COUNCIL REGULATION (EEC) No 3640/85

of 20 December 1985

on the promotion, by financial support, of demonstration projects and industrial pilot projects in the energy field

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 (1),

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

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

Whereas, pursuant to Article 2 of the EEC Treaty, the Community has as its task to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion and an increase in stability ;

Whereas the more rational use of energy, by energy saving and the exploitation of alternatives to hydrocarbons, should make an effective contribution towards the attainment of these objectives ;

Whereas, in its resolution of 9 June 1980 concerning Community energy policy objectives for 1990 and convergence of the policies of the Member States (4), the Council affirmed the need to step up efforts to save energy and reduce the Community's oil consumption and imports ;

Whereas in its resolution of 25 July 1983 (5) the Council approved the concept of a scientific and technical strategy for Europe, and, in particular, approved the objectives for Community research, development and demonstration activities as laid down in the framework programme 1984 to 1987 ;

Whereas, in its resolution of 15 January 1985 on the improvement of the Member States' energy-saving programmes (6), the Council took note of the Commission's intention to pursue its action in favour of the rational use of energy ;

Whereas the development of an energy strategy for the Community calls for an adequate level of investment in alternatives to oil as an energy source and in the more rational use of energy, together with the continuation of research, development and demonstration policies at Community level, and whereas the development of an energy strategy for the Community confirms the role to be played by coal and the other solid fuels in this strategy ;

Whereas, despite the present energy situation, there must be no slackening of efforts to save energy and diversify the Community's energy supplies, and whereas the conversion of solid fuels into gaseous and liquid products represents an alternative energy source which, after it has been developed to the industrial stage, could improve energy supply conditions, in the Community by contributing towards diversification and could reduce the Community's dependence on imported hydrocarbons ;

Whereas support for innovatory demonstration projects aimed at improving the efficiency with which energy is used and making use of alternatives to hydrocarbons as energy sources is still an important means of contributing to the attainment of the abovementioned objectives ;

Whereas the Community and the Member States have adopted research, development and demonstration programmes in the fields of energy saving, renewable energy sources and solid fuels ; whereas a Community programme of support for demonstration projects in these fields must contribute to the wide dissemination of the results of these programmes ;

Whereas the demonstration stage is the link between the earlier research and development stage, sometimes tested on pilot plant, and the later investment stage ; whereas the demonstration stage and the pilot stage differ from the research and development stage in the industrial scale of projects and the requirement that there be prospects of economic viability, and from the investment stage in that the inherent risks are still too high for entrepreneurs ;

Whereas financial support should be granted, after the research and development stage, for suitable demonstration projects for the exploitation of alternative energy sources and for energy saving and the substitution of hydrocarbons, in view of the considerable risks and investment which the application of innovatory techniques might entail ;

Whereas financial support should also be granted, after the research and development stage, for suitable demonstration and industrial pilot projects relating to the liquefaction and gasification of solid fuels which, as a reslt of their size and the time required to develop them, including a period of long duration needed in order to acquire

(1) OJ No C 109, 3. 5. 1985, p. 3.
(2) Opinion delivered on 13 September 1985 (not yet published in the Official Journal).
(3) OJ No C 218, 29. 8. 1985, p. 5.
(4) OJ No C 149, 18. 6. 1980, p. 1.
(5) OJ No C 208, 4. 8. 1983, p. 1.
(6) OJ No C 20, 22. 1. 1985, p. 1.

experience with large-scale installations, are particularly expensive and entail considerable risks due to the new technologies involved;

Whereas support for the projects referred to in this Regulation will help to strengthen confidence in their execution and will encourage replication of the techniques suported within the Community;

Whereas the execution of these projects could result in the development in the Community of industries possessing the relevant skills with potential markets of some importance outside the Community;

Whereas the granting by the Community of the support envisaged must not adversely affect the conditions of competition in a manner incompatible with the principles embodied in the relevant provisions of the Treaty;

Whereas those benefiting should undertake obligations towards the Community in return for the support they are to be granted;

Whereas it is important that the efforts already made to support technological development in the fields of the exploitation of alternative energy sources, energy saving and the substitution of hydrocarbons and industrial pilot projects and demonstration projects relating to the liquefaction and gasification of solid fuels should be continued for a further period as back-up for the Community's energy strategy;

Whereas the Community has already undertaken a Community demonstration programme in the fields of energy saving, alternative energy sources, substitution of hydrocarbons and the liquefaction and gasification of solid fuels pursuant to Regulations (EEC) No 1302/78 (1), (EEG) No 1303/78 (2), (EEC) No 1971/83 (3) and (EEC) No 1972/83 (4); whereas Regulations (EEC) No 1971/83 and (EEC) No 1972/83, as amended respectively by Regulations (EEC) No 2125/84 (5) and (EEC) No 2126/84 (6), are applicable until 31 December 1985;

Whereas the Commission has evaluated this programme in reports which it has submitted to the Council and the European Parliament on the application of those Regulations; whereas this evaluation should be continued and adapted, taking account of the experience gained;

Whereas a Regulation on the granting of financial support for demonstration projects relating to the exploitation of alternative energy sources, energy saving and the substitution of hydrocarbons, and on the granting of financial support for pilot industrial projects and demonstration projects relating both to the liquefaction and gasification of solid fuels is necessary and urgent to avoid an interruption in the programmes which, in a multiannual context, form a mainstay of the energy strategy of the Community, and whereas these fields will henceforth be covered by a single Regulation;

Whereas the Treaty does not provide the powers necessary for this purpose, other than those of Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

Under the conditions laid down in this Regulation, the Community may grant financial support for projects relating to the fields defined in Article 2.

Article 2

1. For the purposes of this Regulation 'demonstration projects' means:

— in the context of the exploitation of alternative energy sources, projects to exploit any potential source of energy, with the exception of nuclear energy,

— in the context of energy saving, projects which, by comparison with already commercially available technology, lead to substantial energy savings,

— in the context of the substitution of hydrocarbons, projects exploiting energy processes which replace hydrocarbon-based processes,

— in the context of the liquefaction and gasification of solid fuels, projects for converting solid fuels into gases and liquids which are likely to improve the Community's energy supply situation in respect of imports of hydrocarbons.

2. For the purposes of this Regulation, in the context of the liquefaction and gasification of solid fuels, 'industrial pilot projects' refers to installations having adequate capacity and using components which are large enough to increase the reliability of the economic and technical data needed to progress from the research and development stage to the demonstration stage and, in certain cases, directly to the industrial and commercial stages.

3. A list of the fields of application of this Regulation is given in Annex I as regards exploitation of alternative energy sources, in Annex II as regards energy saving, in Annex III as regards the substitution of hydrocarbons and in Annex IV as regards the liquefaction and gasification of solid fuels.

(1) OJ No L 158, 16. 6. 1978, p. 3.
(2) OJ No L 158, 16. 6. 1978, p. 6.
(3) OJ No L 195, 19. 7. 1983, p. 1.
(4) OJ No L 195, 19. 7. 1983, p. 6.
(5) OJ No L 196, 26. 7. 1984, p. 3.
(6) OJ No L 196, 26. 7. 1984, p. 4.

Article 3

1. All projects within the meaning of Articles 1 and 2 must satisfy the following conditions :

— they must relate to the creation of full-size installations enabling alternative energy sources to be exploited, energy to be saved or hydrocarbons to be substituted in significant quantities, or solid fuels to be converted into hydrocarbons in liquid or gas form ; in the latter area, projects may relate to pilot industrial installations,

— they must exploit innovatory techniques, processes or products or a new application of techniques, processes or products which are already known,

— they must be based on completed research and development work,

— they must, at the demonstration stage, offer promising prospects of industrial, economic and commercial viability and in the longer term offer similar prospects for pilot projects,

— they must be such as to encourage and promote the commercial development of the technique, process or product, and they must envisage actions and means for replicating the same type of project,

— in reference to the abovementioned techniques, processes or products, they must be submitted by the following persons or undertakings :

  — producers,

  — users, provided that such users enter into a partnership with appropriate producers. Users for whom partnership with producers is not appropriate may apply alone, provided that clear indications are given in the proposal how they intend to stimulate replication if the project is successfully demonstrated,

— they must present difficulties with regard to finance because of the considerable technical and economic risks involved to the extent that the project would very probably not be carried out without national and/or Community public financial support, and must be accompanied by a finance plan,

— they should, in principle, be carried out within the territory of the Community. However, in so far as the execution (complete or partial) of a project in a third country, for example in a developing country, is in the Community's interest, particularly on account of its special characteristics, financial support may exceptionally be granted to such a project.

2. Subject to the conditions set out in paragraph 1, account shall also be taken of the following characteristics of projects when they are assessed :

— that they are the subject of cooperation between persons or undertakings from at least two Member States,

— that they offer particularly appropriate solutions with regard to protection of the environment.

Article 4

1. Financial support may be granted for a project as a whole or for the various stages of a project. Exceptionally and in duly justified cases where are no known feasibility studies available for similar projects, the feasibility study phase may, after the Advisory Committee referred to in Article 5 (3) has been consulted, also receive financial support.

2. Support shall not exceed 40 % of the eligible cost of the project. The level of support shall be determined for each project individually, in accordance with the procedure laid down in Article 5. In determining the level of support the Commission shall take account of other aid received or expected, so that the sum total of Community support and national support does not as a general rule exceed 49 % of the total cost of the project, and of the share of the risk which should be borne directly by those responsible for the project.

Article 5

1. Projects shall be submitted by persons or undertakings or groups thereof within the Community following an invitation to submit projects published in the *Official Journal of the European Communities* in accordance with this Regulation.

Projects may also be prepared and submitted on behalf of small and medium-sized undertakings by bodies in the Member States involved in the promotion of technological innovation. The proposals and contracts concluded will be signed by the undertakings carrying out the projects.

2. The Commission shall insert into the invitations to submit projects an indication of areas which shall be regarded as having priority for project selection ; the list of priorities shall be drawn up by the Commission after consulting the Advisory Committee provided for in paragraph 4.

3. On the basis of the information provided by applicants in response to the invitation referred to in paragraph 1, projects shall be assessed in the light of Article 3.

The Commission shall first identify projects which, in its view, do not satisfy the conditions laid down in Article 3 (1). It shall inform the representatives of the Member States within the Advisory Committee provided for in paragraph 4 of the outcome of its assessment. Projects which, in its view, do not satisfy the required conditions will be considered by the Advisory Committee only if a Member State so requests.

The Commission shall examine the content of the projects in relation to other Community programmes and shall avoid all duplication.

4. The Commission shall decide whether to grant support for projects after consulting the Advisory Committee on the Management of Demonstration Projects and Industrial Pilot Projects and on the basis of the opinions delivered by that Committee.

The Committee shall be made up of two representatives from each Member State and chaired by a representative of the Commission. It shall draw up its rules of procedure ; the Committee's responsibilities are defined in Annex V.

The Commission's decision shall be communicated forthwith to the Council and the Member States and to the European Parliament. It shall apply upon expiry of a period of 15 working days from receipt of such communication if, during that period, no Member State has referred the matter to the Council.

Where the matter is referred to the Council, the latter shall act on the Commission's decision by a qualified majority in accordance with the terms of Article 148 (2) of the Treaty within 30 working days.

Article 6

1. The contractor responsible for the execution of a project in receipt of support from the Community shall undertake to exploit, or facilitate exploitation of the successfully demonstrated technique, process or product and to permit dissemination of the results. Should the contractor fail to comply with this undertaking, the Commission may require that all or part of the financial support granted be recovered.

2. The Commission, in collaboration with the relevant bodies in the Member States, shall ensure the dissemination and application of the projects undertaken pursuant to this Regulation and Regulations (EEC) No 1302/78, (EEC) No 1303/78, (EEC) No 1971/83 and (EEC) No 1972/83 and encourage exploitation of them. It shall take appropriate measures to achieve that objective including giving appropriate assistance to the contractor.

Article 7

1. The Commission shall negotiate and conclude the contracts necessary for the execution of projects selected in accordance with Article 5. To that end, it shall draw up a model contract, available on request, setting forth the rights and obligations of each party and the procedures for access to and dissemination of information.

2. The person or persons responsible for executing a project in receipt of Community support shall send the Commission, at least once a year or at its request, a report on the fulfilment of contractual obligations towards the Commission and, in particular, on the progress of work on the project and the expenditure incurred in carrying it out.

3. The Commission shall have access at all times to the accounts relating to the project. It may have checks carried out on the spot and on the basis of documents enabling it to follow the performance of the contract and, in particular, the progress made on projects and the execution thereof.

4. Where the extent of Community financial support and the size of the project so warrant, the Commission may participate as an observer in meetings of the bodies responsible for the management of projects if, in agreement with the promotor, such participation is provided for in the contract and ensure, by appropriate means, that a technical assessment of the work in progress or of completed work is carried out.

Article 8

All projects shall be the responsiblity of a natural person or a legal person constituted in accordance with the laws of the Member States.

If the creation of a legal entity with the legal capacity to carry out a project involves additional costs for the participating undertakings, the project may be carried out simply on the basis of cooperation between natural or legal persons. In that case, such persons shall be jointly and severally liable for the obligations resulting from Community support.

Article 9

The support granted by the Community must not affect the conditions of competition in a manner incompatible with the relevant provisions of the Treaty.

Article 10

A periodic report shall be made by the Commission to the Council and the European Parliament on the application of this Regulation and on consistency between national and Community measures, to enable a better assessment to be made of the results.

Article 11

The amounts to be granted under this Regulation shall be entered each year in the general budget of the European Communities.

The overall amount of appropriations estimated necessary for the period from 1 January 1986 to 31 December 1989 under this Regulation totals 360 million ECU, one part of which, in the order of 30 %, is for industrial pilot projects and demonstration projects relating to solid fuels. That amount shall cover the financial support to be granted for the projects selected and the expenditure relating to the implementation of this Regulation.

Article 12

Regulations (EEC) Nos 1971/83 and 1972/83 are hereby repealed.

However, they shall continue to apply in respect of projects submitted in accordance with invitations to submit projects published pursuant thereto.

Article 13

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

It shall apply until 31 December 1989.

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

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

ANNEX I

EXPLOITATION OF ALTERNATIVE ENERGY SOURCES

LIST OF FIELDS OF APPLICATION ELIGIBLE UNDER THIS REGULATION

The order of this list does not imply any priority.

1. **Biomass and energy from waste**

For the purposes of this Regulation 'demonstration projects relating to biomass and energy from waste' means projects which make it possible to derive energy directly or indirectly from any form of plant, animal, urban or industrial waste (1), or projects which in justified cases use plants specially grown for energy purposes.

Projects in this sector must fall into one of the following two categories :

Category 1 :

Projects making an innovative direct use of plant, animal, urban or industrial (1) waste, or of plants specially grown for energy purposes ;

Category 2 :

Projects demonstrating innovative techniques for converting biomass and waste into derived fuels or chemical or biochemical products, and projects involving an innovative use of such derived products.

2. **Wind energy**

For the purposes of this Regulation 'demonstration projects relating to wind energy' means projects involving the centralized generation of electricity for supplying grids and decentralized applications for direct supply to users.

Several identical wind energy plants cannot in general be supported within the framework of one project.

*Apart from the innovative nature of the projects, account will be taken, when assessing them, of the tech*nical solutions chosen with a view to :

— substantially reducing the investment costs,

— exploiting to the full the available wind resources.

In addition, special attention will be paid to environmental and institutional aspects (building authorization, connection to the grid, etc.).

Fields of application

2.1. Electricity generation ;

2.2. Other applications.

3. **Geothermal energy**

For the purposes of this Regulation 'demonstration projects relating to geothermal energy' means projects to exploit energy extracted in the form of heat from underground strata by means of drilling. Projects involving geothermal exploitation where the temperature of the geothermal water is below 30 °C are normally excluded. Projects to exploit geothermal reservoirs about which little is known and projects using new techniques or technologies for underground operations and surface equipment are regarded as having priority.

Fields of application

3.1. Space-heating in new or existing residential, public or industrial premises and production of domestic hot water ;

3.2. Heating of greenhouses and agricultural premises ; and in pisciculture and acquaculture ;

3.3. Use of heat for industrial operations, e.g. heating and preheating, drying, dehydration, concentration, heat treatment and other processes ;

3.4. Electricity generation.

(1) Excluding the types of waste covered in Annex III (solid fuels).

4. **Hydro-electric power**

For the purposes of this Regulation 'demonstration projects relating to hydro-electric power' means projects exploiting low-power (below 3 000 kW) and generally low-head, hydro-electric resources in order to generate electricity for either the public supply grid or direct users in industry or agriculture. Such projects must be particularly innovative, involving, for example :

(a) on the technological side :

— simplification and standardization for mass production,

— use of new materials (moulded materials, resins, etc.),

— improvement of turbine-speed regulation systems and/or alternator regulation systems ;

(b) on the operating side :

— application of control and management techniques (remote controls, telemetry, micro-processors, etc.),

— optimized exploitation of resources, e.g. through centralized management and multi-purpose projects (electricity generation, irrigation, etc.).

When proposals in this sector are assessed, account will also be taken of how the projects fit in with the environment and of institutional aspects linked to their implemention (project authorization and the generation and transmission of electricity, etc.).

5. **Solar energy**

For the purposes of this Regulation 'demonstration projects relating to solar energy' means projects in which solar energy is converted for thermal end-use by way of active or passive processes or technology or is converted by way of photovoltaic processes.

Special attention must be paid to the environmental aspects of the installation and arrangement of solar collectors and photovoltaic modules.

Combinations of different processes and storage devices may be envisaged for the same projects.

Fields of application

5.1. Thermal, active and passive :

Space heating, production of domestic hot water, air conditioning, and process heat for :

5.1.1. Buildings ;

5.1.2. Industry ;

5.1.3. Agriculture.

In the case of active solar energy, preference will be given to advanced solar collectors, e.g. evacuated tube collectors.

Solar-heated swimming pools are excluded. Where houses are for one-family occupation, the demonstration must be for groups of not less than five houses.

The production of domestic hot water is accepted only in combination with the heating and/or air conditioning of buildings.

5.2. Photovoltaics :

Electricity generation to supply :

5.2.1. Isolated applications, e.g. for houses, groups of houses, small villages, means of telecommunication, signalling devices, alarms ;

5.2.2. Water pumping, desalination and other suitable industrial applications.

ANNEX II

ENERGY SAVING

LIST OF FIELDS OF APPLICATION UNDER THIS REGULATION

The order of this list does not imply any priority.

1. **Buildings**

1.1. Simple and economic technologies for upgrading the energy performance of existing buildings by demonstrating more efficient methods of heating/air conditioning for premises, production of domestic hot water, heat regulation, control and metering ; techniques for improving the thermal characteristics of buildings (insulation, airtightness), techniques for recovering heat from extracted air ;

1.2. Demonstration of new processes or products for new buildings with a heated volume of 2 000 cubic metres or more, taking into account problems concerning condensation, ventilation, thermal inertia, and fire and safety regulations.

2. **Industry**

2.1. Technologies designed to alter the manufacturing process significantly with a view to reducing substantially energy consumption per unit of production under acceptable economic conditions ;

2.2. Projects using innovative technologies or new equipment with a view to :

— reducing energy consumption by rationalizing an existing manufacturing process ;

— recycling residual heat, in particular by means of heat pumps ;

2.3. Projects calling for proven techniques where the combination of several such techniques constitutes an innovation and/or a new application of one or more known technologies presents particular risks.

3. **Energy industry**

3.1. More efficient methods of producing heat and/or electricity for collective use ; methods exploiting residual heat in district heating systems ; demonstration of new district heating concepts ; demonstration of very large heat pumps ;

3.2. More efficient gas-distribution methods, e.g. by recovering expansion energy.

4. **Transport**

The projects in all transport sectors should enable appreciable energy savings to be achieved, and offer good prospects of replication, under acceptable economic conditions.

ANNEX III

SUBSTITUTION OF HYDROCARBONS

LIST OF FIELDS OF APPLICATION ELIGIBLE UNDER THIS REGULATION

The order of this list does not imply any priority.

For the purposes of this Regulation 'demonstration projects relating to the substitution of hydrocarbons' means projects which involve the use of non-renewable sources instead of liquid or gaseous hydrocarbons, without leading to a significant increase in primary energy consumption.

1. **Solid fuels**

The projects under this heading relate to new or improved technologies for the handling, transportation, combustion, treatment and storage of coal, lignite and peat and their waste products, taking into account environmental problems.

1.1. New processes for solid-fuel utilization :

— fluidized beds under pressure or at atmospheric pressure, including those used in small industrial installations,

— mixtures of solid fuels with liquids,

— processes integrated into the end-use cycle ;

1.2. Treatment, upgrading, disposal or use of gaseous, liquid and solid wastes produced during mining, handling and use of solid fuels.

2. **Use of electric power**

The projects in this field relate to new techniques for using electric power generated mainly from energy sources other than hydrocarbons :

2.1. Demonstration, by manufacturers of industrial equipment, of new techniques using electrical energy for thermal, electrochemical and electromechanical applications ;

2.2. New types of accumulators ;

2.3. Demonstration of new methods of electricity demand management.

3. **Heat transmission, distribution and storage**

The projects in this field relate to the demonstration of new techniques for the transmission, distribution and storage of heat produced mainly from energy sources other than hydrocarbons.

3.1. Heat transmission over medium and long distances in industry and district heating systems ;

3.2. More efficient and more economic heat-distribution techniques ;

3.3. New heat-storage techniques (daily, weekly and seasonal accumulators) in industry and district heating systems ;

3.4. Demonstration of new demand-management methods in district heating systems.

ANNEX IV

LIQUEFACTION AND GASIFICATION OF SOLID FUELS

LIST OF FIELDS OF APPLICATION

The order of this list does not imply any priority.

For the purposes of this Regulation 'industrial pilot projects' or 'demonstration projects' means projects for the gasification, the underground gasification and the liquefaction of solid fuels.

1. **Gasification**

1.1. Production of fuel gas intended in particular for industry, heat generation and power stations;

1.2. Production of synthesis gas as a raw material for the chemical industry;

1.3. Production of substitute natural gas (SNG) of a high calorific value, for use in the distribution system;

1.4. Combined and/or integrated cycle electricity generation (gas/steam turbines);

1.5. Partial gasification of solid fuels (in particular in order to eliminate harmful fuel components).

2. **Underground gasification**

Projects in this area must be the subject of international cooperation, preferably in the context of projects supported by the Community;

2.1. Underground gasification, new process under pressure;

2.2. Underground gasification at great depth.

3. **Liquefaction**

Production of a series of liquid and chemical products by means of:

3.1. Selective synthesis processes to improve the range of liquid products;

3.2. Direct liquefaction processes (hydrogenation, extraction, dissolution, etc.) offering increased efficiency and better operating conditions;

3.3. New processes such as the hydropyrolysis of solid fuels.

ANNEX V

TASKS OF THE ADVISORY COMMITTEE ON THE MANAGEMENT OF DEMONSTRATION PROJECTS AND INDUSTRIAL PILOT PROJECTS

1. The Committee will meet in an advisory capacity to examine the projects for selection.

   The Committee will :

   (a) assist the Commission in the selection of projects on the basis of an opinion being given on each project submitted ;

   (b) collaborate with the Commission to help ensure consistency between Community demonstration projects and similar measures implemented nationally ;

   (c) assist the Commission with a view to the periodic evaluation of Community demonstration programmes and provide the necessary information on similar measures implemented nationally ;

   (d) cooperate with the Commission in helping to ensure an appropriate flow of information to those concerned with the demonstration programmes of both the Community and its Member States and the optimum dissemination of the results of these programmes.

2. Furthermore, the Committee will meet in an advisory capacity at least once a year to assist the Commission by given opinions :

   (a) on the priorities and corresponding criteria to be determined for invitations to submit projects in the various energy demonstration sectors for the following year ;

   (b) on measures to ensure the dissemination of information in order to achieve better consistency between Community and national demonstration programmes ;

   (c) on the optimum dissemination of the results of these programmes ;

   (d) on the periodic evaluation of Community and national programmes which has to be submitted approximately every two years to the Council and European Parliament.