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## I

*(Acts whose publication is obligatory)*

## COUNCIL REGULATION (EEC) No 2080/93

of 20 July 1993

laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the financial instrument of fisheries guidance

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the common fisheries policy supports the general objectives of Article 39 of the Treaty; whereas, in particular, Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture <sup>(4)</sup> contributes towards achieving a balance between conservation and the management of resources, on the one hand, and the fishing effort and the stable and rational exploitation of those resources, on the other;

Whereas fisheries structural measures should contribute to the attainment of the objectives of the common fisheries policy and the objectives of Article 130a of the Treaty;

Whereas the incorporation of structural measures in the fisheries and aquaculture sector into the operational framework resulting from the reform of the Structural Funds as laid down in Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(5)</sup>, and

Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(6)</sup>, should improve the synergy of Community operations and enable a more coherent contribution to be made to the strengthening of economic and social cohesion;

Whereas the tasks of the financial instrument for fisheries guidance (FIFG) should be defined on the basis of its contribution to the achievement of Objective 5 (a) as defined in Article 1 of Regulation (EEC) No 2052/88;

Whereas the Community should provide financial assistance in those fields which are crucial for the structural adaptation necessary to achieve the objectives of the common fisheries policy; whereas, furthermore, aid measures in this sector should be subject to compliance with the objectives of balance between resources and their exploitation;

Whereas the Council, after consulting the European Parliament, should decide at a later date on the detailed rules and conditions for the FIFG contribution to the measures for adaptation of fisheries structures in order to guarantee the coherence of the common fisheries policy;

Whereas the measures provided for will coincide with the scope of Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector <sup>(7)</sup> and that of Council Regulation (EEC) No 4042/89 of 19 December 1989 on the improvement of the conditions under which fishery and aquaculture

<sup>(1)</sup> OJ No C 131, 11. 5. 1993, p. 18.

<sup>(2)</sup> Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 201, 26. 7. 1993, p. 52.

<sup>(4)</sup> OJ No L 389, 31. 12. 1992, p. 1.

<sup>(5)</sup> OJ No L 185, 15. 7. 1988, p. 9. Regulation as amended by Regulation (EEC) No 2081/93 (see page 5 of this Official Journal).

<sup>(6)</sup> OJ No L 374, 31. 12. 1988, p. 1. Regulation as amended by Regulation (EEC) No 2082/93 (see page 20 of this Official Journal).

<sup>(7)</sup> OJ No L 376, 31. 12. 1986, p. 7. Regulation as last amended by Regulation (EEC) No 2794/92 (OJ No L 282, 26. 8. 1992, p. 3).

products are processed and marketed<sup>(1)</sup>; whereas, therefore, these Regulations should be repealed and the detailed rules necessary for a transition preventing an interruption in structural aid should be laid down;

Whereas, however, Regulation (EEC) No 4028/86 establishes in a uniform manner the maximum amounts of aid which can be granted to each individual project directly contributing to priority requirements of the common fisheries policy; whereas the Council, after consulting the European Parliament, must continue to establish these maximum amounts in a uniform manner,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. The structural measures implemented under this Regulation in the fisheries and aquaculture sector and the industry processing and marketing their products (hereinafter referred to as 'the sector') shall support the general objectives of Articles 39 and 130a of the Treaty and the objectives set out in Regulations (EEC) No 3760/92 and (EEC) No 2052/88.

2. The tasks of the FIFG shall be:

- (a) to contribute to achieving a sustainable balance between resources and their exploitation;
- (b) to strengthen the competitiveness of structures and the development of economically viable enterprises in the sector;
- (c) to improve market supply and the value added to fisheries and aquaculture products.

Furthermore, the FIFG shall contribute towards technical assistance and information measures, and support studies and pilot projects for the adaptation of the structures of the sector.

#### *Article 2*

1. FIFG assistance may be granted for the implementation of measures directly contributing towards ensuring compliance with the requirements of the common fisheries policy in the following fields:

- redeployment operations,
- temporary joint enterprises.
- joint ventures,
- adjustment of capacities.

<sup>(1)</sup> OJ No L 388, 30. 12. 1989, p. 1.

In the framework of the procedure referred to in Article 6, the Council may adapt the list of fields referred to in this paragraph.

2. Article 13 (3) of Regulation (EEC) No 2052/88 and Article 17 of Regulation (EEC) No 4253/88 shall apply to measures referred to in paragraph 1 of this Article. However, the aid granted to each individual project under measures referred to in paragraph 1 may not exceed the maximum amount to be established pursuant to the procedure provided for in Article 6.

#### *Article 3*

1. The FIFG may contribute towards the funding of investments and operations in support of one or more of the tasks referred to in Article 1 (2), in the following fields:

- restructuring and renewal of the fishing fleet,
- modernization of the fishing fleet,
- improvement of the conditions under which fishery and aquaculture products are processed and marketed,
- development of aquaculture and structural works in coastal waters,
- exploratory fishing,
- facilities at fishing ports,
- search for new markets,
- specific measures.

In the framework of the procedure provided for in Article 6, the Council may adapt the list of fields referred to in this paragraph.

2. In particular, the investments and operations referred to in paragraph 1 may cover the operating conditions on board vessels, an improvement in the selectivity of fishing methods and gear, an improvement in product quality and the introduction of Community standards for product hygiene, for health and safety at the workplace and of environment protection.

3. The limits of Community participation referred to in Article 13 (3) of Regulation (EEC) No 2052/88 and in Article 17 (3) of Regulation (EEC) No 4253/88 shall apply to the investments and operations referred to in this Article.

4. In appropriate cases, in accordance with procedures specific to each policy, Member States shall provide the Commission with information relating to compliance with the provisions of Article 7 (1) of Regulation (EEC) No 2052/88.

*Article 4*

Within the fields specified in Articles 2 and 3 and up to a maximum of 2% of the appropriations available annually for structural measures in the sector, the FIFG may finance:

- studies, pilot projects and demonstration projects,
- the provision of services and technical assistance for the purposes in particular of preparing, accompanying and evaluating the implementation of this Regulation,
- concerted action to remedy particular difficulties affecting specific aspects of the sector,
- information campaigns.

Measures referred to in this Article and implemented at the Commission's initiative may, exceptionally, be financed at a rate of 100%; those implemented on the Commission's behalf shall be financed at a rate of 100%.

*Article 5*

1. The Commission shall decide on FIFG assistance on the terms laid down in Article 14 of Regulation (EEC) No 4253/88.

2. The Member State concerned and, where appropriate, the intermediate body appointed by the Member State referred to in Article 14 (1) and Article 16 (1) of Regulation (EEC) No 4253/88 shall be notified of the decisions referred to in paragraph 1.

*Article 6*

Without prejudice to Article 33 of Regulation (EEC) No 4253/88 and Article 9 of this Regulation, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 of the Treaty, shall adopt, not later than 31 December 1993, the detailed rules and conditions for the FIFG contribution to the measures for adaptation of the structures of the sectors covered by this Regulation.

*Article 7*

1. Pursuant to Article 17 of Regulation (EEC) No 2052/88 and Article 29 (2) of Regulation (EEC) No 4253/88, a Standing Management Committee for Fisheries Structures under the auspices of the Commission is hereby established, consisting of representatives of the Member States, under the chairmanship of a representative of the Commission. The European Investment Bank shall designate a representative who shall not vote. The committee shall draw up its own rules of procedure.

2. The committee provided for in this Article shall replace the committee established in Article 11 of

Regulation (EEC) No 101/76 <sup>(1)</sup> in all functions conferred upon it pursuant to that Regulation.

*Article 8*

Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the committee either on his own initiative or at the request of the representative of a Member State. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the said draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. 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; the votes of the representatives of the Member States within the committee 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 application of the measures which it has decided for a period of not more than one month from the date of such communication. The Council, acting by a qualified majority, may take a different decision within a time limit of one month.

The opinions of the committee shall be communicated to the committees referred to in Articles 27, 28 and 29 (1) of Regulation (EEC) No 4253/88.

*Article 9*

1. With effect from 1 January 1994, Regulations (EEC) No 4028/86 and (EEC) No 4042/89 and the provisions establishing the detailed rules for their implementation, with the exception of those of Commission Regulation (EEC) No 163/89 and decisions adopting the multiannual guidance programmes for fishing fleets for the period 1993 to 1996, are hereby repealed.

However:

- they shall remain valid for aid applications introduced before 1 January 1994,
- aid applications for projects submitted in 1993 under Regulation (EEC) No 4028/86 shall be examined and approved on the basis of that Regulation, before 1 November 1994.

Applications under Regulation (EEC) No 4028/86 for which no aid decision has been taken by 1 November 1994 shall be considered null and void. However, the

<sup>(1)</sup> OJ No L 20, 28. 1. 1976, p. 19.

measures and projects provided for in such applications may be taken into consideration under the detailed rules provided for in Article 6 of this Regulation.

2. Portions of sums committed as aid for projects adopted by the Commission before 1 January 1989 under Regulation (EEC) No 4028/86 for which no final application for payment has been submitted to the Commission before 31 March 1995 shall be automatically released by the Commission on 30 September 1995 at the latest, without prejudice to projects which have been suspended on legal grounds.

Portions of sums committed as aid for projects adopted by the Commission between 1 January 1989 and

31 October 1994 under Regulation (EEC) No 4028/86 for which no final application for payment has been submitted to the Commission within six years and three months of the date of decision granting the aid shall be automatically released by the Commission not later than six years and nine months after the date of aid grant, without prejudice to projects which have been suspended on legal grounds.

#### *Article 10*

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

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

Done at Brussels, 20 July 1993.

*For the Council*  
*The President*  
W. CLAES

## COUNCIL REGULATION (EEC) No 2081/93

of 20 July 1993

amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130d thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 19 of Regulation (EEC) No 2052/88 <sup>(4)</sup> requires the Council to re-examine that Regulation on the basis of a Commission proposal before 31 December 1993;

Whereas the main principles of the 1988 reform of the Structural Funds should continue to govern the activities of the Funds until 1999 but whereas experience hitherto has demonstrated the need for improvements to make structural policies more effective, simpler and more transparent;

Whereas Article 1 of Regulation (EEC) No 2052/88 lays down the priority objectives for Community action through the Structural Funds, the European Investment Bank (EIB) and the other financial instruments;

Whereas the Community has undertaken a reform of the common agricultural policy entailing structural measures, particularly for the promotion of rural development;

Whereas Community measures for the improvement of the conditions under which fishery and aquaculture products are processed and marketed were laid down by Regulation (EEC) No 4052/89 <sup>(5)</sup>; whereas Community measures to improve and adapt structures in the fisheries and aquaculture sector were laid down by Regulation

(EEC) No 4028/86 <sup>(6)</sup>; whereas finance for these operations comes from a variety of budgetary resources, including, in some cases, the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section; whereas, with a view to regrouping all these resources in a single financial instrument, the financial instrument for fisheries guidance (hereinafter referred to as 'FIFG') was established by Regulation (EEC) No 2080/93 <sup>(7)</sup>; whereas, to the extent that the single instrument supports the achievement of the objectives set out in Article 130a of the EEC Treaty, assistance from it should be coordinated with that from the Structural Funds; whereas all the provisions governing the Structural Funds should therefore be extended to that instrument;

Whereas the Structural Funds constitute the chief means of redressing the socio-economic disturbances which review of the common fisheries policy is likely to create in certain coastal areas; whereas it is consequently necessary, except in regions already covered by Objective 1, to adjust the eligibility criteria for Objectives 2 and 5 (b) to take account of these problems;

Whereas Regulation (EEC) No 792/93 <sup>(8)</sup> introduces a temporary cohesion financial instrument through which the Community makes a financial contribution to projects relating to the environment and to the trans-European transport infrastructure network in Greece, Spain, Ireland and Portugal, provided that each of those countries has a convergence programme which has been examined by the Council designed to avoid an excessive public sector deficit; whereas the said Regulation is temporary in nature pending the establishment of the Cohesion Fund referred to in Article 130d of the Treaty as provided for by the Treaty on European Union and will be re-examined before 31 December 1993; whereas the financial instrument for which provision has been made, as amended if necessary (hereinafter referred to as the 'cohesion financial instrument'), must be covered by Regulation (EEC) No 2052/88; whereas, pursuant to Article 7 of Regulation (EEC) No 792/93, no item of expenditure may benefit both from this instrument and from the EAGGF, the European Social Fund (ESF) or the European Regional Development Fund (ERDF);

<sup>(1)</sup> OJ No C 118, 28. 4. 1993, p. 21.

<sup>(2)</sup> Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 201, 26. 7. 1993, p. 52.

<sup>(4)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(5)</sup> OJ No L 388, 30. 12. 1989, p. 1.

<sup>(6)</sup> OJ No L 376, 31. 12. 1986, p. 7. Regulation as last amended by Regulation (EEC) No 3946/92 (OJ No L 401, 31. 12. 1992, p. 1).

<sup>(7)</sup> See page 1 of this Official Journal.

<sup>(8)</sup> OJ No L 79, 1. 4. 1993, p. 74.

Whereas Objectives 3 and 4 are concerned, on the one hand, with combating long-term unemployment and, on the other hand, with facilitating integration of young people; whereas these Objectives, for whose implementation the ESF is responsible, should be clarified by combining them under Objective 3, widening the latter to include the integration into working life of persons exposed to exclusion from the labour market and introducing a new Objective 4 to facilitate the adaptation of workers of either sex to industrial changes and changes in production systems;

Whereas the principle of equal opportunities for men and women on the employment market is a goal which the Community seeks and to which structural measures should contribute;

Whereas Article 3 (1) of Regulation (EEC) No 2052/88 specifies the tasks of the ERDF; whereas investment in the field of education and health in the Objective 1 regions should be supported;

Whereas paragraph 2 of that Article specifies the tasks of the ESF; whereas these should be adapted to take account of the new definitions of Objectives 3 and 4; whereas, as part of the redefinition of measures eligible for assistance from the ESF, aid for employment may be presented in the form, *inter alia*, of aid for geographical mobility;

Whereas the European Council of 11 and 12 December 1992 fixed the resources available for commitment by the Structural Funds and other structural operations for the period 1993 to 1999; whereas these resources are spending targets; whereas it also fixed the resources available in real terms for commitment under Objective 1 for that period; whereas those amounts will permit commitments under Objective 1 and under the cohesion financial instrument to double in the four Member States eligible under that financial instrument, so reaching about ECU 85 billion in those four Member States for the period 1993 to 1999;

Whereas partnership should be strengthened by involving economic and social partners in programming, in an appropriate fashion, through a better definition of the responsibilities of each party in application of the principle of subsidiarity;

Whereas *ex ante* appraisal, monitoring and *ex post* evaluation should be developed and provisions should be made for greater flexibility in the implementation of Community structural assistance to meet real needs; whereas, in the interests of effectiveness, thorough appraisal should precede the commitment of Community resources in order to ensure that they yield socio-economic benefits in keeping with the resources deployed;

Whereas the EIB will continue to devote the majority of its resources to promoting economic and social cohesion

and in particular to developing further loans in the Member States which benefit from the cohesion financial instrument and in the Community's Objective 1 regions;

Whereas, in order to improve transparency, there should be an indicative breakdown of the resources of the Structural Funds available for commitment by Member State and by each of the Objectives 1 to 4 and 5 (b); whereas, when such allocation is made, 'full account should be taken, as now, of national prosperity, regional prosperity, population of the regions, and the relative severity of structural problems, including the level of unemployment and, for the appropriate objectives, the needs of rural development'; whereas the resources of Objective 5 (a), except for those fields covered by Objective 1, must be subject to appropriate allocation;

Whereas, in order to avoid excessive increases in budgetary expenditure in the less prosperous regions, it is desirable that the levels of Community participation for operations supported by the Structural Funds be modulated and that, in consequence, intervention rates may be increased, in exceptional cases, in these regions;

Whereas, in order to secure effective concentration of assistance, Community measures under Objective 2 could cover up to 15 % of the Community population;

Whereas, in order to ensure better coordination between structural assistance under Objectives 2 and 5 (b), the lists of areas eligible under those Objectives should, as far as possible, be adopted at the same time;

Whereas measures to speed up the adjustment of agricultural and fisheries structures (Objective 5 (a)) should be coordinated with the other Objectives referred to in this Regulation;

Whereas the principles and goals of sustainable development are set out in the Community programme of policy and action in relation to the environment and sustainable development as referred to in the Council Regulation of 1 February 1993 <sup>(1)</sup>; whereas Community policy in the field of the environment is designed to ensure a high level of protection while taking account of the variety of situations in the various regions of the Community; whereas the requirements of environmental protection should form part of the definition and implementation of other Community policies; whereas the Member States should therefore supply, in the plans submitted under Objectives 1, 2 and 5 (b), an appraisal of the state of the environment and the environmental impact of the operations envisaged, in accordance with the provisions of Community law in force, as well as the steps they have taken to associate their environmental authorities with the preparation and implementation of the plans;

<sup>(1)</sup> OJ No C 138, 17. 5. 1993, p. 1.

Whereas a report on progress in achieving economic and social cohesion should be presented every three years,

HAS ADOPTED THIS REGULATION:

#### Article 1

Articles 1 to 19 of Regulation (EEC) No 2052/88 shall be replaced by the following:

### 1. OBJECTIVES AND TASKS OF THE STRUCTURAL FUNDS

#### Article 1

##### Objectives

Community action through the Structural Funds, the financial instrument for fisheries guidance (hereinafter referred to as the "FIFG") established by Regulation (EEC) No 2080/93 (\*), the EIB cohesion financial instrument and other existing financial instruments shall support the achievement of the general objectives set out in Articles 130a and 130c of the Treaty. The Structural Funds, the FIFG, the EIB and the other existing financial instruments shall each contribute in appropriate fashion to the attainment of the following five priority objectives:

1. promoting the development and structural adjustment of regions whose development is lagging behind (hereinafter referred to as "Objective 1");
2. converting the regions, frontier regions or parts of regions (including employment areas and urban communities) seriously affected by industrial decline (hereinafter referred to as "Objective 2");
3. combating long-term unemployment and facilitating the integration into working life of young people and of persons exposed to exclusion from the labour market (hereinafter referred to as "Objective 3");
4. facilitating the adaptation of workers of either sex to industrial changes and to changes in production systems (hereinafter referred to as "Objective 4");
5. promoting rural development by:
  - (a) speeding up the adjustment of agricultural structures in the framework of the reform of the common agricultural policy;
  - (b) facilitating the development and structural adjustment of rural areas,
 (hereinafter referred to as "Objectives 5 (a) and 5 (b)").

In the framework of the review of the common fisheries policy, measures for the adjustment of fisheries structures come under Objective 5 (a).

(\*) OJ No L 193, 31. 7. 1993, p. 1.

#### Article 2

##### Means

1. The Structural Funds (the EAGGF Guidance Section, the ESF and the ERDF) and the FIFG shall contribute, each according to the specific provisions governing its operations, to the attainment of Objectives 1 to 5 (b) on the basis of the breakdown given below:

- Objective 1: ERD, ESF and EAGGF Guidance Section,
- Objective 2: ERDF and ESF,
- Objective 3: ESF,
- Objective 4: ESF,
- Objective 5 (a): EAGGF Guidance Section and FIFG,
- Objective 5 (b): EAGGF Guidance Section, ESF and ERDF.

2. The EIB, while performing the tasks assigned to it by Article 129 and 130 of the Treaty, shall cooperate in achieving the objectives set out in Article 1, in accordance with the procedures laid down in its Statute.

3. The other existing financial instruments may contribute, each according to the specific provisions governing its operations, to any measure supported by one or more of the Structural Funds in connection with one of the Objectives 1 to 5 (b). Where appropriate, the Commission shall take measures to enable these instruments to make a better contribution to the Objectives set out in Article 1.

#### Article 3

##### Tasks of the Funds

1. In accordance with Article 130c of the Treaty, the ERDF shall:

- have the essential task of providing support for Objectives 1 and 2 in the regions concerned,
- in addition, participate in the operations of Objective 5 (b).

It shall in particular provide support for:

- (a) productive investment;
- (b) the creation or modernization of infrastructure which contribute to the development or conversion of the regions concerned;



- (c) measures to exploit the potential for internally generated development of the regions concerned;
- (d) investment in the field of education and health in regions concerned by Objective 1.

The ERDF shall also provide support for studies or pilot schemes concerning regional development at Community level, especially where frontier regions of Member States are involved.

2. Within the framework of Article 123 of the Treaty, the ESF shall have the priority task of providing support for Objectives 3 and 4 throughout the Community and, in addition, providing support for Objectives 1, 2 and 5 (b).

To combat unemployment, it shall in particular contribute to:

- (a) facilitating access to the labour market;
- (b) promoting equal opportunities in the labour market;
- (c) developing skills, abilities and professional qualifications;
- (d) encouraging job creation.

In this framework, the ESF shall provide for studies and pilot schemes, especially those covering aspects common to several Member States.

3. In line with the principles set out in Article 39 of the Treaty, assistance from the EAGGF Guidance Section shall be geared in particular to the following tasks:

- (a) strengthening and re-organizing agricultural and also, in this context, forestry structures, including those for the marketing and processing of agricultural and forestry products and helping to offset the effects of natural handicaps on agriculture;
- (b) ensuring the conversion of agricultural production and fostering the development of supplementary activities for farmers of either sex;
- (c) helping to ensure a fair standard of living for farmers of either sex;
- (d) helping to develop the social fabric of rural areas, to safeguard the environment and to preserve the countryside (*inter alia* by securing the conservation of natural agricultural resources).

The EAGGF Guidance Section shall also contribute to technical assistance and information operations, and provide support for studies or pilot schemes concerning the adjustment of agricultural structures and the promotion of rural development at Community level.

4. The specific provisions governing operations under each Structural Fund shall be laid down in the implementing decisions adopted pursuant to Article 130e of the Treaty.

They shall establish in particular the procedures for providing assistance in one of the forms defined in Article 5 (2), the conditions of eligibility and of Community participation. Without prejudice to paragraph 5 of this Article, they shall also establish the arrangements for the monitoring, evaluation, financial management and checking of measures and any transitional provisions necessary in relation to existing rules.

5. The Council, acting on the basis of Article 130e of the Treaty, shall adopt the provisions necessary for ensuring coordination between the different Structural Funds, on the one hand, and between them and the EIB and the other existing financial instruments, on the other. The Commission and the EIB shall establish by mutual agreement the practical arrangements for coordinating their operations.

The implementing decisions referred to in this Article shall also lay down the transitional provisions concerning the integrated approaches adopted under existing rules.

#### Article 3a

#### Tasks of the FIG

The tasks on the FIG and specific provisions governing its operations, including transitional provisions, shall be laid down in Regulation (EEC) No 2080/93 by virtue of Article 43 of the Treaty.

The provisions of this Regulation and the provisions adopted pursuant to Article 3 (5) of this Regulation shall apply to the FIG.

## II. ARRANGEMENTS FOR STRUCTURAL OPERATIONS

#### Article 4

#### Complementarity, partnership, technical assistance

1. Community operations shall be such as to complement or contribute to corresponding national operations. They shall be established through close consultations between the Commission, the Member State concerned and the competent authorities and bodies — including, within the framework of each Member State's national rules and current practices, the economic and social partner, designated by the Member State at national, regional, local or other level, with all parties acting as partners in pursuit of a common goal. These consultations shall hereinafter be referred to as the "partnership". The partnership shall

cover the preparation and financing, as well as the *ex ante* appraisal, monitoring and *ex post* evaluation of operations.

The partnership will be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners.

2. Acting in accordance with the provisions of this Regulation and with the provisions referred to in Article 3 (4) and (5), the Commission shall take steps and implementing measures to ensure that Community operations are in support of the objectives set out in Article 1 and impart an added value to national initiatives.

3. Within the framework of the partnership, the Commission may, in accordance with the provisions referred to in Article 3 (4), contribute to the preparation, implementation and adjustment of operations by financing preparatory studies and technical assistance operations locally, in agreement with the Member State concerned and, where appropriate, with the authorities and bodies referred to in paragraph 1.

4. For each objective, tasks shall be shared between the Commission and the Member State during the preparation of operations in accordance with Articles 8 to 11a.

#### Article 5

##### Forms of assistance

1. Financial assistance under the Structural Funds, from the EIB and the other existing Community financial instruments shall be provided in a variety of forms that reflect the nature of the operations.

2. In the case of the Structural Funds and the FIG, financial assistance may be provided principally in one of the following forms:

- (a) part-financing of operational programmes;
- (b) part-financing of a national aid scheme including repayments;
- (c) provision of global grants, as a general rule managed by an intermediary designated by the Member State in agreement with the Commission and allocated by the intermediary in the form of individual grants to final beneficiaries;
- (d) part-financing of suitable projects;
- (e) support for technical assistance, including the measures to prepare, appraise, monitor and evaluate operations, and pilot and demonstration projects.

With the exception of those referred to in (e), the forms of assistance undertaken on the Commission's initiative may be only those established by the Member State or the competent authorities designated by the Member State and submitted to the Commission by that Member State or any other body it may, should the need arise, designate to do so.

Acting by a qualified majority on a proposal from the Commission and in cooperation with the European Parliament, the Council may introduce other forms of assistance of the same type.

3. In the case of the EIB and the other existing financial instruments, each observing its own specific rules, financial assistance shall be provided, in particular, in one of the following forms:

- individual loans, global loans and framework loans or other forms of part-financing given investment projects or programmes,
- part-financing of technical assistance or of studies in preparation for operations,
- guarantees.

4. Community assistance shall in an appropriate way combine the assistance in the form of grants and loans referred to in paragraphs 2 and 3 in order to maximize the stimulus provided by the budgetary resources deployed, making use of existing financial engineering techniques.

5. An operational programme within the meaning of paragraph 2 (a) shall comprise a consistent series of multiannual measures which may be implemented through recourse to one or more Structural Funds, to one or more of the other existing financial instruments and to the EIB.

Where a form of assistance involves participation under more than one Structural Fund and/or more than one other financial instrument, it may be implemented in the form of an integrated approach, the details of which shall be laid down in the provisions referred to in Article 3 (5).

Assistance shall be undertaken on the initiative of the Member States or of the Commission in agreement with the Member State concerned.

#### Article 6

##### Prior appraisal, monitoring and *ex post* evaluation

1. Community operations shall be monitored to ensure that the commitments entered into as part of the objectives set out in Articles 130a and 130c of the

Treaty are effectively honoured. Such monitoring shall, where necessary, make it possible to adjust operations in line with requirements arising during implementation.

The Commission shall periodically inform the European Parliament and the Committees referred to in Article 17 as to the implementation of operations; it shall lay before those Committees the annual report referred to in the first subparagraph of Article 16.

2. In order to gauge their effectiveness, Community structural operations shall be the subject of prior appraisal, monitoring and *ex post* evaluation designed to appraise their impact with respect to the objectives set out in Article 1 and to analyse their effects on specific structural problems.

3. The procedure for appraisal, monitoring and evaluation of Community operations shall be established by the provisions referred to in Article 3 (4) and (5) and, in the case of the EIB, in the manner provided for in its Statute.

#### Article 7

##### Compatibility and checks

1. Measures financed by the Structural Funds or receiving assistance from the EIB or from another existing financial instrument shall be in conformity with the provisions of the Treaties, with the instruments adopted pursuant thereto and with Community policies, including those concerning the rules on competition, the award of public contracts and environmental protection and the application of the principle of equal opportunities for men and women.

2. Without prejudice to the financial Regulation, the provisions referred to in Article 3 (4) and (5) shall lay down harmonized rules for strengthening checks on structural operations. They shall be adjusted to reflect the special nature of the financial operations concerned. The procedures for carrying out checks on operations undertaken by the EIB shall be as set out in its Statute.

### III. PROVISIONS RELATING TO THE SPECIFIC OBJECTIVES

#### Article 8

##### Objective 1

1. The regions covered by Objective 1 shall be regions at NUTS level II whose per capita GDP, on the basis of the figures for the last three years, is less than 75 % of the Community average.

Northern Ireland, the five new German *Länder*, east Berlin, and the French overseas departments, the

Azores, the Canary Islands and Madeira shall also be covered by this Objective, as shall other regions whose per capita GDP is close to that of the regions referred to in the first subparagraph and which have to be included within the scope of Objective 1 for special reasons.

Abruzzi shall be eligible for aid under Objective 1 for the period 1 January 1994 to 31 December 1995.

Exceptionally, in view of their unique adjacent position and their regional GDP at NUTS level III, the "arrondissements" of Avesnes, Douai and Valenciennes as well as Argyll and Bute, Arran, the Cambræs and western Moray shall also be covered by this Objective.

2. The list of regions concerned by Objective 1 is given in Annex I.

3. The list of regions shall be applicable for six years from 1 January 1994. Before the end of that period, the Commission shall review the list in good time so that the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, may establish a new list to apply for the following period.

4. The Member States concerned shall submit to the Commission their regional development plan. These plans shall include:

- a description of the current situation with regard to disparities and development gaps, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of Community structural assistance received and with regard to the evaluation results available,
- a description of an appropriate strategy to achieve the objectives referred to in Article 1, the regional development priorities selected and specific objectives, quantified where they lend themselves to quantification; a prior appraisal of the expected impact, including that on jobs, of corresponding operations with a view to ensuring that they yield medium-term economic and social benefits in keeping with the resources deployed,
- an appraisal of the environmental situation of the region concerned and an evaluation of the environmental impact of the strategy and operations referred to above in terms of sustainable development in agreement with the provisions of Community law in force; the arrangements made to associate the competent environmental authorities designated by the Member State in the preparation and implementation of the operations envisaged in the

plan and to ensure compliance with Community environmental rules,

- an indicative overall financial table summarizing the national and Community financial resources provided for and corresponding to each regional development priority adopted in the context of the plan, as well as an indication of the planned use of the assistance available under the Funds, from the EIB and the other financial instruments in implementing the plan.

The Member States may submit an overall regional development plan for all their regions included in the list referred to in paragraph 2, provided that such plan comprises the features listed in the first subparagraph.

Member States shall also submit the plans referred to in Article 10 for the regions concerned; the elements of those plans may also be included in the regional development plans of the regions concerned.

5. The Commission shall appraise the proposed plans and the other elements referred to in paragraph 4 to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. On the basis of all the plans referred to in paragraph 4, it shall establish, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community support framework for Community structural operations, in accordance with the procedure referred to in Article 17.

The Community support framework shall cover, in particular

- the development objectives, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation, and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support framework shall provide coordination of Community structural assistance towards those of the objectives referred to in Article 1 which may be pursued in a particular region.

The Community support framework may, if necessary, be revised and adjusted through the partnership defined in Article 4 (1), on the initiative of the Member State or of the Commission in agreement with the Member State, in the light of relevant new

information and of the results obtained during implementation of the operations concerned, including the results of monitoring and evaluation.

At the duly substantiated request of the Member State concerned, the Commission shall adopt distinct Community support frameworks for one or more of the plans referred to in paragraph 4.

6. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

7. Programming shall also cover operations under Objective 5 (a) to be implemented in the regions concerned, making a distinction between those which relate to agricultural structures and those which relate to fisheries structures.

## Article 9

### Objective 2

1. The declining industrial areas concerned by Objective 2 shall comprise regions, frontier regions or parts of regions (including employment areas and urban communities).

2. Subject to paragraph 4, the areas referred to in paragraph 1 must represent or belong to a NUTS level III territorial unit which satisfies all the following criteria:

- (a) the average rate of unemployment recorded over the last three years must have been above the Community average;
- (b) the percentage share of industrial employment in total employment must have equalled or exceeded the Community average in any reference year from 1975 onwards;
- (c) there must have been an observable fall in industrial employment compared with the reference year chosen in accordance with (b).

In addition, Community assistance may, subject to paragraph 4, also extend to:

- adjacent areas satisfying criteria (a), (b) and (c) as well as areas satisfying criteria (a), (b) and (c) that are adjacent to an Objective 1 region,
- urban communities with an unemployment rate at least 50 % above the Community average which have recorded a substantial fall in industrial employment,
- areas which have recorded substantial job losses over the last three years or are experiencing or are threatened with such losses in industrial sectors of decisive importance for their economic development, including those losses brought about

by industrial changes and changes in production systems, with a consequent serious worsening of unemployment in those areas,

- areas especially urban areas, with severe problems linked to the regeneration of derelict industrial sites,
- other industrial or urban areas where the socio-economic impact of the restructuring of the fisheries sector, assessed on the basis of objective criteria, justifies such assistance.

In implementing the criteria defined above, the Commission will take account of how the national situations with respect to unemployment rate, industrialization rate and industrial decline compare with the Community average.

For the application of these criteria, Member States may also take as a reference basis the specific realities influencing the actual activity rate or employment rate of the population.

3. As soon as this Regulation has entered into force, and after considering the Community information relating to the provisions referred to in paragraph 2, the Member States concerned shall propose to the Commission on the basis of the provisions of the said paragraph and taking account of the concentration principle, the list of areas which in their view should benefit from assistance under Objective 2, and provide the Commission with all useful information to this end.

On the basis of this information and its overall assessment of the proposals submitted, taking into account the national priorities and situations, the Commission shall, in close consultation with the Member State concerned in accordance with the procedure provided for in Article 17, establish an initial list for three years of the areas referred to in paragraph 1. The Commission shall inform the European Parliament of that list.

4. In establishing that list and in defining the Community support framework referred to in paragraph 9, the Commission and the Member States shall seek to ensure that assistance is genuinely concentrated on the areas most seriously affected, at the most appropriate geographical level, taking into account the particular situation of the areas concerned. Member States shall supply to the Commission all information which might be of assistance to it in this task.

5. West Berlin shall be eligible for aid under this Objective for the first three-year period referred to in paragraph 6.

6. The list of eligible areas shall be reviewed by the Commission periodically in close consultation with

the Member State concerned. However, the assistance granted by the Community in respect of Objective 2 in the various areas listed shall be planned and implemented on a three-yearly basis.

7. Three years after the entry into force of the list referred to in paragraph 3, the criteria laid down in paragraph 2 may be altered by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

8. The Member States concerned shall submit their regional and social conversion plans to the Commission. Those plans shall include:

- a description of the current situation, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of Community structural assistance received and with regard to the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the conversion priorities selected for the areas concerned, quantifying the progress anticipated, where it lends itself to quantification, a prior appraisal of the expected impact, including that on jobs, of corresponding operations with a view to ensuring that they yield medium-term economic and social benefits in keeping with the resources deployed,
- an appraisal of the environmental situation of the area concerned and an evaluation of the environmental impact of the strategy and operations referred to above in terms of sustainable development in agreement with the provisions of Community law in force; the arrangements made to associate the competent environmental authorities designated by the Member State in the preparation and implementation of the operations envisaged in the plan and to ensure compliance with Community environmental rules,
- an indication of the planned use of assistance available under the Funds, from the EIB and the other financial instruments in implementing the plan.

9. The Commission shall examine the proposed plans to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. On the basis of these plans, it shall establish, through the partnership defined in Article 4 (1) and in agreement with the Member State concerned, the Community conversion support framework for Community structural operations, in accordance with the procedures referred to in Article 17.

The Community support framework shall cover in particular:

- the conversion objectives, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support framework may, if necessary, be revised and adjusted through the partnership defined in Article 4 (1), on the initiative of the Member State concerned or of the Commission in agreement with the Member State, in the light of relevant new information and of the results obtained during implementation of the operations concerned including, in particular, the results of monitoring and evaluation.

10. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

#### Article 10

#### Objectives 3 and 4

##### 1. Objective 3

The Member States shall submit to the Commission plans for operations to combat long-term unemployment and to facilitate the integration into working life of young people and of persons exposed to exclusion from the labour market (Objective 3).

The plans shall include:

- a description of the current situation, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of Community structural assistance received and with regard to the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the priorities selected for the implementation of Objective No 3, quantifying the progress anticipated where this lends itself to quantification; a prior appraisal of the expected impact, including that on jobs, of the operations involved in order to show that they yield medium-term social and economic benefits in keeping with the financial resources deployed,
- an indication of the use to be made of assistance available under the ESF — where appropriate, in

conjunction with assistance from other existing Community financial instruments — in implementing the plan.

The Commission shall establish, for each Member State and for the individual plans submitted to it, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community support framework for the attainment of Objective 3, in accordance with the procedures set out in Article 17.

##### 2. Objective 4

The Member States shall submit to the Commission plans for operations designed to facilitate the adaptation of workers of either sex to industrial change and to changes in production systems (Objective 4).

These plans shall include:

- a description of the current situation and of likely changes in jobs and occupations, stressing needs in terms of initial and further vocational training, taking account of the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the priorities selected for the attainment of Objective 4, quantifying the progress anticipated where it lends itself to quantification, prior appraisal of the expected impact, including that on jobs, of the operations involved with a view to ensuring that the medium-term social and economic benefits are in keeping with the financial resources deployed,
- measures adopted to involve the competent authorities and bodies designated by the Member State at the appropriate levels in the preparation and implementation of operations featuring in the plan,
- an indication of the use to be made of assistance available under the ESF — where appropriate, in conjunction with assistance from the EIB or other existing Community financial instruments — in implementing the plan.

The Commission shall establish, for each Member State and for the individual plans submitted to it, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community support framework for the attainment of Objective 4, in accordance with the procedures set out in Article 17.

##### 3. Common provisions

3.1. The plans shall distinguish between the information relating to regions covered by

Objective 1 and the rest of the territory. The information relating to Objective 1 regions may also be included in the regional development plans referred to in Article 8 (4).

3.2. For the presentation of the plans relating to Objectives 3 and 4, the Member States may also use as a reference basis the specific realities influencing the actual activity rate or employment rate of the population.

3.3. The Commission shall examine the proposed plans to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. The Commission shall draw up the Community support frameworks in agreement with the Member State concerned.

Each Community support framework shall cover in particular:

- the objectives planned, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation, and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support framework may, if necessary, be revised and adjusted through the partnership defined in Article 4 (1) on the initiative of the Member State or of the Commission in agreement with the Member State in the light of relevant new information and of the results obtained during implementation of the operations concerned including, in particular, of the results of monitoring and evaluation.

3.4. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

#### Article 11

##### Objective 5 (a)

The arrangements for the implementation of operations connected with the adaptation of agricultural and fisheries structures (Objective 5 (a)) shall be decided within the framework of the provisions referred to in Article 3 (4) and (5).

#### Article 11a

##### Objective 5 (b)

1. The rural areas outside Objective 1 regions that may receive Community assistance under Objective 5 (b) are those which have a low level of socio-economic development assessed on the basis of GDP per inhabitant and also satisfy at least two of the following three criteria:

- (a) high share of agricultural employment in total employment;
- (b) low level of agricultural income, in particular as expressed in terms of agricultural value added per agricultural work unit (AWU);
- (c) low population density and/or a significant depopulation trend.

Assessment of the eligibility of areas according to the above criteria shall take into account socio-economic parameters which indicate the seriousness of the general situation in the areas concerned, and how it is developing.

2. The Community assistance may also be extended to other rural areas with low levels of socio-economic development that are outside Objective 1 regions if they meet one or more of the following criteria:

- the peripheral nature of areas or islands in relation to major centres of economic and commercial activity in the Community,
- the sensitivity of the area to developments in agriculture, especially in the framework of the reform of the common agricultural policy, assessed on the basis of the trend in agricultural incomes and the size of the agricultural labour force;
- the structure of agricultural holdings and the age structure of the gainfully employed agricultural labour force,
- the pressures exerted on the environment and on the countryside,
- the situation of areas within mountain or less-favoured areas classified pursuant to Article 3 of Directive 75/268/EEC (\*),
- the socio-economic impact on the area, as measured by objective criteria, of the restructuring of the fisheries sector.

3. As soon as this Regulation has entered into force, and after considering the Community information relating to the provisions referred to in

paragraphs 1 and 2, the Member States concerned shall propose to the Commission, on the basis of the provisions of the said paragraphs and taking account of the concentration principle, the list of areas which in their view should benefit from assistance under Objective 5 (b), and provide the Commission with all useful information to this end.

On the basis of this information and its overall assessment of the proposals submitted, taking into account the national priorities and situations, the Commission shall, in close consultation with the Member State concerned and in accordance with the procedure laid down in Article 17, establish the list of eligible areas. The Commission shall inform the European Parliament of this list.

4. In selecting rural areas and in programming assistance from the Funds, the Commission and the Member States shall take care to ensure that assistance is effectively concentrated on areas suffering from the most serious rural development problems. Member States shall supply to the Commission all information which might be of assistance to it in this task.

5. The Member States concerned shall submit their rural development plans to the Commission. Those plans shall include:

- a description of the current situation, the financial resources deployed and the main results of operations undertaken in the previous programming period, in the context of the Community structural assistance received and taking account of the evaluation results available,
- a description of an appropriate strategy to achieve the objectives listed in Article 1 and the rural development priorities selected for the areas concerned, specific objectives, quantified, where they lend themselves to quantification, a prior appraisal of the expected impact, including that on jobs, of corresponding operations with a view to ensuring that they yield medium-term economic and social benefits in keeping with the resources deployed,
- an assessment of the environmental situation of the region concerned and an evaluation of the environmental impact of the strategy and operations referred to above in accordance with the principles of sustainable development in agreement with the provisions of Community law in force; the arrangements made to associate the competent environmental authorities designed by the Member State in the preparation and implementation of the operations foreseen in the plan and to ensure compliance with Community rules concerning the environment,

- an indication of the planned use of assistance available under the Funds, from the EIB and the other financial instruments in implementing the plan,
- any link with the consequences of reform of the common agricultural policy and the common fisheries policy.

6. The Commission shall examine the proposed plans to determine whether they are consistent with the objectives of this Regulation and with the provisions and policies referred to in Articles 6 and 7. It shall establish, on the basis of those plans, through the partnership referred to in Article 4 (1) and in agreement with the Member State concerned, the Community rural development support framework for Community structural assistance in accordance with the procedures referred to in Article 17.

The Community support framework shall cover in particular:

- the rural development objectives, quantified where they lend themselves to quantification, the progress to be achieved during the period concerned compared with the current situation, and the priorities adopted for Community assistance; procedures for the appraisal, monitoring and evaluation of operations to be undertaken,
- the forms of assistance,
- the indicative financing plan, with details of the amount of assistance and its source,
- the duration of the assistance.

The Community support frameworks may, if necessary, be revised and adjusted, through the partnership provided for in Article 4 (1), on the initiative of the Member State concerned or of the Commission in agreement with the Member State in the light of relevant new information and of the results obtained during implementation of the operations concerned, including in particular the results of monitoring and evaluation.

The Community support frameworks under Objective 5 (b) may repeat for information the details of the operations concerning the adjustment of agricultural structures under Objective 5 (a) to be implemented in the areas eligible under Objective 5 (b).

7. The arrangements for the implementation of this Article shall be specified in the provisions referred to in Article 3 (4) and (5).

(\*) OJ No L 128, 19. 5. 1975, p. 1. Directive as last amended by Directive 82/786/EEC (OJ No L 327, 24. 11. 1982, p. 19).



## IV. FINANCIAL PROVISIONS

## Article 12

## Resources and concentration

1. The resources available for commitment from the Structural Funds in the FIGF shall be ECU 141 471 million at 1992 prices for the period 1994 to 1999.

The annual breakdown of these resources is shown in Annex II.

2. A considerable proportion of budgetary resources shall be concentrated on the regions whose development is lagging behind which are covered by Objective 1.

The resources available for commitment for these regions shall be ECU 96 346 million at 1992 prices for the period 1994 to 1999.

The annual breakdown of these resources is shown in Annex II.

All operations under Objectives 1 to 5 to assist the regions covered by Objective 1 shall be taken into account for this purpose.

3. For the four Member States eligible for the cohesion financial instrument, the increase in commitment appropriations for the Structural Funds must permit a doubling of commitments in real terms under Objective 1 and the cohesion financial instrument between 1992 and 1999.

4. The Commission shall, using transparent procedures, make indicative allocations by Member State for each of the Objectives 1 to 4 and 5 (b) of the Structural Fund commitment appropriations taking full account, as previously, of the following objective criteria: national prosperity, regional prosperity, population of the regions, and the relative severity of structural problems, including the level of unemployment and, for the appropriate Objectives, the needs of rural development. These criteria will be appropriately weighted in the allocation of resources.

In addition, Objective 5 (a) except for those fields covered by Objective 1 shall receive an allocation based principally on continuity related to the degree of utilization of resources during the preceding programming period and on the specific structural needs of agriculture and fisheries as they are perceived.

5. For the period referred to in paragraph 1, 9 % of the commitment appropriations for the Structural Funds shall be devoted to funding assistance undertaken on the initiative of the Commission in accordance with Article 5 (5).

6. For the purpose of their inclusion in the general budget of the European Communities, the sums indicated in paragraphs 1 and 2 and in Annex II shall be amended before each annual budgetary procedure to reflect price changes in the Community.

## Article 13

## Differentiation of rates of assistance

1. The Community contribution to the financing of operations shall be differentiated in the light of the following:

- the gravity of the specific, in particular regional or social, problems to be tackled by the operations,
- the financial capacity of the Member State concerned, taking into account in particular the relative prosperity of the State and the need to avoid excessive increases in budgetary expenditure,
- the special importance attaching to measures from the Community viewpoint,
- the special importance attaching to measures from the regional and national viewpoint,
- the particular characteristics of the types of measure proposed.

2. Such differentiation shall take account of the planned link between the grants and loans deployed, as referred to in Article 5 (4).

3. The Community contribution granted by the Funds and the FIGF in respect of the various objectives listed in Article 1 shall be subject to the following ceilings:

- a maximum of 75 % of the total cost and, as a general rule, at least 50 % of public expenditure in the case of measures carried out in the regions eligible for assistance under Objective 1. Where the regions are located in a Member State concerned by the cohesion financial instrument, the Community contribution may, in exceptional and duly justified cases, rise to a maximum of 80 % of the total cost and to a maximum of 85 % of the total cost for the outermost regions, as well as for the outlying Greek islands which are under a handicap as far as distance is concerned,
- a maximum of 50 % of the total cost and, as a general rule, at least 25 % of public expenditure in the case of measures carried out in the other regions.

The minimum rates of assistance laid down in the first subparagraph shall not apply to revenue-bearing investment.

4. For the preparatory studies and technical assistance measures undertaken on the initiative of the Commission, financing by the Community may in exceptional and duly justified cases amount to 100 % of total cost.

5. The arrangements for the implementation of this Article, including those concerning public funding of the operations concerned, and the rates applied to revenue-bearing investment, shall be laid down in the provisions referred to in Article 3 (4) and (5).

## V. OTHER PROVISIONS

### Article 14

#### Combination and overlapping of assistance

1. For any given period, an individual measure or operation may benefit from assistance from only one Structural Fund or the FIGF at a time.
2. An individual measure or operation may benefit from assistance from a Structural Fund or other financial instrument in respect of only one of the Objectives listed in Article 1 at a time, unless otherwise permitted by the provisions referred to in Article 3 (4) and (5).
3. Any territory may be eligible for assistance under only one of Objectives 1, 2 or 5 (b).

### Article 15

#### Transitional provisions

1. This Regulation shall not affect multiannual operations, including the adjustment of Community support frameworks and forms of assistance, approved by the Council or by the Commission on the basis of the existing rules governing the Structural Funds applying before the entry into force of this Regulation.
2. Applications for assistance from the Structural Funds towards operations which are submitted under the provisions applying before the entry into force of this Regulation shall be considered and approved by the Commission on the basis of those provisions.
3. The provisions referred to in Article 3 (4) and (5) shall lay down specific transitional provisions relating to the implementation of this Article, including provisions to ensure that aid to Member States is not interrupted pending the establishment of the plans and operational programmes in accordance with the new system and that the grant of assistance for projects granted assistance before 1 January 1989

shall be finally concluded no later than 30 September 1995.

### Article 16

#### Reports

Within the framework of Articles 130a and 130b of the Treaty, before 1 November of each year the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Regulation during the preceding year.

In that report, the Commission shall in particular indicate what progress has been made towards achieving the objectives listed in Article 1 and in concentrating assistance within the meaning of Article 12.

The Commission shall submit a report at three-yearly intervals to the European Parliament, the Council and the Economic and Social Committee on the progress made towards economic and social cohesion and the contribution thereto made by the Funds, the FIGF, the cohesion financial instrument, the EIB and the other financial instruments. That report shall, if necessary, be accompanied by appropriate proposals with regard to Community operations and policies affecting economic and social cohesion. The first such report shall be drawn up no later than 31 December 1996.

### Article 17

#### Committees

1. In implementing this Regulation, the Commission shall be assisted by four committees dealing respectively with:

- Objectives 1 and 2:  
advisory committee composed of representatives of the Member States,
- Objectives 3 and 4:  
committee under Article 124 of the Treaty,
- Objective 5 (a):
  - management committee composed of representatives of the Member States (adjustment of agricultural structures),
  - management committee composed of representatives of the Member States (adjustment of fisheries structures),
- Objective 5 (b):  
management committee referred to under Objective 5 (a) first sub-indent.

2. In implementing assistance undertaken on its own initiative in accordance with Article 5 (5), last subparagraph, the Commission shall be assisted by a

management committee composed of representatives of the Member States.

3. Provisions setting out the arrangements for the operation of the committees referred to in paragraph 1 and measures concerning the tasks of those committees in the framework of management of the Funds shall be adopted in accordance with Article 3 (4) and (5), and the last subparagraph of Article 3a.

#### VI. FINAL PROVISIONS

##### *Article 18*

##### **Implementation**

The Commission shall be responsible for the implementation of this Regulation.

##### *Article 19*

##### **Review clause**

On a proposal from the Commission, the Council shall re-examine this Regulation before 31 December 1999.

It shall act on the proposal in accordance with the procedure laid down in Article 130d of the Treaty.'

##### *Article 2*

##### **Entry into force**

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

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

Done at Brussels, 20 July 1993.

*For the Council*

*The President*

W. CLAES

## ANNEX I

## Regions concerned by Objective 1

BELGIUM:	Hainaut
GERMANY:	Brandenburg, Mecklenburg-Western Pomerania, east-Berlin, Saxony, Saxony-Anhalt, Thuringia
GREECE:	the entire country
SPAIN:	Andalucía, Asturias, Cantabria, Castilla y León, Castilla-La Mancha, Ceuta y Melilla, Comunidad Valenciana, Extremadura, Galicia, Canary Islands, Murcia
FRANCE:	French overseas departments, Corsica, the 'arrondissements' of Avesnes, Douai and Valenciennes
IRELAND:	the entire country
ITALY:	Abruzzi (1994 to 1996), Basilicata, Calabria, Campania, Molise, Apulia, Sardinia, Sicily
NETHERLANDS:	Flevoland
PORTUGAL:	the entire country
UNITED KINGDOM:	Highlands and Islands Enterprise area, Merseyside, Northern Ireland

## ANNEX II

## Commitment appropriations for the period 1994 to 1999

(ECU million at 1992 prices)

	1994	1995	1996	1997	1998	1999	1994 to 1999
Structural Funds and FIGG	20 135	21 480	22 740	24 026	25 690	27 400	141 471
of which: Objective 1 regions	13 220	14 300	15 330	16 396	17 820	19 280	96 346

## COUNCIL REGULATION (EEC) No 2082/93

of 20 July 1993

amending Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 130e and 153 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Regulation (EEC) No 2081/93 <sup>(4)</sup> amends Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(5)</sup>; whereas Regulation (EEC) No 4253/88 should therefore be amended <sup>(6)</sup>;

Whereas, under Article 3a of Regulation (EEC) No 2052/88, the provisions of that Regulation governing the Structural Funds and the provisions necessary for the coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank (EIB) and the other existing financial instruments apply to the financial instrument for fisheries guidance (FIFG);

Whereas the coordination provided for in Regulation (EEC) No 4253/88 should therefore be extended to the FIFG and to the cohesion financial instrument; whereas coordination through the Communities' budgetary resources can also concern the measures accompanying the reform of the common agricultural policy (CAP), the framework programmes for research and technological development, the trans-European networks and the economic restructuring of the countries of central and eastern Europe; whereas the economic and social effectiveness of Community action depends on coherence,

particularly with the framework programmes for research and technological development and education and training programmes;

Whereas the Member States should submit their development plans as soon as possible in order not to delay the implementation of structural assistance from 1 January 1994;

Whereas, in order to simplify and speed up programming procedures, there should be provision for the Commission to adopt simultaneously the Community support frameworks and the forms of assistance submitted largely in the form of a limited number of operational programmes at the same time as development plans; whereas for the same reason there should be provision for the plan and the application for assistance to be presented in a single document and for the Community support framework to be adopted and assistance granted through a single Commission decision;

Whereas, in application of the principle of subsidiarity, and without prejudice to the Commission's powers, particularly its responsibility for the management of the Community's financial resources, implementation of the forms of assistance contained in the Community support frameworks should be primarily the responsibility of the Member States at the appropriate territorial level according to the specific needs of each Member State;

Whereas the principle of additionality and the criteria and procedures for its verification should be defined;

Whereas measures of major importance to the Community undertaken at the initiative of the Commission have an important role to play in achieving the general objectives of Community structural action referred to in Article 1 of Regulation (EEC) No 2052/88; whereas such initiatives should primarily promote cross-frontier, transnational and inter-regional cooperation and aid to the outermost regions, in accordance with the principle of subsidiarity;

Whereas, in order to increase the flexibility of Community structural assistance, there should be provision for assistance undertaken at the initiative of the Commission in the context of Objectives 1, 2 and 5 (b) to concern exceptionally areas other than those eligible under those Objectives; whereas the question of

<sup>(1)</sup> OJ No C 118, 28. 4. 1993, p. 33.

<sup>(2)</sup> Opinion delivered on 22 June 1993 (not yet published in the Official Journal) and Decision of 14 July 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 201, 26. 7. 1993, p. 52.

<sup>(4)</sup> See page 5 of this Official Journal.

<sup>(5)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(6)</sup> OJ No L 374, 31. 12. 1988, p. 1.

cross-frontier cooperation with Community priority regions may also be addressed by the Phare programme, taking account of complementary support under the Community Structural Funds;

Whereas, in order to minimize delays in financial flows, the time allowed for the Commission to pay financial assistance to the Member State and for the Member State to pay that assistance to the final beneficiaries should be laid down, so that the funds are available to the final beneficiaries in good time for them to carry out their measures;

Whereas the role and powers of the monitoring committees should be laid down;

Whereas there should be greater transparency in the implementation of structural assistance; whereas, to that end, care should be taken to ensure compliance with Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment<sup>(1)</sup>; whereas it is appropriate that projects benefiting from Community assistance should be specified when published in a notice in the *Official Journal of the European Communities* under the rules relating to the award of public contracts;

Whereas appraisal and evaluation are the responsibility both of the Member States and of the Commission in the framework of partnership; whereas, in addition, to enhance the effectiveness and financial viability of Community assistance, *ex ante* appraisal, monitoring and *ex post* evaluation should be strengthened;

Whereas it is appropriate to lay down the detailed transitional provisions including provisions to ensure that aid to Member States is not interrupted pending the establishment of the plans and operational programmes in accordance with the new system,

HAS ADOPTED THIS REGULATION:

#### Article 1

Articles 1 to 33 of Regulation (EEC) No 4253/88 shall be replaced by the following:

### 1. COORDINATION

#### Article 1

##### General provisions

Pursuant to Regulation (EEC) No 2052/88, the Commission shall, in a manner consistent with

partnership, ensure coordination of the activities of the different Funds and the FIFG as between themselves and with the operations of the EIB and the other existing financial instruments.

#### Article 2

##### Coordination between the Funds and the FIFG

Coordination between the activities of the various Funds and the FIFG shall be carried out in particular through:

- Community support frameworks,
- multiannual budget forecasts,
- where advisable, the implementation of integrated forms of assistance,
- prior appraisal, monitoring and *ex post* evaluation of operations under the Funds carried out in connection with a single objective and of those carried out in connection with a number of objectives in the same territory.

#### Article 3

##### Coordination between the Funds, the EIB and the other existing financial instruments

1. In implementing the objectives referred to in Article 1 of Regulation (EEC) No 2052/88, the Commission shall ensure, within the framework of the partnership, coordination and consistency between assistance from the Funds and assistance provided:

- by the European Coal and Steel Community (ECSC) in the form of re-adaptation aids, loans, interest subsidies or guarantees,
- by the EIB, the New Community Instrument and the European Atomic Energy Community (Euratom) in the form of loans and guarantees,
- from resources from the Community budget allocated in particular:
  - to other actions for structural purposes,
  - to the cohesion financial instrument.

Such coordination shall be carried out in keeping with the EIB's own powers and responsibilities and with the objectives of the other instruments concerned.

2. The Commission shall associate the EIB in the use of the Funds or the other existing financial instruments with a view to the part-financing of investments that are eligible for financing by the EIB in accordance with its Statute.

#### Article 4

[ ]

<sup>(1)</sup> OJ No L 158, 23. 6. 1990, p. 56.

## II. PLANS

### Article 5

#### Scope and content

1. Subject to the guidelines laid down in this Article, plans submitted in connection with Objectives 1 to 4 and 5 (b) shall be drawn up at the geographical level deemed to be most appropriate. They shall be prepared by the competent national, regional or other authorities designated by the Member State and shall be submitted by the Member State to the Commission.

Plans submitted in connection with Objective 1 shall, as a general rule, cover one region at NUTS (Nomenclature of Territorial Units for Statistics) level II. However, in implementation of the second subparagraph of Article 8 (4) of Regulation (EEC) No 2052/88, Member States may submit a plan for more than one of their regions included in the list referred to in paragraph 2 of that Article, provided that such plans comprise the features listed in the first subparagraph of the said paragraph 4.

Plans submitted in connection with Objectives 2 and 5 (b) shall normally cover one or more regions at NUTS level III.

Member States may submit plans covering a wider territory than that of eligible regions or areas, provided that they distinguish between measures in eligible regions or areas and measures elsewhere.

2. For regions concerned by Objective 1, the regional development plans shall include measures to the conversion of declining industrial areas and rural development, the adaptation of agricultural and fisheries structures, together with employment and vocational training measures under Objective 1 and, where appropriate, those in connection with Objectives 3 and 4.

Regional and social conversion plans submitted in connection with Objective 2 and rural development plans submitted in connection with Objective 5 (b) shall also include employment and vocational training measures other than those covered by plans submitted in connection with Objectives 3 and 4.

Plans submitted in connection with Objectives 3 and 4 shall distinguish between expenditure in respect of the regions covered by Objectives 1 and, if possible, 2 and 5 (b) and expenditure in respect of other regions.

In the plans, Member States shall indicate the particulars relating to each Fund, including the volumes of assistance requested. In order to expedite the examination of applications and the implementation of action, they may include in their

plans, applications for assistance for operational programmes and other forms of assistance.

Member States may submit in a single programming document the information required for each of the plans and referred to in Articles 8 to 10 and 11a of Regulation (EEC) No 2052/88 and the information required pursuant to Article 14 (2).

3. Member States shall ensure, when the plans are drawn up, that plans relating to the same geographical area are mutually consistent.

4. Member States shall ensure that the plans take account of Community policies.

### Article 6

#### Duration and timetable

Each plan shall as a general rule cover a period of three or six years. The first programming period shall begin on 1 January 1994. As a general rule, the plans may be revised on an annual basis and in the event of significant changes in the socio-economic situation and the labour market.

Unless otherwise agreed with the Member State concerned, plans in respect of Objectives 1, 3 and 4 shall be submitted not later than three months after the entry into force of this Regulation. Plans in respect of Objectives 2 and 5 (b) shall be submitted not later than three months after the establishment of the list of eligible areas under the objectives concerned.

### Article 7

#### Preparation

1. The Commission may provide Member State at their request with any technical assistance necessary in the preparation of plans.

2. The plans shall contain information making it possible to assess the link between structural action and the Member State's economic, social and where appropriate, regional policies.

## III. COMMUNITY SUPPORT FRAMEWORKS

### Article 8

#### Preparation, scope and content

1. The Community support frameworks relating to Objectives 1 to 4 and 5 (b) shall be drawn up on the

basis of the plans in agreement with the Member State concerned within the framework of the partnership and shall be established by decision of the Commission in accordance with the procedures laid down in Title VIII. The EIB shall also be involved in the preparation of the Community support frameworks.

2. A Community support framework shall cover a period of three or six years.

3. Each Community support framework shall include:

- a statement of the priorities for joint Community and national action in relation to the objectives referred to under Article 1 of Regulation (EEC) No 2052/88, their specific objectives, quantified where they lend themselves to quantification, an appraisal of the expected impact, including with regard to employment, together with information on their consistency with the economic, social and, where appropriate, regional policies of the Member State concerned,
- an outline of the assistance which is not decided at the same time as the Community support framework including, for operational programmes, their specific objectives and the main types of measure involved,
- an indicative financing plan specifying the financial allocations envisaged for the various forms of assistance and the duration thereof, including those of the Funds, the EIB and the other existing financial instruments provided for in Article 3 (1), where they contribute directly to the financing plan concerned,
- the procedures for monitoring and evaluation,
- the procedures for verifying additionality and an initial evaluation of the latter; appropriate information concerning the transparency of the relevant financial flows, in particular from the Member State concerned to the recipient regions,
- for Objectives 1, 2 and 5 (b), the arrangements for associating the environmental authorities designated by the Member States in the implementation of the Community support framework,
- where appropriate, information on the means available for any studies or necessary technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned.

#### Article 9

##### Additionality

1. In order to achieve a genuine economic impact, the Structural Funds and the FIFG appropriations

allocated in each Member State to each of the objectives under Article 1 of Regulation (EEC) No 2052/88 may not replace public expenditure on structural or comparable expenditure undertaken by the Member State in the whole of the territory eligible under an objective.

2. For this purpose, in establishing and implementing the Community support frameworks, the Commission and the Member State concerned shall ensure that the Member State maintains, in the whole of the territory concerned, its public structural or comparable expenditure at least at the same level as in the previous programming period, taking into account, however, the macroeconomic circumstances in which the funding takes place, as well as a number of specific economic circumstances, namely privatizations, an unusual level of public structural expenditure undertaken in the previous programming period and business cycles in the national economy.

The Commission and the Member States shall also agree, in establishing the Community support frameworks, the arrangements for verifying additionality.

3. To permit verification of the principle of additionality, the Member State shall provide the relevant financial information to the Commission at the time of the submission of the plans and regularly during the implementation of the Community support frameworks.

#### Article 10

##### Approval and implementation

1. Unless otherwise agreed with the Member State concerned, the Commission shall take a decision approving the Community support framework not later than six months after receiving the relevant plan or plans.

When adopting its decision on the Community support framework, the Commission shall also approve, in accordance with Article 14 (3), applications for assistance submitted at the same time as the plans in so far as they include the information requested under Article 14 (2).

If the Member State submits a single programming document containing all the information referred to in the last subparagraph of Article 5 (2), the Commission shall adopt a single decision in a single document covering the points referred to in Article 8 (3) and the assistance from the Funds referred to in the last subparagraph of Article 14 (3).

2. The Commission decision on the Community support framework shall be sent as a declaration of



intent to the Member State. The decision shall be published in the *Official Journal of the European Communities*. At the request of the European Parliament, the Commission shall transmit to it this decision and the Community support framework which it approves, for information.

The Commission and the Member States shall ensure that measures accounting for at least two-thirds of assistance from the Funds during the first year of the Community support framework are approved by the Commission within two months of adoption of its decision on the Community support framework.

#### Article 11

##### Community initiatives

1. In accordance with Article 5 (5) of Regulation (EEC) No 2052/88, the Commission may, on its own initiative and in accordance with the procedures provided for in Title VIII, and after having informed the European Parliament accordingly, decide to propose to the Member States that they submit applications for assistance in respect of measures of significant interest to the Community. Any assistance approved pursuant to this provision shall be reflected in the establishment or revision of the relevant Community support framework.

For operations of transnational interest, pursuant to the previous subparagraph, two or more Member States may, on their own initiative or at the invitation of the Commission, submit a single application for assistance. In response to these applications the Commission may, in consultation with the Member States concerned, take a single decision granting aid for all these Member States.

2. For a limited part of the appropriations available, the forms of assistance approved under paragraph 1 in the context of the priority Objectives 1, 2 and 5 (b) may cover areas other than those under Articles 8, 9 and 11a of Regulation (EEC) No 2052/88.

#### Article 12

##### Forms of assistance

Assistance covered by a Community support framework shall be provided predominantly in the form of a limited number of operational programmes.

#### Article 13

##### Integrated approach

1. At the initiative of a Member State, or of the Commission pursuant to Article 11 and in agreement

with the Member State concerned, assistance shall be implemented in the form of an integrated approach if:

- (a) the programme involves financing by more than one Fund or at least one Fund and one financial instrument other than a loan instrument;
- (b) the measures to be financed by different Funds or financial instruments are mutually reinforcing and significant benefits are likely to accrue from close coordination between all the parties involved;
- (c) the appropriate administrative structures are provided at national, regional and local level in the interests of integrated implementation of the assistance.

2. The desirability of implementing measures on the basis of an integrated approach shall be considered at the time a Community support framework is established or revised.

3. In the implementation of integrated approaches, the Commission shall ensure that Community assistance is provided in the most effective manner, taking into account the special coordination effort required.

#### IV. ASSISTANCE FROM THE FUNDS

#### Article 14

##### Processing of applications for assistance

1. Applications for assistance from the Structural Funds and the FIGF, with the exception of the technical assistance measures referred to in Article 5 (2) (e) of Regulation (EEC) No 2052/88 and undertaken at the initiative of the Commission, shall be prepared by the Member State or by the competent national, regional, local or other authorities designated by it and shall be submitted to the Commission by the Member State or by any body it may designate to do so. Each application shall relate mainly to the forms of assistance provided for in Article 5 of that Regulation.

2. Applications shall contain the information the Commission needs in order to assess them where this is not already included in the plans, including a description of the proposed measure, its scope, including geographical coverage, and specific objectives. Applications shall also include the results of prior appraisal of the medium-term economic and social benefits of the proposed measures commensurate with the resources to be deployed, the bodies responsible for implementation, the proposed beneficiaries and the proposed timetable and financing plan, together with any other information necessary to

verify that the measure concerned is compatible with Community legislation and policies.

3. The Commission shall examine applications with a view in particular to:

- assessing the conformity of the proposed operations and measures with the relevant Community legislation and, where appropriate, with the relevant Community support framework,
- assessing the contribution of the proposed operation to the achievement of its specific objectives and, in the case of an operational programme, the consistency of the constituent measures,
- checking that the administrative and financial mechanisms are adequate to ensure effective implementation,
- determining the precise arrangements for providing assistance from the Fund or Funds concerned on the basis, where appropriate, of the information already given in any relevant Community support framework.

The Commission shall decide on assistance from the Funds and the FIGF, provided that the requirements of this Article are fulfilled, as a general rule within six months of receipt of the application. A single Commission decision shall be taken in respect of assistance from all the Funds and other existing financial instruments contributing to the financing of assistance, including assistance established in the form of an integrated approach.

4. The respective commitments of the partners, in the framework of an agreement within the partnership, shall be reflected in the Commission's decisions to grant assistance.

#### Article 15

##### Eligibility

1. Subject to Article 33, expenditure in respect of measures covered by Objectives 1 to 4 and 5 (b) shall be eligible for financial assistance from the Structural Funds only if the measures in question come within the relevant Community support framework.
2. Subject to Article 33, expenditure may not be considered eligible for assistance from the Funds if incurred before the date on which the corresponding application reaches the Commission.

#### Article 16

##### Specific provisions

1. In the case of global grants, the intermediaries who shall be designated by the Member State

concerned in agreement with the Commission must provide appropriate guarantees of solvency and have the necessary administrative capability to manage the operations envisaged by the Commission. The intermediaries shall also be selected in the light of the particular situation in the Member States or areas concerned. Without prejudice to Article 23, the management of global grants shall be subject to control by the competent authorities designated by the Member States.

2. The Funds may provide financial assistance towards expenditure in respect of major projects, i. e. those the total cost of which taken into account in determining the amount of Community assistance is, as a general rule, greater than ECU 25 million for infrastructure investments or greater than ECU 15 million for productive investments.

3. In addition to similar assistance connected with the operations of the various Funds, the Commission may, for up to 0,3 % of the Funds' total allocation, finance studies and technical assistance linked to the joint or coordinated deployment of the Structural Funds, the EIB and the other financial instruments:

- in preparation for the establishment of plans,
- with a view to assessing the impact and effectiveness of assistance provided under the relevant Community support framework,
- in relation to integrated operational programmes.

#### V. DIFFERENTIATION OF COMMUNITY ASSISTANCE

#### Article 17

##### Financial contribution from the Funds

1. Pursuant to Article 13 (5) of Regulation (EEC) No 2052/88, the financial contribution of the Funds to the financing of measures covered by Objectives 1 to 4 and 5 (b) shall be laid down by the Commission, within the framework of the partnership, on the basis of Article 13 (1) of Regulation (EEC) No 2052/88, within the limits laid down by Article 13 (3) of the said Regulation and in accordance with the procedures provided for in that Article.

2. The financial contribution from the Funds shall be calculated in relation to either the total eligible cost of, or the total public or similar eligible expenditure (national, regional or local, and Community) on, each measure (operational programme, aid scheme, global grant, project, technical assistance, study).

3. Where the measure concerned entails the financing of revenue-generating investments, the Commission shall determine, within the framework of the partnership, the contribution from the Funds or these investments, in compliance with the provisions of Article 13 (3) of Regulation (EEC) No 2052/88 and on the basis of the criteria referred to in paragraph 1 of that Article, taking account of, among their intrinsic characteristics, the size of the gross self-financing margin which would normally be expected for the class of investments concerned in the light of the macroeconomic circumstances in which the investments are to be implemented, and without there being any increase in the national budget effort as a result of contribution by the Fund.

In any event, in connection with the development effort in the regions concerned, the contribution from the Funds to investments in enterprises may not exceed 50 % of the total cost in the regions covered by Objective 1 and 30 % of the total cost in the other regions.

4. The contribution of the Funds for individual measures forming part of operational programmes may be differentiated in accordance with agreements to be concluded within the framework of the partnership.

#### Article 18

##### Combination of grants and loans

The combination of loans and grants referred to in Article 5 (4) of Regulation (EEC) No 2052/88 shall be determined in conjunction with the EIB when the Community support framework is being established. It shall take account of the balance in the proposed financing plan, the contribution from the Funds established in accordance with Article 17 and the development objectives pursued.

## VI. FINANCIAL PROVISIONS

#### Article 19

##### General provisions

1. Financial assistance from the Structural Funds shall be subject to the relevant rules applicable to the Funds under the Financial Regulation.
2. The financial assistance to be granted in respect of specific measures undertaken in implementing a Community support framework shall be consistent with the financing plan laid down in that support framework.
3. In order to avoid administrative delays at the end of the year, Member States shall ensure that request for payments are, as far as possible, submitted in accordance with a balanced schedule throughout the year.

#### Article 20

##### Commitments

1. Budgetary commitments shall be made on the basis of the Commission decisions approving the measures concerned. They shall be valid for a period depending on the nature of the measures and on the specific conditions for their implementation.

2. Commitments in respect of measures to be carried out over a period of two or more years shall, as a general rule, and subject to the provisions of paragraph 3, be effected in annual instalments. The commitments in connection with the first annual instalment shall be made when the decision approving the measure is adopted by the Commission.

Commitments in connection with subsequent instalments shall be based on the financing plan for the initial or revised measure concerned and on the progress made in implementing it.

3. For measures to be carried out over a period of less than two years or, subject to available funding, where the Community assistance granted is less than ECU 40 million, the total amount of Community assistance shall be committed when the Commission adopts the decision approving the measure.

#### Article 21

##### Payments

1. Payments of financial assistance shall be made in accordance with the corresponding budgetary commitments to the national, regional or local authority or body designated for the purpose in the application submitted through the Member State concerned as general rule within two months from receipt of an acceptable application. They may take the form either of advances or of final payments in respect of expenditure actually incurred. For measures to be carried out over a period of two or more years payments shall relate to the annual instalments of commitments referred to in Article 20 (2).

2. The advance made following each commitment may be up to 50 % of the amount committed, taking into account the nature of the measure concerned.

3. A second advance such that the sum of the two advances does not exceed 80 % of the commitment shall be made after the responsible body has certified that at least half of the first advance has been used up and that the measure is progressing at a satisfactory rate and in accordance with the objectives laid down.

The payments shall be made to the final beneficiaries without any deduction or retention which could reduce the amount of financial assistance to which they are entitled.

4. Payment of the balance in respect of each commitment shall be conditional on:

- submission to the Commission by the designated authority or body referred to in paragraph 1 of a request for payment within six months of the end of the year concerned or of completion in practice of the operation concerned,
- submission to the Commission of the relevant reports referred to in Article 25 (4),
- transmission by the Member State to the Commission of a certificate confirming the information contained in the request for payment and the reports.

5. Member States shall designate the authorities empowered to issue the certificates referred to in paragraphs 3 and 4 and shall ensure that the beneficiaries receive the advances and payments as soon as possible, and as a general rule within three months of receipt of the appropriations by the Member State and provided that the beneficiaries' applications fulfil the conditions necessary for payment to be made.

6. In the case of studies and innovation schemes undertaken on its own initiative, the Commission shall determine the appropriate payment procedures.

## Article 22

### Use of the ecu

Commission decisions, commitments and payments shall be denominated and carried out in ecus in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII.

This Article shall be applicable as soon as the Commission decision referred to in the first subparagraph has been adopted.

## Article 23

### Financial control

1. In order to guarantee completion of operations carried out by public or private promoters, Member States shall take the necessary measures in implementing the operations:

- to verify on a regular basis that operations financed by the Community have been properly carried out,
- to prevent and to take action against irregularities,
- to recover any amounts lost as a result of an irregularity or negligence. Except where the Member State and/or the intermediary and/or the promoter provide proof that they were not responsible for the irregularity or negligence, the Member States shall be liable in the alternative for reimbursement of any sums unduly paid. For global loans, the intermediary may, with the agreement of the Member State and the Commission, take up a bank guarantee or other insurance covering this risk.

Member States shall inform the Commission of the measures taken for those purposes and, in particular, shall notify the Commission of the description of the management and control systems established to ensure the efficient implementation of operations. They shall regularly inform the Commission of the progress of administrative and judicial proceedings.

Member States shall keep and make available to the Commission any appropriate national control reports on the measures included in the programmes or other operations concerned.

As soon as this Regulation enters into force, the Commission shall draw up detailed arrangements for implementation of this paragraph in accordance with the procedures referred to in Title VIII and inform the European Parliament thereof.

2. Without prejudice to checks carried out by Member States, in accordance with national laws, regulations and administrative provisions and without prejudice to the provisions of Article 206 of the Treaty or to any inspection arranged on the basis of Article 209 (c) of the Treaty, Commission officials or servants may carry out on-the-spot checks, including sample checks, in respect of operations financed by the Structural Funds and management and control systems.

Before carrying out an on-the-spot check, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. If the Commission carries out on-the-spot checks without giving notice, it shall be subject to agreements reached in accordance with the provisions of the Financial Regulation within the framework of the partnership. Officials or servants of the Member State concerned may take part in such checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the regularity of payment requests. Commission

officials or servants may take part in such checks and must do so if the Member State concerned so requests.

The Commission shall ensure that any checks that it carries out are performed in a coordinated manner so as to avoid repeating checks in respect of the same subject matter during the same period. The Member State concerned and the Commission shall immediately exchange any relevant information concerning the results of the checks carried out.

3. For a period of three years following the last payment in respect of any operation, the responsible body and authorities shall keep available for the Commission all the supporting documents regarding expenditure and checks on the operation.

#### Article 24

##### Reduction, suspension and cancellation of assistance

1. If an operation or measure appears to justify neither part nor the whole of the assistance allocated, the Commission shall conduct a suitable examination of the case in the framework of the partnership, in particular requesting that the Member State or authorities designated by it to implement the operation submit their comments within a specified period of time.

2. Following this examination, the Commission may reduce or suspend assistance in respect of the operation or a measure concerned if the examination reveals an irregularity or a significant change affecting the nature or conditions for the implementation of the operation or measure for which the Commission's approval has not been sought.

3. Any sum received unduly and to be recovered shall be repaid to the Commission. Interest on account of late payment shall be charged on sums not repaid in compliance with the provisions of the Financial Regulation and in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII.

## VII. MONITORING AND EVALUATION

#### Article 25

##### Monitoring

1. Within the framework of the partnership, the Commission and the Member States shall ensure effective monitoring of implementation of assistance from the Funds, geared to the Community support framework and specific operations (programmes, etc.). Such monitoring shall be carried out by way of jointly agreed reporting procedures, sample checks and the establishment of monitoring committees.

2. Monitoring shall be carried out by reference to physical and financial indicators specified in the Commission decision approving the operation concerned. The indicators shall relate to the specific character of the operation, its objectives and the form of assistance provided and to the socio-economic and structural situation of the Member State in which the assistance is to be utilized. They shall be arranged in such a way as to show, for the operations in question:

- the stage reached in the operation and the goals to be attained within a given timespan,
- the progress achieved on the management side and any related problems.

3. Monitoring committees shall be set up within the framework of the partnership, by agreement between the Member State concerned and the Commission.

The Commission and, where appropriate, the EIB may delegate representative to those committees.

4. For each multiannual operation, the authority designated for the purpose by the Member State shall submit progress reports to the Commission within six months of the end of each full year of implementation. A final report shall be submitted to the Commission within six months of completion of the operation.

For each operation to be implemented over a period of less than two years, the authority designated for the purpose by the Member State shall submit a report to the Commission within six months of completion of the operation.

5. The monitoring committee shall, if necessary, without modifying the total amount of the Community contribution and within harmonized limits by Objective, adjust the procedure for granting assistance as initially approved, as well as, in conformity with available resources and budgetary rules, the financing plan envisaged, including any transfers between Community sources of finance and the consequential adjustments of the rates of assistance. The harmonized limits by Objective referred to above shall be established by the Commission according to the procedure referred to in Title VIII and included in the Community support frameworks.

These amendments shall be notified immediately to the Commission and the Member State concerned. They shall become effective as soon as confirmation has been provided by the Commission and the Member State concerned; such confirmation shall be

given within a period of 20 working days from receipt of this notification, the date of which will be confirmed by the Commission by acknowledgement of receipt.

Other amendments required shall be decided by the Commission, in collaboration with the Member State concerned, after the monitoring committee has delivered its opinion.

6. For the greater effectiveness of the Funds, the Commission shall ensure that particular attention is paid to transparency of management in its administration of them.

For this purpose, in the context of the application of Community rules on the award of public contracts, notices sent for publication in the *Official Journal of the European Communities* shall specify those projects for which Community assistance has been applied for or granted.

7. Wherever this Regulation or the Regulations referred to in Article 3 (4) and in Article 3a of Regulation (EEC) No 2052/88 provide for the Commission to determine detailed arrangements for implementation, the precise details which are adopted shall be notified to the Member States and published in the *Official Journal of the European Communities*.

#### Article 26

##### Appraisal and evaluation

1. Appraisal and evaluation shall be the responsibility both of the Member States and the Commission and be carried out within the framework of the partnership. The competent authorities in the Member States shall contribute in such a way as to ensure that this appraisal and evaluation can be carried out in the most effective manner. In this connection, appraisal and evaluation shall make use of the various particulars that the monitoring arrangements can yield in order to gauge the socio-economic impact of the operations, where appropriate in close association with the monitoring committees.

Assistance will be allocated where appraisal shows medium-term economic and social benefits commensurate with the resources deployed.

2. In order to ensure the effectiveness of Community assistance, measures taken for structural purposes shall be subject to appraisal, monitoring and, after their implementation, evaluation. Effectiveness shall be measured at three levels:

- their overall impact on the objectives set out in Article 130a of the Treaty, and in particular the strengthening of the economic and social cohesion of the Community,

- the impact of measures proposed in the plans and undertaken under each Community support framework,

- the impact of individual measures (programmes etc.).

Appraisal and evaluation shall, according to the circumstances, be carried out by contrasting the goals with the results obtained, where applicable, and by reference to macroeconomic and sectoral objectives and indicators based on regional or national statistics, to information yielded by descriptive and analytical studies and to qualitative analyses.

Appraisal and evaluation shall take account of the socio-economic benefits expected or achieved commensurate with the resources deployed, conformity with Community policy and rules as referred to in Article 7 (1) of Regulation (EEC) No 2052/88 and the conditions in which the measures are implemented.

3. In drawing up Community support frameworks and in vetting individual applications for assistance, the Commission shall take into account the findings of appraisals and evaluations made in accordance with this Article.

4. The principles and procedures pertaining to appraisal and evaluation shall be laid down in the Community support framework.

5. The results of the appraisals and evaluations shall be submitted to the European Parliament and the Economic and Social Committee within the framework of the annual report and the three-yearly report provided for in Article 16 of Regulation (EEC) No 2052/88.

#### VIII. COMMITTEES

##### Article 27

##### Advisory Committee on the Development and Conversion of Regions

In accordance with Article 17 of Regulation (EEC) No 2052/88, an Advisory Committee on the Development and Conversion of Regions, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative. The European Parliament shall receive regular information on the outcome of the proceedings of the committee.

The Commission representative shall submit to the committee a draft of the measures to be taken. The

committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, where appropriate by taking a vote.

The opinion shall be recorded in the minutes. In addition, each Member State shall have the right to request that its position be recorded in those 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 it took account of the opinion.

The committee shall deliver opinions on draft Commission decisions concerning the Community support frameworks as provided for in Article 8 (5) and 9 (9) of Regulation (EEC) No 2052/88, on the regular reports provided for in Article 8 of Council Regulation (EEC) No 4254/88<sup>(1)</sup> and on the drawing-up and revision of the list of areas eligible in connection with Objective 2. The matters referred to in Article 10 of Regulation (EEC) No 4254/88 may also be referred to it by the Commission.

The committees referred to in Articles 28 and 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

<sup>(1)</sup> OJ No L 374, 31. 12. 1988, p. 15.

#### Article 28

##### Committee under Article 124 of the Treaty

In accordance with Article 17 of Regulation (EEC) No 2052/88, the committee set up under Article 124 of the Treaty shall be composed of two government representatives, two representatives of the workers' organizations and two representatives of the employers' organizations from each Member State. The Member of the Commission responsible for chairing the committee may delegate that responsibility to a senior Commission official.

For each Member State, an alternate shall be appointed for each category of representative mentioned above. In the absence of one or both members, the alternate shall be automatically entitled to take part in the proceedings.

The members and alternates shall be appointed by the Council acting on a proposal from the Commission, for a period of three years. They may be reappointed. The Council shall, as regards the composition of the Committee, endeavour to ensure fair representation of the different groups concerned. For the items on the agenda affecting it, the EIB shall appoint a non-voting representative.

The committee shall deliver opinions on the draft Commission decisions relating to the Community support frameworks relating to Objectives 3 and 4 and, in the case of support from the European Social Fund, on the Community support frameworks relating to Objectives 1, 2 and 5 (b).

For their adoption, the opinions of the committee shall require an absolute majority of the votes validly cast. The Commission shall inform the committee of the manner in which it took account of its opinions.

The committees referred to in Articles 27 and 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

#### Article 29

##### Management Committee on Agricultural Structures and Rural Development and Standing Management Committee on Fisheries Structures

1. In accordance with Article 17 of Regulation (EEC) No 2052/88 a Management Committee on Agricultural Structures and Rural Development, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver an opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority stipulated in Article 148 (2) of the Treaty in the case of decisions which the Council is requested to adopt on a proposal from the Commission; when a matter is put to the vote within the committee, the votes of the Member States' representatives shall be weighted as provided for in the aforementioned Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion delivered by the committee, they shall be communicated forthwith by the Commission to the Council. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period provided for in the third subparagraph.

The committee shall deliver opinions on draft Commission decisions:

- relating to common measures under Objective 5 (a),
- relating to the establishment of the list of areas eligible under Objective 5 (b) as well as to Community support frameworks under this objective.

The committee shall also be consulted on operations concerning agricultural structures and rural development included in the draft Commission decisions relating to the Community support frameworks for the Objective 1 regions.

The committee provided for in this paragraph shall replace the Standing Committee on Agricultural Structures, set up by Article 1 of the Council Decision of 4 December 1962 <sup>(1)</sup>, in respect of all the functions assigned to it under that Decision or under Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(2)</sup>.

The committee referred to in Articles 27 and 28 and paragraph 2 of this Article shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

2. The provisions detailing the operation of the Standing Management Committee on Fisheries Structures shall be laid down in accordance with the provisions laid down pursuant to the first subparagraph of Article 3a of Regulation (EEC) No 2052/88.

<sup>(1)</sup> OJ No 136, 17. 12. 1962, p. 2892/62.

<sup>(2)</sup> OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EEC) No 2048/88 (OJ No L 185, 15. 7. 1988, p. 1).

#### Article 29a

##### Management Committee for Community Initiatives

In accordance with Article 17 of Regulation (EEC) No 2052/88, a Management Committee for Community Initiatives, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver an opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority stipulated in Article 148 (2) of the Treaty in the case of decisions which the Council is requested to

adopt on a proposal from the Commission; when a matter is put to the vote within the committee, the votes of the Member States' representatives shall be weighted as provided for in the aforementioned Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion delivered by the committee, they shall be communicated forthwith by the Commission to the Council. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period provided for in the third subparagraph.

The committee shall deliver opinions on the Commission proposals to the Member States referred to in Article 11 (1).

The committee referred to in Articles 27 to 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

#### Article 30

##### Other provisions

1. The Commission shall periodically refer to the committees provided for in Articles 27, 28 and 29 the reports referred to in Article 16 of Regulation (EEC) No 2052/88. It may seek the opinion of the committees on any matter relating to assistance operations under the Funds, other than those provided for in this Title.

Moreover, all the specific cases laid down in Regulation (EEC) No 2052/88, and in all the implementing Regulations referred to in Article 130e of the Treaty, shall be referred to the committees.

The Commission shall inform the appropriate committees of the granting of assistance to major productive investment projects, the total cost of which taken into account in determining the amount of Community assistance is greater than ECU 50 million.

2. Decision 75/185/EEC <sup>(1)</sup> and Decision 83/517/EEC <sup>(2)</sup> shall be repealed and, as regards the EAGGF Guidance Section, Articles 11 to 15 of Regulation (EEC) No 729/70 shall no longer apply as far as the EAGGF committee is concerned.

<sup>(1)</sup> OJ No L 73, 21. 3. 1975, p. 47.

<sup>(2)</sup> OJ No L 289, 22. 10. 1983, p. 42.



## IX. REPORTS AND PUBLICITY

## Article 31

## Reports

1. The annual reports referred to in the first subparagraph of Article 16 of Regulation (EEC) No 2052/88 shall review, *inter alia*:

- the activities of each Fund, the utilization of their budgetary resources and the concentration of assistance within the meaning of Article 12 of Regulation (EEC) No 2052/88, the deployment of the other financial instruments for which the Commission has responsibility and where their resources have been concentrated; these reviews shall include an annual breakdown by Member State of appropriations committed and appropriations paid out in respect of each Fund and the FIFG, including Community initiatives and technical assistance,
- the coordination of assistance provided by the Funds between themselves and with the assistance granted by the EIB and the other existing financial instruments,
- the results of the appraisal, monitoring and evaluation referred to in Articles 25 and 26 indicating any changes made to measures, and an evaluation of the compatibility of Fund assistance with Community policies, including those on environmental protection, competition and public procurement,
- the list of major productive investment projects which benefited from assistance granted under Article 16 (2); these projects should be the subject of a concise evaluation,
- the results of controls carried out, indicating the number and financial volume of irregularities detected and the lessons to be drawn from these controls,
- the results of analysis of the impact of Community assistance and policies as compared with the objectives listed in Article 1 of Regulation (EEC) No 2052/88 and in particular their impact on the socio-economic development of the regions,
- information on the opinions of committees delivered in accordance with Title VIII,
- an analysis of the follow-up to recommendations and comments made by the European Parliament in its opinion on the 'previous years' annual report.

2. Each year, the Commission shall consult the social partners organized at European level on the structural policy of the Community.

3. The three-yearly report referred to in the third subparagraph of Article 16 of Regulation (EEC) No 2052/88 shall review in particular;

- progress made in achieving economic and social cohesion,
- the role of the Structural Funds, the FIFG, the financial instrument for cohesion, the EIB and other financial instruments as well as the impact of other Community policies in the completion of this process,
- any proposals which may need to be adopted in order to strengthen economic and social cohesion.

## Article 32

## Information and publicity

1. Member States shall ensure that adequate publicity is given to the plans referred to in Article 5 (1).

2. The body responsible for implementing a measure carried out with financial assistance from the Community shall ensure that adequate publicity is given to the measure with a view to:

- making potential beneficiaries and trade organizations aware of the opportunities afforded by the measure,
- making the general public aware of the role played by the Community in relation to the measure.

Member States shall consult the Commission on, and inform it of, the initiatives taken for these purposes.

Once this Regulation has come into force, the Commission shall draw up detailed arrangements for information and publicity concerning assistance from the Funds and the FIFG, shall inform the European Parliament thereof and shall publish them in the *Official Journal of the European Communities*.

## X. FINAL PROVISIONS

## Article 33

## Transitional provisions

1. In drawing up Community support frameworks, the Commission shall take account of any measure already approved by the Council or by the Commission before the entry into force of this Regulation and having financial repercussions during the period covered by those support frameworks. These measures shall not be subject to compliance with Article 15 (2).

2. Notwithstanding Article 15 (2), requests for expenditure received by the Commission between 1 January and 30 April 1994 and fulfilling all the conditions under Article 14 (2) may be regarded as eligible for assistance from the Funds from 1 January 1994.'

*Article 2*

**Entry into force**

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

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

Done at Brussels, 20 July 1993.

*For the Council*

*The President*

W. CLAES

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## COUNCIL REGULATION (EEC) No 2083/93

of 20 July 1993

amending Regulation (EEC) No 4254/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130e thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Regulation (EEC) No 2081/93 <sup>(4)</sup> amends Regulation (EEC) No 2052/88 on the tasks of the structural funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(5)</sup>; whereas Regulation (EEC) No 2082/93 <sup>(6)</sup> amends Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different structural funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(7)</sup>; whereas Regulation (EEC) No 4254/88 <sup>(8)</sup> should therefore also be amended;

Whereas Article 3 (1) of Regulation (EEC) No 2052/88, in the regions concerned by Objective 1, extends the scope of the European Regional Development Fund (ERDF) to investment in the field of education and health; whereas the contribution of ERDF assistance, as part of its regional development role, to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures as well as to the establishment of more favourable environmental conditions, particularly in the Objective 1 regions, and to increasing capacity in the regions in the area of research and technological

development to enable them to participate more fully in the Community's multiannual framework programmes should be specified; whereas according to Article 7 of Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument <sup>(9)</sup>, no item of expenditure may benefit both from that instrument and from the ERDF;

Whereas the principles and objectives of sustainable development are set out in the Community programme of policy and action in relation to the environment and sustainable development as laid down in the Council resolution of 1 February 1993 <sup>(10)</sup>;

Whereas the regional partnership should be strengthened by including the economic and social partners, in accordance with Article 4 of Regulation (EEC) No 2052/88;

Whereas, in order to increase the effectiveness of regional policies, there should be increased flexibility in the implementation of the Community's regional assistance particularly by extending the forms of assistance which may apply to Community initiatives;

Whereas Article 12 of Regulation (EEC) No 2052/88 provides for allocations per Member State for each of the Objectives 1 to 4 and 5 (b) of the commitment appropriations of all the structural funds; whereas, as a result, the last subparagraph of Article 3 (2) and Article 13 of Council Regulation (EEC) No 4254/88 may be deleted,

HAS ADOPTED THIS REGULATION:

*Article 1*

Articles 1 to 13 of Regulation (EEC) No 4254/88 shall be replaced by the following:

## "TITLE I

## SCOPE AND FORMS OF ASSISTANCE

*Article 1***Scope**

Within the framework of the task entrusted to it by Article 130c of the Treaty, the European Regional

<sup>(1)</sup> OJ No C 131, 11. 5. 1993, p. 6.

<sup>(2)</sup> Opinion delivered on 22 June 1993 (not yet published in the Official Journal) and Decision of 14 July 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 201, 26. 7. 1993, p. 52.

<sup>(4)</sup> See page 5 of this Official Journal.

<sup>(5)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(6)</sup> See page 20 of this Official Journal.

<sup>(7)</sup> OJ No L 374, 31. 12. 1988, p. 1.

<sup>(8)</sup> OJ No L 374, 31. 12. 1988, p. 15.

<sup>(9)</sup> OJ No L 79, 1. 4. 1993, p. 74.

<sup>(10)</sup> OJ No C 138, 17. 5. 1993, p. 1.

Development Fund (ERDF) shall, in accordance with Article 3 (1) of Regulation (EEC) No 2052/88, participate in the financing of:

- (a) productive investment to permit the creation or maintenance of permanent jobs;
- (b) investment in infrastructure, namely:
  - in the regions designated under Objective 1, investment contributing to increasing economic potential, development, structural adjustment of these regions, including, where appropriate, that contributing to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures,
  - in the regions or areas designated under Objective 2, investment relating to the regeneration of areas suffering from industrial decline, including inner cities, and those whose modernization or laying out is a prerequisite for the creation or development of economic activity,
  - in the areas designated under Objective 5 (b), investment directly linked to economic activity which creates jobs other than in agriculture, including communication infrastructure links and others on which the development of such activities depends;
- (c) the development of indigenous potential in the regions by measures which encourage and support local development initiatives and the activities of small and medium-sized enterprises, involving in particular:
  - assistance towards services for enterprises, in particular in the fields of management, market study and research and services common to several enterprises,
  - financing the transfer of technology, including in particular the collection and dissemination of information and financing the introduction of innovation in enterprises,
  - improvement of access for enterprises to the capital market, particularly by the provision of guarantees and equity participation,
  - direct aid to investment, where no aid scheme exists,
  - the provision of small-scale infrastructure;
- (d) in the regions designated under Objective 1, investment in the field of education and health contributing to their structural adjustment;
- (e) measures contributing towards regional development in the field of research and technological development apart, however, from measures linked to the operation of the labour market and the development of human resources;
- (f) productive investment and investment in infrastructure aimed at environmental protection, in accordance with the principles of sustainable development, where such investment is linked to regional development;
- (g) operations in the context of regional development at Community level, in particular in the case of frontier regions of the Member States, in accordance with Article 3 (1), last subparagraph, of Regulation (EEC) No 2052/88;
- (h) the preparatory, appraisal, monitoring and evaluation measures referred to in Article 7.

## Article 2

### Regional plans

1. Apart from the general provisions laid down in Title II of Regulation (EEC) No 4253/88, the following specific provisions shall apply to the regional plans referred to in Articles 8 (4) and 9 (8) of Regulation (EEC) No 2052/88.

2. The plans relating to the regions designated under Objective 1 shall, as a general rule, cover one region at NUTS (Nomenclature of Territorial Units for Statistics) level II. However, pursuant to the second subparagraph of Article 8 (4) of Regulation (EEC) No 2052/88, Member States may submit a plan for more than one of their regions included in the list referred to in paragraph 2 of that Article, provided that the plan comprises the features listed in the first subparagraph of Article 8 (4).

When submitting the plans, the Member States shall supply information on the authorities or bodies designated by them at national, regional, local or level which are to be responsible for implementing the measures.

As a general rule, these plans shall be for a period of six years and may be updated annually. The data relating to the fifth and sixth years may be supplied on an indicative basis.

3. The plans relating to the regions designated under Objective 2 shall normally cover one or more areas at NUTS level III.

When submitting the plans, the Member States shall supply information on the national, regional, local or other authorities or bodies which are to be responsible for implementing the measures.

As a general rule, these plans shall be for a period of three years and may be updated annually.

4. The plans relating to the regions designated under Objective 5 (b) shall be drawn up in accordance with the procedure laid down in Article 7 of Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section <sup>(1)</sup>.

5. When submitting applications to the ERDF, Member States shall ensure that a sufficient proportion is allocated to investment in industry, craft industry and services, particularly through part-financing of aid schemes.

<sup>(1)</sup> OJ No L 374, 31. 12. 1988, p. 25.

### Article 3

#### Regional operational programmes

1. For the regions designated under Objective 1, regional operational programmes or other forms of assistance as referred to in Article 5 (2) of Regulation (EEC) No 2052/88 shall in principle cover one region at NUTS level II or, in specific cases, one or more regions at NUTS level III or more than one region at NUTS level II. For regions and areas designated under Objectives 2 and 5 (b), and for frontier areas, they shall in general cover one or more areas at NUTS level III.

2. The programmes may be undertaken on the initiative of the Member States or of the Commission in agreement with the Member State concerned, in accordance with the last subparagraph of Article 5 (5) of Regulation (EEC) No 2052/88 and Article 11 of Regulation (EEC) No 4253/88.

When they are undertaken on the initiative of a Member State, they shall be drawn up by the authorities designated by the Member State, in consultation with the Commission.

When they are undertaken on the initiative of the Commission, the Commission, after consulting the committee referred to in Article 29a of Regulation (EEC) No 4253/88 and after notifying the European Parliament, shall lay down the guidelines and invite the Member State or Member States concerned to establish requests for assistance. It shall order these guidelines to be published in the *Official Journal of the European Communities*.

The Commission's initiative shall be designed, within the framework of the tasks entrusted to the ERDF by Article 3 (1) of Regulation (EEC) No 21052/88, to:

- help to resolve serious problems directly associated with the implementation of other Community policies and affecting the socio-economic situation of one or more regions, or
- promote the application of Community policies at regional level, or
- help to resolve problems common to certain categories of region.

### Article 4

#### Part-financing of aid schemes

1. The grant of Community assistance to regional aid schemes shall constitute one of the main forms of incentive to investment in enterprises.

2. With a view to deciding the Community's financial participation, the Commission shall examine, with the authorities designated by the Member State, the characteristics of the aid scheme concerned. It shall in particular take account of the following:

- the rate of aid to be tailored to the socio-economic situation of the regions concerned and the consequent locational disadvantages for enterprises,
- operating procedures and the types of aid, including rates, to be varied to meet the needs,
- the priority given to small and medium-sized enterprises and the encouragement of services supplied to them, such as management advice and market surveys,
- the economic repercussions of the aid scheme on the region,
- the characteristics and impact of any other regional aid scheme in the same region.

### Article 5

#### Projects

In addition to the information specified in Article 16 of Regulation (EEC) No 4253/88, applications for ERDF assistance for the projects referred to in Article 5 (2) (d) of Regulation (EEC) No 2052/88 submitted individually or within the framework of an operational programme shall provide the information set out below. However, in the case of projects forming part of an operational programme, the information may be sent to the Commission at a later date.

The information shall cover:

(a) for investment in infrastructures:

- analysis of the costs and socio-economic benefits of the project, including an indication of the expected rate of use,
- the expected impact on the development or conversion of the region concerned,
- an indication of the consequences that Community participation will have for the completion of the project;

(b) for productive investment:

- an indication of the market outlook for the sector concerned,
- the effects on employment,
- an analysis of the expected profitability of the project.

#### Article 6

##### Global grants

1. In accordance with Article 5 (2) (c) of Regulation (EEC) No 2052/88, the Commission may entrust to appropriate intermediaries, including regional development bodies designated by the Member State in agreement with the Commission, the management of global grants, which it shall use primarily to assist local development initiatives. These intermediaries, who must provide the guarantees of solvency and have the necessary administrative capability referred to in Article 16 (1) of Regulation (EEC) No 4253/88, must be present or represented in the regions concerned and must operate in the public interest and shall associate adequately the socio-economic interests directly concerned by the implementation of the measures planned.

2. The procedures for the use of global grants shall be the subject of an agreement concluded, in agreement with the Member State concerned, between the Commission and the intermediary concerned.

These procedures shall detail in particular:

- the types of measure to be carried out,
- the criteria for choosing beneficiaries,
- the conditions and rates of ERDF assistance,
- the arrangements for monitoring use of the global grants.

3. In accordance with the last subparagraph of Article 5 (5) of Regulation (EEC) No 2052/88, global

grants may be undertaken on the initiative of the Member States or of the Commission, in agreement with the Member State concerned. Commission initiatives shall be carried out in accordance with the conditions listed in the last subparagraph, Article 3 (2) of this Regulation.

#### Article 7

##### Preparatory, appraisal, monitoring and evaluation measures

1. The ERDF may finance, up to a limit of 0,5 % of its annual allocation, the preparatory, prior appraisal, monitoring and *ex post* evaluation measures necessary for the implementation of this Regulation carried out by the Commission or by outside experts. They shall include studies, among them studies of a general nature concerning Community regional action, and technical assistance or information measures, including, in particular, measures to provide information for local and regional development agents.

2. Measures carried out on the Commission's initiative may, in exceptional circumstances, be financed at a rate of 100 %; those carried out on behalf of the Commission shall be financed at a rate of 100 %. For other measures, the rates laid down in Article 17 of Regulation (EEC) No 4253/88 shall apply.

## TITLE II

### GUIDELINES AND PARTNERSHIP

#### Article 8

##### Periodic report and guidelines

1. A periodic report on the socio-economic situation and development of the regions of the Community, which also indicates the macro-economic effects of the Community's regional action, shall be prepared by the Commission at three-yearly intervals in accordance with the procedures laid down in Title VIII of Regulation (EEC) No 4253/88. Member States shall provide the Commission with the relevant information enabling it to make an analysis of all the regions of the Community on the basis of statistics which are as comparable and as up to date as possible. The report must also make it possible to assess the regional impact of other Community policies.

2. This report shall constitute a basis for the establishment of guidelines for Community regional policy. These shall be applied by the Commission in the various stages of planning, notably in establishing and amending Community support frameworks and in the activities of the ERDF. These guidelines shall be

forwarded to the Council and the European Parliament and shall be published for information in the *Official Journal of the European Communities*.

#### Article 9

##### Regional partnership

The Community's regional action shall be carried out in close consultation between the Commission, the Member State concerned and the competent authorities and bodies — including, within the framework of each Member State's national rules and practices, — the economic and social partners, designated by the Member States, in accordance with Article 4 (1) of Regulation (EEC) No 2052/88, for the implementation of measures at regional level.

### TITLE III

#### REGIONAL DEVELOPMENT AT COMMUNITY LEVEL

#### Article 10

##### Definition of assistance

1. In accordance with the last subparagraph of Article 3 (1) of Regulation (EEC) No 2052/88, the ERDF may also contribute, up to a ceiling of 1 % of its annual budget, to the financing at Community level of:

- (a) studies on the Commission's initiative aiming to identify:
  - the spatial consequences of measures planned by the national authorities, particularly major infrastructures, when their effects go beyond national boundaries,
  - measures aiming to correct specific problems of the border regions within and outside the Community,
  - the elements necessary to establish a prospective outline of the utilization of Community territory;
- (b) pilot schemes which:
  - constitute incentives to the creation of infrastructure, investment in enterprises and other specific measures having a marked

Community interest, in particular in the border regions with and outside the Community,

- encourage the pooling of experience and development cooperation between different Community regions, and innovative measures.

2. On the Commission's initiative, matters relating to regional development at Community level, coordination of national regional policies or any other problem connected with implementation of Community regional action may be referred to the committee specified in Article 27 of Regulation (EEC) No 4253/88. The Committee may arrive at common conclusions on the basis of which the Commission shall, where appropriate, address recommendations to the Member States.

### TITLE IV

#### GENERAL AND FINAL PROVISIONS

#### Article 11

##### Monitoring of compatibility

Where appropriate and through procedures suitable to each policy, Member States shall supply the Commission with information concerning compliance with the provisions of Article 7 (1) of Regulation (EEC) No 2052/88.

#### Article 12

##### Transitional provisions

Those portions of the sums committed for the granting of assistance in respect of projects decided on by the Commission before 1 January 1989 under the ERDF which have not been the subject of a request for final payment to the Commission by 31 March 1995 shall be automatically released by the Commission by 30 September 1995 at the latest, without prejudice to those projects which are subject to suspension for judicial reasons.'

#### Article 2

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

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

Done at Brussels, 20 July 1993.

For the Council  
The President  
W. CLAES

## COUNCIL REGULATION (EEC) No 2084/93

of 20 July 1993

amending Regulation (EEC) No 4255/88 laying down provisions for implementing Regulation (EEC) (No 2052/88 as regards the European Social Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Articles 126 and 127 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Regulation (EEC) No 2081/93 <sup>(4)</sup> amended Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(5)</sup>; whereas Regulation (EEC) No 2082/93 <sup>(6)</sup> amended Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different structural funds, on the one hand, between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(7)</sup>, on the other; whereas it is necessary also to amend Regulation (EEC) No 4255/88 <sup>(8)</sup>;

Whereas it is necessary to extend the scope of the European Social Fund (hereinafter referred to as the 'Fund'), in particular following the redefinition of Objectives 3 and 4, as well as the definition of a new Objective 4; whereas it is necessary to take account explicitly of persons exposed to exclusion from the labour market and to render more flexible the eligibility criteria for categories that are already eligible;

Whereas, owing to the seriousness of the unemployment situation, Community action in connection with Objectives 3 and 4 will relate predominantly to Objective 3 'combating long term unemployment and facilitating

the integration into working life of young people and of persons exposed to exclusion from the labour market' and whereas this will be reflected in the financial breakdown between Objectives 3 and 4;

Whereas, given the limited funding available, combating long-term unemployment and facilitating the integration of young people into working life remain priorities under Objective 3;

Whereas it is necessary to redefine eligible actions in order to increase the effectiveness of the implementation of policy aims in the context of all Objectives under which the Fund takes action and to provide for a widening of that action, especially employment aids, which may, for example, take the form of aids for geographical mobility, recruitment and the creation of self-employed activities;

Whereas it is appropriate that the actions taken by the Fund under the different Objectives form a coherent approach so as to improve the workings of the labour market and to develop human resources; whereas the Member States and the Commission should ensure that the principle of equal opportunities for men and women is respected in the implementation of the actions financed by the Fund in the context of all the objectives;

Whereas it is necessary to ensure that Objective 4 strengthens employment and job qualifications through anticipation, counselling, networking and training operations throughout the Community and that it must therefore be horizontal, covering the economy as a whole, without a priori reference to specific industries or sectors, be aimed at workers of either sex in employment, particularly those threatened with unemployment, and not at undertakings, and at improving their qualifications and employment opportunities, be targeted as far as the type of operations is concerned, with due regard to the rules of competition, and complement, not replace, efforts that firms undertake themselves;

Whereas it is necessary to ensure that operations under Objective 4 address the underlying causes of problems relating to industrial adaptation, including services, and do not deal with symptoms relating to the short-term market; whereas such operations should meet the general needs of workers of either sex resulting from industrial change and changes in production systems identified or predicted and are not designed to benefit a single firm or a particular industry; whereas particular attention should be devoted to small and medium-sized enterprises and special attention be devoted to enhancing access to training;

<sup>(1)</sup> OJ No C 131, 11. 5. 1993, p. 10.

<sup>(2)</sup> Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 201, 26. 7. 1993, p. 52.

<sup>(4)</sup> See page 5 of this Official Journal.

<sup>(5)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(6)</sup> See page 20 of this Official Journal.

<sup>(7)</sup> OJ No L 374, 31. 12. 1988, p. 1.

<sup>(8)</sup> OJ No L 374, 31. 12. 1988, p. 21.



Whereas, having regard to the strategic importance in this respect of the continuing training of workers of either sex, Objective 4 should concentrate on operations in the areas of training related to the introduction, use and development of new or improved production methods, in particular new organizational techniques and new technologies and on changes in markets and in society, particularly with regard to the protection of the environment; whereas, moreover, training should also be linked to the necessary adaptation of workers in small and medium-sized enterprises as a result of the changes in production system as well as the need to demonstrate the qualitative and environmental soundness of products and processes;

Whereas it is necessary to define expenditure eligible for Fund assistance within the framework of the partnership;

Whereas it is necessary to ensure that the support of the Fund is concentrated under each objective on the most important needs and the most effective operations;

Whereas it is necessary to supplement and specify the content of plans and forms of assistance, especially following the redefinition of Objectives 3 and 4;

Whereas it is necessary, pursuant to Article 13 (5) of Regulation (EEC) No 2052/88 that enterprise finance an appropriate portion of the cost of operations to promote the training of employees of either sex;

Whereas the Fund also contributes to support for technical assistance and for pilot and demonstration projects in accordance with Article 5 (2) (e) of Regulation (EEC) No 2052/88;

Whereas it is necessary, pursuant to Article 14 (2) of Regulation (EEC) No 2052/88, that the Fund finance under more than one objective operations concerning in particular the development of employment, training and other similar structures, including the training of teachers and trainers of either sex and other categories of staff of those structures;

Whereas the transitional provisions should be specified;

Whereas it is necessary to delete all reference to the guidelines regard Fund support as their function is henceforth ensured by the definition of policy aims and by the obligation to concentrate Fund action on the most important needs and the most effective actions,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Articles 1 to 9 of Regulation (EEC) No 4255/88 shall be replaced by the following:

#### *'Article 1*

##### **Scope**

Within the framework of the task entrusted to it by Article 123 of the Treaty and in accordance with Article 3 (2) of Regulation (EEC) No 2052/88 the Fund shall support:

1. as regards Objective 3, throughout the Community, operations intended, in the first place, to:
    - (a) facilitate the occupational integration of unemployed persons exposed to long-term unemployment, in particular through:
      - (i) vocational training, pre-training including upgrading of basic skills, guidance and counselling;
      - (ii) temporary employment aids;
      - (iii) the development of appropriate training, employment and support structures, including the training of necessary staff, and the provision of care services for dependants;
    - (b) facilitate the occupational integration of young people in search of employment through operations as described in (a), including the possibility of up to two years' or more initial vocational training leading to a vocational qualification, and the possibility of vocational training equivalent to compulsory schooling, provided that by the end of that training the young people are old enough to join the labour market;
- and also to:
- (c) promote integration of persons exposed to exclusion from the labour market through operations as described in (a);
  - (d) promote equal opportunities for men and women on the labour market especially in areas of work in which women are under-represented and particularly for women not possessing vocational qualifications or returning to the labour market after a period of absence through operations as described in (a) and through other accompanying operations;

2. as regards Objective 4, throughout the Community, and in accordance with the competition rules referred to in Article 7 of Regulation (EEC) No 2052/88, operations intended to facilitate the adaptation of workers of either sex, especially those threatened with unemployment, to industrial change and to changes in production systems in particular through:

- the anticipation of labour market trends and vocational qualification requirements,
- vocational training and retraining, guidance and counselling,
- assistance for the improvement and development of appropriate training systems.

The actions should take into account, in particular, the specific needs of small and medium-sized enterprises;

3. as regards Objectives 1, 2 and 5 (b), in the regions concerned, operations intended to:

- (a) support employment growth and stability, in particular through continuing training and through guidance and counselling for workers of either sex, especially those in small and medium-sized enterprises and those threatened with unemployment, and for persons who have lost their jobs, as well as through support for the development of appropriate training systems, including training of instructors, and through the improvement of employment services;
- (b) boost human potential in research, science and technology, particularly through post-graduate training and the training of managers and technicians of either sex at research establishments;

4. as regards Objective 1, in the regions concerned, operations intended to:

- (a) strengthen and improve education and training systems, particularly through the training of teachers and instructors of either sex and administrative staff, by encouraging links between training centres or higher education establishments and enterprises and financing training within the national secondary or equivalent and higher education systems which has a clear link with the labour market, new technology or economic development;
- (b) contribute to development through the training of public officials where this is necessary for the implementation of development and structural adjustment policies.

The Member States and the Commission shall ensure that operations under the different objectives form a coherent approach to improving the workings of the labour market and developing human resources, taking into account the development, reconversion

and structural adjustment objectives in the Member States or regions concerned.

The Member States and the Commission shall ensure that operations under the different objectives respect the principle of equal treatment for men and women.

In addition, the Fund may support operations within the meaning of Article 5 (2) (e) of Regulation (EEC) No 2052/88 throughout the Community.

## Article 2

### Eligible expenditure

1. Fund assistance may be granted towards expenditure to cover:

- the remuneration and related costs as well as the subsistence and travel costs of persons covered by the operations provided for in Article 1,
- the preparation, operation, management and evaluation costs of the operations provided for in Article 1, after deduction of revenue,
- the cost of employment aid granted under arrangements existing in the Member States.

The nature of these costs and this revenue will be defined and agreed within the framework of the partnership at the programming stage.

Without prejudice to checks by the Commission, the Member States shall ensure that the cost of individual operations is kept within limits appropriate to each type of operation.

The Commission shall ensure that Fund expenditure for training operations of the same type does not develop in different ways. To this end, after the committee referred to in Article 28 of Regulation (EEC) No 4253/88 has delivered its opinion, it shall determine for each Member State, in cooperation with that State, the indicative average amounts for expenditure according to the type of training involved.

2. Fund assistance may also be granted towards expenditure to cover the cost of operations under Article 5 (2) (e) of Regulation (EEC) No 2052/88, including operations under Article 6 of this Regulation.

## Article 3

### Concentration of assistance

The Member States and the Commission shall ensure within the partnership at the planning and programming stage that Community assistance to be provided under each objective is concentrated on the

most important needs and the most effective operations relating to the aims defined in Article 1 of this Regulation, so as to contribute to the Objectives and fulfil the tasks of the Fund as set out in Article 1 and Article 3 (2) of Regulation (EEC) No 2052/88.

#### Article 4

##### Plans

1. The plans referred to in Articles 8, 9, 10 and 11a of Regulation (EEC) No 2052/88 shall describe, particularly in the part concerning the Fund, including figures where appropriate, taking account of the evaluation results available:

- imbalances between demand and supply in employment, include female employment,
- the nature and characteristics of unfilled vacancies,
- the employment opportunities which exist on labour markets,
- the types of measures to be implemented and the categories and the number of persons involved, taking account of the need for concentration provided for in Article 3 of this Regulation,
- the expected contribution of the operations concerned towards the promotion of equal opportunities for men and women on the labour market.

These plans shall indicate the manner in which where, within the framework of each Member State's national rules and current practices, account has been taken of the association of the economic and social partners in the partnership referred to in Article 4 of Regulation (EEC) No 2052/88.

2. The plans referred to in Article 10 (1) of Regulation (EEC) No 2052/88 shall, in addition to the items listed in paragraph 1 of this Article, indicate the way in which the Member State will, where appropriate, secure the participation of bodies providing services in the areas concerned for the preparation and management of operations in favour of the persons referred to in Article 1 (1) of this Regulation.

3. The plans referred to in Article 10 (2) of Regulation (EEC) No 2052/88 shall, in addition to the items listed in paragraph 1 of this Article, indicate:

- imbalances between the qualifications which are offered and those which are in demand on the employment market, with particular reference to the workers of either sex affected by industrial change and changes in production systems,

- the way in which the Member States will, within the procedures available under each Member State's institutional rules and existing practices secure the participation of the economic and social partners and of vocational training bodies, at the appropriate level, when preparing operations, particularly as regards anticipating the effects of industrial change and changes in production systems,
- the relationship between operations and other Community policies relating to industrial change and changes in production systems, in particular the link with vocational training policy.

#### Article 5

##### Forms of assistance

1. Applications for Fund assistance shall be presented mainly in the form of:

- (a) operational programmes;
- (b) global grant schemes;
- (c) technical assistance and pilot and demonstration projects within the meaning of Article 5 (2) of Regulation (EEC) No 2052/88.

2. The Member States shall communicate the information needed to appraise, monitor, evaluate, manage and control operations, making a distinction, where appropriate, between men and women. More specifically, this information shall relate to that described in Article 14 (2) of Regulation (EEC) No 4253/88, including information peculiar to the Fund such as the geographical concentration, the target groups, the number of persons involved and the duration of the operations.

3. Pursuant to Article 13 (5) of Regulation (EEC) No 2052/88, enterprises whose workers of either sex are able to take part in training operations shall finance an appropriate portion of the cost of such operations.

4. The applications for assistance shall be accompanied by a computerized form, drawn up within the framework of the partnership, listing the operations regarding each form of assistance so that it can be followed through from budgetary commitment to final payment.

#### Article 6

##### Technical assistance and pilot and demonstration projects

1. Outside the Community support frameworks the Fund may finance, up to a limit of 0,5 % of its annual allocation, preparatory, appraisal, monitoring and evaluation operations in Member States or at Community level which are necessary for the

implementation of the operations referred to in Article 1 of this Regulation and carried out at the Commission's initiative or on the account of the Community. They shall include:

- (a) operations of an innovatory nature which are intended to test new approaches to the content, methods and organization of vocational training, including integration of the Community dimension of vocational training and, more generally, the development of employment including the promotion of equal opportunities for men and women on the labour market and the vocational integration of persons exposed to exclusion from the labour market, with a view to establishing a basis for subsequent Fund assistance in a number of Member States;
- (b) studies, technical assistance and the exchange of experience which has a multiplier effect, preparation, appraisal, monitoring, and detailed evaluation, as well as control of operations financed by the Fund;
- (c) operations directed, within the framework of social dialogue, at staff from enterprises in two or more Member States and concerning the transfer of special knowledge relating to modernization of the production apparatus;
- (d) informing the various partners involved, the final recipients of assistance from the Fund and the general public.

2. In accordance with the last subparagraph of Article 3 (2) of Regulation (EEC) No 2052/88, the Fund may also contribute up to 1 % of its annual budget to the financing, outside the Community support framework, of:

- (a) studies on the Commission's initiative;
- (b) pilot projects including exchanges of experience and transfers of know-how

relating to the labour market at Community level or contributing to the implementation of Community vocational training policy.

These may concern in particular the design and development of job systems, of job supply and

demand mechanisms, of methods for forward-looking labour force management as well as for the anticipation of skill needs, for the promotion of equal opportunities for men and women on the labour market and for the integration into employment of persons exposed to exclusion from the labour market, the improvement or overhaul of training structures, the establishment or development of a national system of validation and accreditation of qualifications, or they may complement specific Community programmes.

3. Operations carried out on the Commission's initiative may, in exceptional circumstances, be financed by the Fund at a rate of 100 %, it being understood that those carried out on behalf of the Commission itself shall be financed at a rate of 100 %.

#### Article 7

##### Combination and overlapping

Pursuant to Article 14 (2) of Regulation (EEC) No 2052/88, the Fund may finance under more than one of the Objectives set out in Article 1 of that Regulation operations concerning in particular the development of employment, training and other similar structures, including the training of teachers and instructors of either sex and other categories of staff of those structures as well as technical assistance operations.

#### Article 8

##### Transitional provisions

Those portions of the sums committed for the granting of assistance in respect of projects decided on by the Commission before 1 January 1989 under the Fund which have not been the subject of a request for final payment to the Commission by 31 March 1995 shall be automatically released by the Commission by 30 September 1995 at the latest, without prejudice to those projects which are subject to suspension for judicial reasons.'

#### Article 2

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

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

Done at Brussels, 20 July 1993.

For the Council

The President

W. CLAES

## COUNCIL REGULATION (EEC) No 2085/93

of 20 July 1993

amending Regulation (EEC) No 4256/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the Council adopted Regulation (EEC) No 2081/93 <sup>(4)</sup> amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(5)</sup>;

Whereas the Council adopted Regulation (EEC) No 2082/93 <sup>(6)</sup> amending Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(7)</sup>;

Whereas, as a result of the amendments to the aforementioned Regulations and to take account of the experience acquired, Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section <sup>(8)</sup> should be amended;

Whereas the accompanying measures for agri-environment, afforestation and early retirement adopted

under the reform of the common agricultural policy (CAP) are to be financed in future by the EAGGF Guarantee Section;

Whereas the list of measures eligible under Objectives 1 and 5 (b) should be revised on the basis of experience and having regard to the need for rural development to be based also on non-agricultural activities and on multiple activities by farmers of either sex, to reverse the trend towards the economic and social decline and depopulation of the countryside, strengthening, in particular, measures to promote local products and non-polluting forms of agriculture, horticulture and livestock-farming, prevent natural disasters, renovate villages and protect and conserve the rural heritage;

Whereas, within the context of its contribution to achieving Objective 1 and Objective 5 (b) the Fund should be able to finance measures for sustainable development of the rural environment, including developing and strengthening agricultural and forestry structures which use methods and techniques that respect the environment; whereas the Fund should also be able to finance the encouragement of tourist and craft investments, including the improvement of living accommodation on agricultural holdings and in the countryside;

Whereas the scope of Article 8 of Regulation (EEC) No 4256/88 should be extended to incorporate rural development more effectively in measures carried out under that Article and to strengthen measures relating to information and the dissemination of knowledge;

Whereas measures relating to the fisheries sector are the subject of a specific regulation and no longer fall within the scope of this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

Articles 1 to 11 of Regulation (EEC) No 4256/88 are hereby replaced by the following:

*'Article 1*

1. The Guidance Section of the European Agricultural Guidance and Guarantee Fund,

<sup>(1)</sup> OJ No C 131, 11. 5. 1993, p. 6.

<sup>(2)</sup> Opinion delivered on 14 July 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 201, 26. 7. 1993, p. 52.

<sup>(4)</sup> See page 5 of this Official Journal.

<sup>(5)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(6)</sup> See page 20 of this Official Journal.

<sup>(7)</sup> OJ No L 374, 31. 12. 1988, p. 1.

<sup>(8)</sup> OJ No L 374, 31. 12. 1988, p. 25.

(hereinafter called "the Fund"), may finance measures for performing the tasks referred to in Article 3 (3) of Regulation (EEC) No 2052/88 in order to attain Objectives 1, 5 (a) and 5 (b) as set out in Article 1 of that Regulation, with the exception of measures under Objective 5 (a) which concern fisheries structures, in accordance with the criteria and objectives set out in this Regulation.

2. The conditions and criteria laid down in Regulation (EEC) No 4253/88 shall apply to measures financed under this Regulation, unless this Regulation or provisions adopted under Article 2 (1) thereof specify otherwise.

#### TITLE I

#### Speeding up the adjustment of agricultural structures in the framework of the reform of the common agricultural policy

(Objective 5 (a))

##### Article 2

1. The Fund may finance common measures decided on by the Council in accordance with the procedure provided for in the third subparagraph of Article 43 (2) of the Treaty, in order to speed up the adjustment of agricultural structures, in particular in the framework of the reform of the common agricultural policy.

2. The common measures referred to in paragraph 1 may concern in particular:

- where their financing is not provided for under the EAGGF Guarantee Section, market policy accompanying measures contributing to re-establishing balance between production and market capacity,
- measures to support farm incomes and to maintain viable agricultural communities in mountain, hill or less-favoured areas by means of agricultural aid such as compensation for permanent natural handicaps,
- concrete measures to encourage the installation of young farmers of either sex,
- measures to improve the efficiency of the structures of holdings, especially investments aimed at reducing production costs, promoting quality, improving the living and working conditions of farmers of either sex and of their spouses whose major activity is on the farm, promoting the diversification of their activities, including the production of non-food agricultural produce, improving animal health conditions,

livestock-farming hygiene and animal welfare, as well as preserving and improving the natural environment,

- measures to improve the marketing, including the marketing of produce at the farm, and the processing of agricultural and forestry products, and to encourage the establishment of producers' associations,
- measures to encourage assistance to farmers of either sex and for the creation of groupings with a view to improving production conditions.

3. The common measures which are applicable at present in the field covered by this Title shall remain in force until they are adjusted pursuant to Article 11a.

#### TITLE II

#### Promoting rural development and the structural adjustment of regions whose development is lagging behind

(Objective 1)

##### Article 3

1. Within the context of its contribution to achieving Objective 1 referred to in Article 1 of Regulation (EEC) No 2052/88, the Fund may finance measures for sustainable development of the rural environment, including developing and strengthening agricultural and forestry structures, and for maintaining, enhancing and restoring the landscape.

2. Fund assistance for regions designated under Objective 1 shall comprise, in particular, measures intended to deal with the backwardness of agricultural structures.

##### Article 4

Fund assistance for the measures referred to in Article 5 shall in the main take the form of operational programmes, including an integrated approach, and global grants.

##### Article 5

Financial assistance by the Fund may, in addition to the measures provided for in Article 2, relate in particular to the following measures:

- (a) the conversion, diversification, reorientation and adjustment of production potential, including the production of non-food agricultural products;

- (b) promotion, quality labelling and investment for quality local or regional agricultural and forestry products;
- (c) if their financing is not ensured by the ERDF in a Community support framework and while respecting the tasks of the Funds as set out in Article 3 (3) of Regulation (EEC) No 2052/88:
  - the development and improvement of rural infrastructure linked to agricultural and forestry development,
  - measures to achieve diversification, especially those providing multiple activities or alternative incomes for farmers of either sex,
  - the renovation and development of villages and the protection and conservation of the rural heritage;
- (d) reparacling, in conditions compatible with preservation of the countryside and the natural environment of farming and forestry holdings, and associated work, in compliance with the legislation of the Member State;
- (e) individual or collective land or pasture improvement;
- (f) irrigation, including the renovation and improvement of irrigation networks and small reservoirs with a particular view to a more rational use of water; the creation of collective irrigation works from existing main channels and the creation of small irrigation systems not supplied from collective networks; and the renovation and improvement of drainage systems;
- (g) encouragement for tourist and craft investment, including the improvement of living accomodation on agricultural holdings;
- (h) restoring agricultural and forestry production potential damaged by natural disasters, and the introduction of appropriate prevention instruments, especially in the outermost areas particularly at risk from such disasters;
- (i) where their financing is not provided for under the accompanying measures adopted under the reform of the common agricultural policy;
  - the development and exploitation of woodlands under the conditions laid down by Council Regulation (EEC) No 1610/89 of 29 May 1989 laying down provisions for implementing Regulation (EEC) No 4256/88

as regards the scheme to develop and optimally utilize woodlands in rural areas in the Community <sup>(1)</sup>,

- protection of the environment, maintenance of the countryside and restoration of landscapes;
- (j) development of agricultural and forestry advisory services and improvement of agricultural and forestry vocational training;
- (k) financial engineering measures for agricultural and forestry businesses and for businesses for the processing and marketing of agricultural and forestry products;
- (l) measures in the area of agricultural and forestry technological research and development.

<sup>(1)</sup> OJ No L 165, 15. 6. 1988, p. 3.

### TITLE III

#### Promoting rural development in the areas covered by Objective 5 (b)

##### Article 6

Fund assistance for the measures referred to in Article 7 shall in the main take the form of operational programmes, including an integrated approach, and global grants and cover one or more of the measures referred to in Article 5.

##### Article 7

Without prejudice to the particulars referred to in Article 11a (5) of Regulation (EEC) No 2052/88 and Article 5 of Regulation (EEC) No 4253/88, rural development plans shall include an identification of the problems of agricultural structures at a relevant geographical level. As a general rule, these plans shall last six years and may be updated annually.

### TITLE IV

#### General and transitional provisions

##### Article 8

In achieving the tasks set out in the second subparagraph of Article 3 (3) and as part of the assistance referred to in Article 5 (2) (e) of Regulation (EEC) No 2052/88, the Fund may devote up to 1 % of its annual budget to financing:

- preparatory, *ex ante* appraisal, monitoring, *ex post* evaluation and information measures, including technical assistance measures and general studies,

- pilot projects for adjusting agricultural and forestry structures and promoting rural development,
- demonstration projects, including projects for developing and exploiting forests and projects for processing and marketing agricultural products, to show the real possibilities of systems, methods and techniques of production and management which are in accordance with the objectives of the common agricultural policy,
- the measures needed for the circulation, at Community level, of the knowledge, experience and results of the work on rural development and improving agricultural structures.

Measures implemented on the initiative of the Commission may be financed, exceptionally, at the rate of 100 %; those implemented on behalf of the Commission shall be financed at the rate of 100 %. For other measures, the rates given in Article 13 of Regulation (EEC) No 2052/88 shall apply.

#### Article 9

Where appropriate and through procedures suitable to each policy, Member States shall supply the Commission with information concerning compliance with Article 7 (1) of Regulation (EEC) No 2052/88.

#### Article 10

Those portions of the sums committed for the granting of assistance in respect of projects decided on by the Commission before 1 January 1989 under Regulations (EEC) No 17/64 <sup>(1)</sup>, (EEC) No 355/77 <sup>(2)</sup>, (EEC) No 1760/78 <sup>(3)</sup>, (EEC) No 269/79 <sup>(4)</sup>, (EEC) No 1938/81 <sup>(5)</sup>, (EEC) No 1941/81 <sup>(6)</sup>, (EEC) No 1943/81 <sup>(7)</sup>, (EEC) No 2088/85 <sup>(8)</sup> and (EEC) No 3974/86 <sup>(9)</sup> which have not been the subject of a request for final payment by 31 March 1995

shall be automatically released by the Commission by 30 September 1995 at the latest, without prejudice to those projects which are subject to suspension for judicial reasons.

<sup>(1)</sup> OJ No 34, 27. 2. 1964, p. 1586/64.

<sup>(2)</sup> OJ No L 51, 23. 2. 1977, p. 1.

<sup>(3)</sup> OJ No L 204, 28. 7. 1978, p. 78.

<sup>(4)</sup> OJ No L 38, 14. 2. 1979, p. 1.

<sup>(5)</sup> OJ No L 197, 20. 7. 1981, p. 1.

<sup>(6)</sup> OJ No L 197, 20. 7. 1981, p. 13.

<sup>(7)</sup> OJ No L 197, 20. 7. 1981, p. 23.

<sup>(8)</sup> OJ No L 197, 27. 2. 1985, p. 1.

<sup>(9)</sup> OJ No L 370, 30. 12. 1986, p. 9.

#### Article 11

Regulation (EEC) No 729/70, with the exception of Article 1 (1), (2) and (3), shall not apply as regards the Fund, subject to the implementation of Article 15 of Regulation (EEC) No 2052/88 and Article 33 of Regulation (EEC) No 4253/88.

#### Article 11a

Without prejudice to Article 33 of Regulation (EEC) No 4253/88, with a view to achieving the objectives referred to in Regulation (EEC) No 2052/88 and in the light of the rules laid down by Regulation (EEC) No 2052/88 and (EEC) No 4253/88 and of this Regulation, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 of the Treaty, shall decide by 31 December 1993 on the adjustment of the Common measures financed under Article 2 of this Regulation.'

#### Article 2

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

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

Done at Brussels, 20 July 1993.

*For the Council*

*The President*

W. CLAES