



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.12.1998
COM(1998)728 final

98/0347 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

**LAYING DOWN THE DETAILED RULES AND ARRANGEMENTS
REGARDING COMMUNITY STRUCTURAL ASSISTANCE IN THE
FISHERIES SECTOR**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

1.1. In 1993 the creation of the FIFG and the bringing of structural measures in the fisheries sector under the umbrella of the Structural Funds confirmed their dual affiliation:

- a) with the common fisheries policy (CFP), by helping to create a balance between the conservation and management of resources on the one hand and fishing effort and the stable and rational exploitation of resources on the other,
- b) with the policy to reinforce economic and social cohesion, via their contribution to achieving the objectives of Article A of the Treaty on European Union

1.2. The FIFG is a Structural Fund in its own right just like the EAGGF Guidance Section. It should not be forgotten that Article 40(4) of the Treaty permits one or more agricultural guidance and guarantee funds to be set up, without limiting them to two. The tasks and objectives assigned to the FIFG are in line with this provision. It follows that the reference to the EAGGF Guidance Section as one of the Structural Funds in Article 130b(1) of the Treaty also covers the FIFG.

2. PURPOSE OF STRUCTURAL MEASURES IN THE FISHERIES SECTOR

2.1. Structural measures in the fisheries sector contribute to the sector's restructuring by creating conditions favourable to its development and modernisation. They therefore form an integral part of the CFP.

2.2. They are intended to:

- a) help achieve a lasting balance between fish stocks and their exploitation, in particular by introducing a fleet renewal system which makes an effective contribution to adjusting fishing effort while at the same time enabling the fleet to be modernised,
- b) strengthen competitiveness and contribute to the development of economically viable enterprises throughout the production chain,
- c) improve the supply of fishery and aquaculture products and add to their value,
- d) help revitalise areas dependent on fisheries.

3. GENERAL AIMS OF THIS REGULATION

3.1. The Commission's decision to propose two separate regulations providing for structural measures in the fisheries sector, both governed by Article 43 of the Treaty, was based on:

- a) the need to bring fisheries under the Structural Funds (hence the proposal for a Council regulation to replace the current Regulation (EEC) No 2080/93, presented on 18 March as part of the structural package)
- b) the need to preserve the prerogatives of all the competent Community bodies in the interinstitutional procedure.

This is exactly the same approach as that followed in 1993.

3.2. This proposal for a regulation determines the areas in which assistance is to be provided and lays down the rules regarding Community structural assistance in the fisheries sector. This entails the following changes:

- a) The provisions on programming are adjusted to the new situation as regards the Structural Funds (Objectives 1 and 2), which, for certain measures, requires recourse to the EAGGF Guarantee Section;
- b) Some provisions which have been found to be insufficiently explicit or difficult to apply are updated and reinforced;
- c) Assistance is extended to new areas;
- d) Premiums and scales are brought up to date.

4. MAIN MEASURES PROPOSED

4.1. As regards the fleet:

The fourth-generation multiannual guidance programme (MGP IV, 1997-2001) remains the reference basis. Management of fleet development is based on the following:

- a) A new fleet renewal system, including permanent arrangements for administering additions to and removals from the fleet. Under the scheme proposed, additions with public aid will be possible only if outweighed by an associated withdrawal without aid. For the small scale coastal fishing segment, the additions must not lead to an increase in fishing effort;
- b) A marked tightening up of measures to deal with Member States which do not abide by the provisions on the MGP or the Community fishing vessel register;
- c) A redefinition of joint enterprises, which are now regarded as a special method of exporting which qualifies for a premium additional to the export premium. The current rules are tightened up in order, on the one hand, to ensure synergy with the practices and provisions governing fisheries agreements and, on the other, to take account of the Court of Auditors' criticisms concerning the management of joint enterprises in the past.

4.2. As regards small-scale coastal fishing:

It is proposed to pay more attention to the problems specific to this segment, whose modernisation (with no increase of fishing effort) is a political priority on account of its particular features and its contribution to employment.

4.3. As regards the accompanying measures, it is proposed:

- a) to extend the range of socio-economic measures by granting a premium to allow individual fishermen to switch to other occupations;
- b) to redefine the current mechanism for temporary laying-up. Public aid will be authorised only on the basis of strict, precise and transparent criteria:

4.4. As regards the other areas of assistance, it is proposed:

- a) to continue measures in favour of productive investment in the processing industry and in aquaculture and in facilities at fishing ports, paying more attention to the environmental aspects in the case of aquaculture and giving priority to collective measures;
- b) to introduce provisions on producer organisations (which are currently contained in the "market" regulation), improving and rationalising their content and making them more consistent with the other structural measures;
- c) to continue the operations by members of the trade, an option insufficiently used hitherto despite strong demand from the trade.

Proposal for Council Regulation (EC) No .../... of ...

laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

- (1) Whereas Council Regulation (EC) No .../.. of laying down general provisions on the Structural Funds⁴ defines the general objectives and tasks of the Structural Funds and the financial instrument for fisheries guidance, hereinafter called the 'FIGF', their organisation, the assistance methods, the programming and general organisation of the aid provided by the Funds and the general financial arrangements;
- (2) Whereas the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, hereinafter called the 'EAGGF Guarantee Section', also contributes to the restructuring of the sector, alongside the assistance from the Structural Funds; whereas the Council must lay down detailed rules for the use of this financial instrument, having regard, in particular, to Council Regulation (EC) No .../.. of on the financing of the common agricultural policy⁵;
- (3) Whereas Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture⁶ lays down the objectives and general rules of the common fisheries policy; whereas the development of the Community fishing fleet must in particular be regulated according to the decisions that the Council is called upon to take by virtue of Article 11; whereas it is for the Commission to translate these decisions into precise measures at the level of each Member State; whereas, furthermore, Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁷ must be complied with;

¹ OJ C ..., ..., p. .

² OJ C ..., ..., p. .

³ OJ C ..., ..., p. .

⁴ OJ L ..., ..., p. .

⁵ OJ L ..., ..., p. .

⁶ OJ L 389, 31.12.1992, p. 1. Regulation last amended by Regulation (EC) No 1181/98 (OJ L 164, 9.6.1998, p. 1).

⁷ OJ L 261, 20.10.1993, p. 1. Regulation last amended by Regulation (EC) No 686/97 (OJ L 102, 19.4.1997, p. 1).

- (4) Whereas Council Regulation (EC) No .../..of [on structural measures in the fisheries sector]⁸ defines the specific purpose of structural measures in the fisheries and aquaculture sector including the industry processing and marketing its products, hereinafter called 'the sector'; whereas under Article 5 the Council must decide, no later than ..., on the terms and conditions of the contribution of the FIFG and EAGGF Guarantee Section to the restructuring of the sector in order to ensure that this restructuring achieves its intended objectives;
- (5) Whereas the provisions concerning the programming should be fixed;
- (6) Whereas the multiannual guidance programmes for the fishing fleets for the period from 1 January 1997 to 31 December 2001 are to remain in force until they expire; whereas appropriate provisions should be laid down for the period commencing on 1 January 2002;
- (7) Whereas the provisions for the monitoring and implementation of the multiannual guidance programmes should be specified, in particular concerning the mechanism of fleet entries and exits as well as the delimitation of public aid for the renewal of the fleet, the modernisation of vessels and the establishment of joint ventures;
- (8) Whereas small scale coastal fishing has a special status in terms of the objectives for fishing effort adjustments; whereas it is important that this specificity is translated into concrete measures at the level of the present regulation;
- (9) Whereas socio-economic accompanying measures will be needed to implement the restructuring of the fishing fleets;
- (10) Whereas the detailed rules should be fixed for the granting of aid for the protection of the fisheries resources of marine coastal zones, for aquaculture, for equipment in fishing ports, for processing, for marketing and for the promotion of fisheries and aquaculture products;
- (11) Whereas certain measures in benefit of producers organisations currently being implemented under Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products⁹ should be included among the structural measures as well as other measures of collective interest undertaken by the professionals;
- (12) Whereas detailed rules should be fixed for the granting of indemnities and financial compensation to fishermen and vessel owners, in cases of temporary cessation of activity or of technical restrictions applied to certain gears or fishing methods;
- (13) Whereas the programmes must envisage the means necessary for the execution of innovative actions and technical assistance;
- (14) Whereas achieving a lasting balance between marine resources and their exploitation and environmental impact represent important interest for the fisheries sector it is as important, therefore, to provide for appropriate measures to

⁸ OJ L ... du ..., p..

⁹ OJ L 388, 31.12.1992, p. 1. Regulation last amended by Regulation (EC) No 3318/94 (OJ L 350, 31.12.1994, p. 15).

preserve the trophic chain as it is to provide for aquaculture and the fish processing industry;

- (15) Whereas, in so far as such measures are not limited to the granting of Community aid, it is appropriate in particular to regulate State aid schemes in this sector, without prejudice to Articles 92, 93 and 94 of the Treaty, and to integrate the programming of the restructuring of Community fishing fleets in a coherent manner in the context of structural assistance as a whole,
- (16) Whereas Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products¹⁰ as well as other provisions should be repealed; whereas at the same time, for the proper execution of the aid, actions and projects approved up until 31 December 1999 the repealed provisions should remain applicable to this effect;

HAS ADOPTED THIS REGULATION:

Article 1

Objectives

1. This Regulation provides a policy frame of reference for all structural measures in the fisheries sector carried out in the territory of a Member State, without prejudice to regional particularities.
2. Structural policy in this sector, aims at guiding and speeding up restructuring. Restructuring shall comprise actions such as the adaptation of capacity, renewal, rationalisation and modernisation of the means of production and other measures with a lasting effect that contribute to achieving the tasks defined in Article 1(2) of Regulation (EC) No .../.. [on structural measures in the fisheries sector].

Article 2

Means

1. The FIGG and the EAGGF Guarantee Section may, under the conditions laid down in this Regulation, provide assistance for the measures defined in titles II, III and IV within the fields of application covered by the common fisheries policy as defined in Article 1 of Regulation (EEC) No 3760/92 and in accordance with the following rules:
 - a) In Objective 1 regions, including those referred to in Article 6(1) of Regulation (EC) No .../.. [general Funds regulation], all measures may be part-financed by the FIGG exclusively and shall be subject to all the detailed rules laid down in Regulation (EC) No .../.. [general Funds regulation].
 - b) In Objective 2 areas, except the areas referred to in Article 6(2) of Regulation (EC) No .../.. [general Funds regulation], all measures with the exception of those referred to in Title II of this Regulation and, where applicable, certain measures extending beyond the regional level referred to in Titles III and IV

¹⁰ OJ L 386, 31.12.1993, p. 1. Regulation last amended by Regulation (EC) No 25/97 (OJ L 6, 10.1.1997, p. 7).

may be part-financed by the FIFG exclusively and shall be subject to all the detailed rules laid down in Regulation (EC) No/.. [general Funds regulation].

- c) Measures not covered by points (a) and (b) of this paragraph may be part-financed by the EAGGF Guarantee Fund exclusively and shall be subject to the specific rules laid down in Regulation (EC) No .../.. [on the financing of the common agricultural policy] and the provisions adopted for its application, except where this Regulation provides otherwise.

2. The EAGGF Guarantee Section may finance innovative and technical assistance measures under the same conditions and procedures as those laid down in Articles 21 to 23 of Regulation (EC) No .../.. [general Funds regulation]. However, the rates 0.7% and 0.3% shall be replaced by an overall rate of 2%.

TITLE I

PROGRAMMING AND IMPLEMENTATION

Article 3

Common provisions on programming

1. The definitions in Article 9 paragraph 1 of Regulation (EC) No/..... apply to the present Regulation.
2. Programming shall be in accordance with the objectives of the common fisheries policy and with the provisions of the multiannual guidance programmes for the fishing fleets referred to in Article 5. To this end, it may be revised as necessary and in particular at the end of each period of application of the multiannual guidance programmes.

Programming shall cover all the fields referred to in Titles II, III and IV.

3. The plans shall demonstrate that public aid is necessary with regard to the objectives pursued, and in particular that without public aid the fishing fleets concerned could not be renewed or modernised and that the planned measures will not jeopardise the long-term equilibrium of fishery resources.

The contents of the plans shall be as set out in Annex I.

4. For the remainder of the programming period not yet covered by a multiannual guidance programme approved by the Commission, the programming information shall be purely indicative; it shall be specified by Member States when the new multiannual guidance programme is approved, in accordance with its objectives.

Article 4

Specific provisions on measures part-financed by the EAGGF Guarantee Section

1. Programming shall be done according to the following rules :

a) Each Member State shall present to the Commission a plan covering all the measures envisaged.

The plan shall cover a period of seven years beginning on 1 January 2000.

The plan shall be drawn up by the authority appointed by the Member State for that purpose and submitted to the Commission by the Member State after the partners referred to in Article 8 of Regulation (EC) No .../.. [general Funds regulation] have given their opinion. Each partner shall give its opinion within a time limit such that the deadline provided for in the fourth subparagraph can be complied with.

The plan must be presented not later than six months after the entry into force of this Regulation.

b) The Commission shall examine the proposed plans to determine whether they are consistent with this Regulation and the guidelines referred to in Article 9 paragraph 4 of Regulation (EC) No .../.. [general Funds regulation]. It shall draw up the single programming document on the basis of the plan, in agreement with the Member State concerned. It shall decide on the contribution from the EAGGF Guarantee Section in accordance with the procedure laid down in Article 50 of Regulation (EC) No .../.. [general Funds regulation] within six months of the presentation of the plan, where the plan contains all the information referred to in Annex I.

The Commission's decision shall be communicated to the Member State concerned and published in the *Official Journal of the European Communities*.

2. The authority or body appointed by the Member State to manage the assistance, called the 'management authority' for the purposes of this Regulation, shall be responsible for ensuring that the measures concerned are managed and implemented efficiently and in accordance with the rules.

The measures shall be monitored and evaluated in accordance with the principles laid down in Articles 33 to 36 and 39 to 42 of Regulation (EC) No .../.. [general Funds regulation].

3. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 50 of Regulation (EC) No .../.. [general Funds regulation]:

They shall deal, in particular, with:

- a) the presentation of plans;
- b) the revision of programming documents;

- c) budget planning, particularly to ensure budgetary discipline and participation in the financing;
- d) monitoring and evaluation.

Article 5

Multiannual guidance programmes for fishing fleets

1. On the basis of the objectives and measures for restructuring the fisheries sector laid down by the Council under Article 11 of Regulation (EEC) No 3760/92, the Commission shall, acting in accordance with the procedure laid down in Article 18 of that Regulation, adopt the multiannual guidance programmes for individual Member States.

2. The Commission decision referred to in paragraph 1 shall fix, in particular, a series of objectives accompanied by a set of measures for their realisation, allowing for management of fishing effort on an overall, long-term basis.

3. By 1 January 2001 at the latest, Member States shall supply the Commission with the information specified in Annex II to this Regulation, to be used in drawing up multiannual guidance programmes for the period from 1 January 2002 to 31 December 2006.

Article 6

Monitoring multiannual guidance programmes

1. For the purpose of monitoring the implementation of multiannual guidance programmes, Member States shall transmit to the Commission, before 1 April each year, a document reviewing the progress made with their multiannual guidance programme. Within three months of this deadline the Commission shall forward an annual report to the European Parliament and the Council on the implementation of multiannual guidance programmes throughout the Community.

2. Member States shall transmit to the Commission information on the physical characteristics of fishing vessels and the monitoring of fishing effort by fleet segment and by fishery, particularly as regards the development of capacities and the corresponding fishing activities, in accordance with the procedures laid down in Commission Regulations (EC) No 2090/98 of 30 September 1998 concerning the fishing vessel register of the Community¹¹ and No 2091/98 of 30 September 1998 concerning the

¹¹ OJL 266, 1.10.1998, p. 27.

segmentation of the Community fishing fleet and fishing effort in relation to the multiannual guidance programmes¹².

3. At its own initiative or at the request of the Member State, or under provisions laid down in the multiannual guidance programmes, the Commission may re-examine and adapt any multiannual guidance programme.

4. The Commission shall decide whether or not to approve the revisions provided for in paragraph 3 in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92.

5. For the implementation of this Article, Member States shall apply the provisions of Article 24 of Regulation (EEC) No 2847/93.

TITLE II

IMPLEMENTATION OF MULTIANNUAL GUIDANCE PROGRAMMES FOR FISHING FLEETS

Article 7

Fleet renewal and modernisation of fishing vessels

1. Fleet renewal and the modernisation of fishing vessels shall be organised in accordance with this Article, Articles 8 to 13.

- a) Each Member State shall submit to the Commission, for approval in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92, permanent arrangements for monitoring fleet renewal. These arrangements must guarantee that fishing capacity is maintained or, where appropriate, gradually reduced to attain the intermediate and final objectives fixed in the multiannual guidance programme.
- b) The arrangements shall include measures :
 - i) To determine, each time new capacity is added to the fleet, including modernisation entailing an increase in capacity, the corresponding capacity which must be permanently withdrawn.
 - ii) To guarantee that no decision authorising the construction or modernisation of a fishing vessel, including the replacement of vessels lost in accidents or wrecks, results in an increase in fishing effort.
 - iii) In the case of the fleet segment containing vessels less than twelve meters long overall other than trawlers, to guarantee that decisions

¹² OJ L 266, 1.10.1998, p. 36.

authorising construction or modernisation do not result in an increase in the aggregate capacity for that segment.

- c) The quantified indicators relating to the fishing fleet in the plans, as provided for in Annex I(2) point d) must be drawn up in accordance with these arrangements.

2. Member States shall ensure that withdrawn vessels are declared as deleted from the registration lists for fishing vessels and from the Community fishing vessel register. They shall also ensure that vessels declared as deleted are permanently excluded from fishing in Community waters.

Capacity withdrawn in association with the addition of new capacity within the meaning of paragraph 1, point b) sub-point i) may be transferred neither to another Member State nor to a third country.

Article 8

Adjustment of fishing effort

1. Member States shall take measures to adjust fishing effort to achieve the objectives of the multiannual guidance programmes referred to in Article 5.

Where necessary, Member States shall take measures to stop vessels' fishing activities permanently or to restrict them, in accordance with the applicable provisions of Annex III.

2. Measures to stop vessels' fishing activities permanently may be applied only to vessels more than 15 years old. They may in particular include:

- a) the scrapping of the vessel,
- b) permanent transfer of the vessel to a third country, after agreement by the competent authorities of the country concerned, provided such transfer is not likely to infringe international law, affect the conservation and management of marine resources or other objectives of the common fisheries policy. In this context, the transfer to certain third countries may be excluded from public aid. To that end, the Member States shall indicate in the plans referred to in Articles 3 and 4(1) the list of third countries to which they envisage transferring fishing vessels;
- c) permanent reassignment of the vessel in question to uses other than fishing in Community waters.

The capacity of vessels that are subject to a measure to stop fishing activities permanently within the meaning of this paragraph may under no circumstances be replaced. The vessels concerned shall be subject to the conditions laid down in the first sub paragraph of Article 7(2).

3. Public aid for final-cessation paid to beneficiaries may not exceed the following amounts:

- a) Scrapping premiums
 - i) 15 year old vessels: see Tables 1 and 2 in Annex IV;
 - ii) vessels from 15 to 29 years old: the scales in Tables 1 and 2 decreased by 1.5% per year over 15.
 - iii) vessels more than 30 years old : the scales in Tables and 2, less 22.5%.
- b) Premiums for permanent transfer to a third country: the maximum amounts for the scrapping premiums referred to in (a) above, less 50 %. However, no public aid for this purpose can be given for vessels with a tonnage less than 25 GRT or 27 GT, or more than 30 years old, except under the conditions foreseen in the second sub-paragraph.
- c) Premiums for other cases stopping fishing activities permanently : the maximum amounts for the scrapping premiums referred to in (a) above, less 50 %. However, no public aid for this purpose can be given for vessels with a tonnage less than 25 GRT or 27 GT, or more than 30 years old, except under the conditions foreseen in the second sub-paragraph.

Notwithstanding (b) and (c), where the vessel is definitively assigned for the preservation of historical heritage in the territory of a Member State, or for the fisheries research activities of the public or semi-public bodies of a Member State, or for the control of fishing activities, in particular by a third country, public aid shall be granted under the conditions given in (a).

4. Without prejudice to Article 17, measures to restrict fishing activities may include restrictions on the fishing days or days at sea authorised for a specific period. Such measures may not give rise to any public aid.

Article 9

Joint enterprises

1. An additional premium to the premium for definitive transfer paid under Article 8 paragraph 3 point b) may be granted to carry out a commercial enterprise project with one or more partners who are nationals of the third country in which the vessel is registered, hereinafter called a 'joint enterprise'.

2. In addition to the conditions laid down in Article 8 and Annex III for the grant of a premium for permanent transfer, the following conditions shall apply:

- a) The creation and registration of a commercial enterprise, in accordance with the laws of the third country, or the acquisition of holdings in an enterprise that is already registered, for the purpose of engaging in a commercial activity in the fisheries sector in the waters under the sovereignty or the jurisdiction of the third country. The Community partner must hold a significant proportion, generally between 25% and 75%, of the share capital and at least half of the additional

premium provided for in paragraph 1 must be invested as cash in the capital of the joint enterprise;

- b) ownership of the exported vessel must be transferred to the joint enterprise in the third country. For five years the vessel may not be used for fishing activities other than those authorised by the competent authorities of the third country, nor may it be used by other shipowners.

3. The additional premiums for the creation of joint enterprises shall be granted according to the following rules :

- a) Where a fisheries agreement exists with the third country concerned that already provides for the creation of joint enterprises, the additional premium may not exceed 60% of the maximum amount of the premium for permanent transfer referred to in paragraph 1. The full amount of the additional premium shall be chargeable to the budget of the European Community but is not covered by the rules defined in Article 2;
- b) where there is no fisheries agreement with the third country concerned and where the Council has adopted no decision authorising the Commission to negotiate an agreement, the additional premium may not exceed 30% of the maximum amount of the premium for permanent transfer referred to in paragraph 1. Contrary to point a), the additional premium shall be co-financed from the budget of the European Community in accordance with the provisions of Article 2;
- c) Where a fisheries agreement exists with the third country concerned that does not provide for the creation of joint enterprises, the grant of additional premiums shall be suspended until the moment the fisheries agreement is amended to provide for the creation of joint enterprises. From this moment the rules in (a) shall apply. If the fisheries agreement is not amended in this way within 18 months following the application for an additional premium, the rules in (b) shall apply;
- d) Where, in the absence of a fisheries agreement with the third country concerned, there exists a Council decision authorising the Commission to negotiate a fisheries agreement envisaging the creation of joint enterprises, the grant of additional premiums shall be suspended until the moment such an agreement is concluded. From this moment the rules in (a) shall apply. If the fisheries agreement is not concluded within 18 months following the application for an additional premium, the rules in (b) shall apply.

4. The management authority shall pay 50% of the additional premium to the applicant when the vessel is transferred to the joint enterprise, after the applicant has provided proof that a bank guarantee for an amount equal to that initial payment plus 5% has been lodged.

5. Each year for five consecutive years from the date of constitution of the joint enterprise or the date on which the Community partner acquired holdings in the enterprise, applicants shall submit to the management authority a report on the

implementation of the activity plan, together with the enterprise's balance sheet and a statement of its net worth. The management authority shall forward to report to the Commission for information.

The balance of the additional premium shall be paid to applicants after two years of activity and after the first two reports have been received.

The guarantee shall be released, provided all the conditions are met, once the fifth report has been approved.

6. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 50 of Regulation (EC) No .../... [general Funds regulation].

Article 10

Public aid for fleet renewal and for vessel modernisation

1. Without prejudice to the conditions laid down in the second subparagraph of Article 3(3), public aid for fleet renewal and for vessel modernisation shall be granted only on the following conditions and those given in Annex III:

- a) If the overall annual objectives of the multiannual guidance programme have been respected, and in those segments where the annual objectives have also been respected, Member States may not grant public aid for the addition of new fishing capacity, unless the capacity withdrawn in association with the addition of new capacity for each individual project is at least 30% greater than the new capacity added, in terms of both tonnage and power.
- b) If the annual objectives of the fleet segment of the multiannual guidance programme containing vessels less than twelve meters long overall other than trawlers have been respected, Member States may not grant public aid for the addition of new fishing capacity in that segment, unless the capacity withdrawn, taken in aggregate, is at least equal to the new capacity added, in terms of both tonnage and power.

The new fishing capacity may in particular include the modernisation of vessels for the purpose of improving safety and working conditions and/or improving the quality of the products fished and conserved on board.

2. Expenditure eligible for public aid as referred to in paragraph 1 may not exceed the following amounts:

- a) construction of fishing vessels: the scales in Table 1 in Annex IV, increased by 92.5%. However, for vessels with a hull in neither steel or glass fibre, the coefficient of increase shall be 37.5%;

- b) modernisation of fishing vessels including, where applicable, the cost of remeasuring tonnage in accordance with Annex I to the 1969 Convention¹³: 50% of the expenditure eligible for construction aid as referred to in (a).
3. No public aid may be granted for capacity withdrawn in association with the addition of new capacity.

Article 11

Common provisions on fishing fleets

1. Public aid for fleet renewal and the modernisation of vessels as well as the issue of licences for the addition of new vessels is not permitted where, within the time allowed, the Member State:

- a) has not submitted the information provided for in Article 6;
- b) has not taken the necessary measures to comply with Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels¹⁴;
- c) has not take the necessary measures to comply with the objectives of the multiannual guidance programmes by introducing and applying the arrangements provided for in Article 7(1)(a).

2. In the cases referred to in paragraph 1 the Commission may take the appropriate measures, including, in particular:

- a) the adjustment of the capacity objectives in the multiannual guidance programme in the light of the information available to it,
- b) the suspension of the introduction of licence applications to third countries under fisheries agreements with the said countries that receive a financial contribution from the Community budget.

3. The following provisions shall apply to the cumulation of public aids to the fishing fleet:

- a) expenditure on modernisation shall not be eligible for aid for five years following the grant of public aid for the construction of the vessel concerned;
- b) permanent withdrawal premiums within the meaning of Article 8(3) and additional premiums for the creation of joint enterprises within the meaning of Article 9 may not be added to other Community aid granted under this

¹³ International Convention on Tonnage Measurement of Ships, drawn up in London in 1969 under the auspices of the International Maritime Organisation (IMO).

¹⁴ OJ L 274, 25.9.1986, p. 1. Regulation last amended by Regulation (EC) No 3259/94 (OJ L 339, 29.12.1994, p. 11).

Regulation or Regulations (EEC) No 2908/83¹⁵, (EEC) No 4028/86¹⁶ and (EC) No 3699/93. These premiums are to be reduced :

- i) by a part of the amount previously received in the case of modernisation aid and/or the allowance for a temporary joint venture; this part is calculated *prorata temporis* for the five year period preceding the permanent withdrawal or the setting up of the joint enterprise;
- ii) by the total amount previously received in the case of aid for the temporary cessation of activities within the meaning of Article 17(1) of this Regulation and under Article 14 of Regulation (EC) No 3699/93 paid during the two years preceding permanent withdrawal or the setting up of the joint enterprise.

Article 12

Small-scale coastal fishing

1. For the purposes of this Article, 'small-scale coastal fishing' means fishing carried on by vessels of an overall length of less than 12 metres, except for trawlers.

2. Without prejudice to other measures provided for in this or other Regulations, the Member States may take additional measures to supplement the measures to improve the conditions in which small-scale coastal fishing is carried on, under the terms laid down in this Article.

3. Where a group of owners of vessels or nuclear families of fishermen involved in small-scale coastal fisheries cooperatively implement an integrated collective project to improve the structure of their fishing activity, a lump-sum premium part-financed by the FIFG or the EAGGF Guarantee Section may be granted to the participants, without prejudice to the other types of aid provided for in this Regulation or the other Structural Fund Regulations.

4. The lump-sum premium shall not exceed EUR 150 000 per integrated collective project. The management authority shall determine the amount of the premium actually paid and how it is shared between the beneficiaries according to the scale of the project and the financial commitments made by each participant.

¹⁵ Council Regulation (EEC) No 2908/83 of 4 October 1983 on a common measure for restructuring, modernising and developing the fishing industry and for developing aquaculture (OJ No L 290, 22.10.1983, p. 1). Regulation last amended by Regulation (EEC) No 3733/85 (OJ L 361, 31.12.1985, p. 78).

¹⁶ Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector (OJ L 376, 31.12.1986, p. 7). Regulation last amended by Regulation (EEC) No 3946/92 (OJ L 401, 31.12.1992, p.1).

Article 13

Socio-economic measures

1. For the purposes of this Article, 'fisherman' means anyone engaging in his main occupation on board an operational seagoing fishing vessel.

2. The Member States may take, for fishermen, measures of a socio-economic nature associated with restructuring of the Community fisheries sector within the meaning of Article 11 of Regulation (EEC) No 3760/92.

3. Financial assistance from the FIFG or the EAGGF Guarantee Section may only be granted for the following measures:

- a) part-financing of national early-retirement schemes for fishermen, provided that the following conditions are fulfilled:
 - i) at the time of early retirement, the age of the beneficiaries of the measure must be not more than ten years from the legal retirement age within the meaning of the legislation in force in the Member State, or the beneficiaries must be aged at least 55;
 - ii) the beneficiaries can show that they have worked for at least 10 years as fishermen.

However, contributions to the normal retirement scheme for fishermen during the period of early retirement shall not be eligible for financial assistance from the FIFG or the EAGGF Guarantee Section.

In each Member State, for the entire programming period the number of beneficiaries may not exceed the number of jobs eliminated on board fishing vessels as a result of those vessels permanently stopping fishing activities within the meaning of Article 8;

- b) granting individual compensatory payments to fishermen who can show that they have worked for at least six months as fishermen, on the basis of an eligible cost limited to EUR 10 000 per individual beneficiary, provided the vessel on which the beneficiaries were employed has been the object of measures permanently stopping its activities, within the meaning of Article 8;
- c) granting non-renewable individual compensatory payments to fishermen who can show that they have worked for at least five years as fishermen, to help them retrain or diversify their activities outside maritime fisheries under an individual or collective social plan, on the basis of an eligible cost limited to EUR 50 000 per individual beneficiary; individual fishermen may combine this payment with the payment provided for at (b); the management authority shall determine the individual amount according to the scale of the retraining and diversification project and the financial commitment entered into by the beneficiary.

4. The Member States shall make the necessary arrangements to ensure:

- a) that the beneficiaries of the measure referred to in paragraph 3(a) permanently give up work as fishermen;
- b) that no one fisherman can combine benefits from the measure referred to in paragraph 3(a) with benefits from one of the measures referred to in paragraph 3(b) and (c);
- c) that the compensation referred to in paragraph 3(b) is refunded on a *pro rata temporis* basis where the beneficiaries return to their work as fishermen within a period of less than one year after being paid the compensation;
- d) that the compensation referred to in paragraph 3(c) is refunded on a *pro rata temporis* basis where the beneficiaries return to their work as fishermen within a period of less than five years after being paid the compensation;
- e) that the beneficiaries of the measure referred to in paragraph 3(c) actually engage in a new activity.

TITLE III

PROTECTION OF MARINE RESOURCES IN COASTAL WATERS, AQUACULTURE, FISHING PORT FACILITIES AND PROCESSING AND MARKETING

Article 14

Scope

1. Member States may, under the conditions specified in Annex III, take measures to encourage capital investment in the following fields:
 - a) protection of marine resources in coastal waters,
 - b) aquaculture,
 - c) fishing port facilities,
 - d) processing and marketing of fishery and aquaculture products.
2. Financial assistance from the FIFG or the EAGGF Guarantee Section may be granted only for projects which:
 - a) contribute to lasting economic benefits from the structural improvement in question;
 - b) offer an adequate guarantee of technical and economic viability;
 - c) avoid counterproductive effects, particularly the risk of creating surplus production capacity;
 - d) encourage the taking into account the interests of the sector as a whole.

TITLE IV
OTHER MEASURES

Article 15

Measures to find and promote new market outlets

1. Member States may, under the conditions specified in Annex III, take measures to encourage collective operations to find and promote new market outlets for fishery and aquaculture products, in particular:

- a) operations associated with quality certification, product labelling, rationalisation of product names and product standardisation,
- b) promotion campaigns, including those highlighting quality,
- c) projects to test consumer reactions,
- d) organisation of and participation in trade fairs and exhibitions,
- e) organisation of study and sales visits,
- f) market studies and surveys, including studies relating to the prospects for marketing Community products in third countries,
- g) campaigns improving marketing conditions,
- h) sales advice and aids, services provided to wholesalers and retailers.

2. Priority is to be given to investments:

- a) to encourage the sale of surplus or under-exploited species,
- b) implemented by organisations officially recognised within the meaning of Regulation (EEC) No 3759/92,
- c) pursuing a quality policy for fishery and aquaculture products,
- d) to promote products obtained using environmentally friendly methods.

3. The measures must not be based around commercial brands nor make reference to particular countries or geographic zone, except in specific cases where official recognition of origin with reference to a specified geographical zone for a product or process is granted pursuant to Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs¹⁷. The reference may be used only from the date on which the name has been entered in the register provided for in Article 6(3) of Regulation (EEC) No 2081/92.

¹⁷ OJ L 208, 27.7.1992, p. 1: Regulation last amended by Regulation (EC) No 1068/97 (OJ L 156, 13.6.1997).

Article 16

Operations by members of the trade

1. The Member States may encourage the creation and facilitate the operation of producer organisations recognised under Regulation (EEC) No 3759/92:

- a) Aid can be granted to producer organisations created after 1 January 2000 for three years following the date of recognition. This aid for the first, second and third years may not exceed:
 - i) 3%, 2% and 1% respectively of the value of the products marketed by the producer organisation;
 - ii) 60%, 40% and 20% respectively of the administrative costs of the producer organisation;
- b) Without prejudice to the aid referred to at (a), aid may be granted to producer organisations that have been specifically recognised under Article 7a(1) of Regulation (EEC) No 3759/92 during the three years following the date of the specific recognition to facilitate the implementation of their plans to improve quality and marketing. The amount of this aid may not exceed, for the first, second and third years:
 - i) 3%, 2% and 1% respectively of the value of the products covered by the plan and marketed by the beneficiary producer organisation;
 - ii) 60%, 50% and 40% respectively of the costs incurred by the organisation in implementing the plan;
- c) The aid referred to at (a) and (b) shall be paid to the final beneficiaries during the year following that for which it was granted, and not later than 31 December 2008.

2. The Member States may encourage short-term operations of collective interest with a broader scope than operations normally undertaken by private businesses, carried out with the active contribution of members of the trade themselves and serving to attain the objectives of the common fisheries policy.

Eligible operations shall relate in particular to the following themes:

- a) management and control of conditions for access to certain fishing zones and quota management;
- b) management of fishing effort;
- c) promotion of gear or methods recognised by the management authority as being more selective;
- d) implementation of technical measures for the conservation of resources;
- e) collective aquaculture facilities, restructuring or improvement of aquaculture sites, collective treatment of aquaculture effluent;
- f) eradication of the pathological risks of fish farming or parasites in catchment areas or coastal ecosystems;

- g) collection of basic data and/or preparation of environmental management models for fisheries and aquaculture with a view to drawing up integrated management plans for coastal areas;
- h) organisation of electronic trade and other information technologies to disseminate technical and commercial information;
- i) creation of business incubators in the sector and/or centres for the collection of fishery and aquaculture products;
- j) access to training, particularly in quality, and organisation of transmission of know-how on board vessels and on land;
- k) design and application of systems to improve and control quality, health conditions, statistical instruments and environmental impact.

Expenditure incurred in the normal production process in firms shall not be eligible under this paragraph.

3. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 50 of Regulation (EC) No .../.. [general Funds regulation].

Article 17

Temporary cessation of activities and other financial compensation

1. The Member States may grant compensation to fishermen and owners of vessels for the temporary cessation of activities in the following circumstances:

- a) in the event of unforeseeable circumstances, particularly those caused by biological factors; the granting of compensation may last for no more than two months per year. The management authority shall forward suitable scientific proof to the Commission in advance;
- b) where a fisheries agreement is not renewed, for the Community fleets dependent on the agreement; the granting of compensation may not last longer than six months; it may be extended by a further six months provided a conversion plan approved by the Commission is implemented for the fleet concerned;
- c) where a plan is introduced for the recovery of a resource threatened with exhaustion, decided by the Commission or by one or some Member States; the granting of compensation may last for no more than two years and may be extended by a further year. Compensation may also be granted, subject to the same restrictions as to duration; to the processing industry where it depends for its supply on a resource covered by a recovery plan. Before the recovery plan is put into place the management authority shall forward to the Commission suitable scientific and economic justification. The Commission shall request without delay the opinion of the Committee provided for in Article 16 of Regulation (EEC) No 3760/92.

2. The Member States may grant financial compensation to fishermen and owners of vessels where a Council decision imposes technical restrictions on the use of certain gear or fishing methods; this aid is intended to cover the technical adjustment and may not be paid for more than six months.

3. The financial contribution from the FIFG and the EAGGF Guarantee Section to the measures referred to in paragraphs 1 and 2 per Member State for the entire period from 2000-2006 may not exceed the higher of the following two thresholds: EUR 1 million or 3% of the Community financial assistance allocated to the sector in the Member State concerned.

The management authority shall determine the amount of compensation as provided for in paragraphs 1 and 2 to be paid in individual cases taking account of relevant parameters such as the real losses suffered, the scale of the conversion effort, recovery plan or technical adjustment effort.

4. The measures taken under this Article may under no circumstances be invoked as contributing to the attainment of the objectives of the multiannual guidance programme referred to in Article 5, nor can they be justified by a recurrent seasonal suspension of activity as part of the ongoing management of fisheries.

Article 18

Innovative measures and technical assistance

1. The Member States shall envisage in the plans referred to in Articles 3 and 4(1) the means necessary to undertake studies, pilot projects, demonstration projects, training measures, technical assistance, the exchange of experience and publicity connected with the preparation, implementation, monitoring, evaluation or adjustment of the operational programmes and the single programming documents.

2. 'Pilot project' means a project carried out by an economic operator or scientific body to test, in conditions approaching actual conditions in the industry, the technical reliability and/or financial viability of an innovative technology with a view to acquiring and disseminating (technical and/or financial) knowledge of the technology being tested. Pilot projects shall always comprise scientific monitoring of sufficient intensity and duration to obtain significant results; they must be the subject of scientific reports forwarded to the management authority. The latter shall immediately forward such reports to the Commission for information.

Exploratory fishing projects shall be eligible as pilot projects provided their aim is the conservation of fishery resources and they implement more selective techniques.

3. The measures referred to in paragraph 1 may, in particular, concern the themes referred to in Article 16(2), provided they are implemented on the initiative of public or semi-public bodies or other bodies designated to that end by the management authority.

They may also include the construction or transformation of vessels provided that these vessels are destined exclusively for fisheries research activities, undertaken by public or semi-public bodies, under the flag of a Member State.

4. In addition, the measures referred to in paragraph 1 may include the promotion of equal employment opportunities between men and women working in the sector.

TITLE V

GENERAL AND FINANCIAL PROVISIONS

Article 19

Compliance with the conditions governing assistance

The management authority shall ensure that the special conditions governing assistance listed in Annex III are complied with.

It shall also satisfy itself as to the technical capacity of beneficiaries and the financial viability of firms before granting aid.

Article 20

Notification of aid schemes

1. The Member States shall notify the Commission of the aid schemes provided for in the plans referred to in Articles 3 and 4(1), in accordance with Articles 92, 93 and 94 of the Treaty.

2. Within the scope of this Regulation, Member States may introduce supplementary aid measures subject to conditions or rules other than those laid down in this Regulation, or covering a sum in excess of the maximum amounts referred to in Annex IV, provided they comply with Articles 92, 93 and 94 of the Treaty.

Article 21

Monetary Conversion

For Member States which are not in the euro zone, the amounts in euros set by this Regulation shall be converted into national currency at the rate published in the C series of the Official Journal of the European Communities.

The conversion shall be made at the rate applicable on 1 January of the year of the Member State's decision to grant the premium or aid.

Article 22

Specific provisions on measures part-financed by the EAGGF Guarantee Section

1. Community assistance to measures financed by the EAGGF Guarantee Section shall be the subject of financial planning and annual accounts. Financial planning shall be an integral part of the programming.
2. The Commission shall fix an initial allocation to the Member States, broken down by year, based on objective criteria and taking account of the particular situations, needs and efforts to be made, particularly with regard to the restructuring of the fleet.
3. The initial allocation shall be adjusted in the light of actual expenditure and revised expenditure forecasts submitted by the Member States, taking account of the objectives of the programmes, insofar as resources are available and in accordance with the aid rates fixed in this Regulation.
4. The Community's financial contribution to measures part-financed by the EAGGF Guarantee Section shall be made in accordance with the principles laid down in Articles 28, 29, 37 and 38 of Regulation (EC) No .../.. [general Funds regulation]. However:
 - a) the Community's financial contribution may not exceed 50% of the total eligible cost and shall cover, as a general rule, at least 25% of the eligible public expenditure;
 - b) the rates fixed in Article 28(4)(a)(ii) and (iii) and (b)(ii) and (iii) of Regulation (EC) No .../.. [general Funds regulation] shall apply.
5. The fifth subparagraph of Article 31(1) of Regulation (EC) No .../.. [general Funds regulation] shall apply to payments.
6. Financial assistance granted by the EAGGF Guarantee Section may take the form of advances for the implementation of the programme or payments relating to expenditure actually incurred.

Article 23

Implementing rules

The form of the expenditure statements and annual implementation reports shall be adopted by the Commission in accordance with the procedure laid down in Article 50 of Regulation (EC) No .../.. [general Funds regulation].

Article 24

Transitional provisions

The following are repealed with effect from 1 January 2000 :

- Regulation (EC) No 3699/93
- Articles 7, paragraphs 1, 2 and 3, and 7b of Regulation (EEC) No 3759/92,
- Regulation (EEC) No 3140/82¹⁸.

However, the repealed provisions shall remain applicable for aid, measures and projects approved before 31 December 1999.

References to the repealed regulations and articles shall be understood as references to this Regulation.

Article 25

Entry into force

This Regulation shall enter into force on the third day following that of 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,

For the Council

The President

¹⁸ Council Regulation (EEC) N° 3140/82 of 22 November 1982 on granting and financing aid granted by Member States to producers' organisations in the fishery products sector (OJ L 331, 26.11.1982, p. 7).

ANNEX I

CONTENTS OF THE PLANS

1. Quantified description of the actual situation for each of the fields referred to in Titles II, III and IV

- a) Strengths and weaknesses;
- b) Summary of operations undertaken and impact of funds used in previous years;
- c) Requirements of the sector, particularly with regard to the constraints of the multiannual guidance programme for the fishing fleet.

2. Strategy for restructuring the sector

- a) Results of consultations and measures to involve the competent authorities and bodies and socio-economic partners at the appropriate levels;
- b) Objectives:
 - i) general objectives under the common fisheries policy;
 - ii) priorities;
 - iii) objectives specific to each area of assistance, quantified if possible.
- c) Proof that the public aids are necessary to attain the objectives sought; steps taken to prevent counterproductive effects, particularly as regards the creation of surplus capacity;
- d) With regard to the fleet:
 - i) indicators concerning the development of the fleet in relation to the objectives of the multiannual guidance programme;
 - ii) fishing techniques and gear to be encouraged in the event of redeployment of fishing activities;
- e) anticipated impact (on employment, production, etc.).

3. Means to attain the objectives

- a) The measures (legal, financial or other) planned in each field to implement the plans, particularly aid schemes;
- b) Indicative financing schedule covering the entire programming period and listing the regional, national, Community or other resources provided for each area of assistance.
- c) The requirements in terms of studies, pilot projects, demonstration projects, training, technical assistance and publicity measures connected with the preparation, implementation, monitoring, evaluation or adjustment of the measures concerned.

4. Implementation

- a) Management authority designated by the Member State;
- b) Steps taken to ensure efficient and effective implementation, including monitoring and evaluation; definition of the quantified indicators;
- c) Provisions relating to checks, penalties and publicity measures;
- d) With regard to the fleet:
 - i) The methods for monitoring trends in fishery resources, particularly vulnerable resources;
 - ii) For static gear, the arrangements for monitoring fishing effort, including trends in the number and size of gear.

ANNEX II

MINIMUM CONTENT OF MULTIANNUAL GUIDANCE PROGRAMMES FOR THE FISHING FLEET FOR 2002 TO 2006

1. Updating of the description of the situation provided for in Annex I

This consists in describing the change in the situation regarding fisheries, the fleet and related employment since the date of submission of the programming documents referred to in Articles 3 and 4(1).

2. Results from the previous programme

- a) Identify and comment on the progress achieved in attaining the objectives set for the 1997-2001 programme.
- b) Analyse the general administrative and socio-economic context in which it was implemented and in particular, where appropriate, in which measures to reduce fishing activity were implemented.
- c) Specify and comment on the Community, national and regional financial resources committed in attaining the results achieved, for each fleet segment.

3. New guidelines

On the basis of the replies given to points 1 and 2 indicate the guidelines which should be given to the various fleet segments for the period 2002-2006, in particular in relation to the following two operations:

- a) Fleet renewal: criteria for joining and leaving the fleet, for each segment and associated funding. Legal or administrative provisions enabling the Member State to monitor vessels joining and leaving its fleet. Measures taken by the Member State per fleet segment to ensure that public aid granted for fleet renewal and adjustment of fishing effort does not have contradictory effects where the pursuit of the objectives of the programmes is concerned;
- b) Adjustment of fishing effort: desirable evolution of fishing effort per segment until 31 December 2006, expressed in relation to the objectives set for each segment for 31 December 2001. Associated laws, regulations or administrative provisions. Systems for managing fishing activity. Extent of administrative and financial resources to be used to attain the new objectives thus set.

ANNEX III

SPECIAL CONDITIONS AND CRITERIA FOR ASSISTANCE

1. Implementation of multiannual guidance programmes (Title II)

1.0 *Age of vessels*

For the purposes of this Regulation, the age of a vessel is a whole number defined as the difference between the year of the management authority's decision to grant a premium or aid and the year in which the vessel was built (or, if this is not known, the year of commissioning).

1.1 *Permanent withdrawal (Article 8(2))*

- a) Permanent withdrawal may concern only vessels which have carried out a fishing activity for at least 75 days at sea in each of the two periods of 12 months preceding the date of the application for permanent withdrawal or, as the case may be, a fishing activity for at least 80% of the number of days at sea permitted by current national regulations for the vessel concerned. In the Baltic Sea the number of 75 days shall be reduced to 60 for vessels registered in ports situated north of parallel 59°30' N.
- b) The following conditions must be met:
 - i) prior to its permanent withdrawal, the vessel must be registered in the Community fishing vessel register;
 - ii) the vessel must be operational at the time the decision is taken to grant the premium;
 - iii) after permanent withdrawal, the fishing licence must be cancelled and the vessel declared permanently deleted from the Community register;
 - iv) in the event of permanent transfer to a third country, the vessel must be immediately registered in the register of the third country and may never return to Community waters.
- c) If a vessel is lost between the date of the decision to grant the premium and the actual date of permanent withdrawal, the management authority shall make a financial correction for the amount of the compensation paid by the insurance.
- d) No public aid within the meaning of Article 8 may be paid for a vessel transferred to a third country to replace a lost vessel belonging to a joint enterprise within the meaning of Article 9.

1.2 *Joint enterprises (Article 9)*

- a) In addition to the conditions for the permanent transfer of a vessel to a third country within the meaning of Article 8(2)(b) and point 1.1 of this Annex, such vessels must meet the following conditions:
 - i) they must have been operating for at least the last five years, under the flag of a Member State of the Community, in Community waters and/or

- in the waters of a third country that has concluded a fisheries agreement with the Community;
- ii) they must, within six months of the date of the decision to grant the additional premium, be fitted out with the technical equipment needed to operate in the waters of the third country under the terms of the fishing authorisation issued by the authorities of the third country; they must comply with the Community safety regulations and be adequately insured as decided by the management authority;
- b) When the application for the additional premium is lodged, beneficiaries must provide the management authority with the following information:
- i) a description of the vessel, including, in particular, the internal number, registration number, tonnage, power and year of entry into service ;
 - ii) during the last five years: service and activity of the vessel (and conditions under which the activity was carried on); indication of fishing zones (Community waters/other); any previous Community, national or regional aid received;
 - iii) proof of the project's financial viability, including, in particular:
 - a financing plan showing the contributions of the different shareholders in cash and in kind; level of contribution of Community/third country partners;
 - an activity plan covering at least five years, showing, in particular, fishing zones, places of landing and final destination of catches;
 - iv) a copy of the insurance contract.
- c) The following conditions must be met by the beneficiary during a period of five years from the transfer of ownership of the vessel to the joint enterprise:
- i) any change in the conditions under which the vessel is operated (particularly change of partner, change in the share capital of the joint enterprise, change of flag), within the limits of the conditions referred to in Article 9 (2), shall be subject to prior authorisation by the management authority;
 - ii) A vessel lost through shipwreck must be replaced by an equivalent vessel within one year of the payment of compensation for the accident by the insurance company.
- d) If the conditions at (a) and (b) are not fulfilled when the application for the additional premium is lodged, the public aid shall be restricted to the premium for permanent transfer referred to in Article 8(3)(b).
- e) Without prejudice to Articles 29(4) and 38 of Regulation (EC) No .../.. [general Funds regulation], the management authority shall carry out a financial correction in the following cases:
- i) if the beneficiary notifies to the management authority a change in operating conditions that lead to the non respect of the conditions referred to in Article 9 (2) of this Regulation, including the sale of the vessel or the retirement of the Community shipowner in the joint venture, the financial correction shall be equal to part of the amount of

the additional premium; this part shall be calculated *pro rata temporis* over the period of five years;

- ii) if during a control it is found that the conditions provided for in Article 9 (2) of this Regulation and point (c) of this paragraph are not complied with, the financial correction shall be equal to the additional premium;
- iii) if the beneficiary fails to provide the activity reports provided for in Article 9(5) of this Regulation after having been served notice by the management authority, the financial correction shall be equal to part of the amount of the additional premium; this part shall be calculated *pro rata temporis* over the period of five years;
- iv) if the vessel is lost and not replaced, the financial correction shall be equal to the insured value.

1.3 *Fleet renewal* (Article 10)

- a) Vessels must be built to comply with the regulations and directives governing hygiene and safety and the Community provisions concerning the dimension of vessels and the monitoring of fishing activities. They shall be entered in the appropriate segment of the Community register.
- b) Without prejudice to Articles 8 and 9, the transfer of ownership of a fishing vessel shall not give rise to Community aid.

1.4 *Vessel modernisation* (Article 10)

- a) Vessels must be entered in the Community register of fishing vessels, and their dimensions must be brought into line with Regulation (EEC) No 2930/86 when they are modernised.
- b) Investments should relate to:
 - i) the rationalisation of fishing operations, in particular by the use of more selective fishing gear and methods,and/or
 - ii) improvement of the quality of products caught and preserved on board, the use of better fishing and preserving techniques and the implementation of legal and regulatory provisions regarding health,and/or
 - iii) improvement of working and safety conditions.

Without prejudice to Article 17(2), the replacement of fishing gear shall not be considered eligible expenditure.

- c) Operations may cover only vessels less than 30 years old. This age limit shall not apply to the investments referred to in paragraph (b)(iii).

2. Investment in the areas referred to in Title III

2.0. *General provisions*

- a) Projects in undertakings may involve capital investment in production and management (construction, equipping and modernisation of facilities).
- b) The transfer of ownership of property linked to productive activities may not give rise to the grant of Community aid.

2.1 *Protection of marine resources in coastal waters*

Expenditure eligible for assistance from the FIFG or the EAGGF Guarantee Section may concern only the installation of fixed or movable facilities to enclose protected underwater areas and the scientific monitoring of projects. Such projects must:

- a) be of collective interest,
- b) be implemented by public or semi-public bodies, recognised professional organisations or other bodies designated to that end by the management authority,
- c) not have a negative impact on the marine environment.

Each project must include scientific monitoring for at least five years, comprising in particular the evaluation and monitoring of the development of marine resources in the waters concerned. The management authority shall forward the scientific monitoring reports to the Commission every year for information.

2.2 *Aquaculture*

- a) For the purposes of this Regulation, 'aquaculture' means the rearing or culture of aquatic organisms using techniques (stocking, feeding, protection from predators, etc.) designed to increase the production of the organisms in question beyond the natural capacity of the environment; the organisms remain the property of a natural or legal person throughout the rearing or culture stage, up to and including harvesting.
- b) The promoters of intensive fish-farming projects shall forward the information provided for in Annex IV to Directive 85/337/EEC¹⁹ to the management authority together with their application for public aid. The management authority shall decide whether the project must be submitted for assessment under Articles 5 to 10 of that Directive. Where the public aid is granted the cost of collecting information on environmental impact and any assessment costs shall be eligible for assistance from the FIFG or the EAGGF Guarantee Section.
- c) Investments in works concerning the installation or improvement of water circulation in aquaculture enterprises and on service vessels shall be eligible.

¹⁹ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40). Directive last amended by Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

- d) Capital investment to improve conditions of hygiene or human or animal health, to improve product quality or reduce pollution of the environment shall be eligible.
- e) Notwithstanding group 2 in Table 3 in point 2.1 of Annex IV, where investments concern the use of techniques that substantially reduce environmental impact, the contribution of private beneficiaries (C) may be restricted to 30% of eligible expenditure in Objective 1 regions and 50% in other areas, instead of 40% and 60% respectively.

2.3 *Fishing port facilities*

Investments must be of interest to all fishermen using a port and must contribute to the general development of the port and to the improvement of services offered to fishermen. They shall relate in particular to installations and equipment intended:

- a) to improve the conditions under which fishery products are landed, treated and stored in ports,
- b) to support fishing vessel activities (provision of fuel, ice and water, maintenance and repair of vessels),
- c) to improve jetties with a view to improving safety during the landing or loading of products.

Capital investment to improve conditions of hygiene or human or animal health, to improve product quality or reduce pollution of the environment shall be eligible.

2.4 *Processing and marketing*

- a) For the purposes of this Regulation, 'processing and marketing of fishery and aquaculture products' means all operations, including handling, treatment, production and distribution, between the time of landing and the end-product stage.
- b) Investments shall not be eligible for assistance where they concern:
 - i) fishery and aquaculture products intended to be used and processed for purposes other than human consumption, with the exception of investments exclusively for the treatment, processing and marketing of fishery and aquaculture product wastes,
 - ii) the retail trade.

Capital investment to improve conditions of hygiene or human or animal health, to improve product quality or reduce pollution of the environment shall be eligible.

- c) Notwithstanding group 2 in Table 3 in point 2.1 of Annex IV, where investments concern the use of collective facilities or techniques that substantially reduce environmental impact, the contribution of private beneficiaries (C) may be restricted to 30% of eligible expenditure in Objective 1 regions and 50% in other areas, instead of 40% and 60% respectively.

3. Measures to find and promote new market outlets (Article 15)

- a) Eligible expenditure shall cover in particular:
 - i) the costs of advertising agencies and other service providers involved in the preparation and implementation of promotion campaigns,
 - ii) the purchase or hire of advertising space and the creation of slogans and labels for the duration of promotion campaigns,
 - iii) expenditure on publishing, external staff, premises and vehicles required for the campaigns.
- b) The beneficiary's operating costs (staff, equipment, vehicles, etc.) shall not be eligible.

ANNEX IV

SCALES AND RATES OF ASSISTANCE

1. Scales of assistance relating to fishing fleets (Title II)

TABLE 1

| Category of vessel by tonnage (GT) | Euros |
|---------------------------------------|--------------------|
| 0,2 < 10 | 9 675/GT + 1 428 |
| 10 < 25 | 4 879/GT + 49 388 |
| 25 < 100 | 4 189/GT + 66 638 |
| 100 < 300 | 2 794/GT + 206 138 |
| 300 < 500 | 2 275/GT + 361 838 |
| 500 and above | 1 244/GT + 877 338 |

TABLE 2

| Category of vessel by gross registered tonnes (GRT) | Euros |
|--|---------------------|
| 0 < 25 | 7 396/grt |
| 25 < 50 | 6 051/grt + 33 625 |
| 50 < 100 | 5 379/grt + 67 225 |
| 100 < 250 | 2 689/grt + 336 225 |

From 1 January 2000, for vessels longer than 24 metres between perpendiculars, and from 1 January 2004, for all vessels, only Table 1 shall apply.

2. Participation rates

For all the operations referred to in Titles II, III and IV, the limits on Community participation (A), total State participation (national, regional and other) by the Member State concerned (B) and, where applicable, participation by private beneficiaries (C) shall be as follows, expressed as a percentage of eligible costs:

Group 1: Permanent withdrawal premiums (Article 8), additional premiums for the creation of joint enterprises part-financed by the FIGF or the EAGGF Guarantee Section (Article 9), small-scale coastal fishing (Article 12), socio-economic measures (Article 13), protection of marine resources in coastal waters (Article 14), fishing port facilities with no participation by private beneficiaries (Article 14), measures to find and promote new market outlets with no participation by private beneficiaries (Article 15), operations by members of the trade (Article 16), temporary cessation premiums and other financial compensation (Article 17), innovative measures and technical assistance except pilot projects (Article 18)

Group 2: Fleet renewal and modernisation of fishing vessels (Article 10)

Group 3: Aquaculture (Article 14), fishing port facilities with participation by private beneficiaries (Article 14), processing and marketing (Article 14), measures to find and promote new market outlets with participation by private beneficiaries (Article 15)

Group 4: pilot projects (Article 18)

TABLE 3

| | Group 1 | Group 2 | Group 3 | Group 4 |
|---------------------------------------|--|--|--|--|
| Objective No 1 Regions ^(*) | $50\% \leq A \leq 75\%$ $B \geq 25\%$ | $A \leq 35\%$ $B \geq 5\%$ $C \geq 60\%$ | $A \leq 35\%$ $B \geq 5\%$ $C \geq 40\%$ | $A \leq 75\%$ $B \geq 5\%$ $C \geq 20\%$ |
| Other areas | $25\% \leq A \leq 50\%$ $B \geq 50\%$ | $A \leq 15\%$ $B \geq 5\%$ $C \geq 60\%$ | $A \leq 15\%$ $B \geq 5\%$ $C \geq 60\%$ | $A \leq 50\%$ $B \geq 5\%$ $C \geq 30\%$ |

^(*) within the meaning of Article 2(1) of this Regulation.

In Group 1, where appropriate, the management authority may require a financial contribution from the private sector, particularly in the case of the protection of marine resources in coastal waters or operations by members of the trade. Eligible expenditure shall be reduced accordingly.

In the case of investments in small and medium-sized enterprises within the meaning of Commission Recommendation 96/280/EC²⁰ the (A) rates for groups 2 and 3 may be increased to the extent that forms of financing other than direct aids are used, without this increase exceeding 10% of the total eligible cost. The contribution of the private beneficiary shall be reduced accordingly.

²⁰ Commission Recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises (96/280/EC)(OJ L 107, 30.4.1996, p. 4).

ISSN 0254-1475

COM(98) 728 final

DOCUMENTS

EN

03 08 10 06

Catalogue number : CB-CO-98-745-EN-C

Office for Official Publications of the European Communities

L-2985 Luxembourg

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