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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 791/2007

of 21 May 2007

introducing a scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the outermost regions the Azores, Madeira, the Canary Islands, French Guiana and Réunion

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 and Article 299(2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

(1) The fisheries sector in the outermost regions of the Community is facing difficulties, and in particular additional costs incurred in the marketing of certain fishery products, due to the particular handicaps recognised by Article 299(2) of the Treaty and resulting mainly from the cost of transport to continental Europe.

(2) With a view to maintaining the competitiveness of certain fishery products compared with that of similar products from other Community regions, the Community introduced measures from 1992 to compensate for such additional costs in the fisheries sector. The measures applying for the period 2003-2006 are laid down in Council Regulation (EC) No

2328/2003 ⁽³⁾. It is necessary from 2007 to continue measures for offsetting the additional costs for the marketing of certain fishery products on the basis of a report by the Commission to the European Parliament, the Council and the European Economic and Social Committee.

(3) In view of the different marketing conditions in the outermost regions concerned, the fluctuations in captures and stocks and of market demands, it should be left to the Member States concerned to determine the fishery products eligible for compensation, their respective maximum quantities and the compensation amounts within the overall allocation per Member State.

(4) Member States should be authorised to differentiate the list and the quantities of fishery products concerned and the amount of compensation within the overall allocation per Member State. They should also be authorised to adjust their compensation plans if justified by changing conditions.

(5) Member States should set the compensation amount at a level which allows appropriate off-setting of additional costs, arising from the specific handicaps of the outermost regions and in particular from the costs of transporting the products to continental Europe. To avoid overcompensation, the amount should be proportional to the additional costs the aid off-sets and in no case exceed 100 % of the transport and other related costs to continental Europe. To this end, it should also take into account other types of public intervention having an impact on the level of additional costs.

⁽¹⁾ Opinion delivered on 24 April 2007 (not yet published in the Official Journal).

⁽²⁾ OJ C 93, 27.4.2007, p. 31.

⁽³⁾ Council Regulation (EC) No 2328/2003 of 22 December 2003 introducing a scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the Azores, Madeira, the Canary Islands and the French departments of Guiana and Réunion, as a result of those regions' remoteness (OJ L 345, 31.12.2003, p. 34).

- (6) In order to achieve properly the objectives of this Regulation and to guarantee compliance with the Common Fisheries Policy, support should be limited to fishery products harvested and processed in accordance with the rules thereof.
- (7) In order that the compensation scheme operates effectively and correctly, Member States should also make sure that the recipients of aid are economically viable and that the implementing system allows for a regular application of the scheme.
- (8) To permit appropriate monitoring of the compensation scheme, the Member States concerned should submit annual reports on its operation.
- (9) To enable a decision to be taken on whether to continue the compensation scheme after 2013, the Commission should submit a report to the European Parliament, the Council and the European Economic and Social Committee based on an independent evaluation in due time before the end of the scheme.
- (10) The Community expenditure envisaged for the compensation scheme should be implemented under the European Agricultural Guarantee Fund in direct centralised management according to Article 3(2)(f) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽¹⁾.
- (11) The measures necessary for the implementation of this Regulation 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 ⁽²⁾.
- (12) For the implementation of direct centralised financial management, Commission Regulation (EC) No 2003/2006 of 21 December 2006 laying down detailed rules for the financing by the European Agricultural Guarantee Fund (EAGF) of expenditure relating to the common organisation of the markets in fishery and aquaculture products ⁽³⁾ should apply.

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter

This Regulation introduces a scheme for the period 2007 to 2013 to provide compensation for the additional costs incurred by the operators set out in Article 3 in the marketing of certain fishery products from the following outermost regions as a result of those regions' specific handicaps (hereinafter referred to as the compensation):

- The Azores,
- Madeira,
- The Canary Islands,
- French Guiana, and
- Réunion.

Article 2

Definitions

For the purposes of this Regulation the definition of 'fishery products' set out in Article 1 of Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽⁴⁾ shall apply.

Article 3

Operators

1. The compensation shall be paid to the following operators who incur additional costs in the marketing of fishery products:

- (a) the producers;
- (b) the owners or operators of vessels registered in the ports of the regions referred to in Article 1 and operating therein or associations of such operators; and
- (c) the operators in the processing and marketing sector or associations of such operators, who incur additional costs in marketing the products concerned.

2. The Member States concerned shall take steps to ensure the economic viability of operators receiving the compensation.

⁽¹⁾ OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 378/2007 (OJ L 95, 5.4.2007, p. 1).

⁽²⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽³⁾ OJ L 379, 28.12.2006, p. 49.

⁽⁴⁾ OJ L 17, 21.1.2000, p. 22. Regulation as last amended by Regulation (EC) No 1759/2006 (OJ L 335, 1.12.2006, p. 3).

*Article 4***Eligible fishery products**

1. Each Member State concerned shall determine for its regions referred to in Article 1 the list of fishery products and the quantity of those products which are eligible for the compensation. The list of fishery products and the quantities may be differentiated for each of the regions belonging to one Member State.

2. When establishing the list and the quantities referred to in paragraph 1, Member States shall take into account all the relevant factors, in particular the need to ensure that the compensation does not result in an increased pressure on biologically sensitive stocks, the level of additional costs and qualitative and quantitative aspects of production and marketing.

3. Fishery products for which the compensation is granted must have been harvested and processed in accordance with the rules of the Common Fisheries Policy on:

(a) conservation and management;

(b) traceability;

(c) grading standards.

4. The compensation shall not be granted for fishery products:

(a) caught by third country vessels, with the exception of fishing vessels which fly the flag of Venezuela and operate in Community waters;

(b) caught by Community fishing vessels that are not registered in a port of one of the regions referred to in Article 1;

(c) imported from third countries;

(d) derived from illegal, unreported or unregulated fishing.

Point (b) shall not apply if the raw material supplied according to the rules laid down in this Article is not sufficient to use the existing capacity of the processing industry in place in the outermost region concerned.

*Article 5***The compensation**

1. Each Member State concerned shall determine for its regions referred to in Article 1 the level of compensation for each fishery product in the list referred to in Article 4(1). That

level may be differentiated for individual regions or between regions belonging to one Member State.

2. The compensation shall take into account:

(a) for each fishery product the additional costs resulting from the specific handicaps of the regions concerned, in particular the expenditure for the transport to continental Europe; and

(b) any other type of public intervention affecting the level of additional costs.

3. The compensation in respect of the additional costs shall be proportional to the additional costs it intends to off-set. The level of compensation in respect of the additional costs shall be duly justified in the compensation plan. However, in no case shall the compensation exceed 100 % of the expenditure incurred for the transport and other related costs of the Fishery products, which are intended for continental Europe.

4. The total amount of compensation per year shall not exceed:

(a) The Azores and Madeira: EUR 4 283 992;

(b) The Canary Islands: EUR 5 844 076;

(c) French Guiana and Réunion: EUR 4 868 700.

*Article 6***Adjustments**

The Member States concerned may adjust the list and quantities of eligible fishery products referred to in Article 4(1) and the level of compensation referred to in Article 5(1) to take account of changing conditions provided that the total amounts referred to in Article 5(4) are respected.

*Article 7***Submission of compensation plans**

1. By 6 November 2007, the Member States concerned shall submit to the Commission the list and quantities referred to in Article 4(1) and the level of compensation referred to in Article 5(1) (hereinafter jointly referred to as the compensation plan).

2. If the compensation plan does not meet the requirements set out in this Regulation, the Commission, within two months, shall ask the Member State to adapt the plan accordingly. In that event the Member State shall submit its adapted compensation plan to the Commission.

3. If the Commission fails to react within the period of two months after receiving the compensation plan referred to in paragraphs 1 and 2, the compensation plan shall be deemed to have been approved.

4. If a Member State makes adjustments pursuant to Article 6, it shall submit its amended compensation plan to the Commission and the procedure laid down in paragraph 2 and 3 shall apply *mutatis mutandis*. The amended plan shall be deemed to have been approved if the Commission fails to react within the period of four weeks after receiving the amended compensation plan.

Article 8

Reporting

1. Each Member State concerned shall draw up an annual report on the implementation of the compensation and submit it to the Commission by 30 June of each year.

2. By 31 December 2011, the Commission shall on the basis of an independent evaluation, report to the European Parliament, the Council and the European Economic and Social Committee on the implementation of the compensation, accompanied, where necessary, by legislative proposals.

Article 9

Financial provisions

1. Expenditure incurred by Member States in accordance with this Regulation shall be deemed to be expenditure referred to in Article 3(2)(f) of Regulation (EC) No 1290/2005.

2. For the implementation of paragraph 1 Regulation (EC) No 2003/2006 shall apply.

Article 10

Control

Member States shall adopt appropriate provisions to ensure compliance with the requirements set out in this Regulation and to ensure the regularity of operations.

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

Done at Brussels, 21 May 2007.

Article 11

Detailed rules

Detailed rules for the application of this Regulation may be adopted in accordance with the procedure laid down in Article 12(2).

Article 12

Committee

1. The Commission shall be assisted by the Management Committee for Fishery Products.

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 13

Transitional measures

1. If Member States have submitted to the Commission requests for adjustments pursuant to Article 8(1) and (2) of Regulation (EC) No 2328/2003 on which no decision has been taken by 31 December 2006, Article 8 of that Regulation shall continue to apply to those requests.

2. The provisions of Article 9 shall apply to expenditure incurred by Member States under Regulation (EC) No 2328/2003 and declared to the Commission after 15 October 2006.

Article 14

Entry into force

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

It shall apply from 1 January 2007 until 31 December 2013.

For the Council

The President

M. GLOS