

## COUNCIL DECISION

of 22 December 1989

establishing a programme of options specific to the remote and insular nature of the French overseas departments (Poseidom)

(89/687/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 227 (2) and 235 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 227 (2) of the Treaty stipulates that the institutions of the Community will, within the framework of the procedures provided for in this Treaty, take care that the economic and social development of the French overseas departments is made possible; whereas, therefore, it is appropriate to introduce a multiannual and multisectoral programme, the better to attain this objective; whereas, in the case in point, the Treaty has not provided the powers required for the adoption of this Decision and it is therefore appropriate to have recourse to Article 235 of the Treaty;

Whereas the French overseas departments, which also constitute regions within the meaning of the French law of 2 August 1984, suffer from a serious structural lack of development aggravated by a number of constraints (remoteness, isolation, small size, difficult terrain and climate, and economic dependence on a small number of products) whose unchanging nature and combined impact have serious adverse effects on their economic and social development; whereas these constraints differentiate sharply the social and economic context of the French overseas departments from that of the other Community regions, particular in the area of unemployment, the level of which is among the highest in the Community and primarily affects young people;

Whereas the Community authorities have repeatedly shown their solidarity with the French overseas departments, whether through assistance from Community funds or by taking their specific nature into account in applying Community rules; whereas the European Parliament stated

in its resolution of 11 May 1987 on the regional problems of the French overseas departments that it was convinced 'that the serious situation which exists in the French overseas departments justifies, and makes it imperative to pursue, economic and social development in various sectors' and called on the Community authorities to implement a broad range of highly diverse operations;

Whereas the special constraints on the French overseas departments make it necessary to step up Community support in order to promote their economic and social development; whereas such support should be forthcoming immediately in order to facilitate the integration of their economies in the 1993 internal market;

Whereas the French overseas departments form an integral part of the Community pursuant to Article 227 of the Treaty, as interpreted by decisions of the Court of Justice, which has ruled that the provisions of the Treaty and secondary legislation apply automatically to the French overseas departments, it being understood that it is always possible to adopt specific measures to assist them to the extent that, and for as long as, there remains an objective need for such measures with a view to the 'economic and social development of these areas';

Whereas, however, while forming an integral part of the Community, the French overseas departments are located in developing regions which lie in tropical latitudes; whereas any operation concerning these departments must therefore be based on a clear understanding of this twofold dimension and be aimed both at the objective of completing the internal market and at that of recognizing the regional reality; whereas the objective of completing the internal market should be reflected in the maintenance, modification or abolition of rules in force in the French overseas departments in line with those which will become the norm in the Community as a whole, while enabling the departments to catch up with the average Community economic and social level;

Whereas Community rules must be adopted to the need to protect the environment and natural resources to take account of the fragile nature of island territories and of their being particularly vulnerable to the increasing pressures of tourism;

Whereas attainment of these objectives may mean that general Community rules will have to be adjusted in so far as they do not take sufficiently into account the features peculiar to the French overseas department; whereas a coordinated approach should therefore be adopted in the framework of a comprehensive programme of operations;

<sup>(1)</sup> OJ No C 53, 2. 3. 1989, p. 12.

<sup>(2)</sup> Opinion delivered on 14 December 1989 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 159, 26. 6. 1989, p. 56.

Whereas implementation of the programme would require the adoption of legal acts, either by the Council or by the Commission as the case may be, some of which could apply solely to the French overseas departments while others would be of only incidental concern to them in texts of general scope;

Whereas, in order to be effective, such a programme must be carried out over a period of years, which could extend, in the case of certain aspects of the programme, beyond the 31 December 1992 deadline, given the permanent constraints which are a particular feature of the French overseas departments;

Whereas the economic effects of any special arrangements must remain strictly limited to the territory of the French overseas departments without affecting directly the functioning of the common market;

Whereas some of the tropical products originating in the French overseas departments are not yet covered by common measures, which means that the aims set out in Article 39 of the Treaty cannot be attained in respect of the producers concerned; whereas this will therefore mean that, on the one hand, the existing common organizations of the market will have to be applied to the French overseas departments, subject to adjustments being made, and, on the other, that the arrangements under certain common organizations will have to be adjusted or *ad hoc* solutions provided for; whereas it will be necessary, as regards in particular the banana market, to give a ruling on provisions which take account of the objectives of the Single European Act; whereas measures will have to be adopted, for the French overseas departments, which take account of the economic and social importance of this product in certain of the said departments and of the objective of bringing about a fair standard of living for producers;

Whereas the exceptional geographical situation of the French overseas departments in relation to sources of supply for products used as inputs in certain food sectors, which are essential for current consumption, entail costs that are a severe handicap for those departments; whereas more of their requirements in agricultural and food products should be met from local production, particularly in the case of livestock farming, where inputs account for a substantial proportion of the cost of the end product; whereas this handicap should accordingly be mitigated by appropriate measures;

Whereas the French overseas departments are suppliers, on the Community market in Europe, of tropical products that are similar to, and in competition with, those produced in part at lower cost in neighbouring developing countries which enjoy preferential terms of access to the Community market, so that the principle of Community preference is difficult to apply in practice to products obtained from the French overseas departments; whereas, for the French overseas departments, the neighbouring countries moreover represent a potential outlet for their products as the important tourist industry in the region is generally supplied with products from other sources at lower cost; whereas greater regional cooperation could provide the French

overseas departments with a means of making better use of this outlet; whereas this handicap too should be mitigated by means of appropriate measures;

Whereas numerous national rules specific to the French overseas departments have been adopted, many of them being of long standing, in order to promote their economic and social development; whereas the drive to complete the internal market requires that a decision be taken before 31 December 1992 on maintaining, modifying or abolishing these rules in accordance with the general principles of the Treaty, while taking into account the special constraints affecting the regions concerned;

Whereas it is important to have available regular means of transport, at the lowest cost, in order to overcome the obstacles posed by remoteness and insularity of the departments; whereas air transport is an instrument of regional development and the most appropriate forms of greater liberalization should be sought in the context of partnership with local authorities;

Whereas, in this context, traditional rum is a product of prime economic and social importance in the French overseas departments; whereas Council Decision 88/245/EEC<sup>(1)</sup> authorized France, notwithstanding Article 95 of the Treaty, to maintain special tax arrangements on the French internal market until 31 December 1992; whereas between now and then it will be necessary to study the implications of the threefold context of the new Community definition, the abandonment of the allocation among Member States of the quota granted to the ACP States and the abolition of the special tax arrangements after 1 January 1993; whereas, as a result, structural measures designed to safeguard the essential interests of Community rum producers should be taken as soon as possible;

Whereas, in this context also, the French overseas departments have their own tax arrangements, particularly in the form of dock dues, which encourage self-reliant management by local authorities in their own development by providing them with own resources and help support local production activities; whereas completion of the internal market will require that this system be adapted in order to make it compatible with Community law while fostering its function as an effective instrument for development in the regions concerned;

Whereas in the context of rationalizing the aims of the Structural Funds, the Brussels European Council of 12 and 13 February 1988 laid down five priority objectives, including promotion of the development and structural adjustment of the less-developed regions; whereas it explicitly and definitively included the French overseas departments in the list of regions covered by this objective and stated that contributions to all the less-developed regions from the Structural Funds would be doubled in real terms between 1987 and 1992; whereas assistance for the French overseas departments will be provided from the Structural Funds, the European Investment Bank and the other existing financial instruments on the basis of the corresponding Community support framework, in a coordinated and

<sup>(1)</sup> OJ No L 106, 27. 4. 1988, p. 33.

concentrated manner that will be complementary to national and local initiatives, pursuant to Regulation (EEC) No 2052/88 <sup>(1)</sup>;

Whereas a programme which is both cohesive and which combines all the aid mechanisms of the Community and the national and regional authorities may permit optimum and more effective use of the resources of the Structural Funds;

Whereas such programming must provide a guarantee of the active involvement of local, regional and national authorities and the complementarity of Community measures, in compliance with the principles of partnership and a joint contribution;

Whereas, moreover, the French overseas departments are surrounded, in their two geographical areas, by States and territories with which the Community maintains relations of a varied nature, which take the form of cooperation policies that are relatively uncoordinated; whereas, however, the development of the different constituents of a given geographical area, each of which has similar constraints and characteristics, requires the implementation of regional projects common to the various constituents, irrespective of their status in relation to Community law, as this makes it possible to achieve economies of scale and strengthens regional cooperation among the partners concerned;

Whereas, furthermore, these neighbouring entities are traditionally faced with similar problems despite their differing legal status; whereas regional cooperation that is geared to local realities involves more direct dialogue between the parties concerned; whereas it is therefore appropriate to foster regional consultation procedures, in close cooperation with the Member States concerned in the case of regions or territories that are the responsibility of Member States,

HAVE DECIDED AS FOLLOWS:

*Article 1*

A multiannual action programme for the French overseas departments, known as Poseidom (Programme of options specific to the remote and insular nature of the French overseas departments) contained in the Annex, is hereby established. This programme shall deal with legislative measures and financial commitments.

The Council shall adopt, to the extent to which it is concerned, the provisions necessary for the execution of this programme and invite the Commission to submit to it as soon as possible relevant proposals.

*Article 2*

This Decision shall take effect on 1 January 1990.

*Article 3*

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 22 December 1989.

*For the Council*  
*The President*  
E. CRESSON

<sup>(1)</sup> OJ No L 185, 15. 7. 1988, p. 9.

## ANNEX

## PROGRAMME OF OPTIONS SPECIFIC TO THE REMOTE AND INSULAR NATURE OF THE FRENCH OVERSEAS DEPARTMENTS (POSEIDOM)

## TITLE I

## General principles

1. Poseidom will be based on the twofold principle that the French overseas departments form an integral part of the Community and that the regional reality, characterized by the special features and constraints specific to the regions concerned as distinct from the Community as a whole, must be recognized.
- 2.1. Implementation of the Poseidom programme will in principle be carried out from 1 January 1990 to 31 December 1992, through the adoption either by the Council or by the Commission, as appropriate, of the necessary legal acts, in accordance with the provisions and procedures laid down in the Treaty.
- 2.2. Given the permanent and specific constraints on the French overseas departments, certain measures under the programme may continue to apply after 31 December 1992 so as to make possible the economic and social development of these areas.
3. The Poseidom programme will help attain the general aims of the Treaty by contributing to the achievement of the following specific objectives:
  - (a) making possible the realistic integration of the French overseas departments into the Community by establishing an appropriate framework for the application of common policies in those areas;
  - (b) helping the French overseas departments catch up economically and socially, with a view to the completion of the internal market by 31 December 1992, through coordinated and concentrated action involving the Structural Funds, the European Investment Bank and other existing financial instruments; measures adopted by national or regional authorities must be integrated with such actions.
4. The Poseidom programme will help attain the aims listed in Annex VII to the Final Act of the Third Lomé Convention and in the identical Declaration attached to the Fourth ACP-EEC Convention, signed at Lomé on 15 December 1989, as well as in the first part of Title VII of Council Decision 86/283/EEC of 30 June 1986 on the association of the overseas countries and territories with the European Economic Community<sup>(1)</sup>, as amended by Decision 87/341/EEC<sup>(2)</sup>, and in the corresponding provisions of the Decision which will succeed it, whose aim is to promote regional cooperation in the developing areas where the French overseas departments are situated, notably through the provision of appropriate instruments for participating in joint regional projects or programmes.

## TITLE II

## Application of common policies in the French overseas departments

5. Community measures already taken for the French overseas departments will be maintained, extended or adapted in accordance with this Decision in order to provide a better response to their specific characteristics and the need to make their economic and social development possible.
6. Directives or other measures to be adopted in connection with the internal market, social matters, technological research and development, without prejudice to the Community framework programme on this topic, and environmental protection will have to take into account the special character of the French overseas departments and the need to make their economic and social development possible.
7. The Community and the Member State will develop any actions designed to enable the multiplicity of Community airlines, particularly local airlines, to serve the French overseas departments in the interests of their development.

<sup>(1)</sup> OJ No L 175, 1. 7. 1986, p. 1.

<sup>(2)</sup> OJ No L 173, 30. 6. 1987, p. 10.

- 8.1. On the basis of a product-by-product analysis to be carried out by the Commission in the light of objective criteria, agricultural products not covered by common measures shall qualify for *ad hoc* measures which may take the form of assistance for processing or marketing, while not ruling out, in particular cases, the possibility of assistance for production. The Council or the Commission, as appropriate, will adopt the first measures necessary to this end within six months of the date on which this Decision takes effect.

- 8.2. In view of the economic and social importance of bananas for the French overseas departments and the objective of a fair standard of living for producers, the Commission will, without waiting for the adoption of common rules in particular under Structural Fund rules, decide on actions to assist this sector. With a view to improving the conditions of production and competition, such actions will take the form *inter alia* of measures concerning research, harvesting, processing and treatment, transport, storage, marketing and commercial promotion.

The Council will, on a proposal from the Commission, give a ruling on provisions for bananas with a view to the completion of the single market between now and 31 December 1992.

- 8.3. In the case of rum, the Commission will examine the economic and social implications of the threefold context of the new Community definition, the changes agreed under the negotiations for the Fourth ACP-EEC Convention regarding access to the Community market of rum originating in the ACP States, and the abolition of the special tax arrangements, taking into account the interests of Community producers and producers in territories and third countries in respect of which the Community has given specific undertakings.

The Council and the Commission, each to the extent to which it is concerned, will adopt as soon as possible the structural measures required to safeguard the essential interests of Community rum producers in order to improve their competitiveness, restructure the chain and assist the marketing of their production with a view to the gradual abolition of national shares. The Commission will submit the relevant proposals to the Council by 30 June 1990. It will report by 31 December 1992 on the situation of Community producers and on the implementation of the above measures.

- 9.1. Within six months from the date on which this Decision takes effect the Council or the Commission, as appropriate, will take action intended to mitigate the effects of the exceptional geographical situation of the French overseas departments in relation to the continental territory of the Community, taking into account the aims of regional cooperation.

Such action shall take the form of measures, on the one hand, to facilitate supplies to the French overseas departments and, on the other, to assist certain lines of agricultural production in the French overseas departments.

- 9.2. Regarding supplies to the French overseas departments, the latter will benefit from the following measures:

- (a) firstly, the measures in question will concern inputs for local livestock farming; to that end, grain originating in developing countries and intended for livestock production will be exempted from the levy when imported directly into the French overseas departments.

Where there are difficulties recognized by the Commission with supplies of such products originating in developing countries, this measures may, by way of exception, be extended to grain originating in other third countries;

- (b) secondly, the measures in question may also concern products intended for human consumption; such products originating in the overseas countries and territories or the ACP States may be exempted from the levy or, where appropriate, from customs duty when imported directly into the French overseas departments.

Where there are difficulties recognized by the Commission with supplies of such products originating in the overseas countries and territories or neighbouring ACP States, this measure may be extended to products originating in other developing countries;

- (c) the measures referred to in (a) and (b) will be limited to local market requirements and involve measures making it possible to ensure that the products in question are not re-dispatched to the rest of the Community.

- 9.3. Regarding their production of agricultural products, the French overseas departments will benefit from the following measures to be adopted on the basis of a product-by-product analysis to be carried out by the Commission in the light of objective criteria:

- (a) provision will be made for Community measures to develop certain lines of production for which there are outlets on the French overseas departments' own markets, on the markets of neighbouring areas or on the markets of the rest of the Community;
  - (b) in the case of other lines of production, provision may be made for measures taking particular account of the effectiveness of their contribution to the economic and social development of the French overseas departments.
- 10.1. National measures which have specific effects favouring the French overseas departments shall be listed systematically in order that a decision may be taken before 31 December 1992 on whether to maintain, modify or abolish them in line with the general principles of the Treaty, while taking into account the special constraints on those areas.
- 10.2. With regard to aid within the meaning of Article 92 of the Treaty, the Commission:
  - (a) will, after compiling the list of measures referred to in paragraph 1, examine the aid in the light of that provision and shall adopt measures within the scope of its powers or, where appropriate, shall propose to the Council any measures that prove necessary, pursuant to Articles 92, 93 and 94 of the Treaty, taking into account the specific position of the French overseas departments and the impact of the Community measures provided for in this programme or adopted in implementation of it;
  - (b) shall continue, even after 31 December 1992, to examine at regular intervals the aid given with a view to making any changes required by developments in the situation.
- 11. The system of charges applied in the French overseas departments under the heading of dock dues shall be converted in accordance with Decision 89/688/EEC <sup>(1)</sup>.

### TITLE III

#### Action involving the Structural Funds, the European Investment Bank and other financial instruments

- 12.1. The aims and procedures set out in Regulation (EEC) No 2052/88 will apply, as from the entry into force of the Regulation and on the terms laid down therein, to assistance to the French overseas departments from the Structural Funds, the European Investment Bank and other existing financial instruments with a view to promoting their development and structural adjustment.
- 12.2. Structural aid will take account of the additional handicaps of remoteness and insularity borne by the French overseas departments.
- 12.3. Pursuant to Article 8 of Regulation (EEC) No 2052/88, the French authorities and the Commission will ensure that measures to assist the French overseas departments that are covered by Community support frameworks are carried out primarily through the implementation of operational programmes, in accordance with the principles of partnership and additionality.
- 12.4. Within the scope of its powers and in accordance with the eligibility rules of the Structural Funds the Commission will speed up the grant of assistance in cases where aid from the Funds is needed to repair damage caused by natural disasters endemic to the tropical regions concerned, notably hurricanes; where such repair is not covered by emergency aid.

### TITLE IV

#### Regional cooperation

- 13.1. In order to make possible better regional cooperation, consultations shall be encouraged between the different States, the overseas countries and territories and the French overseas departments in the geographical areas concerned, in conjunction with the authorities of the relevant Member States in the case of the French overseas departments and the overseas countries and territories.

<sup>(1)</sup> See page 46 of this Official Journal.

- 13.2. Regional trade cooperation could take the form of regional trade agreements, in accordance with the provisions of the Treaty.

Moreover, common commercial promotion measures by the French overseas departments, the overseas countries and territories and neighbouring ACP States could be financed, in accordance with the methods indicated in paragraph 3, in a way that is coordinated and complies with the respective rules and responsibilities of each Fund.

- 13.3. Within the framework of its management powers with regard to the Structural Funds, and in accordance with the eligibility rules of the said Funds, the Commission shall ensure that the French overseas departments receive assistance from the Structural Funds in the context of regional projects or programmes common to French overseas departments, overseas countries and territories and ACP States in the same geographical region, provided and to the extent that:

- these joint regional projects or programmes are those defined, as regards their aims, scope and procedural rules, in Articles 101 to 113 of the Third Lomé Convention, in Articles 54 to 66 of Decision 86/283/EEC and, once they enter into force, in the corresponding provisions of the Fourth Lomé Convention and in the Decision that will succeed that Decision,
- the procedural rules for financing these projects or programmes are those specific to each of the Community Funds concerned.

The Commission shall ensure coordination of the financing timetable and also of the subsequent implementation of the projects or programmes.

## TITLE V

### Final provision

14. The Commission shall submit to the Council an annual progress report on the implementation of the Poseidon programme.
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