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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3944/90

of 20 December 1990

amending Regulation (EEC) No 4028/86 on Community measures to improve and adapt structures in the fisheries and aquaculture sector

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 Act of Accession of Spain and Portugal, and in particular Article 155 (2) 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 Community measures to improve and adapt the structural situation of the fishing industry and of aquaculture are laid down in Council Regulation (EEC) No 4028/86 ⁽⁴⁾;

Whereas no structural policy measure in fishing can be successful, unless at the same time its socio-economic consequences are envisaged, particularly with regard to employment and the impact on regions that are highly dependent on fisheries;

Whereas on 20 January 1989 the European Parliament adopted a resolution on fair living standards for small-scale fishermen ⁽⁵⁾;

Whereas the legal framework for existing structural measures in respect of the fishing industry must be extended,

notably to include aid arrangements for vessels excluded from the scope of Regulation (EEC) No 4028/86;

Whereas measures to promote small-scale fisheries must fit in with the objectives of the structural policy, aiming primarily at a balanced exploitation of available fishery resources *inter alia* through the fixing of the terms and conditions of the development of the fishing capacity of Community fleets in the context of the multiannual guidance programmes;

Whereas measures to promote small-scale fisheries help to increase the economic and social cohesion of the Community and, in particular, to speed up development in the less-favoured regions which are highly dependent on fisheries;

Whereas structural policy must seek primarily to ensure balanced exploitation of the resources native to Community waters; whereas the Community must acknowledge a situation which gives rise to increasing concern in respect of certain stocks; whereas, moreover, the Community, on account of its shortage of fishery products, must seek to expand its sources of supply;

Whereas it is imperative that zonal plans are drawn up in consultation with the local fishing industry and that the latter takes part in the management;

Whereas this Regulation precedes the examination that the Commission will carry out on the integration of the structural policy of the fishing industry into the other structural policies of the Community within the framework of the review of the rules governing the Structural Funds which is envisaged for 1993;

Whereas the restructuring of fishing capacity, to maintain a balance between fishing effort and available, accessible fish stocks, may have adverse economic and social effects; whereas, therefore, support measures must be introduced to alleviate the burden of such constraints and to reorientate the activity of undertakings in those branches of the fishing industry most affected by this situation;

⁽¹⁾ OJ No C 243, 28. 9. 1990, p. 6.

⁽²⁾ Opinion delivered on 10 December 1990 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 20 November 1990 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 376, 31. 12. 1986, p. 7.

⁽⁵⁾ OJ No C 47, 27. 2. 1989, p. 17.

Whereas structural measures aimed at the reorientation of fishing operations must be intensified, in particular measures to increase and improve fishing opportunities by encouraging the development of redeployment operations;

Whereas restructuring of the Community's fishing fleets must be encouraged in order to reduce fishing effort in Community waters; whereas encouragement should be given to schemes enabling the absorption of fishing capacity capable of operating outside Community waters;

Whereas it is also necessary to maintain and consolidate traditional trade in fishery products while complying with the rules to ensure priority supply to the Community market; whereas experience has shown that stable and durable cooperation between the Community and maritime third countries with which the Community has fishery relations depends upon the development and consolidation of viable and durable links between the partners with a view to a genuine transfer of fisheries technology and know-how;

Whereas the entry into force of Council Regulation (EEC) No 4042/89 ⁽¹⁾ on 1 January 1990 entails the repeal of Regulation (EEC) No 355/77; whereas changes must therefore be made in the case of measures to improve facilities at fishing ports;

Whereas promotion campaigns should be organized with a view to increasing the level of consumption of certain species, including certain rapidly developing aquaculture products capable of improving the supply of fishery products;

Whereas the considerations outlined above and the operating conditions in the fisheries sector require that such measures be implemented within a Community framework and supported with public funds;

Whereas maximum transparency is required in order to monitor the activities of the undertakings concerned;

Whereas provision should be made for the adjustment of certain criteria by a simplified procedure so that they can be adapted as closely and rapidly as possible to developments in a situation subject to fluctuation according to regional or sectoral circumstances;

Whereas, under Article 155 (2) of the Act of Accession of the Kingdom of Spain and the Portuguese Republic, the Council is to determine the Community structural measures applicable to the fisheries sector in the Canary Islands and in Ceuta and Melilla; whereas Regulation (EEC) No 4028/86 provides for the application in respect of those territories of the majority of the common measures concerned; whereas, therefore, the common measure provided for in this Regulation should be extended to those territories,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 4028/86 is hereby amended as follows:

1. in Article 1 (1), points (c) and (f) are replaced by the following:

'(c) the reorientation of fishing activities by means of exploratory fishing voyages, redeployment operations, joint ventures and joint enterprises;

(f) the search for new outlets for products derived from surplus or underfished species, and for aquaculture products which, by virtue of their rapid growth, pose problems of disposal on the Community market;'

2. Article 1 (3) is replaced by the following:

'3. The measure specified in paragraph 1 (e) must form part of a Community support framework within the meaning of Regulation (EEC) No 4042/89.';

3. the following paragraph 4 is added to Article 1:

'4. Titles I, II, III and VII only shall apply in respect of small-scale fishing vessels, as defined in Article 2.';

4. Title 1 is replaced by the following:

'TITLE 1

'Multiannual guidance programmes and zonal plans'

5. The following paragraphs are added to Article 2:

'5. For the purposes of this Regulation, the term "zonal plan" shall mean a plan covering small-scale fisheries, an activity carried out by fishing vessels having at least the following characteristics:

— a length of less than nine metres between perpendiculars or 12 metres in the case of vessels capable of trawling,

— be entered in the register of Community fishing vessels,

— have an activity which accounts for 60 % of the fisherman's income or a minimum activity of 100 fishing days per annum and specifying a set of objectives, together with a statement of the measures and means necessary for obtaining them, as a guide for restructuring in an overall long-term context the small-scale fisheries sector in one or more maritime zones of a Member State.

⁽¹⁾ OJ No L 388, 30. 12. 1989, p. 1.

6. The plans must:
- cover the whole of the small-scale fisheries sector in the Member State concerned,
 - be compatible with the multiannual guidance programme of the Member State concerned, ensuring *inter alia* that the measures envisaged to help the small-scale fisheries sector are entirely consistent with a reduction in the overall capacity of the fishing fleet,
 - cover the period 1 January 1991 to 31 December 1992,
 - include at least the particulars mentioned in Annex 1a.;
6. the following paragraph is added to Article 3:
- ‘4. At the latest by 31 May 1991, Member States shall forward a plan to the Commission.’;
7. the following paragraph is added to Article 4:
- ‘4. Not later than five months after each zonal plan has been forwarded, the Commission shall, acting in accordance with the procedure laid down in Article 47 and, in particular, in the light of foreseeable developments in fishery resources and the market for fisheries and aquaculture products, and having regard to the measures adopted under the common fisheries policy, decide whether or not to approve it.’;
8. Article 6 (2) (a) and (b) are replaced by the following:
- ‘(a) in the case of vessels measuring not less than nine metres in length between perpendiculars, or 12 metres in the case of vessels capable of trawling, form part of a programme as referred to in Article 2 and approved by the Commission and in the case of vessels measuring between five and nine metres in length between perpendiculars or 12 metres in the case of vessels capable of trawling, form part of a zonal plan as referred to in Article 2 and approved by the Commission.
- (b) concern fishing vessels measuring five metres or more in length between perpendiculars.’;
9. Article 8 (3) is replaced by the following:
- ‘3. The replaced vessels referred to in paragraph 2 must not have qualified for the final-cessation premium referred to in Article 22 nor have been definitively transferred to a third country in the context of a joint enterprise as referred to in Article 21a.’;
10. Article 9 (2) (b) is replaced by the following:
- ‘(b) in the case of vessels measuring not less than nine metres in length between perpendiculars, or 12 metres in the case of vessels capable of trawling, form part of a programme as referred to in Article 2 and approved by the Commission, and in the case of vessels measuring less than nine metres in length between perpendiculars or 12 metres in the case of vessels capable of trawling, form part of a zonal plan as referred to in Article 2 and approved by the Commission.’;
11. Article 9 (3) (a) and (c) are replaced by the following:
- ‘(a) relate to vessels flying the flag of a Member State and registered in a Community port;
- (c) are substantial and comprise investments eligible for aid of at least:
- ECU 3 000 in the case of vessels measuring less than five metres in length between perpendiculars,
 - ECU 5 000 in the case of vessels measuring between five and nine metres in length between perpendiculars or 12 metres in the case of vessels capable of trawling,
 - ECU 12 000 in the case of vessels not capable of trawling which measure not less than nine metres but not more than 12 metres in length between perpendiculars,
 - ECU 25 000 in the case of vessels measuring not less than 12 metres in length between perpendiculars.’;
12. Article 13 is replaced by the following:
- ‘Article 13
- For the purposes of this Title, “exploratory fishing voyage” means any fishing operation carried out for commercial purposes with a view to assessing the profitability of regular, long-term exploitation of fishery resources involving fishing methods or fishing gear, or in fishing zones, or for fish species novel for the Community.’;
13. Article 14 (1) is replaced by the following:
- ‘1. The Commission shall grant Community financial aid to projects for exploratory fishing voyages comprising operations in:
- (a) waters which fall within the sovereignty or jurisdiction of a Member State, and waters adjacent to the territory of Member States where no provisions of the Community legislation on fishing are applicable; or
 - (b) waters which fall within the sovereignty or jurisdiction of a third country with which the Community has concluded a fisheries agreement in so far as the project does not qualify for a Community aid with the same purpose under the common fisheries policy; or

- (c) waters which fall within the sovereignty or jurisdiction of a third country with which the Community has not concluded a fisheries agreement but maintains relations; or
- (d) waters which do not fall within the sovereignty or jurisdiction of any State in so far as these exploratory fishing voyages do not involve the catching of species subject to a quota allocated to the Community.';
14. the following is added to Article 14 (2) (b):
'and a maximum duration of 220 days;'
15. the following is added to Article 14 (2):
(e) have an objective compatible with the guidelines determined periodically by the Commission in accordance with the procedure laid down in Article 47, with particular regard to fishing zones, fish species, fishing gear and fishing methods. These guidelines shall apply 30 days from the date on which they are determined.';
16. Article 15 (1) is replaced by the following:
'1. The aid referred to in Article 14 shall consist in the granting of incentive premiums. The premium for each project shall be equal to 40 % of the eligible cost of the voyage. Payment is conditional on payment by the Member State concerned of a premium of between 10 and 20 % of these costs.';
17. the following Title Va is inserted:

"TITLE Va

Redeployment operations

Article 17a

For the purposes of this Title, "redeployment operation" means any fishing operation carried out for commercial purposes in a given area with a view to the exploitation of fishery resources, primary consideration being given to the supply of the Community market.

Article 17b

1. The Commission shall grant Community financial aid to projects involving redeployment operations carried out in:

(a) waters falling within the sovereignty or jurisdiction of a third country with which the Community has not concluded a fisheries agreement but maintains relations;

(b) waters which fall within the sovereignty or jurisdiction of a third country with which the Community has concluded a fisheries agreement in so far as the project does not qualify for a Community aid with the same purpose under the common fisheries policy; or

(c) waters which do not fall within the sovereignty or jurisdiction of any State, in so far as such operations do not involve the catching of species subject to a quota assigned to the Community.

2. To qualify for financial aid, the projects referred to in paragraph 1 must also:

(a) relate to fishing operations lasting a minimum of 60 days per year and per vessel and comprising one or more voyages and up to a maximum of 220 days;

(b) relate to fishing vessels measuring not less than 12 metres in length between perpendiculars, which are technically suited to the fishing operations planned, belonging to natural or legal persons in the Community, have been in operation for more than five years, fly the flag of a Member State and are registered in a Community port. However, a minimum activity of five years will not be required in the case of vessels registered in a Community port at the date on which this Regulation comes into force;

(c) have an objective compatible with the guidelines determined periodically by the Commission, in accordance with the procedure laid down in Article 47, with particular regard to fishing zones, fish species, fishing gear and fishing methods. These guidelines shall apply 30 days from the date on which they are determined;

(d) facilitate stable, continuing and profitable exploitation of the potential fishery resources.
- Article 17c

1. The aid referred to in Article 17b shall consist in the granting of redeployment premiums. The amount of the premium for each project is set out in Annex VIII. Payment is conditional on payment by the Member State concerned of a premium of between 10 and 20 % of the redeployment premium.

2. If necessary, detailed rules for applying this Article, including provision for the payment of the premium in instalments and rules governing such payment, shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

3. Community financial aid granted for a redeployment project may not be drawn cumulatively with Community aid of the same type granted under the common fisheries policy.
- Article 17d

1. The projects referred to in Article 17c shall be submitted to the Commission through the Member State or States concerned, once the approval of the latter has been obtained.

2. Within three months of the submission of a project, the Commission shall decide whether to grant the financial aid referred to in Article 17c. This decision shall be notified to the beneficiaries and to the Member State or States concerned. The other Member States shall be informed accordingly within the Committee.

Article 17e

1. For each project qualifying for the financial aid referred to in Article 17c, the beneficiary or beneficiaries shall forward to the Commission and to the Member State or States concerned, upon the conclusion of the redeployment operation, a report on:

- (a) the fishing operations, and in particular the fishing methods used;
- (b) the species caught, the fishing zones and the corresponding yields shown on a one-degree grid chart;
- (c) the economic results of the campaign;
- (d) any other information of Community interest.

2. After examining the report, the Commission shall make it available to the other Member States within the Committee.

3. Detailed rules specifying in particular the data which the projects and the report referred to in paragraph 1 must include and the form in which they must be presented shall be adopted by the Commission in accordance with the procedure laid down in Article 47.;

18. in Article 18, 'on fishing matters' is deleted;

19. Article 19 (2) is replaced by the following:

'2. To qualify for Community aid, the projects referred to in paragraph 1 must:

- (a) relate to fishing vessels measuring more than 12 metres in length between perpendiculars, which are technically suited to the fishing operations planned, have been in operation for more than five years, belong to natural or legal persons in the Community, fly the flag of a Member State and are registered at a port located in the Community. However, a minimum activity of five years shall not be required in the case of vessels registered in a Community port at the date on which this Regulation comes into force.
- (b) relate to fishing operations lasting a minimum of one year;
- (c) have an objective compatible with the guidelines determined periodically by the Commission in accordance with the procedure laid down in Article 47, with particular regard to fishing zones,

fish species, fishing gear and fishing methods. These guidelines shall apply 30 days from the date on which they are determined.;

20. Article 20 (2) is replaced by the following:

'2. The amount of the cooperation premium is set out in Annex VIII. Payment is conditional on payment by the Member State or States concerned of a premium of between 10 and 20% of the cooperation premium.;

21. the following Title VIa is inserted:

'TITLE VIa

Joint enterprises

Article 21a

For the purposes of this Title, "joint enterprise" means a company incorporated under private law comprising one or more Community shipowners and one or more partners from a third country with which the Community maintains relations, associated under a joint enterprise agreement set up for the purpose of exploiting and, where appropriate, using the fishery resources of waters falling within the sovereignty and/or jurisdiction of such third country, primary consideration being given to the supply of the Community market.

Article 21b

1. The Commission shall grant Community financial aid for joint enterprise projects.

2. To qualify for financial aid, the joint enterprise projects must relate to vessels of length measuring more than 12 metres between perpendiculars, which are technically suited to the fishing operations planned, have been in operation for more than five years, fly the flag of a Member State, are registered in a Community port and are to be transferred definitively to the third country concerned under the joint enterprise. However, a minimum activity of five years shall not be required in the case of vessels registered in a Community port at the date on which this Regulation comes into force.

3. Community financial aid granted for a joint enterprise project may not be drawn cumulatively with Community aid of the same type granted under the common fisheries policy.

4. The Member States shall take the necessary measures to ensure that the fishing capacity, expressed in terms of the gross registered tonnage and motive power of the vessels definitively transferred to a third country under the joint enterprises referred to in this Title and qualifying for Community financial aid, may not be replaced by new vessels, in particular by being

used as operational fishing capacity directly or indirectly associated with the construction of new vessels.

Article 21c

1. The financial aid referred to in Article 21b shall be used to cover the financial contribution of the Community partner or partners corresponding to the capital invested in the joint enterprise.

2. The financial aid may consist of:

- (a) a capital subsidy granted in one or more instalments; and/or
- (b) a reduction in the rate of interest charged on loans granted by national or international finance institutions; and/or
- (c) a capital contribution towards the formation of guarantee funds for loans contracted for the implementation of the joint enterprise in question.

3. The Community financial aid shall be as shown in Annex VII. Payment is conditional on payment by the Member State concerned of a premium of between 20 and 50 % of the Community financial contribution.

4. If necessary, detailed rules for applying this Article, including priority criteria and the rules governing the payment of the Community aid, shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

Article 21d

1. The projects referred to in Article 21b shall be submitted to the Commission through the Member State or States concerned, once the approval of the latter has been obtained.

2. Within three months of the submission of a project, the Commission shall decide whether to grant the aid referred to in Article 21c. This decision shall be notified to the beneficiaries and to the Member State or States concerned. The other Member States shall be informed accordingly within the Committee.

3. For each project qualifying for the financial aid referred to in Article 21b, the beneficiary or beneficiaries shall forward to the Commission and to the Member State or States concerned a periodic report on the activities of the joint enterprise. Once a year within the Committee, the Commission shall present a general report on the implementation of the projects qualifying for financial aid.

4. Detailed rules specifying in particular the data which the periodic report referred to in paragraph 3 must include shall be adopted by the Commission in accordance with the procedure laid down in Article 47.;

22. Article 23 (2) (a) and (d) are replaced by the following:

- '(a) in respect of vessels flying the flag of a Member State, registered in a Community port and measuring not less than 12 metres in length between perpendiculars; and
- (d) for a total additional period of lay-up limited to 400 days maximum per vessel.;

23. Article 24 (1) is replaced by the following:

'1. The permanent withdrawals referred to in Article 22 shall be effected by means of:

- (a) the scrapping of the vessel concerned;
- (b) the definitive transfer of the vessel concerned to a third country, in so far as this transfer is not liable to adversely affect international conservation regulations and the management of fishery resources; or
- (c) the definitive assignment of the vessel concerned to purposes other than fishing in Community waters.

In the case of vessels measuring less than nine metres in length between perpendiculars, or 12 metres in the case of vessels capable of trawling, only the scrapping of the vessel shall amount to permanent withdrawal for the purposes of this Article.;

24. Article 24 (2) (a) is replaced by the following:

- '(a) in respect of fishing vessels flying the flag of a Member State, and registered in a Community port;'

25. Article 26 (5) is replaced by the following:

'5. Within the framework of the decisions referred to in paragraph 3, the Community shall reimburse 50 % of the Member States' eligible expenditure. However, where the permanent withdrawal consists of the scrapping of the vessel, the Community shall reimburse 70 % of the Member States' eligible expenditure within the framework of the decisions referred to in paragraph 3.;

26. Article 27 (2) (a) is replaced by the following:

- '(a) be included in a Community support framework within the meaning of Regulation (EEC) No 4042/89;'

27. Article 28 (3) is replaced by the following:

'3. Investments eligible for aid shall be financed on a priority basis under the common measure introduced by Regulation (EEC) No 4042/89 ⁽¹⁾. To this end, aid applications relating to the projects referred to in Article 27 shall, when submitted pursuant to this Regulation, be considered to have been submitted at the same time pursuant to Regulation (EEC) No 4042/89.

⁽¹⁾ OJ No L 388, 30. 12. 1989, p. 1.;

28. Article 29 (1) is replaced by the following:

'1. The Commission may grant Community financial aid for projects to promote the consumption of fishery products derived from surplus or underfished species, and for aquaculture products which, by virtue of their rapid growth in production, pose problems of disposal on the Community market.';

29. Article 40 (2) is replaced by the following:

'2. The funds estimated as necessary for implementation of the measure provided for in this Regulation shall be determined by the budget authority in respect of each budget year within the framework of financial estimates in force.';

30. Article 48 (2) is replaced by the following:

'2. Pursuant to Article 5 of Regulation (EEC) No 1676/85, the amounts in ecus specified in Articles 17c and 20 and in Annexes IV, V and VII to this Regulation shall be converted into national

currencies at the agricultural conversion rates in force on 1 January of the year in which the premiums are granted.';

31. Article 50 is replaced by the following:

'Article 50

The provisions of this Regulation shall be applicable in the Canary Islands, in Ceuta and in Melilla. However, they shall apply only to fishing vessels of these territories within the meaning of regulation (EEC) No 1135/88 ⁽¹⁾.

⁽¹⁾ OJ No L 114, 2. 5. 1988, p. 1.'

Article 2

Annexes II and V shall be replaced by Annexes II and V below and Annexes Ia, VII and VIII shall be added.

Article 3

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 20 December 1990.

For the Council

The President

P. BUKMAN

ANNEX

'ANNEX Ia

MINIMUM INFORMATION TO BE INCLUDED IN THE ZONAL PLANS

- Definition of the small-scale fisheries sector and the zones covered by the plan.
 - Review of the measures undertaken during the previous three to five years and description of the current situation of the small-scale fisheries sector in the Member State, including:
 - a description of the overall fishing capacity of the small-scale fisheries sector,
 - a description of the overall fishing capacity of the small-scale fishing vessels covered by the plan,
 - a survey and assessment of the other fleets operating in the zone(s) covered by the plan,
 - estimate of available fish stocks in the zone(s) covered by the plan.
 - Definition of the needs of the sector and the resources and measures which will be used, in particular:
 - a description of the strengths and weaknesses of the small boat fleet concerned,
 - an estimate of the optimum fishing capacity of the fleet covered by the plan in the zones concerned (capacity targets),
 - estimate of the fishing capacity to be renewed, converted or scrapped,
 - assessment of the legal and administrative measures and the financial resources for carrying out the plan.
 - Establishment of links between the proposed plan and the multiannual guidance programme.
 - Consistency with the Community support frameworks.'
-

ANNEX II

COMMUNITY AID AND FINANCIAL CONTRIBUTIONS FROM MEMBER STATES FOR REBUILDING, RENEWING AND MODERNIZING THE FISHING FLEET

1. Vessels measuring nine metres or less in length between perpendiculars or 12 metres or less in the case of vessels capable of trawling:

Regions	Community aid	Financial contribution from Member States
Greece, Andalusia, Canaries, Ceuta and Melilla, Galicia, West of Scotland ⁽¹⁾ , arrondissement of Quimper and Lorient, Ireland, Northern Ireland, Mezzogiorno, Portugal, the French overseas departments, Veneto and Mecklenburg-Vorpommern	35 %	Between 5 and 25 %
Other regions	20 %	Between 5 and 25 %

2. Vessels measuring over nine metres in length between perpendiculars or over 12 metres in the case of vessels capable of trawling but not more than 33 metres:

Regions	Community aid	Financial contribution from Member States
Greece, Andalusia, Canaries, Ceuta and Melilla, Galicia, West of Scotland ⁽¹⁾ , arrondissement of Quimper and Lorient, Ireland, Northern Ireland, Mezzogiorno, Portugal, the French overseas departments, Veneto and Mecklenburg-Vorpommern	30 %	Between 5 and 25 %
Other regions	15 %	Between 5 and 25 %

3. Vessels measuring over 33 metres in length between perpendiculars:

Regions	Community aid	Financial contribution from Member States
Greece, Andalusia, Canaries, Ceuta and Melilla, Galicia, West of Scotland ⁽¹⁾ , arrondissement of Quimper and Lorient, Ireland, Northern Ireland, Mezzogiorno, Portugal, the French overseas departments, Veneto and Mecklenburg-Vorpommern	20 %	Between 5 and 25 %
Other regions	5 %	Between 5 and 25 %

⁽¹⁾ The "West of Scotland" means Dumfries and Galloway, the Western Isles, Orkney and Shetland, together with the districts of Caithness, Sutherland, Ross and Cromarty, Skye and Lochaber, Argyll and Bute, Cunninghame, Kyle and Carrick.

ANNEX V

ELIGIBILITY OF EXPENDITURE ON THE GRANTING OF FINAL CESSATION PREMIUMS

- A. Vessels measuring less than nine metres in length between perpendiculars, this length being increased to 12 metres for vessels capable of trawling:

Vessels of gross registered tonnage (GRT)	Age of vessel	Amount eligible for vessels to be scrapped
Below 5 GRT	10 years or less or equal to 20 years	ECU 3 500/GRT + 7 500
	Over 20 years	ECU 2 500/GRT + 5 000
Between 5 and 10 GRT	10 years or less or equal to 20 years	ECU 3 000/GRT + 10 000
	Over 20 years	ECU 2 250/GRT + 6 250
Between 10 and 25 GRT	10 years or less or equal to 20 years	ECU 2 500/GRT + 15 000
	Over 20 years	ECU 2 000/GRT + 8 750

- B. Vessels measuring not less than nine metres in length between perpendiculars, this length being increased to 12 metres for vessels capable of trawling

Vessels of gross registered tonnage (GRT)	Age of vessel	Amount eligible for vessels:	
		Due to be scrapped	Intended for purposes other than fishing or definitively transferred to a third country
Below 50 GRT	10 years or less		ECU 3 375/GRT + 18 750
	Over 10 years but not more than 20 years	ECU 4 500/GRT + 2 500	ECU 2 812/GRT + 15 625
	Over 20 years	ECU 3 500/GRT + 12 000	ECU 2 250/GRT + 12 500
50 to 100 GRT	10 years or less		ECU 3 000/GRT + 37 500
	Over 10 years but not more than 20 years	ECU 4 000/GRT + 50 000	ECU 2 500/GRT + 31 250
	Over 20 years	ECU 3 000/GRT + 37 500	ECU 2 000/GRT + 25 000
100 to 400 GRT	10 years or less		ECU 1 500/GRT + 187 500
	Over 10 years but not more than 20 years	ECU 2 000/GRT + 250 000	ECU 1 250/GRT + 156 250
	Over 20 years	ECU 1 500/GRT + 187 500	ECU 1 000/GRT + 125 000

Vessels of gross registered tonnage (GRT)	Age of vessel	Amount eligible for vessels:	
		Due to be scrapped	Intended for purposes other than fishing or definitively transferred to a third country
400 to 3 500 GRT	10 years or less		ECU 750/GRT + 487 500
	Over 10 years but not more than 20 years	ECU 1 000/GRT + 650 000	ECU 625/GRT + 406 250
	Over 20 years	ECU 750/GRT + 487 500	ECU 500/GRT + 325 000
3 500 GRT and more	10 years or less		ECU 600/GRT + 1 012 500
	Over 10 years but not more than 20 years	ECU 800/GRT + 1 350 000	ECU 500/GRT + 843 750
	Over 20 years	ECU 600/GRT + 1 012 500	ECU 400/GRT + 675 000'

ANNEX VII

AMOUNT OF COMMUNITY AID FOR JOINT ENTERPRISES

Category of vessel (Gross registered tonnes)	Age of vessel ⁽¹⁾	Amount per vessel
Less than 100	10 years or less	ECU 6 000/GRT + 75 000
	Over 10 years but not more than 20 years	ECU 4 000/GRT + 50 000
	Over 20 years	ECU 3 000/GRT + 37 500
Equal to or higher than 100 but lower than 400	10 years or less	ECU 3 000/GRT + 375 000
	Over 10 years but not more than 20 years	ECU 2 000/GRT + 250 000
	Over 20 years	ECU 1 500/GRT + 187 500
Equal to or higher than 400 but lower than 3 500	10 years or less	ECU 1 500/GRT + 975 000
	Over 10 years but not more than 20 years	ECU 1 000/GRT + 650 000
	Over 20 years	ECU 750/GRT + 487 500
Equal to or higher than 3 500	10 years or less	ECU 1 200/GRT + 2 025 000
	Over 10 years but not more than 20 years	ECU 800/GRT + 1 350 000
	Over 20 years	ECU 600/GRT + 1 012 500

⁽¹⁾ The age of the vessel shall be assessed from the date the application is lodged with the competent national administration.

ANNEX VIII

AMOUNT OF THE REDEPLOYMENT PREMIUM AND THE COOPERATION PREMIUM

Tonnage of vessel (Gross registered tonnes)	Amount of the redeployment/cooperation premium per vessel (ECU/day)
Less than 25	81
of 25 and less than 50	163
of 50 and less than 70	227
of 70 and less than 100	358
of 100 and less than 200	650
of 200 and less than 300	1 073
of 300 and less than 500	1 430
of 500 and less than 1 000	1 820
of 1 000 and less than 1 500	2 405
of 1 500 and less than 2 000	2 925
of 2 000 and less than 2 500	3 250
of 2 500 and less than 3 000	3 705
of 3 000 and over	4 225'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 December 1990

concerning the modules for the various phases of the conformity assessment procedures which are intended to be used in the technical harmonization directives

(90/683/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

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

Whereas the Council adopted a resolution on 21 December 1989 concerning a global approach to conformity assessment ⁽⁴⁾;

Whereas the introduction of harmonized methods for the assessment of conformity and the adoption of a common doctrine for their implementation are likely to facilitate the adoption of future technical harmonization directives concerning the placing on the market of industrial products and thus be conducive to the completion of the internal market by 31 December 1992;

Whereas such methods should ensure that products are in full conformity with the essential requirements laid down in the technical harmonization directives, in order to provide, in particular, for the health and safety of users and consumers;

Whereas such conformity should be assured without imposing unnecessarily onerous conditions on manufacturers, and by means of clear and comprehensible procedures;

Whereas limited flexibility should be introduced as regards use of additional modules, or variations in the modules,

when the specific circumstances of a particular sector or directive so warrant, but not to such a degree as to undercut the purpose of the current Decision and only when explicitly justified,

HAS DECIDED AS FOLLOWS:

Sole Article

The procedures for conformity assessment which are to be used in the technical harmonization directives relating to the marketing of industrial products will be chosen from among the modules listed in the Annex and in accordance with the criteria set out in this Decision and in the general guidelines in the Annex. These procedures may only depart from the modules when the specific circumstances of a particular sector or directive so warrant. Such departures from the modules must be limited in extent and must be explicitly justified in the relevant directive. The Commission will report periodically on the functioning of this Decision, and on whether conformity assessment procedures are working satisfactorily or need to be modified.

Done at Brussels, 13 December 1990.

For the Council
The President
P. ROMITA

⁽¹⁾ OJ No C 231, 8. 9. 1989, p. 3.

⁽²⁾ OJ No C 149, 18. 6. 1990, p. 162 and Decision of 21 November 1990 (not yet published in the Official Journal).

⁽³⁾ OJ No C 112, 7. 5. 1990, p. 4.

⁽⁴⁾ OJ No C 10, 16. 1. 1990, p. 1.

ANNEX

CONFORMITY ASSESSMENT PROCEDURES IN THE TECHNICAL HARMONIZATION DIRECTIVES

I. GENERAL GUIDELINES

The principal guidelines for the use of conformity assessment procedures in technical harmonization directives are the following:

- (a) the essential objective of a conformity assessment procedure is to enable the public authorities to ensure that products placed on the market conform to the requirements as expressed in the provisions of the directives, in particular with regard to the health and safety of users and consumers;
- (b) conformity assessment can be subdivided into modules which relate to the design phase of products and to their production phase;
- (c) as a general rule a product should be subject to both phases before being able to be placed on the market if the results are positive (*);
- (d) there are a variety of modules which cover the two phases in a variety of ways. The directives shall set the range of possible choices which can be considered by the Council to give the public authorities the high level of safety they seek, for a given product or product sector;
- (e) in setting the range of possible choices open to the manufacturer, the directives, will take into consideration, in particular, such issues as the appropriateness of the modules to the type of products, the nature of the risks involved, the economic infrastructures of the given sector (e.g. existence or non-existence of third parties), the types and importance of production, etc. The factors that have been taken into account must be explicitly spelled out by the Commission in these directives;
- (f) the directives will, in setting the range of possible modules for a given product or product sector, attempt to leave as wide a choice to the manufacturer as is consistent with ensuring compliance with the requirements.

The Directives will set out the criteria governing the conditions in which the manufacturer shall choose the most appropriate modules for his production from the modules laid down by the directives;

- (g) the directives should avoid imposing unnecessarily modules which would be too onerous relative to the objectives of the directive concerned;
- (h) notified bodies should be encouraged to apply the modules without unnecessary burden for the economic operators. The Commission, in cooperation with the Member States, shall ensure that close cooperation is organized between the notified bodies in order to ensure consistent technical application of the modules;
- (i) in order to protect the manufacturers, the technical documentation provided to notified bodies has to be limited to that which is required solely for the purpose of assessment of conformity. Legal protection of confidential information shall be required;
- (j) whenever directives provide the manufacturer with the possibility of using modules based on quality assurance techniques, the manufacturer must also be able to have recourse to a combination of modules not using quality assurance, and *vice versa*, except where compliance with the requirements laid down by the directives requires the exclusive application of a certain procedure;
- (k) for the purposes of operating the modules, Member States shall notify on their own responsibility bodies under their jurisdiction which they have chosen from the technically competent bodies complying with the requirements of the directives. This responsibility involves the obligation for the Member States to ensure that the notified bodies permanently have the technical qualifications required by the directives and that the latter keep their competent national authorities informed of the performance of their tasks. Where a Member State withdraws its notification of a body, it shall take appropriate steps to ensure that the dossiers are processed by another notified body to ensure continuity;
- (l) in addition, with regard to conformity assessment, the sub-contracting of work shall be subject to certain conditions guaranteeing;
 - the competence of the establishment operating as sub-contractor, on the basis of conformity with series EN 45 000 standards, and the capability of the Member State that has notified the sub-contracting body to ensure effective monitoring of such compliance,

(*) The specific directives may provide for different arrangements.

- the ability of the body notified to exercise effective responsibility for the work carried out under sub-contract;
- (m) notified bodies which can prove their conformity with harmonized standards (EN 45 000 series), by submitting an accreditation certificate or other documentary evidence, shall be presumed to conform to the requirements of the directives. Member States having notified bodies unable to prove their conformity with the harmonized standards (EN 45 000 series) may be requested to provide the Commission with the appropriate supporting documents on the basis of which notification was carried out;
- (n) a list of notified bodies shall be published by the Commission in the *Official Journal of the European Communities* and constantly updated.

II. MODULES FOR CONFORMITY ASSESSMENT

Explanatory notes

Specific directives may allow the CE mark to be affixed to the packaging or the accompanying documentation, instead of to the product itself.

The declaration of conformity or the certificate of conformity (whichever of the two applies in the directive concerned) shall cover either individual or several products and shall either accompany the product(s) covered or be kept by the manufacturer. The appropriate solution for the directive concerned will be specified.

References to articles refer to the standard paragraphs of Annex II.B to the Council resolution of 7 May 1985 (OJ No C 136, 4. 6. 1985, p. 1), which have become standard articles in the 'new approach' directives.

The development of computerized communication of certificates and other documents issued by notified bodies is envisaged within INSIS.

Specific directives may use modules A, C and H with additional provisions containing supplementary requirements which figure in the boxes in the modules.

Module C is designed to be used in combination with module B (EC type examination). Modules D, E and F will also normally be used in combination with module B; however, in special cases (for example, when dealing with certain products of very simple design and construction) they may be used on their own.

Module A (internal production control)

1. This module describes the procedure whereby the manufacturer or his authorized representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the products concerned satisfy the requirements of the directive that apply to them. The manufacturer shall affix the CE mark to each product and draw up a written declaration of conformity.
2. The manufacturer shall establish the technical documentation described in paragraph 3 and he or his authorized representative established with the Community shall keep it for a period ending at least 10 years (*) after the last product has been manufactured at the disposal of the relevant national authorities for inspection purposes.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

3. Technical documentation shall enable the conformity of the product with the requirements of the directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product (**).

(*) The specific directives may alter this period.

(**) The content of the technical documentation shall be laid down directive by directive in accordance with the products concerned.

For example, the documentation shall contain so far as relevant for assessment:

- a general description of the product,
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the directive where the standards referred to in Article 5 have not been applied,
- results of design calculations made, examinations carried out, etc.,
- test reports.

4. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity with the technical documentation.
5. The manufacturer shall take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of the directive that apply to them.

Module Aa

This module consists of module A, plus the following supplementary requirements:

For each product manufactured one or more tests on one or more specific aspects of the product shall be carried out by the manufacturer or on his behalf (*). The tests shall be carried out on the responsibility of a notified body chosen by the manufacturer.

On the responsibility of the notified body, the manufacturer shall affix the former's identification symbol during the manufacturing process.

(*) If this option is adopted in a specific directive, the products concerned and the tests to be carried out must be specified.

or:

A notified body chosen by the manufacturer shall carry out or have carried out product checks at random intervals. An adequate sample of the final products, taken on site by the notified body, shall be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, shall be carried out to check the conformity of the product with the relevant requirements of the directive.

In those cases where one or more of the products checked do not conform the notified body shall take appropriate measures.

The product checking shall include the following aspects:

(Relevant aspects shall be specified here such as for example the statistical method to be applied, the sampling plan with its operational characteristics, etc.)

On the responsibility of the notified body, the manufacturer shall affix the former's identification symbol during the manufacturing process.

Module B (EC type-examination)

1. This module describes that part of the procedure by which a notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of the directive that apply to it.
2. The application for the EC type-examination shall be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application shall include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant shall place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called "type" (*). The notified body may request further specimens if needed for carrying out the test programme.

(*) A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product.

3. The technical documentation shall enable the conformity of the product with the requirements of the directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product (*).
4. The notified body shall:
 - 4.1. examine the technical documentation, verify that the type has been manufactured in conformity with the technical documentation and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 5, as well as the components which have been designed without applying the relevant provisions of those standards;
 - 4.2. perform or have performed the appropriate examinations and necessary tests to check whether, where the standards referred to in Article 5 have not been applied, the solutions adopted by the manufacturer meet the essential requirements of the Directive;
 - 4.3. perform or have performed the appropriate examinations and necessary tests to check whether, where the manufacturer has chosen to apply the relevant standards, these have actually been applied;
 - 4.4. agree with the applicant the location where the examinations and necessary tests shall be carried out.
5. Where the type meets the provisions of the directive, the notified body shall issue an EC type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination, conditions for its validity and the necessary data for identification of the approved type (**).

A list of the relevant of the technical documentation shall be annexed to the certificate and a copy kept by the notified body.

If the manufacturer is denied a type certification, the notified body shall provide detailed reasons for such denial.

Provision shall be made for an appeals procedure.

6. The applicant shall inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.
7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn (***).
8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The annexes to the certificates shall be kept at the disposal of the other notified bodies.
9. The manufacturer or his authorized representative shall keep with the technical documentation copies of EC type-examination certificates and their additions for a period ending at least 10 years (***) after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

(*) The content of the technical documentation shall be laid down directive by directive in accordance with the products concerned.

For example, the documentation shall contain as far as is relevant for assessment:

- a general type-description,
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the directive where the standards referred to in Article 5 have not been applied,
- results of design calculations made, examinations carried out, etc.,
- test reports.

(**) The specific directives may provide for the certificate to have a period of validity.

(***) The specific directives may provide for different arrangements.

(****) The specific directives may alter this period.

Module C (conformity to type)

1. This module describes that part of the procedure whereby the manufacturer or his authorized representative established within the Community ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the directive that applies to them. The manufacturer shall affix the CE mark to each product and draw up a written declaration of conformity.
2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured products with the type as described in the EC type-examination certificate and with the requirements of the directive that apply to them.
3. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years (*) after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

Possible supplementary requirements:

For each product manufactured one or more tests on one or more specific aspects of the product shall be carried out by the manufacturer or on his behalf (*). The tests shall be carried out on the responsibility of a notified body, chosen by the manufacturer.

On the responsibility of the notified body, the manufacturer shall affix the former's identification symbol during the manufacturing process.

(*) If this option is adopted in a specific directive, the products concerned and the tests to be carried out must be specified.

or:

A notified body chosen by the manufacturer shall carry out or have carried out product checks at random intervals. An adequate sample of the final products, taken on site by the notified body, shall be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, shall be carried out to check the conformity of production with the relevant requirements of the directive. In those cases where one or more of the products checked do not conform, the notified body shall take appropriate measures.

The product checking shall include the following aspects:

(Relevant aspects shall be specified here such as for example the statistical method to be applied, the sampling plan with its operational characteristics, etc.)

On the responsibility of the notified body, the manufacturer shall affix the former's identification symbol during the manufacturing process.

Module D (), (production quality assurance)**

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned [are in conformity with the type as described in the EC type-examination certificate and] satisfy the requirements of the directive that apply to them. The manufacturer shall affix the CE mark to each product and draw up a written declaration of conformity. The EC mark shall be accompanied by the identification symbol of the notified body responsible for EC monitoring as specified in point 4.
2. The manufacturer shall operate an approved quality system for production, final product inspection and testing as specified in paragraph 3 and shall be subject to monitoring as specified in point 4.

(*) The specific directives may alter this period.

(**) Where this module is used without module B:

- points 2 and 3 of module A must be added between points 1 and 2 in order to incorporate the need for technical documentation,
- the words in square brackets must be deleted.

3. *Quality system*

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the products concerned.

The application shall include:

- all relevant information for the product category envisaged,
- the documentation concerning the quality system,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

- 3.2. The quality system shall ensure compliance of the products [with the type as described in the EC type-examination certificate and] with the requirements of the directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plan, manuals and records.

It shall contain in particular and adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard (*).

The auditing team shall have at least one member with experience of evaluation in the product technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. *Surveillance under the responsibility of the notified body*

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

(*) This harmonized standard will be EN 29 002, supplemented, if necessary, to take into account the specific nature of the products for which it is implemented.

- 4.3. The notified body shall periodically (*) carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.
- 4.4. Additionally the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out, or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a test report.
5. The manufacturer shall, for a period ending at least 10 years (**) after the last product has been manufactured, keep at the disposal of the national authorities:
 - the documentation referred to in the second indent of point 3.1,
 - the updating referred to in the second paragraph of point 3.4,
 - the decisions and reports from the notified body which are referred to in the final paragraph of point 3.4, points 4.3 and 4.4.
6. Each notified body shall give the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn (***).

Module E (**) (product quality assurance)**

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned [are in conformity with the type as described in the EC type-examination certificate and] satisfy the requirements of the directive that apply to them. The manufacturer shall affix the CE mark to each product and draw up a written declaration of conformity. The CE mark shall be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.
2. The manufacturer shall operate an approved quality system for final product inspection and testing as specified in paragraph 3 and shall be subject to surveillance as specified in point 4.
3. *Quality system*

- 3.1. The manufacturer shall lodge an application for assessment of his quality system for the products concerned, with a notified body of his choice.

The application shall include:

- all relevant information for the product category envisaged,
- the quality system's documentation,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

- 3.2. Under the quality system, each product shall be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to ensure its conformity with the relevant requirements of the directive. All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality programmes, plans, manuals and records.

It shall contain in particular and adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the examinations and tests that will be carried out after manufacture,
- the means to monitor the effective operation of the quality system,
- quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

(*) In the specific directives, the frequency may be specified.

(**) The specific directives may alter this period.

(***) The specific directives may provide for different arrangements.

(****) When this module is used without module B:

- points 2 and 3 of module A must be added between points 1 and 2 in order to incorporate the need for technical documentation,
- the words in square brackets must be deleted.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard (*).

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The assessment procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to discharge the obligations arising from the quality system as approved and to maintain it in an appropriate and efficient manner.

The manufacturer or his authorized representative shall keep the notified body which has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. *Surveillance under the responsibility of the notified body*

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of inspection, testing and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the technical documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body shall periodically (**) carry out audits to ensure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

- 4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer shall, for a period ending at least 10 years (***) after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the third indent of point 3.1,
- the updating referred to in the second paragraph of point 3.4,
- the decisions and reports from the notified body which are referred to in the final paragraph of point 3.4, points 4.3 and 4.4.

6. Each notified body shall forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn (****).

Module F (****) (product verification)

1. This module describes the procedure whereby a manufacturer or his authorized representative established within the Community checks and attests that the products subject to the provisions of point 3 [are in conformity with the type as described in the EC-type examination certificate and] satisfy the requirements of the directive that apply to them.

(*) This harmonized standard will be EN 29 003, supplemented if necessary to allow for the specific features of the products for which it is implemented.

(**) The intervals between audits may be specified in the specific directives.

(***) The specific directives may alter this period.

(****) The specific directives may provide for different arrangements.

(*****) Where this module is used without module B:

- it must be supplemented by points 2 and 3 of module A (between points 1 and 2), so as to introduce the need for technical documentation,
- the next in square brackets must be deleted.

2. The manufacturer shall take all measures necessary in order that the manufacturing process ensures conformity of the products [with the type as described in the EC type-examination certificate and] with the requirements of the directive that apply to them. He shall affix the CE mark to each product and shall draw up a declaration of conformity.
3. The notified body shall carry out the appropriate examinations and tests in order to check the conformity of the product with the requirements of the directive either by examination and testing of every product as specified in point 4 or by examination and testing of products on a statistical basis, as specified in point 5, at the choice of the manufacturer (*).
- 3a. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years (**) after the last product has been manufactured.
4. *Verification by examination and testing of every product*
 - 4.1. All products shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to verify their conformity with [the type as described in the EC-type examination certificate and] the requirements of the directive that apply to them.
 - 4.2. The notified body shall affix or cause to be affixed, its identification symbol to each approved product and draw up a written certificate of conformity relating to the tests carried out.
 - 4.3. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.
5. *Statistical verification*
 - 5.1. The manufacturer shall present his products in the form of homogeneous lots and shall take all measures necessary in order that the manufacturing process ensures the homogeneity of each lot produced.
 - 5.2. All products shall be available for verification in the form of homogeneous lots. A random sample shall be drawn from each lot. Products in a sample shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, shall be carried out to ensure their conformity with the requirements of the directive which apply to them and to determine whether the lot is accepted or rejected.
 - 5.3. The statistical procedure shall use the following elements:

(Relevant elements shall be specified here such as, for example, the statistical method to be applied, the sampling plan with its operational characteristics, etc.)
 - 5.4. In the case of accepted lots, the notified body shall affix, or cause to be affixed, its identification symbol to each product and shall draw up a written certificate of conformity relating to the tests carried out. All products in the lot may be put on the market except those products from the sample which were found not to be in conformity.

If a lot is rejected, the notified body or the competent authority shall take appropriate measures to prevent the putting on the market of that lot. In the event of frequent rejection of lots the notified body may suspend the statistical verification.

The manufacturer may, under the responsibility of the notified body, affix the latter's identification symbol during the manufacturing process.
 - 5.5. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

Module G (unit verification)

1. This module describes the procedure whereby the manufacturer ensures and declares that the product concerned, which has been issued with the certificate referred to in point 2, conforms to the requirements of the directive that apply to it. The manufacturer shall affix the CE mark to the product and draw up a declaration of conformity.
2. The notified body shall examine the individual product and carry out the appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, to ensure its conformity with the relevant requirements of the directive.

(*) The manufacturer's discretion may be limited in the specific directives.

(**) The specific directives may alter this period.

The notified body shall affix, or cause to be affixed, its identification symbol on the approved product and shall draw up a certificate of conformity concerning the tests carried out.

3. The aim of the technical documentation is to enable conformity with the requirements of the directive to be assessed and the design, manufacture and operation of the product to be understood (*).

Module H (full quality assurance)

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of paragraph 2 ensures and declares that the products concerned satisfy the requirements of the directive that apply to them. The manufacturer shall affix the CE mark to each product and draw up a written declaration of conformity. The CE mark shall be accompanied by the identification symbol of the notified body responsible for the surveillance as specified in point 4.
2. The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. *Quality system*

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body.

The application shall include:

- all relevant information for the product category envisaged,
- the quality system's documentation.

- 3.2. The quality system shall ensure compliance of the products with the requirements of the directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to design and product quality,
- the technical design specifications, including standards, that will be applied and, where the standards referred to in Article 5 will not be applied in full, the means that will be used to ensure that the essential requirements of the directive that apply to the products will be met,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,
- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.

(*) The content of the technical documentation shall be laid down directive by directive in accordance with the products concerned. As an example, the documentation shall contain so far as relevant for assessment:

- a general description of the product,
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the directive where the standards referred to in Article 5 have not been applied,
- results of design calculations made, examinations carried out, etc.,
- test reports.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonized standard (*).

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a re-assessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. *EC surveillance under the responsibility of the notified body*

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

- 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of design, manufacture, inspection and testing, and storage, and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
- the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

- 4.3. The notified body shall periodically (**) carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

- 4.4. Additionally the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer shall, for a period ending at least 10 years (***) after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of the second subparagraph of point 3.1,
- the updating referred to in the second subparagraph of point 3.4,
- the decisions and reports from the notified body which are referred to in the final subparagraph of point 3.4, points 4.3 and 4.4.

6. Each notified body shall forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn (****).

(*) This harmonized standard shall be EN 29 001, completed if necessary to take into consideration the specificity of the products for which it is implemented.

(**) In the specific directives, the frequency may be specified.

(***) The specific directives may alter this period.

(****) The specific directives may provide for different arrangements.

Possible supplementary requirements:

Design examination

1. The manufacturer shall lodge an application for examination of the design with a single notified body.
2. The application shall enable the design, manufacture and operation of the product to be understood, and shall enable conformity with the requirements of the directive to be assessed.

It shall include:

- the technical design specifications, including standards, that have been applied,
 - the necessary supporting evidence for their adequacy, in particular where the standards referred to in Article 5 have not been applied in full. This supporting evidence shall include the results of tests carried out by the appropriate laboratory of the manufacturer or on his behalf.
3. The notified body shall examine the application and where the design meets the provisions of the directive that apply to it shall issue an EC design examination certificate to the applicant. The certificate shall contain the conclusions of the examination, conditions for its validity, the necessary data for identification of the approved design and, if relevant, a description of the product's functioning.
 4. The applicant shall keep the notified body that has issued the EC design examination certificate informed of any modification to the approved design. Modifications to the approved design must receive additional approval from the notified body that issued the EC design examination certificate where such changes may affect the conformity with the essential requirements of the directive or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC design examination certificate.
 5. The notified bodies shall forward to the other notified bodies the relevant information concerning:
 - the EC design examination certificates and additions issued,
 - the EC design approvals and additional approvals withdrawn (*).

(*) The specific directives may provide for different arrangements.

CONFORMITY ASSESSMENT PROCEDURES IN COMMUNITY LEGISLATION

A. (Internal control of production)		B. (type examination)				G. (unit verification)	H. (full quality assurance)
Manufacturer Keeps technical documentation at the disposal of national authorities Aa Intervention of notified body		Manufacturer submits to notified body — Technical documentation — Type Notified body — Ascertains conformity with essential requirements — Carries out tests, if necessary — Issues EC type-examination certificate				Manufacturer — Submits technical documentation	EN 29001 Manufacturer — Operates an approved quality system (QS) for design Notified body — Carries out surveillance of the QS — Verifies conformity of the design ⁽¹⁾ — Issues EC design examination certificate ⁽¹⁾
A. Manufacturer — Declares conformity with essential requirements — Affixes the CE mark Aa Notified body — Tests on specific aspects of the product ⁽¹⁾ — Product checks at random intervals ⁽¹⁾		C. (conformity to type) Manufacturer — Declares conformity with approved type — Affixes the CE mark Notified body — Tests on specific aspects of the product ⁽¹⁾ — Product checks at random intervals ⁽¹⁾	D. (production quality assurance) EN 29002 Manufacturer — Operates an approved quality system (QS) for production and testing — Declares conformity with approved type — Affixes the CE mark Notified body — Approves the QS — Carries out surveillance of the QS	E. (product quality assurance) EN 29003 Manufacturer — Operates an approved quality system (QS) for inspection and testing — Declares conformity with approved type, or to essential requirements — Affixes the CE mark Notified body — Approves the QS — Carries out surveillance of the QS	F. (product verification) Manufacturer — Declares conformity with approved type, or with essential requirements — Affixes the CE mark Notified body — Verifies conformity — Issues certificate at conformity	Manufacturer — Submits product — Declares conformity — Affixes the CE mark Notified body — Verifies conformity with essential requirements — Issues certificate of conformity	Manufacturer — Operates an approved QS for production and testing — Declares conformity — Affixes the CE mark Notified body — Carries out surveillance of the QS

⁽¹⁾ Supplementary requirements which may be used in specific directives.

COUNCIL DIRECTIVE

of 21 December 1990

on aid to shipbuilding

(90/684/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 92 (3) (d) and 113 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 Council Directive 87/167/EEC of 26 January 1987 on aid to shipbuilding ⁽⁴⁾ will expire on 31 December 1990;

Whereas the aid policy laid down in that Directive has in general met the objectives set out at its introduction;

Whereas although since 1989 there have been significant improvements in the world market for shipbuilding, a satisfactory equilibrium between supply and demand has still not been established and the price improvements which have taken place are still insufficient in the overall context to restore a normal market situation within the sector, allowing prices to reflect full production costs and a reasonable return on invested capital;

Whereas the positive international trend is likely to lead to a normalization of the market, provided the consequences of the Gulf crisis are faced properly and the reasons behind the symptoms of crisis in the world economy are understood;

Whereas, parallel to his market amelioration, international efforts are being deployed within the Organization for Economic Cooperation and Development (OECD) framework to reach a multilateral agreement between the world's most important shipbuilding nations on a rapid phasing-out of all direct and indirect public support measures to shipbuilding, ship conversion and ship repair and of other

obstacles to re-establishing normal and fair competition conditions in the sector;

Whereas this agreement must ensure fair competition at an international level among shipyards through a balanced and equitable elimination of all existing impediments to normal competition conditions and must provide a suitable instrument for counteracting all illegal practices and forms of assistance inconsistent with the agreement;

Whereas the provisions of this Directive are without prejudice to the amendments necessary to comply with international obligations entered into by the Community;

Whereas a competitive shipbuilding industry is of vital interest to the Community and contributes to its economic and social development by providing a substantial market for a range of industries, including those using advanced technology; whereas it contributes also to the maintenance of employment in a number of regions, including some which are already suffering a high rate of unemployment; whereas this is also true of ship conversion and ship repair;

Whereas a complete abolition of aid to the sector is still not possible in view of the present market situation and in view of the need to encourage restructuring in many yards; whereas a tight and selective aid policy should be continued in order to support the present trend in production towards more technologically-advanced ships and in order to ensure fair and uniform conditions for intra-Community competition; whereas such a policy constitutes the most appropriate approach in terms of ensuring the maintenance of a sufficient level of activity in European shipyards and, thereby, the survival of an efficient and competitive European shipbuilding industry;

Whereas the basic aid policy laid down in Directive 87/167/EEC, differentiating between, on the one hand, production aid based on a common ceiling and, on the other, restructuring aid supporting desirable structural changes, remains the most appropriate way of ensuring that the industry is competitive in the long term;

Whereas, although it is proposed to treat ship conversion in the same way as shipbuilding to a certain extent, aid to the ship-repair sector should not be permitted, in view of the continuing overcapacity in this sector, except for investments, closure and research and development aid;

⁽¹⁾ OJ No C 223, 7. 9. 1990, p. 4.

⁽²⁾ Opinion delivered on 23 November 1990 (not yet published in the Official Journal).

⁽³⁾ OJ No C 332, 31. 12. 1990.

⁽⁴⁾ OJ No L 69, 12. 3. 1987, p. 55.

Whereas there is every reason, for the sake of transparency and equity, to continue to include in the present aid policy indirect aid granted to shipbuilding through investment aid to shipowners for the building and conversion of ships;

Whereas the reduced level of aid acceptable for ship conversion and for small specialized vessels, for which the competition is mainly intra-European, should be applied, based on experience, to the largest possible section of this market;

Whereas every effort should be made to encourage the introduction of high-technology vessels in Community yards;

Whereas, since increased efficiency is a principal objective pursued by this Directive, the yearly review of the production aid ceiling should always aim at its progressive reduction;

Whereas it should be ensured that investment aid is granted only under certain limited conditions;

Whereas it is of vital importance for the restoration of a healthy shipbuilding industry in the long term that the Community, together with the main shipbuilding nations effectively ensures that structural contractions obtained inside its territory through the application of its aid policy remain irreversible as long as an adequate balance between supply and demand has not been achieved;

Whereas the transitional period accorded to Spain and Portugal and to the territory of the former German Democratic Republic will expire on 31 December 1990;

Whereas, however, as the stage of restructuring of the Spanish shipbuilding industry has still not reached a level where it is competitive with the other Member States of the Community, a specific further two-year restructuring programme should be carried out while exemption from the production aid ceiling should be allowed for 1991;

Whereas a short-term financial restructuring of the shipbuilding industry in Greece is necessary in order to enable its public owners to restore its competitiveness by selling it off to new owners;

Whereas the efficiency of the present aid policy and confidence in it can only be obtained by close and timely monitoring by the Commission of Member States' implementation of the aid rules; whereas, therefore, compliance by Member States with their reporting obligations, on which such a monitoring system is based, should be secured by providing for the suspension of all outstanding payments of aid already approved until all due reports have been received by the Commission; whereas this provision must also apply to the non-transmission of reports relating to aid schemes which have already been authorized,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL

Article 1

For the purpose of this Directive the following definitions shall apply:

(a) 'shipbuilding':

means the building in the Community of the following metal-hulled sea-going vessels:

- merchant ships for the carriage of passengers and/or cargo, of not less than 100 GRT,
- fishing vessels of not less than 100 GRT,
- dredgers or ships for other work at sea of not less than 100 GRT excluding drilling platforms,
- tugs of not less than 365 kW;

(b) 'ship conversion':

means the conversion in the Community of metal-hulled sea-going vessels, as defined in (a), of not less than 1 000 GRT, on condition that conversion operations entail radical alterations to the cargo plan, the hull or the propulsion system or the passenger accommodation;

(c) 'ship repair':

means the repair of the vessels referred to in (a):

(d) 'aid':

means State aid within the meaning of Articles 92 and 93 of the Treaty, including not only aid granted by the State itself but also that granted by regional or local authorities and any aid elements contained in the financing measures taken by Member States in respect of the shipbuilding or ship repair undertakings which they directly or indirectly control and which do not count as the provision of risk capital according to standard company practice in a market economy.

Such aid may be considered compatible with the common market provided that it complies with the criteria for derogation contained in this Directive;

(e) 'contract value before aid':

means the price laid down in the contract plus any aid granted directly to the shipyard.

Article 2

No aid granted pursuant to this Directive may be conditional upon discriminatory practices as to products originating in other Member States.

Article 3

Aid to shipowners

1. All forms of aid to shipowners or to third parties which are available as aid for the building or conversion of ships shall be subject to the notification rules in Article 11.

This aid shall include credit facilities, guarantees and tax concessions granted to shipowners or third parties for the purposes referred to in the first subparagraph.

2. The grant equivalent of the aid shall be subject in full to the rules set out in Article 4 and the monitoring procedures laid down in Article 12, where the aid is actually used for the building or conversion of ships in Community shipyards.

3. Aid granted by a Member State to its shipowners or to third parties in that State for the building or conversion of ships may not lead to distortions of competition between national shipyards and shipyards in other Member States in the placing of orders.

4. These provisions shall be without prejudice to changes in the Community rules on aid to shipowners provided that observance of the principle of transparency of aid for shipbuilding and ship conversion is ensured.

CHAPTER II

OPERATING AID

Article 4

Contract-related production aid

1. Production aid in favour of shipbuilding and ship conversion may be considered compatible with the common market provided that the total amount of aid granted in support of any individual contract does not exceed, in grant equivalent, a common maximum ceiling expressed as a percentage of the contract value before aid, hereinafter referred to as the ceiling.

2. The ceiling shall be fixed by the Commission with reference to the prevailing difference between the cost structures of the most competitive Community yards and the prices charged by their main international competitors with particular regard to the market segments in which the Community yards remain relatively most competitive.

However, the Commission shall pay particular attention to ensuring that the aid for the building of small specialized vessels, a market segment normally served by small yards, in particular small ships of a contract value of less than ECU

10 million and for which the competition is mainly inter-European, is kept at the lowest possible level, nevertheless allowing for the particular situation in Greece.

This provision shall also apply to all types of ship conversion, irrespective of the value of the contract.

3. The ceiling shall be reviewed every 12 months, or sooner if warranted by exceptional circumstances, with the aim of progressively reducing the ceiling. In its review of the ceiling, the Commission shall also ensure that there are no undue concentrations of shipbuilding activities in specific market segments to an extent contrary to Community interests. The aid ceiling applicable to a contract shall be that in force at the date of signature of the final contract. However, this rule shall not apply in respect of any ship delivered more than three years from the date of signing of the final contract. In such cases, the ceiling applicable to that contract shall be that in force three years before the date of delivery of the ship.

The Commission may grant an extension of the three-year delivery limit laid down in the first subparagraph when this is found justified by the technical complexity of the individual shipbuilding project concerned or by delays resulting from unexpected disruptions of a substantial and defensible nature in the working programme of a yard.

4. The ceiling shall apply not only to all forms of production aid — whether under sectoral, general or regional aid schemes — granted directly to the yards but also to the aid covered by Article 3 (2).

5. The combined effect of aid under the various aid schemes applied shall in no case exceed the ceiling fixed according to paragraph 2; the grant of aid in individual cases shall not necessitate prior notification to, or authorization from, the Commission.

However, where there is competition between yards in different Member States for a particular contract, the Commission shall require prior notification of the relevant aid proposals at the request of any Member State. In such cases, the Commission shall adopt a position within 30 days of notification; such proposals may not be implemented before the Commission has given its authorization. By its decision in such cases the Commission shall ensure that the planned aid does not affect trading conditions to an extent contrary to the common interest.

6. Aid in the form of credit facilities for the building or conversion of vessels complying with the Organization for Economic Cooperation and Development (OECD) Council resolution of 3 August 1981 (Understanding on Export Credits for Ships) or with any agreement replacing the resolution shall not be counted within the ceiling. Such aid may be considered compatible with the common market provided that it complies with the abovementioned resolution or any agreements which replace it.

7. Aid related to shipbuilding and ship conversion granted as development assistance to a developing country shall not be subject to the ceiling. It may be deemed compatible with the common market if it complies with the terms laid down for that purpose by OECD Working Party No 6 in its Agreement concerning the interpretation of Articles 6 to 8 of the Understanding referred to in paragraph 6 of this Article or with any later addendum or corrigendum to the said Agreement.

The Commission must be given prior notification of any such individual aid proposal. It shall verify the particular development content of the proposed aid and satisfy itself that it falls within the scope of the Agreement referred to in the first subparagraph.

Article 5

Other operating aid

1. Aid to facilitate the continued operation of shipbuilding and ship conversion companies, including loss compensation, rescue aid and all other types of operating aid not directly supporting particular restructuring measures covered in Chapter III, may be deemed compatible with the common market provided that such aid together with production aid allocated directly to individual shipbuilding and ship conversion contracts in accordance with Article 4 (4) does not exceed the ceiling expressed as a percentage of the aid recipient's annual turnover in shipbuilding and ship conversion.

2. It shall be incumbent on the Member States to furnish evidence of the extent to which the turnover and losses of the recipient of the aid result, on the one hand, from shipbuilding and ship conversion and, on the other, from its other activities, if any, and, if some of the aid is intended to offset losses or expenditure arising from the restructuring measures referred to in Chapter III, to identify and specify those measures.

CHAPTER III

RESTRUCTURING AID

Article 6

Investment aid

1. Investment aid, whether specific or non-specific, may not be granted for the creation of new shipyards or for investment in existing yards unless it is linked to a restructuring plan which does not involve any increase in the shipbuilding capacity of the yard or unless it is directly linked to a corresponding irreversible reduction in the capacity of other yards in the same Member State over the same period.

Such aid may not be granted to ship repair yards unless linked to a restructuring plan which results in a reduction in the overall ship repair capacity of the Member State concerned. In this context the Commission may take into account capacity reductions carried out in the immediately preceding years.

2. Paragraph 1 shall not apply to the opening of a new shipyard in a Member State which otherwise would have no shipbuilding facilities or to investments in a Member State's only existing yard, provided that the effect of the yard in question on the Community market is minimal.

3. In accordance with paragraph 1, investment aid may be deemed compatible with the common market provided that:

- the amount and intensity of such aid are justified by the extent of the restructuring involved,
- it is limited to supporting expenditure directly related to the investment.

4. In examining the aid referred to in paragraphs 1 and 3, the Commission shall take account of the extent of the contribution of the investment programme concerned to such Community objectives for the sector as innovation, specialization, working conditions, health, safety and the environment.

Article 7

Aid for closures

1. Aid to defray the normal costs resulting from the partial or total closure of shipbuilding or ship repair yards may be considered compatible with the common market provided that the capacity reduction resulting from such aid is of a genuine and irreversible nature.

In order to establish the irreversible nature of aided closures, the Member State concerned shall ensure that the closed shipbuilding and ship repair facilities remain closed for a period of not less than five years.

Within this five-year period, the closed site may not be used for activities in anticipation of a return to shipbuilding after the expiry of the five-year period.

If, after a period of five years but before the 10th anniversary of the closure, a Member State wishes to reopen a closed shipbuilding or ship repair facility, it must obtain the Commission's prior approval.

The Commission's decision will be taken with reference both to the currently existing worldwide balance between supply and demand and to whether it is envisaged that aid is to be granted for reopening the facilities.

2. The costs eligible for such aid are, in particular:

- payments to workers made redundant or retired before legal retirement age,
- counselling services to workers made or to be made redundant or retired before legal retirement age including payments made by yards to facilitate the creation of small undertakings,
- payments to workers for vocational retraining,
- expenditure incurred for the redevelopment of the yard, its buildings, installations and infrastructure for use other than that specified in Article 1 (a), (b) and (c),
- in the event of total closure of a yard, the residual book value of its installations (ignoring that portion of any revaluation since 1 January 1982 which exceeds the national inflation rate).

3. The amount and intensity of aid must be justified by the extent of the restructuring involved, account being taken of the structural problems of the region concerned and, in the case of conversion to other industrial activities, of the Community legislation and rules applicable to the new sector concerned.

Article 8

Aid for research and development

1. Aid to defray expenditure by shipbuilding and ship repair undertakings for research and development projects may be considered compatible with the common market.

2. For the purposes of this Directive, the eligible costs shall be only those relating to fundamental research, basic industrial research and applied research and development, all as defined by the Commission in Annex I to the Community framework for State aids for research and development ⁽¹⁾, excluding those related to industrial application and commercial exploitation of the results.

CHAPTER IV

SPAIN AND GREECE

Article 9

1. With the exception of the second subparagraph of Article 4 (5), Chapter II of this Directive shall not be applicable to Spain until 1 January 1992.

⁽¹⁾ OJ No C 83, 11. 4. 1986, p. 2.

2. During 1991, operating aid for shipbuilding and ship conversion in Spain may be considered compatible with the common market provided that:

- Spain's shipbuilding industry carries out, in addition to the 1987 to 1990 restructuring programme and according to the timetable set, all the restructuring measures laid down in the supplementary restructuring plan for 1991 and 1992 submitted to the Commission by the Spanish Government,
- the Spanish Government, jointly with the Commission, mandates an independent consultancy to monitor the implementation, according to the timetable, of the aforementioned restructuring programme; this consultancy shall supply six-monthly reports to the Commission and the Spanish authorities containing details of the progress that the sector has made, in compliance with the restructuring plan, in order to be capable of operating with the same aid level as the other Member States,
- where the six-monthly reports give reason to doubt that the shipbuilding industry will attain the planned level of competitiveness, the Spanish Government will take measures to reinforce the restructuring of the sector which are accepted by the Commission as capable of rectifying the situation,
- operating aid is reduced from the 1990 level.

Article 10

1. Article 5 of this Directive shall not be applicable to Greece until 1 January 1992.

2. During 1991, operating aid for shipbuilding, ship conversion and ship repair not related to new contracts may be considered compatible with the common market if granted for the financial restructuring of yards in connection with a systematic and specific restructuring programme linked to the disposal by sale of the yards.

3. Notwithstanding the obligation to dispose of the yards by sale referred to in paragraph 2, the Greek Government shall be allowed to maintain a 51 % majority holding in one of the yards if justified by defence interests.

CHAPTER V

MONITORING PROCEDURE

Article 11

1. In addition to the provisions of Articles 92 and 93 of the Treaty, aid to shipbuilding, ship conversion and ship

repair undertakings covered by this Directive shall be subject to the special notification rules provided for in paragraph 2.

2. The following shall be notified to the Commission in advance by the Member States and authorized by the Commission before they are put into effect:

- (a) any aid scheme — new or existing — or any amendment of an existing scheme covered by this Directive;
- (b) any decision to apply any general or regional aid scheme to the undertakings covered by this Directive;
- (c) any individual application of aid schemes in the cases referred to in the second subparagraph of Article 4 (5) and paragraph 7 or when specifically provided for by the Commission in its approval of the aid scheme concerned.

Article 12

1. For the Commission's monitoring of the implementation of the aid rules contained in Chapters II and III, Member States shall supply the Commission for its exclusive use with:

- (a) current reports on each shipbuilding and ship conversion contract by the end of the third month following the month of signing of each contract, containing details of the financial contract support in accordance with the annexed Schedule 1;
- (b) completion reports on each shipbuilding or ship conversion contract by the end of the month following the month of completion in accordance with the annexed Schedule 1 including details of the financial contract support;
- (c) six-monthly reports — to be provided by 1 October and 1 April in respect of the preceding half calendar years — on aid granted to shipowners and used for shipbuilding or ship conversion in a shipyard outside the Member State granting the aid in accordance with the annexed Schedule 2;
- (d) yearly reports giving details of the annual results of, and total financial support granted to, each individual national shipyard which has received aid, in accordance with the annexed Schedule 3 where such information has been requested by the Commission. In such cases, the requested information shall include a copy of the yearly report and is to be provided not later than two months after the general meeting which approves the shipyard's yearly report;

- (e) yearly reports — to be provided by 1 April of the year following the year subject to the report — on the attainment of the restructuring objectives as regards the undertakings which have received aid under Articles 6 and 7 in accordance with the annexed Schedule 4.

2. On the basis of the information communicated to it in accordance with Article 11 and paragraph 1 of this Article, the Commission shall draw up an annual overall report to serve as a basis for discussion with national experts. This report shall state *inter alia* the level of contract-related aid and other operating aid granted in each Member State during the period in question, and both the total volume of restructuring aid awarded and the progress made towards the attainment of the restructuring objectives in each Member State during the same period.

3. If a Member State does not fully comply with its reporting obligations as laid down in paragraph 1, the Commission may, after consultation and after having given due notice, require that that Member State suspend outstanding payments of aid already approved until such time as all due reports have been received by the Commission.

If the reporting by a Member State under paragraph 1 is punctual but incomplete and at the time of reporting that Member State specifies those yards which have not fulfilled their reporting obligations, the Commission shall limit its possible requirement for suspension of outstanding aid payments to such yards only.

Article 13

This Directive shall apply from 1 January 1991 to 31 December 1993.

Article 14

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1990.

For the Council
The President
A. RUBERTI

EUROPEAN ECONOMIC COMMUNITY

REPORT OF MERCHANT SHIP ORDERS/COMPLETIONS (delete as appropriate)

Section 1: Contract details

1. New building/conversion			
2. Company	3. Yard	4. Yard No	
5. Registered owner			
6. Holding owner			
7. Vessel's country of registration			
8. Date contract signed		9. Completion/delivery date	

Section 2: Ship details

10. Type of vessel (by OECD category)	
11. Deadweight	
12. Gross tonnage (GT)	13. Compensated gross tonnage (CGT)

Section 3: Financial arrangements

	Currency	ECU (Prevailing rate)	% of contract price
14. Contract price			
15. Estimated contract loss (if any)			
16. Contract-related aid			
A. Granted to yard:			
(a) grants			
(b) credit facilities			
(c) specific fiscal concession			
(d) other support			
B. Granted to customer or ultimate owners:			
(a) grants			
(b) credit facilities			
(c) fiscal concession			
(d) other support			

Contact for inquiries: Date:

Position: Signature:

Note:

The financial contract support figures referred to in Article 12 (1)(a) to be supplied by the end of the third month following the month of signature of the contract must be definitive, except for those Member States whose budgetary systems do not allow the provision of final figures within this deadline (Spain and Italy). In these cases, the financial contract support information may be provisional but such provisional information must be the maximum aid level which could be granted in respect of the contracts concerned and must be supplied within the time limit laid down in Article 12 (1) (a). Where provisional figures are provided, the definitive figure of aid granted in respect of these contracts must be sent to the Commission as soon as the budget relating to the year in which the contracts were signed has been finally adopted.

Schedule 2

EUROPEAN ECONOMIC COMMUNITY

REPORT ON AID TO SHIPOWNERS FOR NEW BUILDING OR CONVERSION OF SHIPS

(Information not supplied in Schedule 1)

1	2	3			4	5		
Case	Name of company in receipt of aid	Aid granted			Month of aid granting	New building or conversion contract concerned		
		Form	Volume	Details		Ship type and yard No	Tonnage (GT)	Performing yard Country Name
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

Contact for inquiries: Date:

Position: Signature:

REPORT OF COMPANY FINANCIAL SUPPORT

Name of company

Section 1: Public aid

Section 2: Turnover and profit/(loss) (to be completed by all companies in receipt of direct production aid)

Operating aid	1. Contract value 2. Costs/loss	Direct aid received	Indirect aid support (of sched. 1)
1. Contract support: (a) related to contracts concluded before 1 January of the year concerned (b) related to contracts concluded after 1 January of the year concerned, of which: — related to development assistance to developing countries — related to contracts subject to Article 4 (5) 2. Payment of other operation costs, inclusive loss compensation and rescue aid (see Article 5)			
Restructuring aid	Costs		Aid received
3. Investments			
4. Redundancy payments			
5. Other cash closure costs			
6. Asset disposal costs/receipts			
7. Conversion costs			
8. Research and development costs			
9. Other restructuring costs			

	Reporting year	Previous year
10. Turnover		
11. Of which related to merchant shipbuilding and ship conversion: (a) related to contracts concluded before 1 January of the year concerned (b) related to contracts concluded after 1 January of the year concerned, of which — related to development assistance to developing countries — related to contracts subject to Article 4 (5) 12. Losses (if any) 13. Of which related to merchant shipbuilding and ship conversion: (a) related to loss on contracts (b) related to movement in provisions (c) related to restructuring expenditures		

Section 3: Cash flow (to be filled in for all companies which have registered losses under 12 and have received funding from any public sources)

	Reporting year	Previous year
<i>Expenditures</i>		
14. Trading losses before depreciation		
15. Investment expenditure		
16. Other expenditures		
17. Other change in working capital		
<i>Source of funds</i>		
18. Equity receipts: (a) from public shareholders (b) from private shareholders		
19. Loans and overdrafts: (a) from public sources (a') of which contract support (b) from private sources (b') of which with state guarantee		
20. Government grants (a) of which contract support		

Contact for inquiries: Date:

Position: Signature:

Schedule 4

EUROPEAN ECONOMIC COMMUNITY

REPORT OF MERCHANT SHIPYARD FACILITIES AND EMPLOYMENT FOR ALL YARDS
IN RECEIPT OF RESTRUCTURING AID DURING THE YEAR IN QUESTION

Section 1: Facilities — Date: Company:

1. Berth/dock/pad	2. Current use	3. Size	4. Capacity

Section 2: Merchant orderbook — Date:

5. Berth No	6. Ship No	7. Ship type	8. GT	9. Completion date
10. Total new orders		19	Number	GT
11. Total completions		19	Number	GT

Section 3: Shipbuilding employment — Date:

12. By activity	19. By occupation (merchant)
13. Merchant	20. Manual
14. Offshore	21. Staff
15. Naval	22. Total merchant
16. Repair	23. Subcontractors
17. Other	24. Net change in employment
18. Total	
25. Total man-hours for the shipyard	
26. Of which for merchant shipbuilding and conversion	

Contact for enquiries: Date:

Position: Signature:

COUNCIL DECISION

of 21 December 1990

concerning the implementation of an action programme to promote the development of the European audiovisual industry (Media) (1991 to 1995)

(90/685/EEC)

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 the Heads of State and Government meeting in the European Council in Rhodes on 2 and 3 December 1988 pointed out that it is extremely important to strengthen efforts, including cooperation, to develop Europe's audiovisual capacity, whether with regard to the free movement of programmes, to the promotion of the European high-definition television system or to a policy of encouraging creativity, production and broadcasting so as to provide an opportunity of demonstrating the richness and diversity of European culture;

Whereas the Community already possesses certain instruments designed to put such a policy into practice;

Whereas, on 3 October 1989, the Council adopted Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽⁴⁾; whereas that Directive contributes to the establishment of a large audiovisual market which must benefit both the audiovisual industry and ordinary citizens and which has yet to be consolidated;

Whereas, on 27 April 1989, the Council adopted Decision 89/337/EEC on high-definition television ⁽⁵⁾;

Whereas, between 30 September and 2 October 1989, the Commission and the French Government jointly organized the European Audiovisual Conference in Paris; whereas the professionals meeting on that occasion stressed the need for stronger Community action, particularly to encourage audiovisual creative work;

Whereas the Joint Declaration of 2 October 1989 adopted by 26 European countries and the Commission established a transnational cooperation structure entitled Audiovisual Eureka;

Whereas the Heads of State or Government, meeting in the European Council in Strasbourg on 8 and 9 December 1989, hoped that a Community action programme following on from the Media (measures to encourage the development of the audiovisual industry) programme would receive the necessary financial resources and that the necessary synergy with Audiovisual Eureka would be ensured;

Whereas on 7 May 1990 the Council took note of the Commission communication on audiovisual policy which set out the priority objectives and lines of action measures of a Community policy providing an overall approach to regulatory, technological and industrial questions in the audiovisual sector and establishing an indicative timetable for the submission of the specific proposals required for its implementation;

Whereas the development of the industrial aspects of this overall policy, including those of improving the economic and commercial management abilities of professionals in the audiovisual industry, will have to be based on the experience acquired and the positive results achieved by the Commission in applying the pilot phase of the Media programme; whereas the evaluation of the phase carried out by the Commission and by a group of independent experts has demonstrated the need, if Europe's audiovisual capacity is to be expanded, for a longer-term programme;

Whereas, beyond the continuation and intensification of work on projects launched during the pilot phase, the implementation of new pilot projects may have a catalysing effect on areas of the European audiovisual market which have as yet not been adequately explored;

Whereas Community action should take account of the work to be carried out within the framework of Audiovisual Eureka;

Whereas for this purpose encouragement should be given, via the appropriate instruments and in the spirit of the Joint Declaration of 2 October 1989, to the development of complementary relationships between Community schemes and those carried out within the framework of Audiovisual Eureka;

Whereas, as stated in the Joint Declaration of 2 October 1989, Audiovisual Eureka projects are not intended to replace Community schemes, their objective being rather to extend or supplement them as appropriate;

⁽¹⁾ OJ No C 127, 23. 5. 1990, p. 5.

⁽²⁾ OJ No C 324, 24. 12. 1990.

⁽³⁾ Opinion delivered on 20 September 1990 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 298, 17. 10. 1989, p. 23.

⁽⁵⁾ OJ No L 142, 25. 5. 1989, p. 1.

Whereas the European audiovisual industry matches supply to demand and should therefore act to overcome fragmentation of the markets and overhaul its production and distribution structures, which are too narrow and do not yield an adequate return;

Whereas, in this context, special attention needs to be given to small and medium-sized undertakings and to countries in Europe with smaller audiovisual capacity, when adapting market structures; whereas action should therefore be taken to ensure all appropriate coordination with the Community initiatives now under way in these fields;

Whereas in the development of the programme-making industry, account needs to be taken of the position of countries in Europe with smaller audiovisual production capacities and/or with a limited geographical and linguistic area;

Whereas the development of the programme-making industry calls for a mastery of new technology and should enable economies of scale to be made;

Whereas increased use of new forms of technology, particularly European forms, including high-definition television, in the areas of audiovisual programme production and distribution, may help to enhance the value of the technologies in question;

Whereas it appears necessary to supplement other Community measures to encourage the development of the European audiovisual industry by a scheme to improve the economic and commercial management abilities of professionals in the audiovisual industry;

Whereas the response to the challenges generated by evolving communications techniques and the growing requirement for audiovisual programmes is to be found first and foremost in the commitment and drive displayed by the professionals;

Whereas the media professionals and the Member States must be closely involved in developments during the main phase of the programme; whereas the exchange of information and experience and consultation between the various parties involved and the Commission are vital to the task of enhancing the effectiveness and overall cohesion of the Community's audiovisual policy;

Whereas due regard for the principle of subsidiarity entail that the purpose of the Community's measures in this area should not be to replace but to complement what is being done by the authorities in the Member States; whereas establishing machinery for liaison and cooperation is subsidiary to national efforts;

Whereas the primary aim of financial input from the Community must be to stimulate complementary financial contributions from interested parties, thereby having a multiplier effect on the development of the audiovisual industry;

Whereas measures designed to establish the internal market gradually over a period ending on 31 December 1992 need to

be adopted; whereas the internal market comprises an area with no internal frontiers in which freedom of movement for goods, persons, services and capital is guaranteed;

Whereas, to attain the objectives of the Community as set out in Article 2 of the Treaty, it appears necessary to promote the European audiovisual programme-making industry as part of the operation of the single market; whereas, since the Treaty has not provided the necessary powers, it is necessary to have recourse to Article 235;

Whereas the funds estimated as necessary for the Community's contribution to the whole of the programme amount to ECU 200 million; whereas the allocations will be determined on the basis of the financial perspectives and within the limits of the amounts available for each year's budget,

HAS DECIDED AS FOLLOWS:

Article 1

An action programme to promote the development of the European audiovisual industry (the Media programme) hereafter referred to as 'the programme', is hereby adopted for a period of five years from 1 January 1991.

The funds estimated as necessary for the Community financial participation in the programme for the years 1991 to 1992 amount to ECU 84 million.

Article 2

The aims of the programme shall be as follows:

- to help create a favourable environment within which Community undertakings will act as a driving force alongside those from other European countries,
- to stimulate and increase the competitive supply capacity of European audiovisual products, with special regard for the role and requirements of small and medium-sized undertakings, the legitimate interests of all professionals who play a part in the original creation of such products and the position of countries in Europe with smaller audiovisual production capacities and/or with a limited geographical and linguistic area,
- to step up intra-European exchanges of films and audiovisual programmes and to make maximum use of the various means of distribution which either exist or are still to be set up in Europe, with a view to securing a better return on investment, wider dissemination and greater public impact,
- to increase European production and distribution companies' share of world markets,
- to promote access to and use of the new communications technologies, particularly European ones, in the production and distribution of audiovisual material,

- to encourage an overall approach to the audiovisual industry which allows for the interdependence of its various sectors,
- to ensure that action taken at European level complements that taken at national level,
- to contribute, in particular by improving the economic and commercial management abilities of professionals in the audiovisual industry in the Community, and in conjunction with existing institutions in the Member States, to creating conditions which will enable undertakings in that sector to take full advantage of the single market dimension.

Article 3

The measures described in Annex I shall be put into effect to attain the objectives set out in Article 2. The measures shall be implemented in accordance with the procedure laid down in Article 7.

Article 4

In implementing the programme, particular attention will be given to Community participation in Audiovisual Eureka projects which complement or extend the measures referred to in Article 3 and satisfy the criteria for Community involvement set out in Annex II.

In implementing the programme, the Community may also contribute to promoting cooperation with professionals in the audiovisual industry in Central and Eastern European countries.

The Community shall also contribute to the operating costs of the Audiovisual Eureka Secretariat and to the setting-up of the European Audiovisual Observatory.

Article 5

The annual appropriations allocated to the measures provided for in the programme shall be adopted in the framework of the budgetary procedure.

Article 6

As a rule, parties to contracts with the Commission for the implementation of the measures provided for in Article 3 must provide a substantial proportion of the funding, representing at least 50 % of their total cost.

Article 7

1. The Commission shall be responsible for implementing the programme.

2. For the purpose of carrying out that task, the Commission shall be assisted by an Advisory Committee consisting of representatives appointed by each Member State and chaired by a representative of the Commission. The members of the committee may seek assistance from experts or advisers.

3. The representative of the Commission shall submit to the committee a draft of measures concerning:

- (a) the general guidelines governing the programme (prior examination of aims and priorities, of the details of Commission participation, the implementation and operation of the various measures, criteria for selecting contractors and for granting Community support;
- (b) the annual budget breakdown, within each type of measure, details of financial participation including the application of the provisions of Article 6 and the duration of each measure;
- (c) those matters relating to the general balance of the implementation of the programme (transition from the exploratory phase to the pilot phase, transition from pilot measures to their principal phase, participation in Audiovisual Eureka projects), contributions within the meaning of the second paragraph of Article 4 and agreements provided for in Annex II;
- (d) the evaluation of the programme for the purpose of presentation of the reports provided for in Article 8.

4. The committee shall deliver its opinion on the draft measures referred to in paragraph 3 within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. When a vote is taken within the committee, the votes of the representatives of the Member States shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith.

In that event, the Commission may defer implementation of the measures which it has decided by one month.

The Council, acting by a qualified majority, may take a different decision within the time limit laid down in the previous subparagraph.

5. The Commission may, in addition, consult the committee on any other matter relating to the implementation of the programme.

The committee shall deliver its opinion within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 8

After the programme has been in operation for two years, and within six months of the end of that period, the Commission, after having consulted the committee referred to in Article 7, shall present a report on the results achieved

to the European Parliament, the Council and the Economic and Social Committee, accompanied, where necessary, by appropriate proposals.

On expiry of the programme, the Commission, acting in accordance with the procedure laid down in Article 7, shall send a report on the implementation and results of the programme to the European Parliament, the Council and the Economic and Social Committee.

Done at Brussels, 21 December 1990.

For the Council
The President
A. RUBERTI

ANNEX I

MEASURES TO BE PUT INTO EFFECT AND INDICATIVE BREAKDOWN OF COSTS

		(millions of ecus)
1. Distribution mechanisms		85
1.1. <i>Distribution of films in cinemas</i>		40
— Significant development of action taken by EFDO (European Film Distribution Office) to promote the cross-frontier distribution of European films in cinemas, in particular by extending support to works produced at a cost of up to ECU 4 500 000.	×	
— Measures to promote European films outside the Community (offices for the promotion of European films and television programmes, group presence at festivals and fairs).	× × ×	
— Study and implementation of measures to promote the film sector (cinemas).	× × ×	
1.2. <i>Distribution on video cassette</i>		10
— Prolongation of the EVE measure (European Video Area), which is a system of advances on receipts to promote the production and cross-frontier distribution of European films and programmes; extension of the system, by encouraging the creation of cross-frontier networks of publishers to promote the output of European films and programmes on video cassette.	× ×	
1.3. <i>Support for multilingualism in television programmes</i>		10
— Extension of the Babel scheme ('Broadcasting across the barriers of European language'), to promote the circulation of European products designed for television, by offering support for dubbing or subtitling and by means of research into ways of perfecting these techniques including their harmonization.	×	
— Support for the development of multilingual television programmes or broadcasts.	× × ×	
— Undertaking, within the framework of Babel, measures for perfecting the skills of journalists and other audiovisual professionals, who work in a multilingual environment or specialize in dubbing or subtitling.	×	
1.4. <i>Development of markets and support for the dissemination of the work of independent producers</i>		25
— Intensification of the EURO-AIM scheme, a services structure which organizes the group presence of independent producers on international markets and gives them advice; it will:	×	
— ensure a more conspicuous European presence on the major markets,		
— highlight particular sectors of production (archives, documentaries, youth interests, etc.),		
— develop promotional activities on non-Community markets,		
— develop the services available to small and medium-sized producers,		
— computerize the compilation and dissemination of data on independent European production.		
— Encouragement of the broadcasting by television stations of programmes produced by independent European producers.	× × ×	
2. Improvement of production conditions		75
2.1. <i>Development of preproduction</i>		23
— Development of the European Script Fund (encouragement for the development of screenplays and preproduction) by increasing its financing capacity and providing, in addition, professional services such as:	×	
— assistance in the field of script writing,		
— assistance with regard to the financing of production,		
— extension of aid for development and preproduction to companies presenting 'packages' of programmes.		
× Measure in progress; existing management structure. × × Pilot measure in launch phase; existing management structure. × × × Project in consultation phase; management structure to be created.		

(millions of ecus)

— Extension of these measures by offering appropriate support for creative documentaries.	x x x	
— Development, with the support of Script, of the professional skills of European screenplay writers, in particular by organizing 'script doctoring' sessions.	x x x	
2.2. Restructuring of the animated cartoon industry		23
— Strengthen Cartoon/European Association of Animation Film by:	x	
— encouraging the formation of networks of production studios by co-financing coordination and management costs; ensure that complementary measures are taken to train the cartoonists, studio managers and graphics coordinators who will be needed to form these networks,		
— contributing to the harmonization and computerization of production modes and to the industrialization of working methods,		
— supporting the production of 'pilots' by providing seed capital in the form of advances on receipts,		
— developing an information system specific to the European animated film industry based on meetings between producers and distributors as well as the computerization of professional information.		
2.3. Use of new technologies, in particular European ones, in the production of programmes		20
— Extension of the activities of the Media investment club:	x	
— by increasing the number of its members,		
— by issuing invitations to tender so as to encourage innovative projects,		
— by providing support for measures designed to promote the production of films and programmes using the European HDTV standard (in liaison with Audiovisual Eureka and EEIG 'Vision 1250'),	x x	
— by promoting schemes for the initiation of professionals in the use, in the production of audiovisual works, of new techniques in image synthesis, digital TV, high-definition TV, interactive TV, etc.		
2.4. Contribution to the establishment of a 'second market', in particular using archive material		9
— Support for the operation and consolidation of MAP-TV (linking up of European archives services).	x	
— Turning this 'memory bank' and the European film and television heritage to advantage by conserving, restoring, re-issuing and rebroadcasting works or by using extracts for the production of new programmes.	x x	
— Research into and experimentation with solutions for the problems concerning copyright royalties, which hamper the use of archives.	x x	
— Production of catalogues to be used for the promotion of archives.	x x x	
3. Stimulation of financial investment		10
— Encouragement for the establishment and development of structures designed to mobilize and stimulate investors (Media-Venture, Euro-Media guarantee, investment pools, etc.).	x x	
4. Improving the economic and commercial management abilities of professionals		15
— Pursue and diversify the measures taken by European Audiovisual Entrepreneurs/EAVE to promote the training of young producers with a view to the large market.	x	3
— Develop, in conjunction with national institutions, other further training measures, coordinated in particular by the Media business school, in order to respond to the economic and commercial problems faced by those working in the audiovisual field at European level.	x x	12
5. Development of potential in countries with smaller audiovisual production capacities and/or with a limited geographical and linguistic area; other measures	x x x	15
6. Participation in Audiovisual Eureka projects	x	(p.m.)
A significant amount of the total appropriation allocated to each of the types of measures 1 to 5 must be devoted to such participation.		

ANNEX II

COMMUNITY INVOLVEMENT IN AUDIOVISUAL EUREKA

Both Community-policy and Audiovisual Eureka are pursuing the same general objective, i.e. to boost Europe's audiovisual capacity in accordance with the conclusions of the Rhodes and Strasbourg European Councils. In this connection, Annex II to the Joint Declaration on Audiovisual Eureka adopted in Paris on 2 October 1989 states that the European Community will be able to participate in Audiovisual Eureka projects, in particular through its programmes, but that these projects are not designed to replace the existing cooperation frameworks, their objective being rather to extend or supplement them as appropriate. In partical terms, the Community will be involved in two ways: the opening-up of Community projects to professionals of non-member countries (on contractual terms to be defined) and Community involvement in Audiovisual Eureka projects which fit into the action measures described in Annex I.

The concept of Community 'added value' will determine Commission involvement in Audiovisual Eureka.

The positive complementarity between the Community action programme and Audiovisual Eureka is helped by the difference in their nature:

- the action programme is a coherent set of incentive measures acting upstream and downstream of production proper with an effect of scale deriving from the participation of the 12 Community countries,
- Audiovisual Eureka offers a host structure (based on the original Technological Eureka) for helping professionals to devise and execute transnational projects by the multiplication of initiatives especially in the production field, with the flexibility afforded by the involvement of private and public partners in varying proportions.

The specific characteristics of these two instruments can produce synergies of two types.

1. *The Community action programme extended to include new partners*

The Community added value will be enhanced by the effects of geographical, economic and creative enlargement.

The professionals of the countries which adopted the 'Joint Declaration' could be invited to participate in the initiatives of the action programme, in the framework of agreements within the meaning of Article 228 of the Treaty between their countries and the Community. Participation will be formalized in agreements between the new non-Community participants and those responsible for the project in question within the framework of the action programme. The new participants will make a financial contribution, proportional to their participation in the project.

The action programme has a Community character and will be implemented by the Commission assisted by the Advisory Committee provided for in Article 7. However, extending it to non-Community participants will give it much greater commercial and economic potential.

2. *The Community as a partner in Audiovisual Eureka projects*

The Community stands to gain from Eureka projects, where the broader dimension could have a positive impact on the activities of the audiovisual programmes industry in Europe.

The Community will be able to take part in Audiovisual Eureka projects via its action programme. In each case the arrangements will be specified in a specific agreement.

Participation will be designed in particular:

- to increase the coherence of the various initiatives of the action programme by means of participation in projects which build on the measures already undertaken,
- to generate synergies between projects which, when joined together, could have a propulsive effect,
- to stimulate the independent production sector,
- to help in creating a second market for the distribution of European works,
- to provide projects with the extra finance they need in order to use and derive maximum benefit from the new European technologies applied to programmes (notably HDTV),
- to ensure by means of support for a project, that the potential of countries 'with lesser audiovisual capacity' is used to best effect,
- to contribute to the success of Audiovisual Eureka in order to attain the general objective of boosting Europe's audiovisual capacity.

Projects eligible for Community support may come under any of the types of measures of the programme referred to in Article 3. Such support will be determined by reference to the specific features of each project and according to whether the audiovisual Eureka instrument is suited to the objectives aimed at. The Advisory Committee provided for in Article 7 will give its opinion on the Audiovisual Eureka projects to be supported by the Community.

3. *Other forms of participation in Audiovisual Eureka*

The Community will make a contribution — according to the percentage rate agreed within the Coordinator's Committee — to the operating costs of the Audiovisual Eureka Secretariat and to the preparatory work for the establishment, should this be so decided, of the European Audiovisual Observatory.
