:

'8. Once it has been approved, the special programme shall be published for information by the Commission.'

Article 7

The following paragraph shall be added to Article 3:

'9. Member States shall take the measures necessary to make potential beneficiaries and the various sectors of industry aware of the possibilities offered by the special programme and to inform the public by the most appropriate means of the role played by the Community.'

Article 8

The introductory sentence to Article 4 shall be replaced by the following:

'For all the areas referred to in Article 2, the Fund may contribute, within the framework of the special programme, to the following operations:'

Article 9

The following points shall be added to Article 4:

'8. Aids to investment in SMUs designed to create new undertakings or to assist the adaptation of production to market potential by existing undertakings when justified by the analyses mentioned under point 7 (a) or other satisfactory evidence. Such investment may also concern common services for a number of undertakings;

9. Promotion of innovation in industry and services:

— collection of information relating to product and technological innovation and its dissemination among undertakings operating in the zones covered by the specific measure, which may include experimental work on such innovation,

— encouragement of the introduction of product and technological innovation in SMUs;

10. Better access for SMUs to risk capital;

11. Setting up or development of economic promotion agencies responsible for :

— opening up possibilities, through direct contacts at local level, for economic ventures by giving advice about access to available public aids and services, particularly those provided for under the special programme, and

— contributing to the success of these ventures by helping existing or potential undertakings to take advantage of such aids and services.

Moreover, for the areas of Ireland referred to in Article 2 of this Regulation, the Fund may contribute, within the framework of the special programme, to the following operations :

12. Infrastructure :

(a) investments in the extension of the existing gas transmission pipeline system from Dublin to viable centres in the areas mentioned above, including the centres of Dundalk and Sligo ;

(b) investments in distribution networks in the centres referred to under (a) in order to supply industrial, commercial and other consumers with natural gas ;

(c) studies in order to examine the commercial and technical feasibility as well as financial viability of the supply of natural gas to the centres referred to under (a) ;

13. Consultancy and technical assistance :

making available to industrial and service activities, with a view to facilitating adaptation to natural gas and encouraging exploitation of new products and process possibilities, technical assistance and services in the following fields :

(a) assessment of the technical implications and benefits and costs of conversion to natural gas ;

(b) identification of new products and processes dependent on natural gas ;

(c) analysis of market potential for existing and new products linked to the use of natural gas ;

(d) identification, acquisition and transfer of technology aiming at new high performance use of natural gas ;

14. Investment aids to SMU's :

encouragement of investments in order to assist existing and new SMU's in :

(a) the conversion of existing equipment operating on oil-based products and the adoption of new equipment for the use of natural gas ;

(b) the adoption of new products and improved production processes made possible by the use of natural gas ;

15. Promotion of consumer awareness :

Publicity and information campaigns to make potential users aware of the availability and advantages of natural gas and of the measures envisaged under the special programme. These campaigns will include the organization of seminars, courses and conferences, propagation of standards and demonstration projects to highlight in particular the benefits of high-performance gas equipment.

Article 10

The following points shall be added to Article 5 (1) :

'(k) operations relating to investment under point 8 of Article 4 : 50 % of the public expenditure resulting from the granting of aid to the investment. Such aid may contain a supplementary element compared to the most favourable existing regional arrangements. The supplementary aid which is to be borne by the Community for four years may be up to 10 % of the cost of the investment. The public aid may take the form of a capital grant or an interest rebate ;

(l) operations concerning the collection and dissemination of information on innovation under the first indent of point 9 of Article 4 : aid covering part of the operating costs of bodies engaged in such activities, provided that these activities are new and concern specificially the zones covered by Article 2. The aid shall last for three years and be degressive. It shall cover 70 % of the operating costs in the first year and shall not exceed 55 % of the total cost over the three-year period ;

(m) operations for implementing innovation under the second indent of point 9 of Article 4 : 70 % of the cost of feasibility studies that may concern all aspects, including commercial, of the implementation of innovation, limited to 120 000 ECU per study. These studies must be undertaken by or on behalf of undertakings situated in the zones covered by Article 2 ;

(n) operations relating to risk capital under point 10 of Article 4 : contributions towards the operating costs of financial institutions providing risk capital for SMUs. The contribution shall be 70 % of the costs of risk evaluation studies carried out by or on behalf of the financial institutions. These studies may also examine commercial aspects ;

(o) operations relating to economic promotion under point 11 of Article 4 : aid covering a part of the operating costs arising from the activities of promoters. The aid shall last for five years and shall be degressive. It shall cover 60 % of operating costs in the first year and shall not exceed 50 % of the total expenditure per promoter over the five-year period. These activities, which must be new and concern specifically the zones referred to in Article 2, may be entrusted by the Member State concerned to special bodies ;

(p) for infrastructure :

(i) operations relating to investments in the transmission pipeline under point 12 (a) of Article 4 : 50 % of the public expenditure ;

(ii) operations relating to investments in distributions networks under point 12 (b) of Article 4 : 50 % of the public expenditure linked to the grant of interest rebates on loans in order to facilitate the financing of those networks ;

(iii) operations relating to studies under point 12 (c) of Article 4 : 50 % of the public expenditure resulting from the granting of aid to these studies ;

(q) for economic consultancy and technical assistance :

(i) operations under point 13 (a) of Article 4 : 50 % of the public expenditure resulting from the granting of aid to these studies ;

(ii) operations under point 13 (b) of Article 4 : 50 % of the public expenditure resulting from the granting of aid to the costs of research and development work ; the contribution of the Community shall be limited to 120 000 ECU for any project ;

(iii) operations under point 13 (c) of Article 4 : 70 % of the public studies ;

(iv) operations under point 13 (d) of Article 4 : 50 % of the public expenditure resulting from the granting of aid to feasibility studies ; the contribution of the Community shall be limited to 120 000 ECU for any one project ;

(r) for operations relating to investment under point 14 of Article 4 : 50 % of the public expenditure resulting from the granting of aid to investment in equipment for conversion to natural gas (for existing firms), investment in equipment related to natural gas (for new firms), and investment in equipment related to the adoption of new products and production processes (for existing and new firms). Public aid may take the form of a capital grant or an interest rebate ;

(s) operations relating to promotion of awareness under point 15 of Article 4 : aid covering part of the cost of publicity and information campaigns. This aid shall last for five years and shall be degressive. It shall cover 60 % of expenditure in the first year and shall not exceed 50 % of the total expenditure over the five-year period.'

Article 11

Article 5 (2) shall be replaced by the following :

'2. Aggregation of the aid referred to in paragraph 1 with aid of the same type, for the same operations granted pursuant to other provisions of Council Regulation (EEC) No 1787/84 is excluded.'

Article 12

The last sentence of Article 5 (3) shall be replaced by the following :

'The aids referred to in paragraph 1 (h), (j) and (m) where they directly benefit undertakings, as well as those refered to in (q) (iii), may not have the effect of reducing the share paid by undertakings to less than 20 % of total expenditure.'

Article 13

Article 5 (5) shall be replaced by the following :

'5. Budgetary commitments relating to the financing of the special programme shall be implementation by annual tranche. The first tranche shall be committed at the time of the Commission's acceptance of the programme. The commitment of subsequent annual tranches shall be made according to budgetary availability and progress on the programme.'

Article 14

The introducing sentence to Article 6 (1) shall be replaced by the following :

'1. the amount of the Fund contribution in respect of the measures included in the special programme shall be paid to the Member State concerned or directly, and in accordance with the latter's instructions, to the bodies responsible for their implementation, according to the following rules :'

Article 15

Article 6 (1) (c) shall be replaced by the following:

'(c) at the request of a Member State, advances may be granted for each annual tranche according to progress made on operations and budgetary availability.

From the begining of operations, a 60 % advance on the Fund contribution concerning the first annual tranche may be paid by the Commission. Where the Member State certifies that half this first tranche has been spent, a second advance, of 25 %, may be paid by the Commission.

When payment of the following annual tranche has begun, advances may be paid under the terms of the preceding subparagraphs.

The balance of each annual tranche shall be paid at the request of the Member State when it has certified that the operations corresponding to the tranche in question may be considered as finished, and presentation of the amount of public expenditure which has been incurred.'

Article 16

Article 6 (5) shall be replaced by the following:

'5. When each special programme has been implemented, a report including information on the number and nature of the jobs created and maintained shall be presented by the Commission to the Regional Policy Committee and to the European Pariliament.'

Article 17

The Annex is hereby amended as follows:

1. The second sentence in point 1 (a) shall be replaced by the following:

'Analysis of the situation and needs of SMUs, particularly as concerns market potential and measures to be implemented in order to adapt and develop production, management and organization services, information on innovation and for implementing it, and access to risk capital. Analysis of the state of energy supply, and an evaluation of the potential natural gas demand by type of consumer, particularly as concerns industry. In respect of natural gas consumption, analysis of the situation and the needs of industry by sector and of their economic consultancy and technical assistance requirements, and those of SMUs concerning investments'.

2. The following shall be added at point 2 (a):

'(v) description and location of the planned extensions of natural gas transport and distribution networks'.

Section 2

Article 18

1. Ireland and the United Kingdom shall adapt the special programmes referred to in Article 3 of Regulation (EEC) No 2619/80 in accordance with the amendments introduced by Section 1 of this Regulation.

2. The adapted special programmes shall be approved by the Commission in accordance with Article 3 (6) of Regulation (EEC) No 2619/80.

3. Without prejudice to Article 5 (4) of Regulation (EEC) No 2619/80, the amount of the Fund's assistance to the adapted special programmes may not exceed the amount fixed by the Commission at the time of approval of the programmes.

4. The duration of the adapted special programmes shall be extended until the end of the fifth year starting from the sixtieth day following the date on which this Regulation enters into force.

5. Expenditure arising from the special programmes thus adapted which is incurred from the date of entry into force of this Regulation shall be eligible.

Article 19

This Regulation shall enter into force on the day following that of 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 Brussels, 17 December 1985.

For the Council

The President

J. F. POOS