



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

instituting specific measures to compensate the Spanish fisheries, shellfish industry and aquaculture, affected by the oil spills from the Prestige

(presented by the Commission)

EXPLANATORY MEMORANDUM

Introduction

In November 2002, the tanker Prestige, carrying 77.000 tonnes of heavy fuel oil, was shipwrecked off the coast of Galicia, causing oil spills to start arriving to the Spanish coast as from 16 November 2002. These oil spills are likely to continue for a unforeseeable time, as the Prestige sank with oil in its tanks and the wreck appears still to be leaking oil.

However, the environmental consequences already to be noted are very substantial: owing to the oil pollution, fisheries have been closed for a coastline exceeding 900 km and the shellfish industry banned for some 800 km. These closures are presently affecting almost 7.000 vessels with over 16.000 fishermen, as well as more than 5.000 people engaged in the shellfish industry. Besides, also some aquaculture sites located in this coastline have been damaged. Other regions are beginning to receive oil spills, too, in particular in Northern Spain.

Because of these suspensions of economic activities in the regions concerned, a great number of individuals and enterprises engaged in the fisheries and aquaculture sector have suffered considerable economic damage. In these circumstances, given also the fact that the regions in question have a high economic dependence on this sector, it is necessary to foresee appropriate reparation of the damages which are not compensated by insurance.

Budgetary aspects

For these purposes, the Community should make an appropriate contribution, alongside Spain as the Member State currently concerned, and in line with the budgetary limits. The most recent information from the Spanish authorities assume that 132 M€ would be required to cope with the impact of the oil pollution on the fisheries and aquaculture sector. Most of the expenditure foreseen (around 80 M€) can be covered by reprogramming the Spanish share of the Financial Instrument of Fisheries Guidance (FIFG).

In addition, it is proposed to modify Council Regulation (EC) No 2561/2001 of 17 December 2001, aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco, in order to allow to make a part of the budgetary resources for the reconversion of these Spanish vessels available instead for the reparation of the damages in question. A part of this previous allocation, around 30 M€ will not be needed at least immediately for those purposes and could thus be transferred to be utilised for these compensations.

Derogation measures

While there exist certain possibilities within the framework of the FIFG to grant assistance on the occasion of temporary cessations of activities, as well as for the investments for aquaculture, the existing rules have been aimed at normal circumstances and do not allow to cope with environmental damages of this dimension. Therefore, derogations would have to be adopted from certain provisions of Council Regulation (EC) No 2792/1999, laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector.

Firstly, the compensation paid to fishermen for the temporary cessation of their activities in the event of unforeseeable circumstances is limited in Article 16(1)a to two months annually

and, according to Article 16(3), cannot exceed 4 % of the overall FIFG allocation of the Member State. These restrictions should be lifted in order to cope with the present situation.

Secondly, at present the compensations for the temporary cessation of activities can only be paid to fishermen and vessel owners. In order for the representatives of the shellfish industry and aquaculture in these regions to receive equal treatment with them, the possibility of granting these compensations should be extended to these categories.

Thirdly, the criteria for eligibility of expenditure, defined in Regulation (EC) No 2792/1999, are not designed for the type of measures necessary to cope with the consequences of pollution. Therefore, the activities necessary to be carried out in order to reinstate the previous economic activities, in particular to clean, repair and reconstruct shellfish and aquaculture sites, to replace damaged fishing gear and to replace shellfish stocks, should be made eligible by derogations, so as to avoid any doubts about their treatment in this context.

Specific measures

The specific measures, to be instituted by this Regulation, are intended to supplement the actions taken in the context of the interventions of the Structural Funds in Spain for compensating the sector affected by the oil spills from the Prestige shipwreck. These measures are proposed to consist of the following actions:

- (1) Compensation to those engaged in the Spanish shellfish industry and aquaculture for the temporary cessation of their activities;
- (2) Encouragement of the replacement of damaged fishing gear;
- (3) Encouragement of the cleaning, the repairing and the reconstruction of shellfish and aquaculture sites; and
- (4) Compensation for the replacement of shellfish stocks.

The implementation of these specific measures has to be coherent with that of the current structural programmes of Spain. For this reason, it is proposed to make reference to the application of the provisions contained in the general Regulations (EC) No 1260/1999 and No 2792/1999.

Legal Bases

The proposed legal bases are Articles 36 and 37 of the Treaty.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 36 and 37 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,

Whereas:

- (1) In November 2002, the tanker Prestige, carrying 77.000 tonnes of heavy fuel oil, was shipwrecked off the coast of Galicia, causing oil spills to start arriving to the Spanish coast as from 16 November 2002.
- (2) Owing to the environmental effects of the aforementioned oil pollution, in addition to fisheries, all shell-fishing and certain aquaculture activities have been forbidden along large parts of the Spanish Atlantic coastline. Moreover, the oil spills have also damaged certain aquaculture sites located in the affected coastal regions of Spain.
- (3) Council Regulation (EC) No 2792/1999 lays down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. In particular, Article 13(1) and the more specific rules enclosed in Annex III of the said Regulation, determine the eligible costs within the fields of aquaculture as well as the protection and development of aquatic resources, to be co-financed from the Financial Instrument for Fisheries Guidance (FIFG). In addition, Article 16 of that Regulation lays down the terms on which the Member States may receive a financial contribution from the FIFG towards compensation they grant to fishermen and vessel owners for the temporary cessation of activities in the event of unforeseeable circumstances.
- (4) However, the criteria for the eligibility of expenses within the fields in question, to be co-financed from the FIFG, have not been designed for the type of measures necessary to cope with the consequences of oil pollution.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

- (5) Besides, the granting of compensation for the temporary cessation of activities is currently allowed to fishermen and vessels owners, but not to other persons or enterprises engaged in shellfish industry or aquaculture. Also the aggregated amounts of financial contributions from the FIFG to these purposes have been restricted by the said Article 16.
- (6) In these circumstances, it is necessary to facilitate the compensation to be granted for temporary cessation of fishing, shellfish and aquaculture activities affected by the oil pollution described above. In addition, it is appropriate to facilitate the cleaning, the repairing and the reconstruction of shellfish and aquaculture sites and the replacement of shellfish stocks in order to restore their production capacity, as well as the replacement of fishing gear, damaged by the oil spills in question.
- (7) Consequently, there is a need for derogations from the aforementioned provisions of Regulation (EC) No 2792/1999.
- (8) On the understanding that the other parts will have to be carried out with the assistance of FIFG appropriations, the complementary appropriations necessary for these purposes should be made available from the assistance defined within the framework of Council Regulation (EC) No 2561/2001, aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco, and especially Article 5(1) thereof..
- (9) These complementary appropriations available should be devoted to the specific measures taken, on one hand compensating the persons and enterprises engaged in Spanish fisheries industry, shellfish and aquaculture for the temporary cessation of their activities, and on the other hand providing for assistance for reinstating the previous activities affected by the oil pollution.
- (10) The specific measures must be consistent with the general principles of the structural policy in the fisheries sector.
- (11) The measures necessary for the implementation of this (instrument in question) should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down exceptional supporting measures for the persons and enterprises, engaged in the Spanish fisheries, shellfish industry and aquaculture in the Spanish coastal areas affected by the oil pollution from the Prestige shipwreck, as well as the conditions for and the limits of such support.

Article 2

Specific measures

1. The following specific measures may be taken by Spain for the persons and enterprises referred to in Article 1:
 - (a) compensation to persons and owners of enterprises for the temporary cessation of their activities.
 - (b) measures to encourage the replacement of fishing gear.
 - (c) measures to encourage the cleaning, the repairing and the reconstruction of shellfish and aquaculture sites.
 - (d) measures to compensate for the replacement of shellfish stocks.
2. The expenses incurred within the framework of the specific measures shall be eligible under the condition that the temporary cessation of the activities referred to in point (a) as well as the damages caused to the gear or the sites referred to in points (b), (c) and (d) have been due to the oil spills from the Prestige shipwreck.
3. *The rates of assistance* for the specific measures are specified in Annex.

Article 3

Derogations from Regulation (EC) No 2792/1999

1. By derogation from the provisions of Regulation (EC) No 2792/1999, the specific measures referred to in Article 2 shall be granted in accordance with paragraphs 2 to 6 of this Article
2. The compensations for the temporary cessation of activities, referred to in Article 16(1)(a) of Regulation (EC) No 2792/1999, may be granted also for persons and owners of enterprises engaged in the Spanish shellfish industry and aquaculture.
3. The annual limit of two months prescribed in Article 16(1)(a) of Regulation (EC) No 2792/1999 shall not apply.
4. The financial contribution from the FIFG to the compensations referred to in paragraphs (1) and (2) shall not be taken into consideration when determining compliance with the thresholds referred to in the first subparagraph of Article 16(3) of Regulation (EC) No 2792/1999.
5. The restrictions set out in Annex III, point 1.4, last paragraph, of Regulation (EC) No 2792/1999 shall not be applicable with regard to the replacement of fishing gear damaged by the oil pollution from the Prestige shipwreck.

6. The following costs shall be eligible under Art 13(1) of Regulation (EC) No 2792/1999:
- (a) costs incurred by the cleaning, the repairing and the reconstruction activities aimed at restoring the production capacity of shellfish and aquaculture sites affected by the oil pollution in question
 - (b) costs of the restocking necessary to reinstate the shellfish stocks aquaculture sites affected by the oil pollution in question.

Article 4

Applicability of general provisions

The provisions of Regulation (EC) No 1260/1999 and No 2792/1999 shall apply for the implementation of the specific measures defined in Article 2 under the provisions and the derogation conditions laid down in this Regulation.

Article 5

Additional Community participation

1. In addition to the assistance of FIFG appropriations, the complementary amount of the Community participation allocated to the purposes of this Regulation shall be 30 Mio €
2. This additional amount shall be made available from the funds previously allocated for the purposes of Regulation (EC) No 2561/2001.

Article 6

Amendment to Regulation (EC) No 2561/2001

In Article 5(1) of Regulation (EC) No 2561/2001 the following subparagraph is added:

“Within the allocation for Spain, an amount not exceeding EUR 30 million shall be reserved for the measures defined in Council Regulation (EC) No XXXX.”

Article 7

Implementation reports

Spain shall present to the Commission a consolidated report of the implementation of the specific measures, referred to in Article 2, for every year of their implementation by 31 March of the following year. The first of such reports will be due on 31 March 2004.

Article 8

Detailed rules

The measures necessary for the implementation of this regulation shall be adopted in accordance with management procedure referred to in Article 9(2).

Article 9

1. The Commission shall be assisted by the committee on structures for fisheries and aquaculture established by Article 51 of Regulation (EC) No 1260/1999 [hereinafter referred to as "the Committee"].
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

Article 10

Final provisions

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 Brussels,

For the Council
The President

ANNEX

RATES OF ASSISTANCE

The rates of assistance for the specific measures, referred to in Article 2, are defined according to the groups listed in Annex IV, point 2 of Regulation (EC) No 2792/1999 and to the rates determined in Table 3 of the said Annex, as amended by Council Regulation (EC) No 1451/2001, as follows:

- | | | |
|-----|---|---------|
| (1) | Temporary cessation of shellfish or aquaculture activities | Group 1 |
| (2) | Replacement of fishing gear | Group 2 |
| (3) | Cleaning, repairing and reconstruction of shellfish and aquaculture sites | |
| | - carried out by public authorities | Group 1 |
| | - carried out by private enterprises | Group 3 |
| (4) | Replacement of shellfish stocks | Group 1 |

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): FISHERIES

Activit(y/ies): structural policy

TITLE OF ACTION: SPECIFIC MEASURES TO COMPENSATE THE SPANISH FISHERIES, SHELLFISH INDUSTRY AND AQUACULTURE, AFFECTED BY THE OIL SPILLS FROM THE PRESTIGE

1. BUDGET LINE(S) + HEADING(S)

B2-200 “Specific measure to promote the conversion of vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): 30 million € for commitment

The 30 million € will be allocated to the specific measures within the existing budget line B2-200 “aiming to promote the conversion of vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco”. The total amount for this measure is 197 million € of which almost 161 million have been committed in 2002 for Spain. 30 million € of the already committed amount will be decommitted and then recommitted into a sub-line in B2-200 for the purpose of the said specific measures.

In addition to the specific measures, around 80 million € of Community aid can be covered by reprogramming the Spanish share of the Financial Instrument of Fisheries Guidance (FIFG).

2.2. Period of application: 2002 Budget (commitment in one year only)

2.3. Overall multiannual estimate of expenditure:

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) (*see point 6.1.1*)

€million (*to three decimal places*)

	Year n = 2002	[n+1]= 2003	[n+2]= 2004	[n +3]	[n+4]	[n+5 and subs. Years]	Total
Commitments	30.000						30.000
Payments		15.000	15.000				30.000

(b) Technical and administrative assistance and support expenditure(see point 6.1.2)

Commitments							
Payments							

Subtotal a+b							
Commitments	30.000						30.000
Payments		15.000	15.000				30.000

(c) Overall financial impact of human resources and other administrative expenditure (see points 7.2 and 7.3)

Commitments/ payments							
TOTAL a+b+c							
Commitments	30.000						30.000
Payments		15.000	15.000				30.000

2.4. Compatibility with financial programming and financial perspective

X Proposal is compatible with existing financial programming.

2.5. Financial impact on revenue:⁴

X Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions form applicant countries	Heading in financial perspective
Non-comp	Diff/	YES/	NO	NO	No 2

4. LEGAL BASIS

Proposal for a Council Regulation instituting specific measures to compensate the Spanish fisheries, shellfish industry and aquaculture, affected by the oil spills from the Prestige

⁴ For further information, see separate explanatory note.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention ⁵

5.1.1. Objectives pursued

In November 2002, the tanker Prestige, carrying 77.000 tonnes of heavy fuel oil, was shipwrecked off the coast of Galicia, causing oil spills to start arriving to the Spanish coast as from 16 November 2002. These oil spills are likely to continue for a unforeseeable time, as the Prestige sank with oil in its tanks and the wreck appears still to be leaking oil.

However, the environmental consequences already to be noted are very substantial: owing to the oil pollution, fisheries have been closed for a coastline exceeding 900 km and the shellfish industry banned for some 800 km. These closures are presently affecting almost 7.000 vessels with over 16.000 fishermen, as well as more than 5.000 people engaged in the shellfish industry. Besides, also some aquaculture sites located in this coastline have been damaged. Other regions are beginning to receive oil spills, too, in particular in Northern Spain.

Because of these suspensions of economic activities in the regions concerned, a great number of individuals and enterprises engaged in the fisheries and aquaculture sector have suffered considerable economic damage. In these circumstances, given also the fact that the regions in question have a high economic dependence on this sector, it is necessary to foresee appropriate reparation of the damages which are not compensated by insurance.

5.2. Action envisaged and budget intervention arrangements

For these purposes, the Community should make an appropriate contribution, alongside Spain as the Member State currently concerned, and in line with the budgetary limits. The most recent information from the Spanish authorities assume that 132 M€ would be required to cope with the impact of the oil pollution on the fisheries and aquaculture sector. Most of the expenditure foreseen (around 80 M€) can be covered by reprogramming the Spanish share of the Financial Instrument of Fisheries Guidance (FIFG).

In addition, it is proposed to modify Council Regulation (EC) No 2561/2001 of 17 December 2001, aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco, in order to allow to make a part of the budgetary resources for the reconversion of these Spanish vessels available instead for the reparation of the damages in question. In view of the exceptional circumstances, the Spanish authorities have asked to be able to reallocate a part of this previously agreed amount, around 30 M€, to be utilised for these compensations, without prejudice to the original objectives of Regulation (EC) No 2561/2001.

⁵ For further information, see separate explanatory note.

5.3. Methods of implementation

The provisions of Regulation (EC) No 1260/1999 and No 2792/1999 shall apply for the implementation of the specific measures defined in Article 3 under the provisions and the derogation conditions laid down in this Regulation.

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

(The method of calculating the total amounts set out in the table below must be explained by the breakdown in Table 6.2.)

6.1.1. Financial intervention

The breakdown below is purely indicative

Commitments (in €million to three decimal places)

Breakdown	Year n = 2002	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Action 1 Temporary cessation of shellfish or aquaculture activities	10.000						10.000
Action 2 Replacement of fishing gear	5.000						5.000
Action 3 Cleaning, repairing and reconstruction of shellfish and aquaculture sites	10.000						10.000
Action 4 Replacement of shellfish stocks	5.000						5.000
TOTAL	30.000						30.000

6.1.2. *Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)*

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)

The extraordinary character of these specific measures do not, at this stage, permit any detailed calculations of costs.

Commitments (in €million to three decimal places)

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 1...n)	Average unit cost	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
<u>Action 1</u>				
- Measure 1				
- Measure 2				
<u>Action 2</u>				
- Measure 1				
- Measure 2				
- Measure 3				
etc.				
TOTAL COST				30.000

If necessary explain the method of calculation

The extraordinary character of these specific measures do not, at this stage, permit any detailed calculations of costs.

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

None

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

Spain shall present to the Commission a consolidated report of the implementation of the specific measures, referred to in Article 3, for every year of their implementation by 31 March of the following year. The first of such reports will be due on 31 March 2004

8.2. Arrangements and schedule for the planned evaluation

Owing to the specific character of the measure and to its limited duration, no intermediate evaluation is envisaged. An *a posteriori* evaluation will be based on final implementation report.

9. ANTI-FRAUD MEASURES

The anti-fraud measures are those envisaged in the general Regulation of the Structural Funds, period 2000-2006 (Regulation (EC) No 1260/1999 and derived legislation).