

COMMISSION DECISION

of 5 November 1997

approving a support mechanism for the creation of transnational joint ventures for SMEs in the Community

(Text with EEA relevance)

(97/761/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 97/15/EC of 9 December 1996 on a third multiannual programme for small and medium-sized enterprises (SMEs) in the European Union (1997 to 2000) ⁽¹⁾, and in particular Article 3 thereof,

- (1) Whereas the Commission, in its communication of 10 July 1996 on the integrated programme in favour of SMEs ⁽²⁾, stressed the absence of a financial instrument to help SMEs which wish to make transnational investments;
- (2) Whereas, in its opinion of 31 October 1996 ⁽³⁾, the Economic and Social Committee considered that too few SMEs invest at transnational level and access new markets in other Member States and that this is due to the lack of a suitable financial instrument;
- (3) Whereas, on 9 December 1996 in its resolution on the integrated programme ⁽⁴⁾, the Council asked the Commission to encourage SMEs to set up or develop an activity in another Member State by removing obstacles to cross-border investment and the creation of joint ventures in the European Union;
- (4) Whereas the Council, in adopting Decision 97/15/EC, considered that SMEs whose activities span borders should be assisted in overcoming any structural weaknesses;
- (5) Whereas, in its conclusions, the Presidency of the Amsterdam European Council of 16 and 17 June 1997 stressed the essential role played by SMEs in the internal market in promoting growth and employment in the Community and invited the Commission to present initiatives concerning the possibility of job creation;
- (6) Whereas the European Parliament, in its resolution of 24 May 1996 on the European Observatory for

SMEs ⁽⁵⁾ calls on the Commission to implement measures best suited to strengthening transnational cooperation between SMEs;

- (7) Whereas the countries of the European Economic Area have expressed their interest in the initiative;
- (8) Whereas SMEs have not benefited sufficiently from the opportunities offered by the internal market and, faced with the globalization of trade, SMEs' traditional markets are shrinking;
- (9) Whereas the development of joint ventures between Community SMEs makes it possible to make better use of the opportunities of the internal market, to increase investment and trade and to have a positive impact on employment and economic growth;
- (10) Whereas SMEs frequently encounter difficulties in obtaining bank financing for the development of transnational joint ventures because of the higher risk for financial institutions;
- (11) Whereas transnational joint ventures promote technology transfer and improve the competitiveness of the partners;
- (12) Whereas the measures provided for in this Decision are in accordance with the opinion delivered by the Committee provided for in Article 4 of Decision 97/15/EC,

HAS DECIDED AS FOLLOWS:

*Article 1***Description of the initiative**

The initiative covered by this Decision, relating to the 'Joint European Venture' (JEV), shall consist of support for SMEs setting up transnational joint ventures within the Community.

⁽¹⁾ OJ L 6, 10. 1. 1997, p. 25.

⁽²⁾ COM(96) 329 final.

⁽³⁾ OJ C 56, 24. 2. 1997, p. 7.

⁽⁴⁾ OJ C 18, 17. 1. 1997, p. 1.

⁽⁵⁾ OJ C 166, 10. 6. 1996, p. 238.

*Article 2***Maximum amount per project and eligible expenses**

The Community contribution is intended to cover some of the expenses incurred in setting up a joint venture.

The maximum contribution per project shall be ECU 100 000 covering:

- (a) up to 50 % of the eligible expenses, with a maximum of ECU 50 000;
- (b) up to 10 % of the total amount of the investment made.

Eligible expenses for the purposes of point (a) are those related to the conception and setting-up of a transnational joint venture created by European SMEs, as defined in Annexes II and I respectively. They include the expenses specified in Annex III and any other expenses which are essential for the setting-up of the joint venture.

*Article 3***Procedures**

1. An SME which wishes to make an application under this scheme shall submit it to one of the financial intermediaries in the JEV network, referred to in Article 4. That intermediary shall be entrusted with evaluating the application and, in the event of a favourable opinion, passing it on to the Commission.

2. The Community contribution shall be paid to the SME, through the financial intermediary in accordance with the conditions set out in paragraphs 3 and 4.

3. In the case of the 50 % of the eligible expenses (with a maximum of ECU 50 000), a reimbursable advance of 50 % (maximum ECU 25 000) shall be paid as soon as the application has been accepted by the Commission.

A second payment of 50 % (maximum ECU 25 000) shall be made on presentation of supporting documents for all the expenses incurred and on the basis of a detailed final evaluation report which permits an assessment of the feasibility of the joint venture as well as the investment envisaged. After acceptance of the documents by the

Commission, the reimbursable advance will be converted into a grant.

4. With regard to the investment made, a payment limited to 10 % of the amount invested shall be made after completion of the investment and on proof that the new activity has commenced.

5. Any SME benefiting from the third payment (10 % of the investment) must undertake to submit to the Commission, for a period of five years, information on the activities of the joint venture set up and, in particular, on the number of jobs created.

The Commission shall prepare annual reports based on inquiries and, where appropriate, on-site visits.

*Article 4***Selection procedure**

Applications shall be sent to the Commission through a network of financial intermediaries comprising institutions specializing in investment financing, to be set up after a call for expressions of interest published in the *Official Journal of the European Communities*.

The Commission shall check the eligibility of the applications in the light of the programme objectives, in particular the employment effect.

To allow the initiative referred to in Article 1 to become operational as soon as possible, recourse shall be had initially to the network of financial intermediaries of the JOP programme⁽¹⁾ and the JOP Technical Assistance Unit, which is specialized in monitoring projects. A maximum of 5 % of the budget shall be reserved to cover the external management costs of the initiative.

Done at Brussels, 5 November 1997.

For the Commission

Christos PAPOUTSIS

Member of the Commission

⁽¹⁾ OJ C 46, 22. 2. 1991, p. 11.

*ANNEX I***DEFINITION OF SMEs**

The definition of an SME for the purposes of this initiative is that set out in the Annex to Commission Recommendation 96/280/EC⁽¹⁾, that is enterprises which:

- have fewer than 250 employees, and
- have either an annual turnover not exceeding ECU 40 million or an annual balance sheet total not exceeding ECU 27 million, and
- conform to the criterion of independence.

The eligibility criterion applies to each of the partners forming the joint venture. It is enough for one of the SMEs involved not to meet this criterion for the project to be rendered ineligible.

*ANNEX II***DEFINITION OF A JOINT VENTURE**

The concept of a 'joint venture' must be interpreted broadly, that is any form of consortium, partnership or joint venture in the strict sense, of an industrial, service, commercial or craft nature.

However, three conditions must be met:

- the objective of the project is to create new economic activities, involving investment and employment creation within the Community. Transfers of existing economic activities are not eligible. Similarly, purchases of existing enterprises are not eligible,
- the partners must play an active part in the joint venture and assume an adequate measure of responsibility. Any joint venture in which one of the partners owns more than 75 % will be ineligible. Any change in the holdings in the joint venture within three years following the signing of the contract with the Commission must be submitted to the Commission for a review of its financial participation,
- the joint venture must be newly created by at least two SMEs from two different Member States.

⁽¹⁾ OJ L 107, 30. 4. 1996, p. 4.

*ANNEX III***ELIGIBLE EXPENSES**

1. Eligible expenses are those relating to the conception and setting-up of a joint venture:

- expenses incurred as part of the study (market surveys, preparation of the legal framework, environmental impact assessment, technical standards, business plan, etc.),
- expenses for external experts (lawyers, advisors, accountants): fees based on actual costs (limited to ECU 650 per day), transport costs, accommodation and subsistence expenses (in accordance with the provisions laid down within the framework of the Commission's contracts for the provision of services),
- expenses for internal experts (relating to travel abroad): daily allowance (ECU 200 per day), transport costs and accommodation and subsistence expenses (in accordance with the provisions laid down within the framework of the Commission's contracts for the provision of services).

Financing costs and expenses relating to partner search are excluded.

2. For the grant, covering up to 10 % of the investment made, an investment is considered to be any purchase or production of tangible or intangible assets which are accounted for as fixed assets in the balance sheet of the joint venture and valued in accordance with generally accepted accounting standards.
