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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2908/83

of 4 October 1983

on a common measure for restructuring, modernizing and developing the fishing industry
and for developing aquaculture

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the opinion of the European Parliament ⁽²⁾,

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

Whereas Article 9 (2) of Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry ⁽⁴⁾ provides that common measures may be decided upon for the attainment of the objectives mentioned in paragraph 1 of the same Article in so far as they relate to the objectives set out in Article 39 (1) (a) of the Treaty; whereas these common measures may be financed by the Guidance Section of the European Agricultural Guidance and Guarantee Fund by virtue of Article 1 (3) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽⁵⁾, as last amended by Regulation (EEC) No 3509/80 ⁽⁶⁾;

Whereas changes in the international framework within which fishing activities are carried out, together with

demands inherent in the conservation and management of fish stocks in the maritime waters of the Community, have reduced the scope for fishing available to Community fleets and made fishermen's earnings insecure;

Whereas, in order to set limits to the economic insecurity in which Community fishermen work, the fleets concerned must be restructured, under a common measure, by renewal and, where necessary, economically appropriate expansion in line with actual catch potential which will ensure optimum productivity in the long term of these production facilities;

Whereas the development of aquaculture can contribute towards an improvement in supplies of fishery products in the Member States; whereas this common measure must therefore provide for the encouragement of this activity;

Whereas coastal areas in the Mediterranean Sea should be protected by the installation of artificial structures to facilitate re-stocking and to permit, after a transitional period, the optimum exploitation of these areas;

Whereas, so as to ensure that the fishing industry or aquaculture are restructured or developed on a technically and economically sound basis, participation by the European Agricultural Guidance and Guarantee Fund in investment projects should be subject to the inclusion of those projects in multiannual guidance programmes containing a detailed analysis whereby the Commission can assess both the initial structural situation and each Member State's forecasts with regard to the new production structures; whereas, for the creation of areas protected by artificial structures, it seems sufficient for each Member State to send the

⁽¹⁾ OJ No C 243, 22. 9. 1980, p. 5.

⁽²⁾ OJ No C 346, 19. 12. 1980, p. 112.

⁽³⁾ OJ No C 348, 31. 12. 1980, p. 18.

⁽⁴⁾ OJ No L 20, 28. 1. 1976, p. 19.

⁽⁵⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁶⁾ OJ No L 367, 31. 12. 1980, p. 87.

Commission a descriptive summary of the investments to be made in the sector;

Whereas, to enable structural progress to be monitored accurately, the annual review of the programme must include consideration of the investments made; whereas the relevant information must therefore be collected by the Member States and set out in a summary document to be forwarded to the Commission together with any necessary programme amendments, if appropriate, to be submitted for Commission approval;

Whereas, during the first year of the common measure, it should be possible, in order to allow time for programmes or descriptive summaries to be drawn up, to finance projects which do not fall within them;

Whereas criteria should be laid down for identifying the projects to be given priority consideration;

Whereas, in order to ensure a balance between the measure of the Community and that of the Member State, the projects to be financed by the Fund must first be approved by the Member State concerned, which should also contribute to the cost;

Whereas the provision by the Fund of a capital subsidy not exceeding 25 % of the value of the investment would, in general, be an appropriate contribution thereto;

Whereas Greenland, Ireland, Northern Ireland, the Mezzogiorno, the French overseas departments and Greece are in a special situation because of their belated economic and social development, their self-financing difficulties and their outlying position in the Community; whereas valid economic initiatives cannot be encouraged in those regions without a specially intensive effort; whereas Fund participation in these regions should consequently be allowed to amount to 50 %;

Whereas this increased rate of participation should also be applied to projects for the construction of artificial structures to facilitate restocking of coastal areas, given the heavy investment involved in relation to the

short-term benefits accruing to communities living from fishing;

Whereas, in order to ensure that beneficiaries observe the conditions imposed when Fund aid is granted, an effective control procedure should be provided for with the possibility of suspending, reducing or discontinuing the aid from the Fund;

Whereas a procedure for examination of the programmes should be provided for to ensure close cooperation between the Member States and the Commission within the Standing Committee for the Fishing Industry; whereas, for the approval of projects, in addition to the procedure in the Standing Committee, provision must be made for consultation, concerning the financial aspects, of the Fund Committee referred to in Article 11 of Regulation (EEC) No 729/70,

HAS ADOPTED THIS REGULATION:

Article 1

1. In order to promote the necessary structural changes within the guidelines of the common fisheries policy and to enable the objectives set out in Article 9 of Regulation (EEC) No 101/76 to be attained, a common measure shall be undertaken to restructure, modernize and develop certain fishing fleets and to develop aquaculture.
2. All the measures provided for in this Regulation shall constitute a common measure within the meaning of Article 6 (2) of Regulation (EEC) No 729/70.
3. The Commission may, in accordance with the provisions of Titles III and IV, grant aid for the common measure, by financing projects which satisfy the conditions of this Regulation, through the Guidance Section of the European Agricultural Guidance and Guarantee Fund (hereinafter referred to as 'the Fund').

Article 2

For the purposes of this Regulation:

- 'multiannual guidance programme' (hereinafter referred to as 'programme') means a set of objectives, together with a statement of the means for attaining them, designed to restructure,

modernize and develop certain fishing fleets and to develop aquaculture, in a Member State,

— 'projects' means any public, semi-public or private capital investment projects relating entirely or partly to:

- (a) the purchase or construction of new fishing vessels, and the modernization or conversion of fishing vessels already in use;
- (b) the construction, equipment or modernization of installations for rearing fish, crustaceans and molluscs;
- (c) the construction, within an area of three miles from the base lines, of artificial structures to facilitate re-stocking of Mediterranean coastal areas.

TITLE I

Multiannual guidance programmes

Article 3

For the investments provided for in (a) and (b) of the second indent of Article 2, Member States shall draw up, on the basis of the particulars referred to in Article 4, programmes whose implementation shall cover at least the proposed duration of the common measure.

The programmes must specify the method, measures and facilities or resources that will be used in order to attain the following objectives in the long term:

- (a) in respect of the fishing sector, a satisfactory balance between the fishing capacity to be deployed by the production facilities covered by the programmes and the stocks which are expected to be available during the period of validity of the programme;
- (b) in respect of aquaculture, a substantial and economically profitable volume of production of fish, crustaceans or molluscs.

Article 4

Programmes shall give at least the following information:

A. In respect of the fishing industry

- 1. The initial situation and discernible trends as regards the various categories of vessels making up the fleet.
- 2. An overall estimate of the fishing capacity of the categories of vessels referred to under 1 on the basis of a list of fishing vessels in use.

- 3. An estimate of the future capacity of the fleet, worked out as follows:

- an estimate of the number of vessels to be withdrawn from fishing, with an indication of their fishing capacity,
- an estimate of the number of vessels to be laid up periodically,
- an estimate of the number, tonnage and fishing capacity of vessels to be commissioned during the period within which the programme is to be implemented, taking into account the number of vessels on order by Community shipowners in the shipyards of the Member State concerned.

B. In respect of aquaculture

- 1. Delimitation of the area concerned by the programme, reasons for that delimitation, and designation and description of priority development sites.
- 2. Initial situation and list of existing facilities.
- 3. Brief description of the farming methods and particularly of the intensive farming methods to be employed for each of the species concerned.
- 4. Estimate of the areas to be used for the new extensive, semi-intensive and intensive farming installations, with expected output.

C. In respect of both sectors

- 1. Expected effects of the programme on:
 - the general economic situation of the regions concerned,
 - the economic viability of enterprises,
 - the employment situation.
- 2. Status of the programme in relation to any other measures designed to encourage the harmonious development of the general economy of the geographical area concerned, in particular link-ups with regional development programmes.

3. Estimated time required for the execution of the programme.

4. The laws, regulations and administrative provisions designed to facilitate the restructuring or development of the fleet or of aquaculture installations.

Article 5

1. The Member State concerned shall forward the programmes to the Commission.

2. The Commission shall consider whether, having regard to the production potential, the measures for the conservation and management of fish stocks, the demand for the products concerned and the guidelines of the common fisheries policy, the programmes drawn up pursuant to Articles 3 and 4 constitute a suitable framework for projects which may qualify for financial support from the Community.

3. Not later than six months from notification of each programme a decision shall be taken on its approval, in accordance with the procedure provided for in Article 21.

Article 6

1. Each programme approved by the Commission shall be reviewed annually. The Standing Committee for the Fishing Industry shall be consulted.

2. For the purpose of the review provided for in paragraph 1, the Member State concerned shall send to the Commission each year before 30 September a summary report on the state of progress of the programme, together with any necessary amendments.

3. The Commission shall decide whether to approve the amendments in accordance with the procedure laid down in Article 21.

Article 7

The Member States concerned shall draw up a descriptive summary, for the Commission's information, of the investments to be made in the sectors referred to in (c) of the second indent of Article 2, showing the scheduled timetable of these investments and an estimate of the expenditure entailed.

TITLE II

Projects

Article 8

1. The projects provided for in (a) and (b) of the second indent of Article 2 shall:

- (a) be consistent with the guidelines laid down by the programmes;
- (b) offer a satisfactory guarantee of yielding a profit;
- (c) contribute to the lasting economic effect of structural improvement aimed at by the programmes.

2. The projects referred to in (c) of the second indent of Article 2 must be included in the summary description referred to in Article 7 and an indication must be given of their relevance to the activity of coastal populations earning a livelihood from fishing or aquaculture as well as an indication of the benefits they will bring them.

3. By way of derogation from paragraphs 1 and 2 and until 30 November 1984, projects may qualify for Fund aid even if they are not included in a programme approved by the Commission nor in a descriptive summary within the meaning of Article 7.

Article 9

1. To be eligible for aid from the Fund, the projects referred to in (a) of the second indent of Article 2 must relate to fishing vessels which are between nine and 33 metres in length, measured between perpendiculars, and which have the necessary equipment for fishing operations and crew safety.

Modernization or conversion work on fishing vessels in use as referred to in (a) of the second indent of Article 2 must be substantial, be undertaken to rationalize fishing operations, improve conditions of storage of catches or save energy and must amount to at least 20 000 ECU per project.

The limit of 20 000 ECU shall be reduced to 10 000 ECU for projects concerning fishing vessels which are between nine and 12 metres in length, measured between perpendiculars.

2. To be eligible for aid from the Fund, the aquaculture projects referred to in (b) of the second indent of Article 2 must have a capacity sufficient to ensure sustained commercial operation.

Furthermore, shellfish-farming projects must be situated in waters meeting national or Community quality standards.

3. To be eligible for aid from the Fund, the projects for artificial structures referred to in (c) of the second indent of Article 2 must involve the installation of fixed or movable components intended to constitute the boundaries of protected areas and to create the substrata on which or around which stocks of fish, crustaceans or molluscs may develop. These components must correspond to a model approved by the competent authorities of the Member States concerned.

Furthermore, all fishing, including fishing with fixed gear or direct harvesting, must be prohibited in the protected areas during the first three years.

Article 10

Member States shall ensure that the projects are carried out by natural or legal persons who satisfy the following conditions:

1. Fishing

- In the case of natural persons, their main professional activity shall, for at least five years, have been fishing or related activities; in the case of partnerships, at least one partner must fulfil this condition.
- In the case of legal persons, the applicant shall have acquired substantial experience of fishing or related activities during the five years preceding that for which the project is submitted; legal persons established for less than five years shall be composed by at least 60 % of natural or legal persons meeting the above requirements.
- In all cases, the skipper of the vessel concerned by a project must be trained to a level such that the best use can be made of that vessel's equipment.

2. Aquaculture

They shall show satisfactory professional competence in the farming of fish, crustaceans or molluscs.

3. Construction of artificial structures

They shall be a recognized producer organization, a producer cooperative or an agency appointed for that purpose by the competent authority of the Member State concerned.

Article 11

1. The following projects meeting the requirements laid down in Articles 8 and 9 shall enjoy priority consideration for Fund aid:

(a) in respect of the purchase or construction of new fishing vessels, the commissioning of vessels:

- intended to replace vessels more than 12 years old,
- intended to replace vessels lost as a result of accident or wreck, irreparably damaged, broken up or permanently withdrawn from use as fishing vessels,
- based in coastal areas where fishing is traditionally an important economic activity, in particular in the regions referred to in Annex VII to the Council resolution of 3 November 1976;

(b) in respect of the modernization of fishing vessels, projects designed to encourage a more rational use of fuel or fuel-saving types of fishing and projects which are coordinated in their economic and technical aspects and projects aimed at improving the processing of catches;

(c) in respect of aquaculture, the launching of pilot projects designed to guide and develop production in the sector and, where appropriate, to facilitate retraining of fishermen.

2. Without prejudice to paragraph 1, in the evaluation of projects the Commission shall take account of the following factors:

- (a) the diversification of economic activity through the catching or rearing of certain species of fish, crustaceans or molluscs;
- (b) the living and working conditions on board and, in particular, the safety of the workers concerned;
- (c) the beneficiary's membership of a producers' organization;
- (d) the requirement for environmental protection;
- (e) the interests of consumers.

TITLE III

Procedure for the examination of projects

Article 12

1. Applications for aid from the Fund shall be submitted through the Member State concerned after approval by that Member State.

2. The Commission shall take decisions on aid applications twice yearly, in accordance with the procedure laid down in Article 21 and after consulting the Fund Committee on the financial aspects. Its decisions shall be taken not later than 30 April and 31 October. The first decision in each year shall cover the applications submitted by 31 October of the previous year. The second decision shall cover the applications submitted by 31 March of the current year.

3. The decision on aid shall be notified to the Member State concerned and to the beneficiaries.

4. The particulars to be given in the applications and the form in which they are to be submitted shall be determined in accordance with the procedure laid down in Article 21.

5. In 1984, by way of derogation from paragraph 2, the Commission's decisions shall be taken not later than 15 June and 30 November. The first decision shall cover the applications submitted by 15 January 1984 at the latest. The second decision shall cover the applications submitted by 31 March 1984 at the latest.

Article 13

1. Projects which receive Community aid under other common measures within the meaning of Article 6 (2) of Regulation (EEC) No 729/70, or aid from the European Regional Development Fund, shall not be covered by this Regulation.

2. Projects relating to the construction of fishing vessels intended to replace vessels which have received aid for the permanent reduction of capacity under Directive 83/515/EEC ⁽¹⁾ shall be ineligible.

⁽¹⁾ See page 15 of this Official Journal.

TITLE IV

Financial and general provisions

Article 14

1. The proposed duration of the common measure shall be three years from 1 January 1983.

2. The estimated total cost of the common measure to the Fund shall be 156 million ECU.

3. Article 6 (5) of Regulation (EEC) No 729/70 shall apply to this Regulation.

Article 15

1. Aid from the Fund shall consist of capital subsidies paid in one or more instalments.

2. For each project, in relation to the investment considered for an aid from the Fund:

- the aid granted by the Fund shall not exceed 25 %,
- the contribution of the beneficiary shall be at least 50 %.

3. By way of derogation from paragraph 2:

(a) in Greenland, Greece, Ireland, Northern Ireland, the Mezzogiorno and the French overseas departments:

- the aid granted by the Fund may reach 50 %,
- the contribution of the beneficiary shall be at least 25 %;

(b) for projects relating to the operations referred to in (c) of the second indent of Article 2, in relation to the investment made:

- the aid granted by the Fund may reach 50 %,
- the contribution of the beneficiary shall be at least 5 %.

4. The financial contribution of the Member State shall be at least 5 %.

Article 16

Fishing vessels which have received aid from the Fund under a project referred to in (a) of the second indent of Article 2 may not:

- (i) be sold outside the Community,

(ii) normally carry out their activities from a port other than a port situated within the Community,

(iii) give up fishing, except in cases of *force majeure*,

for a period of:

- at least 10 years from the date of commissioning of a fishing vessel,
- at least five years from the date on which modernization or conversion work is completed.

Article 17

The granting of aid from the Fund shall not affect the conditions of competition in a manner incompatible with the principles set out in the relevant provisions of the Treaty.

Article 18

1. Aid from the Fund shall be granted to natural or legal persons or groups thereof bearing the ultimate financial responsibility for carrying out the project.

Payments by way of aid from the Fund shall be made by agencies appointed for this purpose by the Member State concerned.

2. Throughout the period in which aid is being provided by the Fund, the authority or agency appointed for this purpose by the Member State shall send to the Commission on request all supporting documents and all documents showing that the financial or other conditions imposed for each project are satisfied. The Commission may, if necessary, make an inspection visit.

After consulting the Fund Committee on the financial aspects, the Commission may decide to suspend, reduce or discontinue aid from the Fund, in accordance with the procedure laid down in Article 21:

- if the project is not carried out as specified, or
- if certain conditions imposed are not satisfied, or
- if the beneficiary, contrary to the particulars given in his application and repeated in the decision granting aid, has not, within two years from the date of notification of that decision, begun the work or if he has not, before the end of this period, supplied satisfactory assurances that the project will be carried out.

The decision shall be notified to the Member State concerned and to the beneficiary.

The Commission shall take steps to recover any sums unduly paid.

3. Any appropriations made available by a decision taken under paragraph 2 or because the beneficiary has abandoned the project or reduced the investment provided for in the decision granting aid may be used to finance other projects.

The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 19

1. For each project which has received aid from the Fund the beneficiary shall forward to the Commission, through his Member State, a report on the results of the project, in particular on the financial results.

This report shall be submitted:

- two years after the last aid payment to projects referred to in (a) and (b) of the second indent of Article 2;
- five years after the last aid payment to projects referred to in (c) of the second indent of Article 2.

2. If the beneficiary does not fulfil the obligations laid down in paragraph 1, the Commission may, after giving the beneficiary due notice, decide to reverse in whole or in part its decision to grant aid, acting in accordance with the procedure laid down in Article 21, after consulting the Fund Committee on the financial aspects. The decision shall be notified to the Member State concerned and to the beneficiary. The Commission shall recover in whole or in part the sums paid.

3. Detailed rules for the application of this Article, particularly as regards the contents of the report referred to in paragraph 1, shall be adopted in accordance with the procedure laid down in Article 21, after consultation of the Fund Committee on the financial aspects.

Article 20

1. An application for aid from the Fund submitted to the Commission but not accepted for lack of funds may, with the consent of the applicant, be carried forward to the following financial year by the Member State concerned. Applications to carry forward shall be submitted to the Commission within 30 days of the date

on which the Member State received notification of the result of the procedure provided for in Article 12. An application for aid may only be carried forward once.

2. An application for aid from the Fund submitted for the first time to the Commission under Council Regulation (EEC) No 31/83 of 21 December 1982 on an interim common measure for restructuring the inshore fishing industry and aquaculture ⁽¹⁾, but not accepted for lack of funds, may be taken into consideration under the terms and conditions of this Regulation.

Article 21

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Standing Committee for the Fishing Industry (hereinafter referred to as 'the Committee') either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measure to be taken. The Committee shall deliver its opinion within a time limit to be set by the chairman according to the urgency of the matter. Opinions shall be adopted by a majority of 45 votes, the votes of the Member States being weighted as laid down in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, the Commission shall forthwith communicate them to the Council. In that event the Commission may defer

their application for not more than one month from the date of such communication. The Council, acting by a qualified majority, may adopt different measures within one month.

Article 22

By way of derogation from Article 1 of Regulation (EEC) No 129/78 ⁽²⁾, the amount referred to in Article 9 (1) of this Regulation shall be converted into national currencies at the representative rates in force on 1 January of the year preceding the year in which the Commission decides for the first time, within the meaning of Article 12, on the relevant aid application.

Article 23

The first decisions to grant aid under this Regulation shall relate to the 1983 financial year. They shall be taken in respect of applications submitted by 15 January 1984.

Article 24

Articles 92, 93 and 94 of the Treaty shall apply, in the sector covered by this Regulation, to national aid granted by Member States other than the aid provided for in this Regulation.

Article 25

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

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

Done at Luxembourg, 4 October 1983.

For the Council

The President

C. SIMITIS

⁽¹⁾ OJ No L 5, 7. 1. 1983, p. 1.

⁽²⁾ OJ No L 20, 25. 1. 1978, p. 16.

COUNCIL REGULATION (EEC) No 2909/83

of 4 October 1983

on measures to encourage exploratory fishing and cooperation through joint ventures in the fishing sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the opinion of the European Parliament ⁽²⁾,

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

Whereas Council Regulation (EEC) No 101/76 of 9 January 1976 laying down a common structural policy for the fishing industry ⁽⁴⁾ provides in Article 9 that increased productivity may be obtained by the intensification of the search for new fishing grounds and new methods of fishing;

Whereas the conservation of stocks traditionally fished in Community waters necessitates the redeployment of some of the fishing effort to catch and market under-exploited species or to look for new fishing grounds inside or outside Community waters;

Whereas exploratory fishing offers a way of promoting such redeployment; whereas this activity can be encouraged only if some or all of the commercial risks attendant thereon are covered;

Whereas priority should be given to the redeployment of fishing vessels more than 24 meters in length whose activity in traditional fishing zones or areas has been severely restricted;

Whereas the fishery resources of some third countries on the Mediterranean and on the West African coast

are at present under-exploited because production facilities are inadequate in quantity or quality;

Whereas the Community surplus fishing capacity can be utilized in joint-venture schemes, to be set up in third countries between natural or legal persons from the Community and natural or legal persons from the countries concerned, for the purpose of exploiting fishery resources jointly for a limited or prolonged period;

Whereas the Community must support Member States' efforts to promote not only rational utilization of under-used fishing potential but also better cooperation between Member States and third countries; whereas provision should therefore be made for the Community to reimburse some of the expenditure incurred by the implementation of national incentive schemes;

Whereas a substantial financial contribution by the Community to the expenditure incurred by Member States is necessary to promote the redeployment of fishing effort and the launching of joint ventures,

HAS ADOPTED THIS REGULATION:

Article 1.

1. In order to help ensure that the market is better supplied or that better use is made of the fishing capacity made available by the restriction of catch possibilities, Member States may introduce measures to encourage the redeployment of fishing in accordance with the provisions of this Regulation.

2. Such redeployment may be achieved by the following measures:

- exploratory fishing voyages to be made by vessels flying the flag of a Member State,
- cooperation with partners in a third country on the Mediterranean or West African coast through joint fishing ventures.

⁽¹⁾ OJ No C 243, 22. 9. 1980, p. 1.

⁽²⁾ OJ No C 346, 31. 12. 1980, p. 112.

⁽³⁾ OJ No C 348, 31. 12. 1980, p. 18.

⁽⁴⁾ OJ No L 20, 28. 1. 1976, p. 19.

3. The Community shall contribute to the expenditure arising from an incentive scheme decided on by the Member States after entry into force of this Regulation.

Article 2

1. For the purpose of this Regulation:

(a) 'exploratory fishing voyage' (hereinafter referred to as 'voyage') means a fishing expedition, the object of which is:

- in respect of areas extending up to 200 nautical miles off the coasts of Member States and subject to Community fishing regulations, catching and marketing certain fish species previously under-fished or prospecting special areas,
- in respect of other areas, catching and marketing fish species which have not traditionally been fished by vessels flying the flag of a Member State, of prospecting new fishing grounds;

(b) 'joint fishing venture' means a venture set up in the form of either a contractual association or a company with share capital, between natural or legal persons from the Community and natural or legal persons from a third country on the Mediterranean or the West African coast, for the purpose of jointly exploiting fishing resources of that country.

2. The species and areas referred in the first indent of paragraph 1 (a) shall be determined in accordance with the procedure laid down in Article 16.

Article 3

1. Member States which introduce the measures provided for in Article 1 shall, at most twice a year, forward to the Commission, in respect of each project contemplated, a forward plan containing the following information:

- a detailed description of the redeployment operations to be carried out, in particular their duration and the areas and vessels concerned,
- the laws, regulations and administrative provisions laid down for carrying out these operations,
- an estimate of the expenditure on each of these operations,
- the benefits expected for the fishery sector.

2. Estimates of exploratory fishing expenditure to be borne by the Member State concerned shall be made, for each vessel or category of vessel, on the basis of the

number of fishing days at sea, the remoteness of the fishing grounds and the commercial features and estimated value of the species sought.

3. Member States shall communicate to the Commission such laws, regulations and administrative provisions as may affect the operation of the measures provided for in this Regulation.

4. After examining, on the basis of the forward plan provided for in paragraph 1, whether the measures contemplated are in accordance with the provisions of this Regulation and after ascertaining that the conditions for a financial contribution by the Community have been met, the Commission shall approve the measures and the expenditure contemplated.

The Commission's decision shall be communicated to the Member State concerned and to the other Member States.

TITLE I

Exploratory fishing voyages

Article 4

1. The Member States which contribute to the financing of voyages to be made by vessels flying their flag shall grant a redeployment premium to help balance the operating accounts.

2. The redeployment premium shall be granted on the basis of the difference between the operating costs incurred and the revenue from the marketing of the catches made by the ship concerned, within the limit of the amount decided on in Article 3 (4).

Article 5

The measures referred to in Article 4 shall be intended to encourage primarily:

- voyages undertaken by vessels whose activity in traditional fishing grounds or areas has been severely curtailed,
- voyages outside the area, defined in the first indent of Article 2 (1) (a), undertaken by vessels belonging to shipowners of two or more Member States,

- voyages organized by contract between the owner of the vessel and the processing firm or firms which it is intended shall treat or process the fishing products resulting from those voyages.

Article 6

In order to benefit from the measures provided for in Article 4, the voyages must meet the following conditions:

- (a) they must be made by fishing vessels that are more than 24 metres long between perpendiculars;
- (b) they must last for a period of not less than 30 fishing days a year, comprising one or more trips;
- (c) they must make provision for the presence on board of one or more observers or, where this is not possible, the participation of a scientific observer in the preparations for the voyage and the assessment of the results obtained.

Article 7

In implementing the measures referred to in Article 4, Member States shall take into account the following factors:

- scientific data concerning the availability of resources,
- identification of a potential market for the species concerned,
- prospects for the long-term profitability of the activities contemplated.

Article 8

1. For each voyage which has benefited from the measures provided for in Article 4, the Member State concerned shall forward a report to the Commission. The report shall include information on:

- technical aspects of the voyage, in particular the fishing methods used,
- the species caught,
- the economic results of the voyage,
- any other information collected by the observers.

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

TITLE II

Cooperation through joint fishing ventures

Article 9

Member States which introduce an incentive scheme for the measures referred to in the second indent of Article 1 (2) shall, as part of such a scheme, grant a cooperation premium to their nationals, whether natural or legal persons, who take part in joint fishing ventures set up in accordance with Article 2 (1) (b); the amount eligible for this premium shall be limited to:

- 25 ECU per gross registered ton per period of three consecutive months for temporary vessel transfers,
- 400 ECU per gross registered ton for the first 300 tons, and 200 ECU per gross registered ton for each additional ton, for permanent vessel transfers.

Article 10

1. To obtain the premium provided for in Article 9, the beneficiary must submit a basic draft understanding that has been previously approved by the foreign partner. This draft must include the technical information specified in the Annex and lay down the following conditions:

- (a) in the use of joint ventures set up in the form of contractual associations, the temporary transfer for one or more periods of at least three consecutive months of vessels which have been engaged in fishing for not less than 120 days during the 12 months prior to submission of the basic draft understanding;
- (b) in the use of joint ventures set up in the form of companies with share capital:
 - the temporary transfer for one or several periods of at least three consecutive months or the permanent transfer of vessels which have been engaged in fishing for not less than 100 days during the 12 months prior to submission of the basic draft understanding,
 - the contribution by Community nationals of more than 40 %, or the maximum amount specified by domestic laws where this is less than 40 %, of the authorized capital of the joint venture.

2. The premium provided for in Article 9 shall be granted subject to an undertaking by the beneficiary:

- (a) not to engage in fishing with the vessels in question, during the periods of transfer specified in the contract, in the fishing areas referred to in the first indent of Article 2 (1) (a);
- (b) to have removed from the register of fishing vessels any vessel that has been transferred permanently to the ventures referred to in paragraph 1 (b).

3. All Member States shall take the requisite steps so that the vessels transferred permanently to the ventures referred to in paragraph 1 (b) are permanently excluded from fishing in Community waters.

4. Member States shall forward to the Commission a list of vessels transferred permanently to the ventures referred to in paragraph 1 (b). This list shall be published in the *Official Journal of the European Communities*.

5. Vessels transferred permanently to the ventures referred to in paragraph 1 (b) shall not be eligible for the permanent withdrawal premium referred to in Article 5 of Council Directive 83/515/EEC of 4 October 1983 concerning certain measures to adjust capacity in the fisheries sector ⁽¹⁾.

TITLE III

General and financial provisions

Article 11

Within the limits of the appropriations entered for this purpose in the budget, the Community shall reimburse Member States 50 % of the eligible expenditure resulting from the grant during a period of three years from the date of entry into force of this Regulation of the premiums provided for in Articles 4 and 9. The total cost charged to the Community's budget is estimated at:

- 11 million ECU for the redeployment premium provided for in Article 4,
- 7 million ECU for the cooperation premium provided for in Article 9.

⁽¹⁾ See page 15 of this Official Journal.

Article 12

1. Applications for reimbursement shall relate to expenditure incurred in the course of a calendar year by the Member States and shall be submitted to the Commission before 1 June of the following year.
2. The Commission shall take a decision on such applications on one or more occasions, after consulting the Standing Committee for the Fishing Industry.
3. Advance payments may be authorized by the Commission.
4. Detailed rules for the application of paragraphs 1 and 3 shall be adopted in accordance with the procedure laid down in Article 16.

Article 13

Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽²⁾, as last amended by Regulation (EEC) No 3509/80 ⁽³⁾, shall apply *mutatis mutandis* to financial operations under this Regulation.

Article 14

Articles 92, 93 and 94 of the Treaty shall apply, in respect of matters covered by this Regulation, to national aid other than that provided for in Articles 4 and 9.

Article 15

By way of derogation from Article 2 of Regulation (EEC) No 1223/83 ⁽⁴⁾, the amounts referred to in Article 9 of this Regulation shall be converted into national currencies at the representative rates in force on 1 January of the year during which the cooperation premium defined in the said Article 9 is granted.

Article 16

1. Where the procedure laid down in this Article is to be followed, the chairman of the Standing Committee for the Fishing Industry (hereinafter referred to as 'the Committee') shall refer the matter to that Committee either on his own initiative or at the request of the representative of a Member State.

⁽²⁾ OJ No L 94, 28. 4. 1970 p. 13.

⁽³⁾ OJ No L 367, 31. 12. 1980, p. 87.

⁽⁴⁾ OJ No L 132, 21. 5. 1983, p. 33.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the questions under examination. An opinion shall be adopted by a majority of 45 votes, the votes of Member States being weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt schemes which shall be immediately applicable. However, if the schemes are not in accordance with the opinion delivered by the Committee they shall forthwith be communicated by

the Commission to the Council. In that event the Commission may defer for not more than one month from the date of such communication application of the schemes it has decided on. The Council, acting by a qualified majority, may take a different decision within one month.

Article 17

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

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

Done at Luxembourg, 4 October 1983.

For the Council

The President

C. SIMITIS

ANNEX**Technical information to be included when drawing up the basic draft understanding referred to in Article 10 (1)**

1. Nature of the venture (contractual or shareholder).
 2. Objectives.
 3. Location of future activity.
 4. Contract or articles of associations.
 5. Name and technical characteristics of vessels concerned.
 6. Conditions concerning the flag and manning.
 7. Technology to be contributed or sold to the joint venture.
 8. Fishing areas and periods of fishing and species concerned.
 9. Marketing forcecasts for the products landed.
-

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 4 October 1983

concerning certain measures to adjust capacity in the fisheries sector

(83/515/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the the European Parliament ⁽¹⁾,

Whereas recent changes in the law of the sea and the consequent establishment of 200-mile offshore economic zones have modified the situation confronting the fishing industry;

Whereas the precarious state of the stocks of some species in the Community fishing zones has led the Council to regulate fishing for these species and to fix allowable catch limits;

Whereas the Community fishing fleet has had to adjust to the new fishing conditions; whereas this adjustment must continue;

Whereas it is important for the Community, in the interests of fishermen and consumers, to retain, during the period in which threatened stocks are being

reconstituted, Member States' production capacity at the level needed for optimal exploitation of the reconstituted stocks at a later date;

Whereas the diversity of the socio-structural problems calls for separate solutions for each one in order to help maintain optimum productive capacity in each region and help develop the market; whereas the best results can be obtained if on the basis of Community concepts and criteria the Member States introduce specific measures of social adjustment, taking the form of a financial aid, by way of national laws, regulations and administrative provisions;

Whereas the maintenance of the production capacity required in the medium term may be promoted by measures designed to secure a temporary reduction in the fishing activities of vessels which are liable to become unprofitable because of the catch restrictions; whereas aid should be given, in the form of laying-up premiums, to fishermen who undertake to withdraw their vessels from operation and to recognized producers' organizations which draw up plans for reducing the amount of fishing done by their members;

Whereas the maintenance of productive capacity does not obviate the necessity of permanently reducing the capacity of fishing fleets, the technical characteristics of which make it difficult to adapt them to the types of fishing anticipated in the medium term within and outside the fishing zones of the Member States; whereas such reduction in capacity can be encouraged by means

⁽¹⁾ OJ No C 6, 6. 1. 1978, p. 120.

of a cessation premium; whereas the granting of this premium should be conditional on the vessel's first being struck off the register of fishing vessels so as to ensure that it is not again used for fishing in the waters of any Member State;

Whereas, in view of the benefit to the Community of these measures, it is appropriate that the Community should contribute to their cost; whereas it must be able to ascertain that the provisions adopted by the Member States for their application are commensurate with the objectives to be attained; whereas, for this purpose, there should be a procedure whereby close cooperation is maintained between the Member States and the Commission through the Standing Committee for the Fishing Industry;

Whereas this measure is of a specific character and may not therefore be treated as a common measure provided for in the EAGGF, Guidance Section,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. In order to assist, in the fisheries sector, the adjustment of the production capacity of fleets to the new catch possibilities, the Member States may, subject to the conditions laid down by this Directive, introduce a system of financial aid for measures relating to the temporary or permanent reduction of production capacity.

2. Subject to the conditions laid down by this Directive, the Community shall contribute to the expenditure incurred by the Member States under paragraph 1.

Article 2

The financial aid referred to in Article 1 may be granted to producers, whether natural or legal persons, operating one or more vessels flying the flag of one of the Member States, registered in the territory of the Community, the characteristics of which are specifically defined in the appropriate provisions of this Directive.

Article 3

1. The measures for the temporary reduction of production capacity referred to in Article 1 shall be carried out by means of the temporary laying-up of

vessels the length of which between perpendiculars is 18 metres or more and which were commissioned after 1 January 1958.

2. The financial aid referred to in Article 1 consists of the granting to beneficiaries by the Member States and within the framework of the Decision referred to in Article 7 of a daily laying-up premium. This premium shall be:

- fixed on the basis of the supplementary days laid-up in comparison to the average recorded or assessed on a flat rate by category of vessel of the days laid-up in the three calendar years preceding the first application for the grant of the premium,
- calculated on the basis of a maximum of 12 % of the purchase cost or of the insured value of the vessel in question for an average annual period of fishing of 250 days.

3. The aid shall only be granted:

- to vessels which have engaged in fishing or replacing a vessel having engaged in fishing for a period of at least 120 days during the calendar year preceding the first application for the grant of such a premium,
- for periods laid-up of at least:
 - (i) 45 days per year for vessels covered by the laying-up plans set out in Article 4 (1) (a),
 - (ii) 45 consecutive days per year for vessels covered by the undertaking set out in Article 4 (1) (b).

4. Where the premium is assessed on a flat rate by category of vessel, the average referred to in paragraph 2 may in no case be less than 115 days.

Article 4

1. The laying-up premium referred to in Article 3 (2) shall be granted subject to:

(a) *in the case of recognized producer organizations*

the drawing up of plans for the laying-up of the vessels owned by their members in order to reduce fishing activity. Laying-up plans must include the following:

- the name and technical specifications of the vessels concerned,
- the laying-up programme for each vessel,
- the home port or ports during periods of temporary laying-up;

(b) *in the case of other recipients*

a written undertaking by the recipient that the fishing activity of one or more vessels owned by him will be suspended for a given period and that any change of home port while the vessel or vessels concerned are laid up will be notified.

2. Member States may pay the premium, entirely or in part, taking account of the laying-up plans or undertakings given and of the average number of days laid-up recorded during the preceding three calendar years, as soon as the vessel in question has completed a minimum laying-up period such as provided for in the second indent of Article 3 (3). Any premium still payable for laying-up periods completed in excess of each period of 45 days shall not be granted until the end of the year.

Article 5

1. The measures to reduce production capacity permanently, referred to in Article 1, concern vessels the length of which between perpendiculars is 12 metres or more. They shall be effected by means of:

- scrapping,
- the definitive transfer to a third country, or
- the assignment of vessels to purposes other than fishing in Community waters.

2. The financial aid referred to in Article 1 shall consist of the grant by Member States to the owner of a final cessation premium, fixed on a flat-rate basis per gross registered ton, in the context of the Decision referred to in Article 7 and after the issue of the certificate witnessing that the vessel has been struck off the register of fishing vessels.

3. The final cessation premium shall be granted in respect only of vessels which have engaged in fishing for at least 100 days during the calendar year preceding the application for the premium.

4. All Member States shall take the necessary measures to ensure that vessels for which final cessation premiums have been paid are permanently barred from fishing in Community waters.

5. Member States shall forward a list of vessels for which the premium referred to in paragraph 2 has been

granted to the Commission. This list shall be published in the *Official Journal of the European Communities*.

Article 6

1. For each of the measures referred to in Article 1, the Member States shall submit to the Commission:

- a forward plan of the measures proposed,
- a forecast of estimated annual expenditure,
- drafts of any laws, regulations or administrative provisions which they propose to adopt in implementation of this Directive, and
- the provisions enabling this Directive to be applied which predate its entry into effect.

2. When communicating to the Commission the information listed in paragraph 1, the Member States shall make clear the connection between the measure in question and the objectives of the other structural measures existing or anticipated in the fisheries sector.

Article 7

1. Once it has received the information provided for in Article 6, the Commission shall determine whether, on the basis of its conformity with this Directive and account being taken of the other structural measures existing or anticipated in the fisheries sector, the measures contemplated fulfil the conditions for financial contributions from the Community. Within two months of such communication, a decision on the matter shall be taken in accordance with the procedure laid down in Article 13.

2. The Member States shall communicate to the Commission the laws, regulations and administrative provisions adopted following the decision referred to in paragraph 1 as soon as they are adopted.

Article 8

The Community's financial contribution to the aids granted by the Member States under the conditions imposed by this Directive shall be subject to a decision taken in accordance with Article 7 (1) on the national provisions governing them.

Article 9

1. Subject to the conditions set out in the following paragraphs, the Member States' expenditure resulting

from the grant of the aid referred to in Article 1 shall be eligible for Community reimbursement.

2. Only the Member States' expenditure resulting from aid for which the decision to grant it was taken within three years of the date of entry into effect of this Directive shall be eligible.

3. The eligibility of expenditure resulting from the aid referred to in Article 5 shall be restricted to 650 ECU per gross registered ton.

4. Within the limits of the appropriations entered in the budget for that purpose the Community shall reimburse 50 % of the Member States' eligible expenditure.

The total cost charged to the Community's budget is estimated at:

- 44 million ECU for the financial aid referred to in Article 3,
- 32 million ECU for the financial aid referred to in Article 5.

5. Any detailed arrangements for the application of this Article shall be adopted in accordance with the procedure referred to in Article 13.

Article 10

1. Applications for reimbursement shall relate to expenditure incurred over a calendar year by the Member States and shall be submitted to the Commission before 1 June of the following year.

2. The Commission shall take a decision on these applications, all at once or on several occasions, after consulting the Standing Committee for the Fishing Industry.

3. Advances may be granted by the Commission.

4. Detailed rules for the application of paragraphs 1 and 3 shall be adopted in accordance with the procedure laid down in Article 13.

Article 11

Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the

common agricultural policy ⁽¹⁾, as last amended by Regulation (EEC) No 3509/80 ⁽²⁾, shall apply *mutatis mutandis* to operations financed under this Directive.

Article 12

Articles 92, 93 and 94 of the Treaty shall apply, in the field covered by this Directive, to national aid other than that provided for in Articles 3 and 5.

Article 13

1. Where the procedure referred to in this Article is to be followed the chairman of the Standing Committee for the Fishing Industry (hereinafter referred to as 'the Committee') shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the questions under consideration. An opinion shall be adopted by a majority of 45 votes, the votes of Member States being weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication. The Council, acting by a qualified majority, may take a different decision within one month.

Article 14

By way of derogation from Article 2 of Regulation (EEC) No 1223/83 ⁽³⁾, the amount mentioned in Article 9 (3) of this Directive shall be converted into

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 367, 31. 12. 1980, p. 87.

⁽³⁾ OJ No L 132, 21. 5. 1983, p. 33.

national currencies at the representative rates in force on 1 January of the year during which the premium mentioned in Article 5 (2) of this Directive is granted.

Article 15

Member States which introduce the system of financial aid provided for in Article 1 must do so within six months of notification of this Directive ⁽¹⁾.

Article 16

This Directive is addressed to the Member States.

Done at Luxembourg, 4 October 1983.

For the Council

The President

C. SIMITIS

⁽¹⁾ This Directive was notified to the Member States.

THE CUSTOMS UNION OF THE EUROPEAN ECONOMIC COMMUNITY

Nikolaus VAULONT

Preface by Étienne DAVIGNON

In today's troubled economic climate, with all its implications for trade, the European Economic Community continues to make its presence felt by implementing major policies. Some of the most important — the common commercial and agricultural policies, development policy and the efforts to create a genuine internal market — are fundamentally dependent on the Customs Union.

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Nikolaus VAULONT. Born in 1937. Doctor of law (University of Bonn). Joined the Federal Republic of Germany's federal finance administration in 1967. Since 1971 has been an official at the Commission of the European Communities, where he is currently Assistant to the Director-General of the Customs Union Service.

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