



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.2.2005
COM(2005) 36 final

2005/0005 (CNS)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 2792/1999 as regards a specific action for transfers of
vessels to countries hit by the Tsunami in 2004**

(presented by the Commission)

EXPLANATORY MEMORANDUM

In December 2004, the tidal wave that occurred in the Indian Ocean (hereafter Tsunami) ravaged the coast and the industries located in a number of third countries and thousands of lives were lost. The environmental and economic effects of this Tsunami were devastating. Besides tourism, the fishing and the aquaculture sectors were the most affected. With regard to the fishing fleet, a large number of vessels were shipwrecked off the coast or destroyed in the fishing ports of these countries. Moreover, the Tsunami damaged their port facilities, shipyards, the processing industry and almost all their aquaculture sites.

In line with a relevant resolution of the European Parliament on 11/01/2005, the Commission agreed to a package of measures aimed at providing aid for rehabilitation and restructuring to rebuild the fishing industry in the most affected countries by the Tsunami. The present proposal is part of this package.

On 24/1/2005 the Agriculture and the Fisheries Council welcomed and encouraged this initiative.

An existing provision of the Regulation governing the financial instrument for fisheries (2792/1999) makes it possible to allocate public funds with FIGF co-financing for the implementation of permanent cessation of fishing activities of Community fishing vessels by scrapping vessels.

Given the number of vessels destroyed in the third countries affected by the Tsunami, it is proposed to allow the transfer of those Community vessels that correspond to the needs of these third countries.

With this aim, a specific action within the framework of the FIGF is set up by means of amending Regulation N° 2792/1999.

This draft Council Regulation foresees a specific action for the transfer of Community small fishing vessels subject to permanent cessation of fishing activities to fishing communities located in those third countries affected by the Tsunami. It also establishes the legislative framework required for Member States to allow Community vessels receiving FIGF funds for permanent cessation to be transferred to third countries affected by the Tsunami, rather than being scrapped or reassigned for non-profitable purposes other than fishing.

To ensure consistency with the general objectives of the common fisheries policy and promote sustainability of the fishing activities in the long term, for the implementation of this proposal, the Commission will set up an appropriate monitoring system with the participation of the Member States concerned. Representatives of the FAO and of specialised NGOs may also be invited to participate.

The following conditions will apply:

- (a) The vessels concerned must be registered in the Community Register of fishing vessels, have an overall length of less than 12 metres and be between five and twenty years old.

- (b) The permanent cessation of vessels fishing activities may be achieved by the permanent transfer of the vessel to the third countries affected by the Tsunami only until 30 June 2006.

Furthermore, the following three derogations to Council Regulation (EC) 2792/1999 will apply for the implementation of this draft Regulation:

- (a) The minimum age of vessels eligible for transfer will be reduced to five years and this action may only be applied to vessels up to 20 years old.
- (b) The premiums shall not be reduced by a part of the amount previously received in the case of renewal, equipment and modernisation aid foreseen.
- (c) An additional premium may be granted to cover on the one hand the expenses incurred by public or private organisations for the transport of the vessels to the third countries and on the other hand to compensate vessels owners to make fully seaworthy and equipped the eligible vessels.

It should be stressed that the proposal does not invoke any extra financial or budgetary implication on the Community budget since this action will be financed entirely from funds available to Member States for FIFG operational programming period 2000-2006.

Legal bases

The proposed legal base is Article 37 of the Treaty.

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2792/1999 as regards a specific action for transfers of vessels to countries hit by the Tsunami in 2004

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 37 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) On 26 December 2004, a strong tsunami in the Indian Ocean struck a number of third countries, ravaging their coasts and their industries and causing heavy loss of life. Many fishing vessels were wrecked at sea or destroyed in port.
- (2) Within the framework of the common fisheries policy, fishing vessels can be withdrawn from the Community fishing fleet with public aid only if they are scrapped or reassigned for non-profitable purposes other than fishing.
- (3) It is appropriate to extend the possibility of withdrawal of vessels from the Community fleet with such aid to vessels which are transferred to the countries affected by the tsunami for the benefit of the fishing communities concerned.
- (4) This would help those communities to rebuild their fishing fleets swiftly, taking into account local needs as recorded by the UN Food and Agriculture Organisation (FAO).
- (5) To meet the needs of those communities, only vessels which are fully seaworthy, well-equipped and of an overall length of less than 12 metres should be eligible for the measures provided for by this Regulation.
- (6) It is appropriate to provide for the grant of an additional premium to cover the expenses incurred by public or private organisations for the transport of the vessels to the third countries and to compensate owners for equipping their vessels and making them fully seaworthy.

¹ OJ C , , p. .

² OJ C , , p. .

- (7) The Commission should be given the power to suspend transfers if the prescribed conditions are not complied with.
- (8) Reports on steps taken under this Regulation should be submitted by the Member States and by the Commission in order to guarantee transparency of the Financial Instrument for Fisheries Guidance (FIFG) provided for in Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds.³
- (9) To ensure that the measures are implemented to the benefit of the fishing communities concerned and to ensure consistency with the general principles of the common fisheries policy and promote long-term sustainability of fishing activities, it is appropriate to ask representatives of the FAO and of specialised NGOs to participate in the monitoring system to be set up by the Commission.
- (10) Council Regulation (EC) 2792/1999 of 17 December 1999 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2792/1999 is hereby amended as follows:

- (1) Article 7 shall be amended as follows:
 - (a) Paragraph 2 shall be replaced by the following:

‘2. Measures to stop vessels’ fishing activities may be applied only to vessels 10 years old or more.

However, until 30 June 2006, vessels 5 years old or more may be eligible for permanent transfer in accordance with paragraph 3(d).’
 - (b) In paragraph 3, the following point (d) is added:

‘(d) until 30 June 2006, permanent transfer of the vessel to a third country hit by the tsunami in the Indian Ocean in December 2004, provided that the following criteria are met:

 - (i) the vessel has an overall length of less than 12 metres and is not more than 20 years old;
 - (ii) the Member State which authorizes the transfer must ensure that the vessel is fully seaworthy and equipped for fishing activity, is transferred to a region affected by the tsunami for the benefit of the fishing communities having suffered the consequences of it and that adverse effects on the fisheries resources and the local economy are kept to a minimum.

³ OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 1105/2003 (OJ L 158, 27.6.2003, p. 3).

(iii) the transfer must meet the needs identified by the assessment of the FAO and be in accordance with the third country's requests.'

(c) The following paragraph 6 is added :

'6. By way of derogation from paragraph 5(a), public aid for the permanent transfer of vessels in accordance with paragraph 3(d) shall be calculated as follows:

(i) for vessels of five years to 15 years, the premium referred to in paragraph 5(a)(i) shall apply and for vessels of 16 years to 20 years, the premium referred to in paragraph 5(a)(ii) shall apply;

(ii) the premium referred to in point (a) may be increased by up to 20% for the following purposes :

- to cover the expenses incurred by the public or private organisations designated by the Member States to be responsible for the transfer of the vessel to the third country,
- to compensate the vessel owner benefiting from the premium for equipping the vessel and making it fully seaworthy.

Vessels for which an application for permanent cessation of activities has been submitted to the competent authorities of the Member State before [...] [the date of entry into force of this Regulation] may also benefit from the premiums under this paragraph.'

(2) In Article 10(4), the following sentence shall be added:

'This paragraph shall not apply to vessels transferred pursuant to Article 7(3)(d).'

(3) The following Articles 18a and 18b shall be inserted:

Article 18 a

Suspension of the transfer of a vessel pursuant to Article 7(3)(d)

The Commission may suspend the transfer of a vessel pursuant to Article 7(3)(d) if it considers that such transfer does not comply with the conditions laid down therein.

Article 18 b

Reporting on the transfer of vessels pursuant to Article 7(3)(d)

(1) By 30 September 2005 and every three months thereafter Member States shall present to the Commission all available information on transfers of vessels pursuant to Article 7(3)(d).

(2) On the basis of the information referred to in paragraph 1 and any other information, the Commission shall report every six months to the European

Parliament and to the Council on on transfers of vessels pursuant to Article 7(3)(d).

- (3) The Member States shall include in the annual report on the implementation of the FIFG intervention provided for in Article [37] of Regulation (EC) No 1260/1999, forwarded to the Commission in 2007, a section on transfers of vessels pursuant to Article 7(3)(d) of this Regulation.’

Article 2

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

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

Done at Brussels,

For the Council
The President