

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (78) 532 final

UNIVERSITY OF PARIS 1978

PROPOSITION OF COUNCIL REGULATION (EEC)
ON COMMUNITY AID FOR INDUSTRIAL RESTRUC-
TURING AND CONVERSION OPERATIONS

(Submitted by the Commission to the Council)

COM (78) 532 final

EXPLANATORY MEMORANDUM

AIMS

1. The existence of excess production capacity together with the emergence of a new international division of labour have led certain sectors of industry in the Community to undertake restructuring programmes in order to establish, at a stabilized or reduced level of production, a degree of competitiveness which will enable the undertakings concerned to face up to international competition without special protection.

In most cases, the state of the market is such that these undertakings cannot themselves find the necessary resources for restructuring. This is particularly the case in the sectors of shipbuilding, and textiles, and synthetic fibres. In other sectors, such as refining, the necessary redevelopment operations, encounter difficulties of financment.

2. The Community's financial aid has a twofold aim: firstly, it is directed at restructuring programmes which invest in rationalization research, modernization of equipment and of production and management and sales techniques; secondly, it is aimed at conversion programmes which will help to ensure that jobs are maintained either in the sector itself or in any other activity, where this is justified by the employment situation in the region where the undertaking to be restructured is situated. In both cases, Community aids must serve the common objectives defined at Community level (Article 2).

3. The Community is able to support restructuring and conversion operations from the appropriations entered in the Budget for restructuring and conversion measures on behalf of certain industrial sectors in crisis only where the national authorities contribute to such operations through their existing aid schemes or through procedures which permit recourse to other Community instruments (Article 2).

METHODS AND PROCEDURES

1. Aids take the form of interest rebates or investment premiums in accordance with the methods set out in Article 3. They complement national aid measures and aid available through other Community instruments, in particular the ERDF (Article 2).
2. Interest rebates are available in principle on loans financed by the EIB [and by Community loans] (Article 2).
3. The Commission, acting in accordance with the provisions of this Regulation (Article 11) and consulting the Committee set up for this purpose (Article 7), defines the procedure for granting aid and examines applications for aid. First of all, the sectors eligible for aid are designated by a decision of the Council, acting on a qualified majority.
4. The use of Community funds is subject to the rules on the financial control of the implementation of the Budget (Article 5).

Draft

COUNCIL REGULATION (EEC) No /78
of 1978

ON COMMUNITY AID FOR INDUSTRIAL RESTRUCTURING AND
CONVERSION OPERATIONS

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,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas the European Council, at its meeting held on 5 and 6 December 1977
in Brussels, decided that, in order to adapt the European production
machine to the new conditions prevailing on the Community and world
markets, solutions to the structural problems common to all Member
States should increasingly be sought at Community level; whereas, at
its meeting held on 7 and 8 April 1978 in Copenhagen, the European
Council stressed that the main aim of the Community's structural policy
should be to restore the competitiveness of undertakings;

Whereas it is generally recognized that structural changes are facilitated
by sustained economic growth and by the expansion of international trade
in a free market system; whereas it has also been recognized that for
economic and social reasons public intervention is justified in special
cases in order that structural changes can be carried out rationally;
whereas such action must be considered case by case;

Whereas, in certain sectors, the financial situation of the undertakings
in question and the social and regional consequences of restructuring
are such that structures cannot be adapted without assistance from the

public sector; and whereas the Community dimension of the problems and the fact that the Community's responsibilities in trade relations are bound up with the reestablishment of the competitiveness of these sectors mean that restructuring must be integrated into Community policies;

Whereas, therefore, there is a need both for selective Community aids to stimulate undertakings by investment in accordance with these policies and for Community aids for conversion investments linked with restructuring, such as to create, in the areas concerned, jobs for redundant workers in the sectors in question;

Whereas, since the Treaty does not provide the Community with the necessary powers, action must be taken under Article 235 of the Treaty;

Whereas a broad framework must be defined for the scope of intervention and for the criteria and procedures for the Community aids which could be introduced in each of the sectors designated by the Council and for which restructuring plans will be drawn up at Community level;

Whereas this general framework must be complemented by guidelines specifying the procedures for and the criteria governing the grant of aids in accordance with the aims, situation and characteristics of each sector;

Whereas the Community aids granted on the basis of these guidelines must also be consistent with the measures on state aids adopted both by the Council and by the Commission;

Whereas it is essential to ensure consistency and coordination between aid measures carried out pursuant to this Regulation and aid carried out under the other financial instruments of the Community, be they in the same sector or in the same region, so that all the available means can be rationally combined to achieve maximum efficiency; whereas suitable coordination must also be ensured to the same end between all types of Community aid and national aid; whereas, to achieve this, the Community may act under this Regulation only to the extent that the

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national authorities themselves are making every effort to achieve the Community objectives in the sector in question;

Whereas the Commission must ensure, in conjunction with the Member States, the proper administration of investments benefiting from Community aid and effectively monitor the operation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The purpose of the aids granted shall be to assist, in each of the sectors referred to in paragraph 2, the effort deployed by industry to finance investments for the restructuring of industrial undertakings.
2. The Council, acting on a proposal from the Commission, shall decide, by a qualified majority on those sectors to which aid may be granted.
3. The aids may also, under the conditions laid down in Article 2 (2), be directed towards investments for conversion to other sectors, i.e. investment to help undertakings change to other types of activity, or to create in the areas concerned and in other fields of activity, new jobs intended primarily for workers made redundant by restructuring operations or by the total or partial closure of such undertaking.
4. The investment projects eligible for aid under this Regulation must not have involved the commencement of any construction work.

Article 2

1. As regards restructuring operations, priority shall be given, within the means available, to projects which serve Community objectives and contribute to stable employment, having due regard to the scale of the financial effort required, the financing potential of the undertaking, access to other sources of finance and to national aids and, where applicable, the possibility of aid from other Community financial sources, this with a view to the combined and most efficient use of all resources.
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2. However, if the employment situation in the area or region of the undertaking to be restructured is so serious as to justify Community aid and if jobs have not been found for the labour made redundant, the budgetary resources governed by this Regulation may be used for aids to investment projects for conversion to other sectors, provided that no other assistance has been provided from other Community financial instruments, in particular the European Regional Development Fund. In extremely serious situations, however, aid under article 1 § 3, may be granted in respect of projects receiving other forms of Community aid.
3. The Community may grant aid under this Regulation only if the Member States concerned by the investment operation which may be eligible for financial aid under this Regulation has implemented its own systems of aid and has taken the necessary steps to obtain aid from Community Funds.

Article 3

1. The aid referred to in Article 1 may take the form of investment premiums or interest rebates on all or part of loans. Interest rebates shall, in principle, be granted only financing operations carried out with the help of loans from Community bodies.
2. Interest rebates shall be granted for a part of loans not exceeding 50 % of the cost of eligible investment, and in the case of conversion, the said part shall not exceed 25,000 EUC par job created. The rebate shall be for a period of 5 years and amount to 3 percentage points, but shall, in any case, not exceed 40 % of the rate of interest payable on the loan. Exceptionally, the rebate may be raised to the lower of 5 percentage points or two thirds of the relevant rate of interest for the same period of 5 years for conversion investment undertaken:
 - a. in the least favoured regions or in regions or zones particularly affected by restructuring;
 - b. by small and medium sized enterprises

3. Investment grants shall not exceed the grant-equivalent of the maximum interest that could have been granted under the terms of sub-paragraph 2 of this article. The rate of discount and the reference rate which shall be used for the purpose of this calculation shall be the rate of interest which would have been charged by the EIB for a loan disposed in several currencies.
4. The Commission shall, in respect of each sector designated by the Council pursuant to Article 1, make a policy statement defining the criteria governing the grant of aid.

Article 4

1. The aids shall be decided upon by the Commission in accordance with the procedure referred to in Article 8. Applications to the Commission for aid shall be made directly by the investors or through the intermediary of the Member States. The Commission shall, in each case, seek the opinion of the Member State concerned.
Requests for aid may also, where they are made in conjunction with an application for a loan, be submitted with the loan application through the European Investment Bank, which shall forward them to the Commission.
2. These applications shall state:

for the investments referred to in Article 2 :

- the name of the undertaking;
- the name and location of the plant;
- the sector of activity;
- the site, the amount, the nature and the implementation schedule of the investments;
- the effects on employment;
- the market prospects;
- the cost of the investment necessary;
- the financing plan and conditions including the amount of and methods governing national aids and, where applicable, other Community aids.

3. The investors shall supply any additional information which the Commission may deem necessary and shall accept the inspections required to ensure the proper implementation of the projects. A contract shall be concluded to this effect between the investor to whom the aid is granted and the Commission. This contract shall also establish the procedures for payment of the aid.

Article 5

1. If an investment which has received aid has not been carried out as planned, or if the conditions of this Regulation are not fulfilled, the aid may be reduced or cancelled by decision of the Commission, taken after consultation of the Committee referred to in Article 7, in accordance with the procedure set out in Article 8(3).
2. Member States shall make available to the Commission all information required for the application of this Regulation and shall take all steps to facilitate such supervision as the Commission may consider useful, including on-the-spot checks.
3. Notwithstanding verification carried out by Member States in accordance with national laws, regulations and administrative provisions, and without prejudice to the provisions of Article 206 of the Treaty or to any inspection arranged pursuant to Article 209(c) of the Treaty, the competent authorities of the Member State shall, at the request of the Commission and with the agreement of the Member State, carry out on-the-spot checks or enquiries about the operations financed. The Commission may fix time limits for carrying out such checks.

4. The objective of these on-the-spot checks or enquiries about operations financed shall be to verify:
 - (a) the existence of supporting documentary evidence and its conformity with the operations financed;
 - (b) the conditions under which the operations financed are executed and checked;
 - (c) the conformity of the projects implemented with the operations financed.

5. The Commission may suspend payment of aid for a particular project if an inspection reveals either irregularities or a substantial change in the character or conditions of the project for which the Commission's approval had not been sought.

Article 6

The measures necessary for the implementation of this Regulation shall be adopted by the Commission in accordance with the procedure laid down in Article 8(4).

Article 7

1. An Advisory Committee is hereby set up composed of representatives of the Member States and chaired by a representative of the Commission.
2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148(2) of the Treaty. The Chairman shall not vote.

Article 8

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit drafts of the decisions to be taken. The Committee shall deliver its Opinion on the drafts within the time limit which the Chairman may fix according to the urgency of the questions under consideration. To be adopted an Opinion must receive 41 votes.
3. Where a request aid is submitted under Article 4, the Commission shall consult the Committee; if the Committee delivers an Opinion opposing the Commission's draft, the Commission shall re-examine its draft in the light of the arguments adduced by the Committee. The Commission may withdraw, amend or confirm the draft: it shall adopt the decision accordingly.
4. For questions relating to measures in implementation of this Regulation or to the policy statement referred to in Article 3(4), the Commission shall consult the Committee. The Commission decisions shall apply immediately. However, if a decision is not in accordance with the Opinion of the Committee, it shall forthwith be communicated by the Commission to the Council. In that event the Commission shall defer the application of the decision which it has adopted for not more than two months from the date of such communication. The Council, acting by qualified majority, may take a different decision within this period.

Article 9

The list of projects which have received aid shall be published in the Official Journal of the European Communities.

Article 10

The provisions of this Regulation shall not prejudice the application of Articles 92 to 94 of the Treaty, in particular Article 93(3).

Article 11

Before 1 July each year, the Commission shall present a report to the European Parliament and to the Council on the implementation of this Regulation during the preceding year.

Article 12

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

