COUNCIL REGULATION (EEC) No 3722/85

of 20 December 1985

on a system of structural aid for the conversion of sardine canning plants

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),

Whereas the Accession of Spain and Portugal alters the existing equilibrium in the market for canned sardines in the Community as at present constituted;

Whereas this new context, by altering the conditions of competition, affects the situation of sardine canning plants in the Community as at present constituted;

Whereas a three-year structural measure should therefore be introduced to enable such canning plants to adapt to the new situation;

Whereas the said structural measure should aim at the conversion of Community sardine canning plants to the manufacture of other products based on sardines or on other fishery products; whereas it should also aim at the permanent cessation of operations of certain existing canning plants; whereas, subject to certain conditions, it should in the long run facilitate the rationalization of canned sardine production;

Whereas Community financial assistance should be made available for projects complying with the aims of this structural measure;

Whereas such projects should form part of descriptive programmes of the measures to be undertaken, drawn up by the Member States;

Whereas detailed rules for the granting of such assistance must be drawn up;

Whereas the provisional cost of this structural measure to be borne by the Community must be specified,

(1) OJ No C 297, 20. 11. 1985, p. 3.
(2) Opinion delivered on 13 December 1985 (not yet published in the Official Journal).

HAS ADOPTED THIS REGULATION:

Article 1

To facilitate the adaptation of the sardine canning plants of the Community as constituted on 31 December 1985, hereinafter referred to as 'the Community of Ten', to the new circumstances arising from the accession of Spain and Portugal, the Commission may grant structural aid hereinafter referred to as 'Community assistance', in respect of projects satisfying the requirements laid down in this Regulation. Such assistance shall consist of capital grants paid in a lump sum or in instalments.

Article 2

For the purposes of this Regulation, Community sardine canning plants, hereinafter referred to as 'canning plants', means undertakings of the Community of Ten, all, or at least a substantial part, as a percentage or as an absolute quantity, of whose production during the last two years prior to accession, falls within subheading 16.04 D of the Common Customs Tariff.

TITLE I

Descriptive programme

Article 3

1. The Member States concerned shall draw up descriptive programmes designed to inform the Commission of the measures to be implemented under this Regulation.

2. Each descriptive programme shall comprise at least:

— a description of the situation of canning plants at the date of accession of Spain and Portugal with particular reference to their production capacity, their geographical location and the origin of the sardines which they process;

— a description and financial appraisal of the conversion operations to be undertaken;

— the laws, regulations and administrative measures which exist or are planned for carrying out those operations;

— a description of the disposal prospects for canned sardines;

— a description of the importance of the sardine canning industry for the situation of the region concerned.

3. The Commission shall assess the compatibility of the descriptive programme with:

— the objectives of this measure;

— the programme presented by the Member State concerned within the framework of Regulation (EEC) No 355/77 [1].

Member States shall, at the request of the Commission, furnish additional data needed to carry out the said assessment.

4. Throughout the duration of this measure, the Member States concerned shall submit annual reports to the Commission on the results and on the evolution of the situation of canning plants. The said reports shall be submitted by 1 July of each year at the latest. The first such report shall be submitted by 1 July 1987 at the latest.

TITLE II

Projects

Article 4

For the purposes of this Regulation, project means any public, semi-public or private project, all or part of which involves physical investments or measures intended to secure:

(a) research into new products or products derived from sardines, more suited to the requirements of the market and whereby the markets of canning plants may be broadened;

(b) the manufacture of such new products or derived products;

(c) the promotion of consumption of sardines and sardine-based products, including surveys into the consumption of such products and market surveys or pilot measures relating to the marketing of such products and, more particularly, the new products referred to under (a);

(d) the permanent cessation of operations of existing canning plants;

(e) the conversion of canning plants to the manufacture of other fishery products of Community origin;

(f) the improvement of marketing and distribution networks for sardine-based products;

(g) the rationalization of canned sardine production units of existing canning plants.

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[1] OJ No L 51, 23. 2. 1977, p. 1.

Article 5

1. Projects involving research within the meaning of Article 4 (a) shall be proposed and managed by one or more canning plants or associations of canning plants which possess the necessary qualifications and experience and provide an adequate guarantee as to the satisfactory completion of the work.

2. Community assistance for projects shall not exceed 50 % of the expenditure resulting from the research work in question. The contribution to be made by the Member State concerned shall be not less than 5 % and that of the beneficiary not less than 10 % of the expenditure involved.

Article 6

1. Projects concerning promotional measures within the meaning of Article 4 (c) shall be proposed by and implemented under the supervision of organizations representing the sardine canning industry in one or more Member States. Such measures shall be collective and shall not focus on particular brands or canning plants nor refer to a particular country or region of production.

2. Community assistance for the measures referred to in paragraph 1 shall not exceed 50 % of the expenditure concerned. The contribution to be made by the organization in receipt of assistance shall be not less than 25 % and the contribution to be made by the Member State concerned not less than 5 % of the said expenditure.

Article 7

1. Projects concerning measures relating to the manufacture of new products, the conversion of canning plants, the improvement of distribution networks and the rationalization of existing installations within the meaning of Article 4 (b), (e), (f) and (g) shall:

— involve physical investments;

— afford an adequate guarantee as to their profitability;

— contribute to the lasting economic effect of conversion aimed at by this measure; and

— ensure appropriate and lasting participation by producers in the resultant benefits.

2. As a proportion of the investment taken into account for assistance, for each project:

(a) Community assistance may not exceed:

— 50 % as regards the measures referred to in Article 4 (b), (e), (f) and (g);

(b) the contribution to be made by the beneficiary shall be not less than:

— 25 % as regards the measures referred to in Article 4 (b) and (e),

— 35 % as regards the measures referred to in Article 4 (f) and (g).

(c) the contribution to be made by the Member State concerned shall be not less than 5 %.

3. The rationalization measures referred to in Article 4 (g) must enable the canning plants concerned to become competitive on the Community market for canned sardines by the improvement of their productivity and the quality of their production but must in no circumstances result in an increase in the capacity and production of canned sardines of the production units concerned.

Article 8

Community aid to projects concerning the permanent cessation of operations referred to in Article 4 (d) shall consist of the grant of a premium intended to cover the expenditure entailed by the complete and definitive closure of the production plants concerned.

The amount of the premium, calculated on the basis of the average production of the production plants concerned over the last three years preceding that of the permanent cessation of operations shall be equal to one half of the expenditure concerned and may not exceed 150 ECU per basis product tonne processed.

Its payment shall be conditional upon payment by the Member State in question of a similar premium.

Article 9

Projects shall form part of the descriptive programme referred to in Article 3.

TITLE III

Procedure for the examination of projects

Article 10

1. Applications for Community assistance shall be submitted to the Commission through the Member State concerned after the latter has delivered a favourable opinion thereon.

2. The Commision shall take decisions once yearly on applications for assistance in accordance with the procedure laid down in Article 15. Applications for assistance shall be submitted not later than 31 May of each year.

Article 11

Applications for Community assistance shall be submitted in the form laid down, *mutatis mutandis,* by Regulation (EEC) No 2515/85 [1]. In addition, they shall contain all the particulars needed to verify compliance with the provisions of this Regulation.

Article 12

Projects which are eligible for Community aid under other common measures within the meaning of Article 6 (1) and (2) of Regulation (EEC) No 729/70 [2] or for aid from the European Regional Development Fund shall not come within the scope of this Regulation.

TITLE IV

Financial and general provisions

Article 13

1. Natural or legal persons, or groups thereof, who are ultimately responsible for the cost of carrying out a project shall be eligible for Community assistance. Assistance shall be paid through agencies appointed for that purpose by the Member State concerned.

2. Throughout the period during which Community assistance is granted, the authority or agency appointed for that purpose by the Member State concerned shall, at the request of the Commission, forward to it all supporting documents which are evidence that the financial or other conditions laid down for each project have been fulfilled. The Commission may, if necessary, carry out an on-the-spot check.

3. The Commission may, in accordance with the procedure laid down in Article 15, decide to suspend, reduce or discontinue assistance:

(a) if the project is not carried out as planned, or

(b) if certain of the conditions laid down are not fulfilled, or

(c) if the beneficiary, except if the decision to grant assistance provides, following a reasoned request on his part, for different time limits:

— fails to begin the work within one year;

— fails to complete the work within a period of two years of the date of notification of the Commission decision.

4. Appropriations made available by a decision taken in accordance with paragraph 3 or because the beneficiary abandons the project or reduces the investment laid down in the decision to grant assistance, may be used for the financing of other projects.

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[1] OJ No L 243, 11. 9. 1985, p. 1.

[2] OJ No L 94, 28. 4. 1970, p. 13.

5. The detailed rules for the application of this Article shall be *mutatis mutandis,* those laid down in Regulation (EEC) No 1685/78 [1].

Article 14

Applications for assistance submitted to the Commission but which could not be granted owing to the insufficiency of the resources available may, with the agreement of the applicants, be carried forward to the following financial year by the Member State concerned. Requests that such applications be carried forward shall be submitted to the Commission within a period of 30 days from the date on which the Member State receives notification of the result of the procedure laid down in Article 15. An application for assistance may, however, be carried forward once only.

Article 15

1. Where reference is made to the procedure laid down in this Article, the matter shall be referred to the Standing Committee for the Fishing Industry, hereinafter referred to as the 'Committee', by the chairman thereof, either on his own initiative, or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be adopted. The Committee shall deliver an opinion on those measures within a time limit which may be set by the chairman according to the urgency of the matter. The Committee shall take decisions by a majority of 54 votes, the votes of the Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures, which shall be immediately applicable. However, if such measures are not in accordance with the opinion of the Committee, the Commission shall communicate them forthwith to the Council. In that case, the Commission may defer the application of the measures which it has decided upon for not more than one month from the date of such communication. The council may, acting by a qualified majority, adopt a different decision within one month.

Article 16

1. The granting of Community assistance must not affect the conditions of competition in such a way as to be incompatible with the principles laid down in the Treaty.

2. Articles 92, 93 and 94 of the Treaty shall apply in respect of matters covered by this Regulation.

Article 17

1. The duration of this measure shall be three years commencing on 1 January 1986.

2. The provisional cost to be borne by the Community is estimated at 10 million ECU.

Article 18

This Regulation shall enter into force on 1 January 1986, subject to the entry into force of the Treaty of Accession of Spain and Portugal.

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. STEICHEN

[1] OJ No L 197, 22. 7. 1978, p. 1.