COMMISSION REGULATION (EEC) No 3856/91

of 18 December 1991

laying down detailed rules for the application of Council Regulation (EEC) No 4028/86 as regards measures for the provision of facilities at fishing ports

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector [1], as amended by Regulation (EEC) No 3944/90 [2], and in particular Articles 27 and 28 thereof,

Whereas Article 27 of Regulation (EEC) No 4028/86 provides for the granting of financial aid for projects involving investments in the provision of facilities at fishing ports;

Whereas investments eligible for the grant of Community financial aid towards projects for the provision of facilities at fishing ports pursuant to Regulation (EEC) No 4028/86 should therefore be defined;

Whereas applications for Community assistance must contain information enabling the Commission to take a decision thereon and must be submitted in a standardized form;

Whereas payment applications to the Commission by the Member States concerned must contain certain information permitting verification that the expenditure meets the requirements of Regulation (EEC) No 4028/86;

Whereas applications are to be lodged through the competent authorities of the Member States, which must examine them in order to formulate an opinion for the attention of the Commission;

Whereas the Commission must have access to sufficient information to enable it to take a decision as to the substance;

Whereas, in order that proper checks may be made, Member States must keep at the Commission's disposal, for three years following the final payment, the documents on which the aid calculations were based;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Fishing Industry,

HAS ADOPTED THIS REGULATION:

Article 1

1. The investments listed in Annex I shall be eligible for Community financial aid as part of a project for the provision of facilities at fishing ports within the meaning of Title VIII of Regulation (EEC) No 4028/86 provided that they relate to back-up facilities for fishing or for the marketing of fishery products and are to be made in respect of those activities only.

2. The investments listed in Annex II shall not qualify for Community aid pursuant to Title VIII of Regulation (EEC) No 4028/86.

Article 2

1. Projects as referred to in Article 1 (1), submitted to the Commission through the Member States concerned, must contain the particulars specified in Annex III and must be presented in the form shown in that Annex.

2. Part A of Annex III shall be submitted to the Commission in duplicate. Part B of Annex III shall be retained by the competent authorities of the Member State concerned.

3. The Member State concerned shall certify having checked the accuracy of the relevant information set out in Part B of Annex III, and on the basis of that information shall inform the Commission of its opinion under point 1 of Annex III, part A. At the same time, the Member State shall specify the criteria which it applies for the selection of projects and the grant of its financial contribution as provided for in point 14 of Annex III, part A.

4. The projects referred to in paragraph 1 shall be entered in the Commission's records on the day of their receipt by the Commission.

Article 3

1. Applications for payment shall be made to the Commission through the Member States concerned. They must contain the particulars specified in Annex IV and be presented in the form shown in that Annex.

2. The Member State concerned shall certify that the information contained in the applications referred to in paragraph 1 is accurate.

[1] OJ No L 376, 31. 12. 1986, p. 7.
[2] OJ No L 380, 31. 12. 1990, p. 1.

3. Competent authorities shall send to the Commission, within three months of the date of entry into force of this Regulation, a detailed description of the control methods employed to certify the accuracy of the data contained in the payment requests. The competent authorities shall inform the Commission of any subsequent amendments to the control methods.

Article 4

Member States shall keep at the Commission's disposal, for a period of three years following the payment of the balance of the Community aid, all the documents, or certified copies thereof, used for calculation of the aid provided for in Regulation (EEC) No 4028/86 together with the complete files on the applicants.

Article 5

1. Commission Regulation (EEC) No 2321/88 [1] is hereby repealed. References to that Regulation in Community legislation shall be taken to refer to this Regulation.

2. Applications for payment may be made pursuant to Regulation (EEC) No 2321/88 in respect of applications for Community aid submitted prior to the date of entry into force of this Regulation.

Article 6

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 Brussels, 18 December 1991.

For the Commission

Manuel MARÍN

Vice-President

[1] OJ No L 202, 27. 7. 1988, p. 18.

ANNEX I

INVESTMENTS ELIGIBLE FOR COMMUNITY FINANCIAL AID AS PART OF A PROJECT FOR THE PROVISION OF FACILITIES AT FISHING PORTS WITHIN THE MEANING OF TITLE VIII OF REGULATION (EEC) No 4028/86

Investments eligible for Community financial aid at fishing ports should relate to back-up facilities for fishing or for the marketing of fishery products. Investments shall be a single project or parts of an overall fishing harbour development.

Eligible investments will cover in particular:

(a) auction halls and facilities for first hand sale;

(b) supporting facilities attached to or in close proximity to the auction hall and/or port for primary processing and packing of fish for distribution;

(c) storage facilities, cold storage and deep-freezing facilities;

(d) facilities to improve quality and hygiene for handling and marketing fish;

(e) ice supplies:

plant and equipment for the production, storage and distribution of ice;

(f) water supplies:

the installation of water supplies at ports and in fishing vessels;

(g) fish-landing equipment:

— cranes and other equipment for landing fish,
— fish pumps,
— conveyor belts or other conveyors such as fork-lift trucks, bucket conveyors or sorting rings;

(h) fuel supplies:

fuel thanks and supply facilities such as pumps, piping, filters and centrifuges;

(i) the improvement of back-up facilities for fishing vessels:

— slip dock or gridiron,
— slipway,
— ship elevator,
— buildings for the storage of fishing gear,
— small workshops for the maintenance and repair of vessels and equipment,
— shops supplying various types of equipment required by fishing vessels and their crews;

(j) alterations to or the provision of facilities at quays in order to improve safety conditions during embarkation or the landing of products:

— anti-slip coverings on stairways and on quays,
— gangway ladders to facilitate access to vessels,
— lighting system for quays,
— cleaning equipment for quays.

ANNEX II

INVESTMENTS WHICH DO NOT QUALIFY FOR COMMUNITY FINANCIAL AID PURSUANT TO TITLE VIII OF REGULATION (EEC) No 4028/86

1. Investments to be made principally in the marketing or processing of fishery products for purposes other than human consumption. Investments may, however, be eligible if they are to be made solely in the treatment, processing or marketing of waste fishery products.

2. Investments linked principally with the marketing or processing of products coming from non-member countries.

ANNEX III

PART A

(to be transmitted by the Member State to the Commission)

Member State : | **Date of recorded receipt at the Commission :**

Project No

(to be completed by the Commission)

PROJECT FOR FACILITIES AT FISHING PORTS

(to be completed by the Member State in duplicate)

In respect of the project for facilities at fishing ports submitted by (1) .....

..... and registered on ../../..

Address : .....

The ..... (name of competent authority) hereby declares that :

	Yes	*No*
1. The Member State has given approval	☐	☐
2. The project relates to investments eligible for the provision of facilities at fishing ports within the meaning of Article 1 (1) of this Regulation	☐	☐
3. The project is included in a Community support framework within the meaning of Council Regulation (EEC) No 4042/89 (2)	☐	☐
4. The project is of public interest and is proposed by :		
.....		
5. The project relates to the fishing ports		
.....		
6. Port received Community aid previously	☐	☐
if so, when ..... how much		
for what purpose		
7. Project has received planning permission	☐	☐
8. The project is located ..... ; an objective 1 region	☐	☐
9. Summary of investments covered by Annex I is attached	☐	☐
10. This particular application has not received Community aid before	☐	☐
11. Project works start (date) (3) ../../.. Ends (date) ../../..		

(1) Give the name of the main applicant, the latter being the natural or legal person with final responsabilities for the financial cost of implementation.
(2) OJ No. L 388, 30. 12. 1989, p. 1.
(3) Only works which are carried out after the date of receipt of the application are eligible for Community aid.

12. The investment has been submitted to the Commission with a view to obtaining Community aid (1)

1. Contribution of beneficiary	
of which : 1.1. own funds	.....
1.2. loans	.....
1.3. payments in kind and work on own account	.....
2. Member States contibution as capital grant	
3. Other contributions	
4. Community aid requested	
5. Total investment	
6. Total investmen (2)	

13. Description of investment :

— short description of project (one page only) summarizing objectives and nature of the investment. The description must show how the investment links with other projects and the development of the fishing ports,

— technical description of project and work envisaged with figures (size, capacity, etc),

— copy of schedule of cost estimates for the investment.

14. Opinion of the Member State and criteria used for selection of this project were (3) :

.....

.....

.....

15. The public authority or body responsible for forwarding supporting documents is the following : .....

.....

Department to be contacted : ..... Telephone No : .....

Person responsible : ..... Telex No : .....

The undersigned hereby certifies having checked the accuracy of the above information.

Date : ..... Signature : .....

(1) Community aid and financial contributions from Member States for port facilities as set out in Annex VI to Regulation (EEC) No 4028/86.

(2) Eligible investment is the investment net of value added tax (VAT).
Except for inflation no increase in the anticipated eligible investment amount notified after the final date for submission of aid applications to the Commission shall be taken into account for the calculation of the Community aid.

(3) Includes the justification of the needs and benefits of the investment and on indication of the importance and priority the Member State gives to this investment.

SUMMARY OF INVESTMENTS COVERED BY ANNEX I TO REGULATION (EEC) No 3856/91

1.	**Purchase of land** (1):	.....
2.	**Construction of roads and excavation work** (2):	.....
2.1.	Green spaces (1):	.....
3.	**Construction** (2):	.....
3.1.	Auction hall	.....
3.2.	Supporting facilities	.....
3.3.	Storage: cold, deep freezing	.....
3.4.	Production, storage and distribution of ice	.....
3.5.	Water supplies	.....
3.6.	Fuel supplies	.....
3.7.	Improvement of back-up facilities for fishing vessels	.....
3.8.	Workshops, shops, other buildings	.....
3.9.	Slip dock, slipway	.....
3.10.	Other buildings (offices, accommodation, etc.) (1)	.....
4.	**Plant and equipment** (3):	.....
4.1.	Auction hall	.....
4.2.	Supporting facilities	.....
4.3.	Freezer and refrigeration plant and equipment	.....
4.4.	Water supplies	.....
4.5.	Landing of fish	.....
4.6.	Improvement of back-up facilities for fishing vessels	.....
5.	**Facilities at quays:**	.....
6.	**Other investments:**	.....
7.	**Sub-total:**	.....
8.	**Fees and overheads** (4):	.....
9.	**Contingencies** (4):	.....
10.	**Inflation:**	.....
11.	**Total:**	.....

Estimates must relate to the scheduled duration of the work and supporting documents should be attached (estimates of civil engineers and of specialized firms which supply machines and secondary equipment, work plants).

(1) Non-eligible costs.
(2) Eligible costs are construction and aquisition of immovable property, other than purchase of land.
(3) Eligible costs are aquisition of new machinery and equipment, including computers, software and computer programmes.
(4) Eligible costs for item 8 plus item 9 must not be greater than 12 % of total eligible costs of all other eligible costs.

PART B

Explanatory notes

As appropriate, the information which should be obtained and retained by the Member State is set out below :

1. **Information concerning the applicant and/or beneficiary and the project should include the general data**

1. Applicant/beneficiary address.

2. Principle shareholders.

3. Beneficiaries' bank account.

4. Project description :

— location
— investment costs
— aid requested
— beneficiaries contribution
— details of loan

5. General information on state of preparation of estimates, estimated timetables for starting and ending work.

6. Signature of applicant.

2. **Detailed information should include**

1. Description of the project summarizing objectives and nature of the investment. Includes a description of how the project fits into and contributes to the overall coordinated port development. Justify the need for the project.

2. Applicant (to be completed only if the applicant is not also the beneficiary) :

2.1. object and scope of the applicant's main activities ;

2.2. links between the applicant, beneficiary and the project ;

2.3. attach :

— copy of memorandum and articles of association and certificate of incorporation, or partnership agreement, for local authority copy or appropriate extracts from statutes,

— extract from the trade register.

3. **Beneficiary**

3.1. object and scope of beneficiary's main activities ;

3.2. geographical area covered by these activities ;

3.3. economic situation include balance sheets and profit and loss accounts for the past three years ;

3.4. attach :

— copy of memorandum and articles of association and certificate of incorporation,

— extract from the trade register,

— copy of the rules of association (cooperative — if such information is not in the rules, indicate the basis of participation, e.g. region covered, annual turnover, membership, etc.).

4. **Description of the present situation and that forecast after completion of the project**

4.1. existing plant and capacity (indicate the location) ;

4.2. products concerned :

4.2.1. input of fish products before and after completion of project ;

4.2.2. indicate the origin of the products, broken down as follows :

— area of collection of the project (see under Section 4.5),

— other Community regions,

— non-EEC countries ;

4.3. production/marketing programme :

4.3.1. product output before and after completion of project ;

4.3.2. indicate the outlets for the products. In the case of increase in capacity or new production, provide a detailed explanation of the justification for the outlets forecast. Indicate the part of the output given for intervention in the past, and likely to be given for intervention in the future ;

4.3.3. explain the marketing policy relating to the products concerned ;

4.4. prices paid to producers in the past four years ;

4.5. area of collection of products :

4.5.1. geographical boundaries (see Section 4.2.2), description with map ;

4.5.2. description of production structures, (sufficiently detailed to enable a judgement to be given on the project) ;

4.5.3. total production of the products concerned (giving seasonal distribution, when appropriate), for the past three years and the expected future development ;

4.6. description of economic benefits for producers to be derived from the project. (Attach all relevant supporting documents, for example copies of supply contracts or other undertakings.)

5. **Measures proposed**

5.1. general description of planned plant, its technical use and the needs it will meet ; indication of planned hours of operation. Also where the project is part of a larger scheme a description of the other investments planned ;

5.2. geographical location ;

5.3. detailed technical description of the proposed work (plans to be attached ; distinguish between existing buildings and new construction) ;

5.4. estimate of total cost of work (indicate basis of calculation and date of estimates) :

— for construction work : break-down of costs,

— for plant and equipment : copies of tenders received,

— summary table, analyzing total costs, giving where possible for each item figures for the specification (e.g. m^3, hl, power, capacity, etc.).

6. **Proposed financing**

6.1. sources of funding for project ;

6.2. number of instalments of aid requested ;

6.3. statement of profit and loss for last three years and forecast for future three years.

7. Specific information for certain types of project :

7.1. Where there are specific Community rules applicable to the sector concerned, (e.g.) the hygiene regulations of the Community), indicate to what extent these rules are fulfilled.

ANNEX IV

PROVISION OF FACILITIES AT FISHING PORTS

CERTIFICATE FOR PAYMENT OF A PROPORTION OF THE AID

MODEL 1

Project No : ..... Port of : .....

Beneficiary : .....

Address : .....

The ..... (1) being the intermediate authority appointed for this purpose by the national authorities, hereby states that the supporting documents referred to in the description sent to the Commission pursuant to Article 3 of Commission Regulation (EEC) No 3856/91 (2) have been inspected.

THIS INSPECTION INDICATES THAT :

1. The work was begun on .....

2. In the case of public tender (3), the date of publication of the tender notice relating to the project in the *Official Journal of the European Communities* is :

   — date,

   — reference (No etc.). .....

   .....

3. On ..... total costs actually paid in respect of eligible expenditure, ... ; without taking into consideration the recoverable part of the value added tax, amounted to ..... (in national currency).

4. The expenditure specified above was financed as shown in MODEL 2 of this certificate.

5. The costs referred to above can be broken down among the various categories of work planned, as shown in the list of documents supporting this application for payment (MODEL 4).

6. The national financial contribution and that of the beneficiary, taken into consideration all aids of whatever nature, satisfy, or will satisfy by the date of completion of the work, the requirements of Articles 28 of Regulation (EEC) No 4028/86.

7. The beneficiary undertakes to complete the work within ..... (4).

8. The supporting documents that have been checked are kept by .....

   .....

Drawn up at .....

Certified by the competent authority

.....

(signature and stamp)

(1) Name or description of intermediate authority.
(2) OJ No L 362, 31. 12. 1991, p. 61.
(3) See Council Directives 77/62/EEC, 80/767/EEC and 71/305/EEC (OJ No L 13, 15. 1. 1977, p. 1, OJ No L 215, 18. 8. 1980, p. 1 and OJ No L 185, 16. 8. 1971, p. 5).
(4) Form of undertaking to be attached. If the date of completion is more than six months later than the scheduled date, reasons must be given.

ANNEX TO THE CERTIFICATE : FINANCING OF EXPENDITURE

(Incurred in paying a proportion of the aid)

MODEL 2

Financing of expenditure up to : .....

Project No : .....

Beneficiary (beneficiaries) : .....

.....

1. Contribution of beneficiary (beneficiaries) :

— own capital : .....

— payments in kind (1) : .....

— loans at market rate : .....

— financial institution : .....

.....

2. Member States' contribution (2) :

— capital grant (3) : .....

— capital grant equivalent (subsidies) : .....

— other aid : ....

....

3. Total : .....

Date : .....

Signature : .....
(Beneficiary)

Attestation of competent authority :

Date, signature and stamp :

.....

.....

.....

(1) Give bases for calculation.

(2) Including regional and/or local contributions.

(3) Instructions for payment were given on ....., payment to be made to account No ....., bank .....

FINANCIAL PLAN ENVISAGED FOR TOTAL INVESTMENT

MODEL 3

Project No : .....

Beneficiary (beneficiaries) : .....

.....

1. Contribution of beneficiary (beneficiaries) :

— own capital : .....

— payments in kind [1] : .....

— loans at market rate : .....

2. Member States' contribution [2] :

— capital grant : .....

— capital grant equivalent (subsidies) : .....

— other aid : ....

....

3. Other contribution [3] :

— ....

— ....

4. Total : _____

Date : .....

Signature : .....
(Beneficiary)

Attestation of competent authority

Date, signature and stamp

.....

.....

.....

[1] Give bases for calculation.
[2] Including regional and/or local contributions.
[3] In the case of aid, state only the amounts already received by the beneficiary.

LIST OF ACCOUNTING DOCUMENTS

MODEL 4

(Period from ..... to .....)

Project No : .....

Category (1)	No	Subject	Costs according to estimates	Accounting documents (2)				Amount, net of recoverable VAT	Method of payment (3)	Date of payment (4)	Payments made Amount without decimal point, net of recoverable VAT
				No	Date	Issued by	Subject (brief description)				

(1) See Annex I to the aid application.

(2) All documents concerning the implementation of the project financed must be listed.

(3) Method of payment : 1. Bank, 2. Cheque, 3. Cash.

(4) The date to be shown is that of actual payment and not the date on which the debt falls due, for example, in the case of payment by bill of exchange.

Date : .....

Signature of beneficiary : .....

Attestation of competent authority :

Date, signature and stamp :

.....

.....

.....

ANNEX TO THE CERTIFICATE : EXPLANATIONS FOR DIFFERENCES BETWEEN WORK PLANNED AND WORK COMPLETED

MODEL 5

Project No : .....

Work and measures planned according to original file		Work and measures completed		Reasons for differences (1)
Brief description	Costs net of recoverable VAT	Brief description	Costs net of recoverable VAT	

(1) Relevant invoices attached and, where necessary, correspondence on the subject between the Ministry and the beneficiary.

Date : .....

Date and signature of beneficiary : .....

Attestation of competent authority :

Date, signature and stamp :

.....

.....

.....

CERTIFICATE FOR THE PAYMENT OF THE BALANCE OF THE FULL AMOUNT OF THE AID

MODEL 6

Project No : ..... Port of : .....

Beneficiary : .....

Address : .....

The .....(1) being the intermediate authority appointed for this purpose by the Article 3 of Regulation (EEC) 3856/91 (2) have been inspected.

THIS INSPECTION INDICATES THAT :

1. Work was commenced on .....

2. On ..... the construction and development work at the port of ..... was completed.

3. The total costs actually paid, not including the recoverable part of the VAT, amount to ..... (in national currency).

4. The expenditure specified above was financed as shown in the Annex to this certificate.

5. The costs referred to above can be broken down among the various categories of work planned, as shown in the list of documents supporting this application for payment (Model 8).

6. The completed work was inspected at the site by (name, qualifications) ..... on ..... and was found to tally with that described in the Decision granting the Community aid, with the exception of work in categories .....
..... for which explanations are given in the Model of this certificate (This inspection report must be available at the premises of the intermediate authority.)

7. The beneficiary's financial contribution and that of the Member State satisfy the requirements of Article 28 of Regulation (EEC) No 4028/86.

8. The special conditions set out in the Annex to the Decision granting the aid have been observed.

9. The suppporting documents that have been checked are kept by .....

.....

Drawn up at ..... on .....

Certified by the competent authority

.....
(Signature and stamp)

(1) Name or description of intermediate authority.
(2) OJ No L 362, 31. 12. 1991, p. 61.

ANNEX TO THE CERTIFICATE: FINANCING OF EXPENDITURE INCURRED

(For the final payment application)

MODEL 7

Financing of expenditure incurred up to: .....

Project No: ..... Port of: .....

1. Contribution of beneficiary (beneficiaries):
   - own capital: .....
   - payment in kind (1): .....
   - loans at market rate (2): .....

2. Member States' contribution:
   - capital grant paid on .....: .....
   - capital grant equivalent: .....
   - other aid (to be specified): ....
     ....

3. Already received from the Commission: .....

Total: _____

4. The undersigned hereby undertakes to provide from his own funds or from loans to be concluded on normal market terms (2) any difference arising from a smaller contribution from the Commission and/or the Member States towards the financing of the project concerned.

Date: ..... Signature: .....
(beneficiary)

Attestation of competent authority:

Date, signature and stamp:

.....

.....

.....

(1) Give bases for calculations.
(2) Loan on normal market terms means any loan at a non-subsidized rate of interest.

LIST OF ACCOUNTING DOCUMENTS

MODEL 8

(Period from ..... to .....)

Project No : .....

Category (1)	No	Subject	Costs according to estimates	Accounting documents (2)				Amount, net of recoverable VAT	Method of payment (3)	Date of payment (4)	Payments made Amount without decimal point, net of recoverable VAT
				No	Date	Issued by	Subject (brief description)				

(1) See Annex I to the aid application.
(2) All documents concerning the implementation of the project financed must be listed.
(3) Method of payment : 1. Bank, 2. Cheque, 3. Cash.
(4) The date to be shown is that of actual payment and not the date on which the debt falls due, for example, in the case of payment by bill of exchange.

Date : .....

Signature of beneficiary : .....

Attestation of competent authority :

Date, signature and stamp :

.....

.....

.....

ANNEX TO THE CERTIFICATE : EXPLANATIONS FOR DIFFERENCES BETWEEN WORK PLANNED AND WORK COMPLETED

MODEL 9

Project No : .....

Work and measures planned according to original file		Work and measures completed		Reasons for differences (1)
Brief description	Costs net of recoverable VAT	Brief description	Costs net of recoverable VAT	

(1) Relevant invoices attached and, where necessary, correspondence on the subject between the Ministry and the beneficiary.

Date : .....

Attestation of competent authority :

Date, signature and stamp :

.....

.....

.....

Date and signature of beneficiary : .....