

## COUNCIL REGULATION (EEC) No 4028/86

of 18 December 1986

on Community measures to improve and adapt structures in the fisheries and aquaculture 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 Act of Accession of Spain and Portugal, and in particular Article 155 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas the common measure for restructuring, modernizing and developing the fishing industry and for developing aquaculture, introduced by Regulation (EEC) No 2908/83 <sup>(3)</sup>, as amended by Regulation (EEC) No 3733/85 <sup>(4)</sup>, the measures to encourage exploratory fishing and cooperation through joint ventures in the fishing sector, introduced by Regulation (EEC) No 2909/83 <sup>(5)</sup>, as amended by Regulation (EEC) No 3727/85 <sup>(6)</sup> and the measures to adjust capacity in the fishing sector, introduced by Directive 83/515/EEC <sup>(7)</sup>, as amended by Directive 85/590/EEC <sup>(8)</sup>, expire at the end of 1986;

Whereas the continued improvement of the structural situation in the sector is indispensable for the development of a common fisheries policy and thus constitutes one means of achieving in this sector the aims of Article 39 (1) (a), (b) and (d) of the Treaty; whereas, therefore, the structural measures to bring about such improvement must be based on a Community approach and on Community criteria;

Whereas experience has shown the value of bringing the various structural measures together within a single legislative framework applicable for a sufficiently long period for the establishment of a stable and durable policy;

whereas, therefore, provision should also be made so that such measures can receive Community financial assistance within the framework of a multiannual budget allocation;

Whereas the basic guidelines of the new structural policy for the fisheries sector must not only take account of the results achieved and the experience gained in the past but must also be defined in terms of the new circumstances obtaining in the sector, which has become more important following the accession of Spain and Portugal to the Community; whereas, in view of this new situation, the structural policy must be primarily concerned with the balanced exploitation of internal resources in Community waters; whereas, moreover, since the Community has a deficit in fish products, it must endeavour to find new sources of supply, in particular by increasing its fishing possibilities and by extending its activities in the aquaculture sector; whereas, moreover, in line with the provisions of Article 39 (2) of the Treaty, the structural policy must take broad account of the economic and social environment, in the fishing industry and must be capable of adjustment, where necessary, in the light of the diversity or seriousness of certain structural problems at regional level;

Whereas the considerations outlined above and the operating conditions in the fisheries sector mean that any structural policy organized at Community level and supported with public funds should be pursued with a view to ensuring the proper functioning of the common fisheries policy as a whole; whereas, however, this support could be more effective if provisions were made for forms of financing more suited to the various specific situations within the sector and facilitating the access of operators to investment capital whilst improving the economic reliability of undertakings; whereas, moreover, such new forms of aid would strengthen the impact of Community measures and should therefore be given priority;

Whereas structural measures must as far as possible be implemented within the framework of multiannual guidance programmes ensuring, in respect of each Member State, that the Community measures are consistent with national measures and that the latter are compatible with the objectives of the common policy; whereas such programmes must be compatible with the objectives and instruments of regional policy; whereas such programmes must include an in-depth analysis of the situation in each Member State, so that the Commission can assess the overall structural situation at the outset, and forecasts for the development of production capacity in the medium

(1) OJ No C 279, 5. 11. 1986, p. 3.

(2) OJ No C 322, 15. 12. 1986.

(3) OJ No L 290, 22. 10. 1983, p. 1.

(4) OJ No L 361, 31. 12. 1985, p. 78.

(5) OJ No L 290, 22. 10. 1983, p. 9.

(6) OJ No L 361, 31. 12. 1985, p. 56.

(7) OJ No L 290, 22. 10. 1983, p. 15.

(8) OJ No L 372, 31. 12. 1985, p. 49.

term; whereas it must be possible for the Commission to alter its assessment during the course of the programme's implementation to take account of actual structural developments in each Member State; whereas, to this end, Member States must be required to provide the Commission with all the necessary data and to take all the steps necessary to ensure that the implementation of programmes can be monitored;

Whereas, to reduce the economic insecurity of fishermen, the Community fleets must continue to be restructured, undergoing economically appropriate renewal or modernization in line with the actual catch possibilities in Community and non-Community waters, to ensure the optimum long-term productivity of these fleets and to enhance the economic viability of undertakings;

Whereas experience has shown that the development of aquaculture has helped to improve the position as regards the supply of fish products; whereas, therefore, further encouragement should be given to this sector;

Whereas coastal areas should be protected by the provision of artificial structures to facilitate restocking and, once fishing has been halted for a certain period, to ensure optimum exploitation of such zones;

Whereas no stable balance can exist between fishing capacity and the fish stocks available; whereas steps must therefore be taken to eliminate excess fishing capacity; whereas, to this end, provision should be made for Community assistance for schemes to encourage the temporary or permanent withdrawal of vessels from fishing activities;

Whereas it is also necessary to maintain, or even improve, fishing possibilities outside the waters covered by the Community legislation on fishing; whereas this objective may be achieved by direct Community aid for exploratory fishing projects or temporary joint ventures;

Whereas, to improve the ways in which fisheries products are produced, landed and offered for sale, it is necessary to widen the scope of the measures introduced by Council Regulation (EEC) No 355/77 of 15 February 1977 on common measures to improve the conditions under which agricultural and fishery products are processed and marketed<sup>(1)</sup>, as last amended by Regulation (EEC) No 2224/86<sup>(2)</sup>, and thus provide specific aid for

investments in facilities at fishing ports; whereas such investments must be made as part of an overall project covering the entire fishing port concerned; whereas such projects must primarily be financed under Regulation (EEC) No 355/77; whereas special procedural provisions are necessary for this purpose;

Whereas measures are required to promote the consumption of products derived from surplus or underfished species; whereas, for this purpose, provision should be made for direct Community aid for collective projects in this field;

Whereas certain regional or sectoral situations may necessitate the implementation of specific measures for which no provision has yet been made; whereas, to this end, provision must be made for a flexible procedure so that such specific measures can be rapidly adopted; whereas such measures should be consistent, in the regions in which they are implemented, with the other Community structural measures applicable outside the fisheries sector;

Whereas, to ensure maximum transparency in the management of all these structural measures, administrative constraints should be reduced and procedures should be simplified;

Whereas measures must be taken to prevent and to prosecute any irregularities and to recover the sums lost as a result of any such irregularity or of negligence; whereas provision should also be made so that Community financing can be suspended, reduced or discontinued;

Whereas thorough checks must be made on Community expenditure; whereas, in addition to the checks which Member States make on their own behalf and which will continue to be essential, provision should be made so that Commission staff can verify expenditure and so that the Commission has the option of calling on the services of the Member States;

Whereas provision should be made for the adjustment of certain criteria in accordance with the simplified procedure so that they can be brought closer into line with developments in a situation which is subject to fluctuation to no small degree;

Whereas the transition to the arrangements laid down in this Regulation must be as smooth as possible; whereas, to this end, certain transitional measures may prove necessary, whereas, therefore, provision should be made so that the appropriate measures can be adopted by a rapid procedure subject to a time limit,

<sup>(1)</sup> OJ No L 51, 23. 2. 1977, p. 1.

<sup>(2)</sup> OJ No L 194, 17. 7. 1986, p. 4.

HAS ADOPTED THIS REGULATION:

*Article 1*

1. In order to facilitate structural change in the fisheries sector within the guidelines of the common fisheries policy, the Commission may, subject to the conditions laid down in this Regulation, grant Community financial aid for measures of the following types:

- (a) the restructuring, renewal and modernization of the fishing fleet;
- (b) the development of aquaculture and the establishment of protected marine areas with a view to improved management of inshore fishing grounds;
- (c) the reorientation of fishing activities by means of exploratory fishing voyages and temporary joint ventures;
- (d) the adjustment of fishing capacity by the temporary or permanent withdrawal of certain vessels from fishing activities;
- (e) the provision of facilities at fishing ports with a view to improving the conditions in which products are obtained and landed;
- (f) the search for new outlets for products derived from surplus or underfished species.

2. The measures specified in paragraph 1 (a), (b) and (d) must form part of the multiannual guidance programmes referred to in Title I.

3. The measure specified in paragraph 1 (e) must form part of the specific programmes referred to in Article 2 of Regulation (EEC) No 355/77.

TITLE I

**Multiannual guidance programmes**

*Article 2*

1. 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 necessary for attaining them, as a guide for the development of the fisheries' sector in the overall long-term context.

2. Programmes must be particularly designed:

- (a) to establish a viable fishing fleet in line with the economic and social needs of the regions concerned and the foreseeable catch potential in the medium term;
- (b) to adjust fishing activities to changes in consumer demand and to provide regular supplies for the market;
- (c) to take account of the socio-economic consequences and the regional impact of developments foreseen in the sector concerned;
- (d) to develop technically viable and profitable facilities for the farming of fish, crustaceans or molluscs.

3. Programmes must cover the entire sector in the Member State concerned and must include at least the information listed in Annex I.

4. The Commission, acting in accordance with the procedure laid down in Article 47, may supplement Annex 1.

*Article 3*

1. At the latest by 30 April 1987, Member States shall forward to the Commission a programme concerning their fishing fleet and a programme concerning aquaculture and the provision of protected marine areas.

2. The programmes referred to in paragraph 1 shall cover the period from 1 January 1987 to 31 December 1991.

3. Not later than eight months before the expiry of the programmes referred to in paragraph 1, Member States shall forward to the Commission new programmes covering the period from 1 January 1992 to 31 December 1996.

*Article 4*

1. At the request of the Commission, the Member State to which a programme relates shall provide additional data for assessment in the context of the information required under Article 2.

2. The Commission shall consider whether, having regard to foreseeable developments in fishery resources and the market for fisheries and aquaculture products and having regard to the measures adopted under the common fisheries policy and the guidelines for that policy, programmes fulfil the conditions laid down in Article 2 and may constitute a framework for Community and national financial assistance to the sector in question.

3. Not later than six months after each programme has been forwarded, the Commission shall, acting in accordance with the procedure laid down in Article 47, decide whether or not to approve it.

*Article 5*

1. For the purposes of the monitoring of programmes, Member States shall send to the Commission each year before 1 April a summary report on the state of progress of their programmes. They shall also forward to the Commission the information necessary for the preparation and management of the Community index of fishing vessels.

2. At the request of the Member State concerned or the Commission, any approved programme may be reviewed and, if necessary, amendments made thereto.

3. The Commission shall decide whether to approve the amendments referred to in paragraph 2, acting in accordance with the procedure laid down in Article 47.

4. Detailed rules for applying paragraph 1 shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

## TITLE II

## Restructuring and renewal of the fishing fleet

*Article 6*

1. The Commission may grant Community financial aid subject towards public, semi-public or private projects for material investments relating to the purchase or construction of new fishing vessels.

2. To qualify for aid, the projects referred to in paragraph 1 must:

- (a) form part of a programme referred to in Article 2 and approved by the Commission;
- (b) relate to vessels measuring not less than nine metres in length between perpendiculars, this limit being raised to 12 metres in the case of vessels capable of trawling;
- (c) offer a satisfactory guarantee of yielding a profit.

*Article 7*

1. For each project and in relation to the amount of investment eligible for aid, the aid provided for Article 6 and the financial contribution by the Member State concerned must be granted at the rates shown in Annex II. The rates for Community aid shown in Annex II shall be increased by five percentage points where the beneficiary or one of the beneficiaries:

- (a) is a sea-fisherman not having reached 40 years of age on the date when the project is first submitted to the

Commission and has never, until that date, had a majority holding in another fishing vessel;

(b) is the owner, at the time when the aid is paid, of at least 40 % of the vessel to which the project relates or assumes, at this date, as manager and personally, the total responsibility for the fishing enterprise in question;

(c) undertakes to remain, except in cases of *force majeure*, aboard the same vessel as its skipper for at least five years as from the date of commissioning.

2. Detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

*Article 8*

1. Member States shall ensure:

- that projects relate to vessels which have the necessary equipment for fishing operations and crew safety,
- that projects are implemented by natural or legal persons who have sufficient occupational competence for the exercise of fishing activities, particular account being taken of their vocational training in the case of natural persons.

2. The aid provided for in Article 6 shall be granted on a priority basis to projects relating to the purchase or construction of vessels:

- (a) on which the person with the majority holding acts as skipper and which replace vessels more than 15 years old;
- (b) which are intended to replace vessels lost as a result of accident or wreck, irreparably damaged, broken-up or permanently withdrawn from fishing activities in the Community.

3. The replaced vessels referred to in paragraph 2 must not have qualified for the final cessation premium referred to in Article 22.

## TITLE III

## Modernization of the fishing fleet

*Article 9*

1. The Commission may grant Community financial aid for measures implemented by Member States to modernize, the fishing fleet.

2. To qualify for aid, the measures referred to in paragraph 1 must:

- (a) cover, within a given Member State, a number of public, semi-public or private projects for material investments in the modernization or conversion of operational fishing vessels;
- (b) from part of a programme referred to in Article 2 and approved by the Commission.

3. Member States shall ensure that the projects referred to in paragraph 2 (a):

- (a) relate to vessels measuring not less than 9 metres in length between perpendiculars, this limit being raised to 12 metres in the case of vessels capable of trawling;
- (b) relate to the rationalization of fishing operations, better storage of catches, energy-saving or the improvement of working conditions and crew safety;
- (c) are substantial and comprise investments eligible for aid of not less than 25 000 ECU per project, this limit being lowered to 12 000 ECU in the case of projects relating to vessels measuring between 9 and 12 metres in length between perpendiculars;
- (d) relate to work to be carried out in the Community;
- (e) do not exceed 50 % of the value of a new vessel of the same type as the vessel concerned;
- (f) relate to vessels having the necessary equipment for fishing operations and crew safety;
- (g) are implemented by natural or legal persons possessing sufficient occupational competence for the exercise of fishing activities, particular account being taken of their vocational training in the case of natural persons.

#### Article 10

1. For each project and in relation to the amount of investment eligible for aid, the aid provided for in Article 9 and the financial contribution by the Member State concerned must correspond to the rates shown in Annex II.

2. Detailed rules for applying this Title, and in particular definitions of the eligible investments referred to in Article 9 (3) (c), shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### TITLE IV

#### Development of aquaculture and structural works in coastal waters

#### Article 11

1. The Commission may grant Community financial aid for public, semi-public or private projects relating to:

- (a) physical investments in the construction, equipment or modernization or extension of installations for the farming of fish, crustaceans or molluscs;
- (b) measures to protect and make fuller use of coastal marine areas by the installation, not deeper than the 50 metre isobath, of fixed or movable structures for the delimitation of the protected areas and for the protection or development of fishery resources.

2. To qualify for aid, the projects referred to in paragraph 1 must:

- form part of a programme referred to in Article 2 and approved by the Commission,
- relate to investments totalling more than 50 000 ECU.

3. The projects referred to in paragraph 1 (a) must also:

- be for a purely commercial purpose,
- be implemented by natural or legal persons possessing sufficient occupational competence,
- offer a satisfactory assurance of yielding a profit in due course.

4. Member States shall ensure that shellfish-farming projects are implemented at locations where the water quality is maintained in accordance with the relevant applicable national or Community provisions.

5. The projects referred to in paragraph 1 (b) must also:

- provide for the scientific monitoring of the measures for at least three years, including the assessment and verification of changes in fishery resources within the marine area concerned,
- be accompanied by a three-year prohibition on all fishing activities in the protected area including fishing with fixed gear or direct harvesting,

— be implemented by a recognized producers' organization, a production cooperative or a body appointed for this purpose by the competent authority in the Member State concerned.

#### Article 12

1. For each project and in relation to the amount of investment eligible for aid, the aid provided for in Article 11 and the financial contribution by the Member State concerned must be granted at the rates shown in Annex III. The rates for Community aid shown in Annex III shall be raised by five percentage points in the case of mariculture, mussel-farming or shellfish-farming projects which are implemented within the framework of redeployment schemes for sea-fishermen and which provide for the scrapping of operational fishing vessels.

2. The amount of investment eligible for aid as referred to in paragraph 1 shall not exceed ECU 3 million, in the case of aquaculture projects comprising the construction of hatchery and on-growing units and ECU 1,8 million in the case of other projects.

3. If necessary, detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

### TITLE V

#### Exploratory fishing

#### Article 13

For the purposes of this Title, 'exploratory fishing voyage' means any fishing operation carried out for commercial purposes in a given area with a view to assessing the profitability of regular, long-term exploitation of the fishery resources in that area.

#### Article 14

1. The Commission shall grant Community financial aid to projects for exploratory fishing voyages:

- (a) to waters which do not fall within the sovereignty or jurisdiction of any State, or
- (b) to waters which fall within the sovereignty or jurisdiction of a third country with which the Community has concluded or is negotiating a fishing

agreement and to waters adjacent to the territory of Member States where no provisions of the Community legislation on fishing are applicable, or

- (c) to waters under the sovereignty or jurisdiction of a Member State.

2. To qualify for Community aid, the projects referred to in paragraph 1 must also:

- (a) relate to fishing vessels measuring more than 18 metres in length between perpendiculars;
- (b) relate to voyages lasting for at least 60 days of fishing per year and per vessel in one or more sailings;
- (c) relate to fishing zones where, on the basis of an estimate of potential fishery resources, stable and profitable exploitation seems possible in the long term;
- (d) provide for the presence on board of one or more scientific observers approved by the Member State concerned or, should this be impossible, for the participation of a scientific institute in the preparation of the voyage and in the processing of the results obtained.

3. A project may comprise several successive voyages to the same fishing zone with a view to establishing the basis for the stable long-term exploitation of that zone.

4. Priority shall be given to projects:

- (a) which are organized by ship-owners who form a partnership for the purpose of the said voyage;
- (b) which relate to voyages organized jointly by one or more ship-owners and one or more processing or marketing concerns.

#### Article 15

1. The aid referred to in Article 14 shall consist in the granting of incentive premiums. The premium for each project shall be equal to 20 % of the eligible cost of the voyage. The contribution by the Member State(s) concerned must cover between 10 % and 20 % of such cost.

2. Detailed rules for applying this Article, including a definition of eligible cost, provision for the payment of the premium in instalments and rules governing such payment, shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

*Article 16*

1. Projects referred to in Article 14 shall be submitted to the Commission through the Member State(s) concerned, once the favourable opinion of the latter has been obtained.

2. The data which projects must contain and the form in which they are to be presented shall be decided on by the Commission in accordance with the procedure laid down in Article 47.

3. Within two months of the submission of a project, the Commission shall decide whether to grant the premium referred to in Article 15. This decision shall be notified to the beneficiaries and to the Member State(s) concerned. The other Member States shall be informed accordingly within the Standing Committee for the Fishing Industry (hereinafter referred to as 'the Committee').

*Article 17*

1. For each voyage qualifying for the premium referred to in Article 15, the beneficiary or beneficiaries shall forward to the Commission and to the Member State(s) concerned, once the voyage has been completed, a report concerning:

- (a) the technical conduct of the voyage, and in particular the fishing methods used;
- (b) the species caught, the locations at which they were caught, the corresponding yields and the by-catches;
- (c) the economic results of the voyage;
- (d) any other information collected by the observers.

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

## TITLE VI

## Joint ventures

*Article 18*

For the purposes of this Title, 'joint venture' means any contractual association set up for a limited time between Community ship-owners and natural or legal persons in one or more third countries with which the Community maintains relations on fishing matters, for the purpose of the joint exploitation and use of fishery resources for this or these third country or countries and the sharing of the costs, profits or losses resulting from the joint economic venture, primary consideration being given to the supply of the Community market

*Article 19*

1. The Commission shall grant Community financial aid for joint-venture projects which relate to the catching and, where appropriate, the processing and/or marketing of the species concerned, together with the supply of know-how or the transfer of technology where the latter are relevant to the fishing operations in question.

2. To qualify for Community aid, the projects referred to in paragraph 1 must relate to fishing vessels which are technically suited to the fishing operations planned, belong to natural or legal persons in the Community, fly the flag of a Member State and are registered or recorded at a port located in the Community.

3. The vessels concerned must fly the flag of a Member State during the total duration of the joint venture.

*Article 20*

1. The Community aid provided for in Article 19 shall consist in a cooperation premium granted to natural or legal persons in the Community who participate in the joint venture.

2. The amount of the cooperation premium shall be 40 ECU per gross registered tonne per period of three consecutive months. Payment of the premium shall be conditional on the payment of an identical premium by the Member State concerned.

3. The cooperation premium shall not be granted for a period of more than 24 consecutive months per project.

4. If necessary, detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

*Article 21*

1. The projects referred to in Article 19 shall be submitted to the Commission through the Member State(s) concerned, once the approval of the latter has been obtained.

2. Within two months of the submission of a project, the Commission shall decide whether to grant the aid referred to in Article 19. This decision shall be notified to the beneficiaries and to the Member State(s) concerned. The other Member States shall be informed accordingly within the Committee.

3. For each project qualifying for the aid referred to in Article 19, the beneficiary or beneficiaries shall forward to the Commission and to the Member State(s) concerned a periodic report on the activities of the joint venture. After

examining the report, the Commission shall make it available to the other Member States within the Committee.

4. Detailed rules specifying in particular the data which the projects and the report referred to in paragraph 3 must include and the form in which they must be presented shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

## TITLE VII

### Adjustment of capacities

#### Article 22

1. Member States may grant a laying-up premium or a final cessation premium for the temporary or permanent withdrawal of certain fishing vessels.

2. The Community shall contribute towards the expenditure incurred by the Member States pursuant to paragraph 1.

#### Article 23

1. The temporary withdrawals referred to in Article 22 shall consist in the stoppage of fishing activities for additional days in comparison to the average, recorded or determined by the Member State on a standard basis per category of vessel, of the days laid-up in the three calendar years preceding the first application for the grant of the premium, less the number of days for which a laying-up premium within the meaning of Directive 83/515/EEC has been granted.

2. The laying-up premium provided for in Article 22 shall be granted only:

- (a) in respect of vessels flying the flag of a Member State, registered within the territory of the Community and measuring not less than 18 metres in length between perpendiculars;
- (b) in respect of vessels having engaged in fishing, or replacing a vessel having engaged in fishing, for at least 120 days during the calendar year preceding the first application for the grant of such a premium or the first application for the grant of laying-up premium within the meaning of Directive 83/515/EEC;
- (c) for additional periods laid-up of:
  - 45 to 150 days per year for vessels covered by laying-up plans,
  - 45 to 150 days consecutive days per year for other vessels;
- (d) for total additional periods of lay-up limited to 300 days maximum by vessel.

3. The laying-up premium shall be fixed in accordance with the scale shown in Annex IV, on the basis of the vessel's tonnage and the number of additional days laid-up.

4. The average referred to in paragraph 1, when determined at a standard rate per category of vessel, must in no circumstances be less than 115 days.

5. Detailed rules for applying this Article, in particular those concerning the drawing up of laying-up plans, shall be adopted by the Commission according to the procedure provided for in Article 47.

#### Article 24

1. The permanent withdrawals referred to in Article 22 shall be effected by means of:

- (a) the scrapping of the vessel concerned;
- (b) the definitive transfer of the vessel concerned to a third country, or
- (c) the definitive assignment of the vessel concerned to purposes other than fishing in Community waters.

2. The final cessation premium provided for in Article 22 shall be granted only:

- (a) in respect of vessels flying the flag of a Member State, registered within the territory of the Community and measuring not less than 12 metres in length between perpendiculars;
- (b) in respect of vessels having engaged in fishing for at least 100 days during the calendar year preceding the application for the grant of such a premium or the first application for the grant of a laying-up premium within the meaning of Article 22 of this Regulation or of Article 3 of Directive 83/515/EEC.

3. The final cessation premium shall be fixed at a standard rate on the basis of the vessel's tonnage. The premium shall be paid after the issue of the certificate attesting that the vessel has been struck off the register of fishing vessels.

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

5. Member States shall forward to the Commission a list of the vessels in respect of which the final cessation premium has been paid. This list shall be published in the *Official Journal of the European Communities*.

#### Article 25

1. Member States which grant a laying-up premium or a final cessation premium shall forward to the Commission,

as soon as they come into force, the laws, regulations or administrative provisions governing the grant of such premiums.

2. Member States may lay down additional or restrictive conditions governing the grant of the laying-up premium or the final cessation premium.

#### Article 26

1. Expenditure incurred by the Member States as a result of granting laying-up premiums or final cessation premiums within the meaning of Article 22 shall be eligible for Community reimbursement.

2. Member States which grant laying-up premiums or final cessation premiums within the meaning of Article 22 shall forward to the Commission, before 1 February each year, an estimate of their planned expenditure on such premiums for the current year.

3. Before 1 April each year the Commission, having examined the estimate referred to in paragraph 2 and having found the conditions for a Community financial contribution to be satisfied, shall decide, on the maximum amount of eligible expenditure per Member State for the current year, bearing in mind the appropriations entered in the budget for this purpose. The Commission's decision shall be notified to the Member States.

4. The eligibility of expenditure on the granting of final cessation premiums shall be subject to the limits shown in Annex V.

5. Within the framework of the decisions referred to in paragraph 3, the Community shall reimburse 50 % of the Member States eligible expenditure.

6. Detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### TITLE VIII

##### Facilities at fishing ports

#### Article 27

1. The Commission may grant Community financial aid towards public, semi-public or private projects for material investments in the provision of facilities at fishing ports.

2. To qualify for the aid referred to in paragraph 1, projects must:

(a) form part of a specific programme, within the meaning of Article 2 of Regulation (EEC) No 355/77, which has been approved by the Commission;

(b) be proposed by a producers' organization within the meaning of Article 2 of Regulation (EEC) No 3796/81 <sup>(1)</sup>, by an association of such organizations or by a body appointed for the purpose by the competent authority of the Member State concerned;

(c) comprise, in respect of the entire port concerned, coordinated investments designed to bring about a lasting improvement in conditions for the production and initial sale of fish products.

3. Detailed rules for applying this Article, specifying in particular the types of investment eligible for aid, shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### Article 28

1. The aid provided for in Article 27 shall consist of capital subsidies granted in one or more instalments.

2. For each project and in relation to the amount of investment eligible for aid, the aid provided for in Article 27 and the financial contribution by the Member State concerned shall be as shown in Annex VI.

3. Investments eligible for aid shall be financed on a priority basis under the common measure introduced by Regulation (EEC) No 355/77. To this end, aid applications relating to the projects referred to in Article 27 shall, when submitted pursuant to this Regulation, be considered to have been submitted at the same time pursuant to Regulation (EEC) No 355/77.

4. Detailed rules for applying paragraph 3 shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### TITLE IX

##### Search for new markets

#### Article 29

1. The Commission may grant financial aid for projects to promote the consumption of fish products derived from surplus or underfished species.

2. To qualify for the aid provided for in paragraph 1, projects must:

<sup>(1)</sup> OJ No L 379, 31. 12. 1981, p. 1.

- (a) be proposed by public, semi-public or private bodies representing the fisheries sector in one or more Member States and be implemented under the direct supervision of such bodies;
- (b) relate to collective measures which are not oriented towards any commercial brands and do not make reference to a particular country or production region.
3. Detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### Article 30

1. The Community aid provided for in Article 29 shall consist of capital subsidies granted in one or more instalments.
2. For each project the Community aid provided for in Article 29 shall be double the financial contribution by the Member State concerned, but may not exceed 50 % of the expenditure eligible for aid.
3. Detailed rules for applying this Article, laying down *inter alia* the nature of the expenditure eligible for aid, shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### Article 31

1. The projects referred to in Article 29 shall be submitted to the Commission through the Member State(s) concerned, once the approval of the latter has been obtained.
2. The data which projects must include and the form of presentation thereof shall be decided by the Commission in accordance with the procedure laid down in Article 47.
3. Within two months of the submission of a project, the Commission shall decide whether to grant the aid referred to in Article 29. This decision shall be notified to the beneficiaries and to the Member State(s) concerned. The other Member States shall be informed accordingly.

### TITLE X

#### Specific measures

#### Article 32

1. The Commission, acting in accordance with the procedure laid down in Article 47, may decide to implement specific measures relating to the structure of the fish industry with a view to:

- either helping to remove the structural handicaps which affect fishing activities in certain areas of the Community,
  - or encouraging the implementation of a structural project covering all the problems related to fishing activities in a particular region of the Community,
  - or making it possible to implement concerted measures to alleviate difficulties affecting a specific aspect of fishing activities.
2. Specific measures must be coordinated with any development measures being simultaneously undertaken in sectors outside the fishing industry.

### TITLE XI

#### Procedure for the examination of projects and obligations of beneficiaries

#### Article 33

The provisions of this Title shall apply to the projects referred to in Titles II, IV and VIII and to the measures referred to in Title III.

#### Article 34

1. Applications for Community aid in respect of projects referred to in Titles II, IV and VIII shall be submitted to the Commission through the Member State concerned, once the approval of the latter has been obtained, on the basis of the priorities of the multiannual guidance programmes.
2. Applications for Community aid in respect of measures referred to in Title III shall be submitted to the Commission by the Member State concerned.
3. Incomplete applications for aid shall not be considered.
4. The data which applications must include and the form in which they must be submitted shall be decided by the Commission in accordance with the procedure laid down in Article 47.

#### Article 35

1. Having consulted the Committee, the Commission shall take decisions:
- (a) twice yearly on applications relating to projects or measures referred to in Titles II, III and IV, the first decision being taken not later than 30 April and covering applications submitted not later than 31 October of the preceding year and the second decision being taken not later than 31 October and covering

applications submitted not later than 31 March of the current year;

- (b) twice yearly on applications relating to projects referred to in Title VIII, the first decision being taken not later than 30 June and covering applications submitted not later than 31 October of the preceding year and the second decision being taken not later than 31 December and covering applications submitted not later than 28 February of the current year.

2. In 1987, notwithstanding, paragraph 1, the Commission shall decide only once on applications relating to projects or measures referred to in Titles II, III and IV. The decision shall be taken not later than 31 December and shall cover applications submitted not later than 15 May 1987.

3. Decisions on aid shall be notified to the Member State concerned and to the beneficiaries of the projects referred to in Titles II, IV and VIII.

#### Article 36

This Regulation shall not apply to projects which receive Community aid under a common measure within the meaning of Article 6 of Regulation (EEC) No 729/70<sup>(1)</sup> with the exception of the projects referred to in Article 27, nor to projects receiving aid from the European Regional Development Fund.

#### Article 37

1. Aid applications in response to which no grant has been awarded for lack of funds shall be carried forward, once only, to the following budgetary year.

2. Aid applications which have been submitted for the first time after 31 October 1985 under Regulation (EEC) No 2908/83 and in response to which no Community grant was awarded for lack of funds may be taken into consideration for the 1987 budgetary year, under the terms and conditions of this Regulation.

#### Article 38

Investments which have received Community aid under this Regulation may not be sold outside the Community or assigned to purposes other than fishing for a period of ten years from the date of commissioning and must be used on a priority basis for the supply of the Community market during that period. This period shall, however, be reduced to five years for projects for the modernization or reconversion of operational fishing vessels as referred to in Title III.

#### Article 39

1. For each project which has received aid under Titles II and IV of this Regulation, the beneficiary shall forward to the Commission, through the Member State concerned, a report on the results of the project, in particular on the financial results.

This report shall be submitted:

- two years after the last payment of aid towards projects referred to in Title II and in Article 11 (1) (a),
- five years after the last payment of aid towards projects referred to in Article 11 (1) (b).

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 47. 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 applying this Article, specifying in particular the data which the report referred to in paragraph 1 must contain, shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

### TITLE XII

#### General and financial provisions

#### Article 40

1. The proposed duration of the measure shall be ten years as from 1 January 1987.

2. The total expenditure to be charged to the Community budget in respect of the implementation of the measures provided for in this Regulation is estimated at ECU 800 million for the period 1987 to 1991.

3. Depending on the action required to ensure the proper functioning of the common fisheries policy, and in any event at the end of a five-year period beginning on 1 January 1987, the detailed rules for applying this Regulation, including the financial estimate given in paragraph 2 and the lists in Annexes II and III of the regions qualifying for a higher rate of Community aid, shall be reviewed by the Council on a proposal from the Commission.

#### Article 41

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

<sup>(1)</sup> OJ No L 94, 28. 4. 70, p. 13.

#### Article 42

The financial contributions from the Member States referred to in Articles 7, 10, 12, 28 and 30 may consist of capital subsidies or financial concessions on loans.

#### Article 43

1. The Community aid referred to in Articles 6, 9 and 11 may consist of:

- (a) reductions in the rates of interest charged on loans granted by the European Investment Bank (EIB) from its own resources or from New Community Instrument (NCI) resources or through other financial agencies;
- (b) a contribution in capital towards the establishment or enlargement of funds to guarantee the loans contracted for the implementation of projects;
- (c) capital subsidies granted in one or more instalments;
- (d) reimbursable advances.

2. Where the provisions of paragraph 1 (a), (b) and (d) are applied, the rates of Community aid referred to in Annexes II and III shall be assessed in grant-equivalent terms.

3. Before the provisions of paragraph 1 (a) may be applied, the Commission and the EIB must first reach an agreement on the cooperation arrangements.

4. Detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### Article 44

1. Throughout the period for which aid is granted by the Community, the authority or agency appointed for the 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 decide to suspend, reduce or discontinue aid, in accordance with the procedure laid down in Article 47:

- 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 incorporated in the decision granting aid, has not begun the work within one year from the date of notification of the decision, or has not,

before the end of this period, supplied satisfactory assurances that the project will be carried out, or

- if the beneficiary does not complete the work within a period of two years from the start of the project, except in cases of *force majeure*.

Decisions shall be notified to the Member State concerned and to the beneficiary.

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

2. Detailed rules for applying this Article shall be adopted by the Commission in accordance with the procedure laid down in Article 47.

#### Article 45

1. Member States shall take the necessary measures, in accordance with national laws, regulations and administrative provisions, in order to:

- ensure that the operations financed under this Regulation are in fact carried out and that they are properly carried out,
- prevent or take action against irregularities,
- recover sums lost as a result of irregularities or negligence.

Member States shall inform the Commission of the measures taken for such purposes, and in particular of the progress of any administrative or legal proceedings.

2. If the recovery of sums unduly paid is not complete, the financial consequences of irregularities or negligence shall be borne by the Community, except where such irregularities or negligence are attributable to national administrations or agencies.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt any general rules necessary for the application of this Article.

#### Article 46

1. Member States shall make available to the Commission all the information required for the implementation of measures provided for in this Regulation and shall take the necessary steps to facilitate any inspections which the Commission may see fit to undertake in connection with the management of Community aid, including on-the-spot inspections.

Member States shall communicate to the Commission the laws, regulations and administrative provisions adopted for the application of Community instruments relating to the

common fisheries policy, in so far as such instruments have financial implications for the Community budget by virtue of measures covered by this Regulation.

2. Without prejudice to controls carried out by Member States in accordance with national laws, regulations and administrative provisions, and without prejudice to the provisions of Article 206 of the Treaty or to any inspection organized pursuant to Article 209 (c) of the Treaty, the persons empowered by the Commission to make checks on location shall be given access to the accounts and any other documents relating to the expenditure financed by the Community. In particular, they may check the following:

- (a) the conformity of administrative practices with the Community rules;
- (b) the existence of the requisite supporting documents and their consistency with the operations financed from the Community budget;
- (c) the manner in which the operations financed from the Community budget have been carried out and inspected.

In good time before such inspections, the Commission shall notify the Member State concerned by the inspection or in whose territory the inspection is to be conducted. Officials of the Member State concerned may take part in such inspections.

At the Commission's request and with the consent of the Member State, inspections or investigations relating to the operations referred to in this Regulation shall be carried out by the competent authorities of the Member State concerned. Commission officials may take part in such inspections.

In order to improve the scope for inspections, the Commission may, with the consent of the Member States concerned, involve the administrations of the Member States in certain inspections or investigations.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt, as necessary, general rules for applying this Article.

#### Article 47

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Standing Committee for the Fishing Industry, by its chairman, 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 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 54 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 48

1. Pursuant to Article 5 of Regulation (EEC) No 1676/85 <sup>(1)</sup>, the amounts in ECU referred to in Articles 9, 11 and 12 shall be converted into national currencies at the agricultural conversion 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 35 of this Regulation, on the relevant aid application.

2. Pursuant to Article 5 of Regulation (EEC) No 1676/85, the amounts in ECU specified in Article 20 and in Annexes IV and V to this Regulation shall be converted into national currencies at the agricultural conversion rates in force on 1 January of the year in which the premiums are granted.

#### Article 49

Articles 92, 93 and 94 of the Treaty shall apply, in the sectors covered by this Regulation, to the national aids granted by Member States, other than those in respect of which Community financial assistance has been granted.

#### Article 50

The provisions provided for in Title I and the measures provided for in Titles II, III, IV, VII and X of this Regulation shall be applicable in the Canary Islands, in Ceuta and in Melilla. However, the measures provided for in Titles II, III, VII and X shall apply only to vessels of these territories within the meaning of Regulation (EEC) No 570/86 <sup>(2)</sup>.

<sup>(1)</sup> OJ No L 164, 24. 6. 1985, p. 11.

<sup>(2)</sup> OJ No L 56, 1. 3. 1986, p. 1.

*Article 51*

To take account of special situations and to heighten the effectiveness of the restructuring measures provided for in this Regulation, the Council, voting by qualified majority on a proposal of the Commission, may make derogations from the technical requirements set out in Articles 6 (2), 7 (1), 9 (3), 10 (1), 11 (2), 12 (1), 14 (2), 15 (1), 20 (2), (3), 23 (2), (3), 24 (2), 26 (4), (5), 28 (2) and 30 (2), in particular by adjusting the upper or lower limits specified in those Articles.

*Article 52*

If transitional measures should be required to facilitate the changeover to the arrangements provided for in this Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 47. They may not be adopted after 31 March 1987.

*Article 53*

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

It shall apply with effect from 1 January 1987.

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

Done at Brussels, 18 December 1986.

*For the Council*

*The President*

M. JOPLING

## ANNEX 1

## MINIMUM INFORMATION TO BE INCLUDED IN MULTIANNUAL GUIDANCE PROGRAMMES

## I. Programmes concerning the fishing fleet

1. Importance of the fishing industry in the national economy and in the various regional economies concerned,
2. Initial situation of the fleet, by category of vessel, type of fishing and region (number, tonnage, engine power and age); estimated fishing capacity.
3. Estimates of current fishery resources and foreseeable trends, especially in fishing grounds not subject to Community fishing legislation.
4. Impact on the fishing industry of the present situation and foreseeable trends on the market for fish and aquaculture products.
5. Description of the strengths and weaknesses of the various sections of the fleet; needs covered by the programme and objectives of the latter.
6. Developments in the fleet and investments needed during the period covered by the programme to attain the objectives (number of vessels, tonnage and engine power of vessels to be commissioned or withdrawn during the period concerned); situation of the fleet and the fishing capacity envisaged on completion of the programme.

## II. Programmes concerning aquaculture and protected marine areas

1. Importance of aquaculture in the national economy and in the various regional economies concerned.
2. Initial situation of aquaculture by type of farming, region and species produced.
3. Estimated potential aquaculture production in the regions concerned, by species and type of farming.
4. Impact on the aquaculture industry of the present situation and foreseeable trends on the market for fish and aquaculture products.
5. Description of the strengths and weaknesses of the aquaculture industry; needs covered by the programme.
6. Objectives of the programme and level of production sought on completion of the programme, by type of farming, region and species.
7. Investments needed during the period covered by the programme to attain the objectives pursued.
8. Prospects for the establishment or development of protected marine areas; investments envisaged in this sector; objectives pursued.
9. Measures planned for the protection of the environment.

## III. Particulars to be furnished for all programmes

1. Critical assessment of the implementation of the preceding programme.
2. National or regional financial resources available or to be made available for implementation of the programme; priorities adopted for the granting of aid.
3. Laws, regulations or administrative provisions existing or foreseen for ensuring the monitoring of the programme.
4. Links with any specific programme(s) approved by the Commission under Regulation (EEC) No 355/77.
5. Compatibility with any regional development programme(s) notified to the Commission in accordance with Article 3 of Regulation (EEC) No 1787/84 <sup>(1)</sup>.

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<sup>(1)</sup> OJ No L 169, 28. 6. 1984, p. 1.

## ANNEX II

## COMMUNITY AID AND FINANCIAL CONTRIBUTIONS FROM MEMBER STATES FOR THE RESTRUCTURING, RENEWAL AND MODERNIZATION OF THE FISHING FLEET

## I. Vessels of which the length between perpendiculars does not exceed 33 metres

Regions	Community aid	Financial contributions from Member States
1. Greece, Andalusia, Canaries, Galicia, West of Scotland <sup>(1)</sup> , Ireland, Northern Ireland, arrondissements of Quimper and Lorient, Mezzogiorno, Portugal, the French Overseas Departments and Veneto	35 %	between 10 and 30 %
2. Other regions	20 %	between 10 and 30 %

<sup>(1)</sup> The 'West of Scotland' shall mean Dumfries and Galloway, the Western Isles, Orkney and Shetland, together with the districts of Caithness, Sutherland, Ross and Cromarty, Skye and Lochalsh, Lochaber, Argyll and Bute, Cunninghame, Kyle and Carrick.

## II. Vessels of which the length between perpendiculars exceeds 33 metres

Regions	Community aid	Financial contributions from Member States
1. Greece, Andalusia, Canaries, Galicia, West of Scotland <sup>(1)</sup> , Ireland, Northern Ireland, arrondissements of Quimper and Lorient, Mezzogiorno, Portugal, the French Overseas Departments and Veneto	25 %	between 10 and 30 %
2. Other regions	10 %	between 10 and 30 %

<sup>(1)</sup> The 'West of Scotland' shall mean Dumfries and Galloway, the Western Isles, Orkney and Shetland, together with the districts of Caithness, Sutherland, Ross and Cromarty, Skye and Lochalsh, Lochaber, Argyll and Bute, Cunninghame, Kyle and Carrick.

## ANNEX III

## COMMUNITY AID AND FINANCIAL CONTRIBUTIONS FROM MEMBER STATES FOR THE DEVELOPMENT OF AQUACULTURE AND STRUCTURAL WORKS IN COASTAL WATERS

## I. Aquaculture

Regions	Community aid	Financial contributions from Member States
1. Greece, Andalusia, Canaries, Castile-Leon, Castile-La-Mancha, Extremadura, Galice, West of Scotland <sup>(1)</sup> , Ireland, Northern Ireland, arrondissements of Quimper and Lorient, Mezzogiorono, Portugal, the French Overseas Departments and Veneto	40 %	between 10 and 30 %
2. Other regions	25 %	between 10 and 25 %

<sup>(1)</sup> The 'West of Scotland' shall mean Dumfries and Galloway, the Western Isles, Orkney and Shetland, together with the districts of Caithness, Sutherland, Ross and Cromarty, Skye and Lochalsh, Lochaber, Argyll and Bute, Cunninghame, Kyle and Carrick.

## II. Protected marine areas

Community aid: 50 %.

Contributions from Member States: between 10 and 35 %.

## ANNEX IV

## SCALE OF LAYING-UP-PREMIUMS

Tonnage of vessel	Maximum premium per vessel (ECU/day)	
	Vessels less than 10 years old	Vessels 10 years and over
Less than 70 grt	200	150
of 70 and less than 100 grt	300	250
of 100 and less than 200 grt	600	400
of 200 and less than 300 grt	950	700
of 300 and less than 500 grt	1 200	1 000
of 500 and less than 1 000 grt	1 500	1 300
of 1 000 and less than 1 500 grt	2 000	1 700
of 1 500 and less than 2 000 grt	2 400	2 100
of 2 000 and less than 2 500 grt	2 700	2 300
of 2 500 and less than 3 000 grt	3 100	2 600
3 000 grt and over	3 500	3 000

## ANNEX V

## ELIGIBILITY OF EXPENDITURE ON THE GRANTING OF FINAL CESSATION PREMIUMS

## I. Vessels of a tonnage of less than 100 tonnes

The eligible amount is limited, per vessel, to 25 000 ECU + 2 000 ECU/tonnage.

## II. Vessels of a tonnage equal to or higher than 100 tonnes but lower than 400 tonnes

The eligible amount is limited, per vessel, to 140 000 ECU + 850 ECU/tonnage.

## III. Vessels of a tonnage equal to or higher than 400 tonnes but lower than 3 500 tonnes

The eligible amount is limited, per vessel, to 316 000 ECU + 410 ECU/tonnage.

## IV. Vessels of a tonnage equal to or higher than 3 500 tonnes

The eligible amount is limited, per vessel, to 510 ECU/tonnage — 34 000 ECU.

## ANNEX VI

## COMMUNITY AID AND FINANCIAL CONTRIBUTIONS FROM MEMBER STATES FOR PORT FACILITIES

Regions	Community aid	Financial contributions from Member States
1. Mezzogiorno, Ireland, Northern Ireland, Greece, arrondissements of Quimper and Lorient, Portugal, French Overseas departments, Galicia, the provinces of Grenada and Huelva and Veneto	50 % maximum	between 5 and 25 %
2. Languedoc-Roussillon, Bouches-du-Rhône, Var, Asturias, Cantabria, province of Guipuzcoa, provinces of Gerona and Taragona, Comunidad Valenciana, Murcia, provinces of Cadiz, Malaga, Almeria and Sévilla, Iles Baleares	35 % maximum	between 5 and 30 %
3. Other regions	25 % maximum	between 5 and 25 %