

Proposal for a Council Regulation aiming to promote the conversion of vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco

(2001/C 270 E/32)

(Text with EEA relevance)

COM(2001) 384 final — 2001/0163(CNS)

(Submitted by the Commission on 20 July 2001)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas:

- (1) The agreement on the relations as regards sea fishing between the European Community and the Kingdom of Morocco (hereafter named 'the fisheries agreement with Morocco'), became null and void on 30 November 1999; consequently, a significant number of Community vessels that operated within this framework were forced to stop their fishing activities at that date.
- (2) The fishermen and owners of the vessels concerned benefited in this connection from the allowances provided for in Article 16(1), point (b), of Regulation (EC) No 2792/1999⁽¹⁾ with the assistance of the Financial Instrument for Fisheries Guidance (FIFG), under the derogation conditions laid down by Regulation (EC) No 1227/2001⁽²⁾.
- (3) It is justified to encourage, by appropriate measures at the Community level, the implementation of the conversion plans of the fleets concerned as approved by the Commission on 18 October 2000⁽³⁾.
- (4) It is necessary to facilitate the permanent cessation activity of the vessels, whether by demolition or by transfer to a third country, including within the framework of joint enterprises; it is also appropriate to facilitate the replacement of fishing gear for the permanent conversion towards other fishing activities, whatever the age of the vessel and even if it were the subject of public aid for construction.
- (5) Consequently, there is a need for derogations from certain provisions of Regulation (EC) No 2792/1999.
- (6) Moreover, in the spirit of the conclusions of the European Council of Nice⁽⁴⁾, the European Union should signal its solidarity with the Member States concerned, by means of an additional financial effort, over and above the amounts made available inside heading 2 of the financial perspectives for the budget of the European Union, as fixed at the European Council of Berlin on 25 March 1999.
- (7) Consequently, a specific measure of the Community should be instituted to execute the appropriations in question in order to implement part of the conversion plans, on the understanding that the other parts of the aforementioned plans will have to be carried out with the assistance of FIFG appropriations.
- (8) The complementary appropriations available should be devoted to the specific measure, on the one hand to the restructuring of the fleet, and on the other hand to the fishermen's early retirement or retraining, away from sea fishing, under individual or collective social plans.
- (9) The specific measure must be consistent with the general principles of the structural policy in the fisheries sector; in particular distortions must be avoided with the provisions in force for the implementation of the FIFG appropriations; an operational mechanism of management must also be envisaged as close as possible of that in force for the Community Structural Funds, as fixed by Regulation (EC) No 1260/1999⁽⁵⁾.
- (10) The vessels due to operate in international waters or in waters of third countries must fully respect the international law with regard to the conservation of fishing resources and in particular the United Nations Convention on the Law of Seas as well as the FAO Code of Conduct.

⁽¹⁾ Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (OJ L 337, 30.12.1999, p. 10).

⁽²⁾ Regulation (EC) No 1227/2001 of the Council of 18 June 2001 derogating from certain provisions of Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (OJ L 168, 23.6.2001, p. 1).

⁽³⁾ Commission Decisions No C(2000) 3059 and C(2000) 3060 of 18 October 2000 concerning the conversion plan for the Spanish and Portuguese fleets operating in the waters of Morocco.

⁽⁴⁾ Document SN 400/00 ('conclusions of the Presidency'), point 59.

⁽⁵⁾ Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ L 161, 26.6.1999, p. 1).

(11) The socio-economic diversification of the coastal areas dependent on fishing naturally fits into the context of the integrated operational regional development programmes and multi-regional programmes arising from the Community Support Frameworks of the Objective 1 of the Structural Funds for Spain and for Portugal, with the financial assistance of the European Regional Development Fund, of the European Social Fund and of the European Agriculture Guidance and Guarantee Fund, category 'guidance'; under these conditions, it is not justified to envisage a specific intervention devoted to this diversification,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL

Article 1

1. The fishermen and the vessel owners to whom, during 2000 and 2001, compensation was granted under Article 16(1) point (b) of Regulation (EC) No 2792/1999, owing to the non-renewal of the fishing agreement with Morocco, for at least a nine-month cumulative period of temporary cessation of activity, can benefit from exceptional supporting measures, under the conditions and within the limits envisaged by the present regulation.

2. At the latest three months after the entry into force of this regulation, Member States shall communicate to the Commission the list of vessels, indicating their internal numbers, as well as the list of names of the fishermen meeting the conditions referred to in paragraph 1.

TITLE II

DEROGATION MEASURES

Article 2

1. By derogation from the provisions of Regulation (EC) No 2792/1999, public aid to the owners of the vessels referred to in Article 1(1), is granted according to the following rules:

(a) where public aid is granted for the demolition of a vessel,

(i) the scales referred to in Article 7(5), point (a) are increased by 20 %;

(ii) the provisions of Article 10(3) point (b) (ii) as well as those of Annex III, point 1.1.a), are not applicable;

(b) where a premium is granted for the permanent transfer of a vessel to a third country, including in the case of a joint enterprise,

(i) the scales referred to in Article 7(5), point (a) are increased by 20 %;

(ii) the provisions of Article 10(3) point (b) (ii) as well as those of Annex III, point 1.1.a), are not applicable;

(iii) the minimum age of the vessels referred to in Article 7(2) is reduced to five years; for 5 to 9-year-old vessels, however, the reference premium, as referred to in Article 7(5), point (a), is that applicable to vessels of 10 to 15 years old. This premium is reduced by part of the amount previously received in cases of aid granted for construction and/or modernisation; this part is calculated *prorata temporis* of the 10 year period (in the case of aid for construction) or 5 year period (in the case of aid for modernisation) preceding the permanent transfer;

(c) in the event of permanent conversion of a vessel to another fishing activity requiring the change of fishing technique, the replacement of the fishing gear can be the subject of public aid as a modernisation of the vessel, under the following derogation conditions:

(i) the last subparagraph of Annex III, point 1.4, is not applicable;

(ii) the scales referred to in Article 9(4) point (b), are increased by 30 %;

(iii) the provisions of Article 10(3) point (a) are not applicable.

2. The derogation rules mentioned in paragraph 1 shall apply only to premiums and public aid that were granted under an administrative decision by the Authorities referred to in Article 6, taken between 1 July 2001 and 31 December 2002.

3. The vessel owners are no longer eligible to the compensation for temporary cessation of activity as of the date of the administrative decision granting a premium for the permanent cessation of activity or a public aid for the modernisation of the vessel concerned, which -when applicable- was taken pursuant to the modalities provided for in paragraph 1.

In the case of advance payment of this compensation, any amount overpaid will be deducted from the premium for permanent cessation or from the public aid for modernisation, granted for the boat concerned.

TITLE III

SPECIFIC MEASURE

Article 3

1. A specific action of the Community is instituted (hereafter named 'this action') aiming to supplement actions taken in the context of the interventions of the Structural Funds in the Member States concerned due to the non-renewal of the fisheries agreement with Morocco.

2. This action:

- (a) is exclusively reserved for the vessel owners and for the fishermen referred to in Article 1(1);
- (b) covers respectively
 - (i) measures of permanent cessation of vessels' fishing activities within the meaning of Article 7(3) of Regulation (EC) No 2792/1999
 - (ii) measures of modernisation of vessels within the meaning of Article 9(1) of the same regulation, and
 - (iii) measures of a socio-economic nature, within the meaning of Article 12(3) points (a) and (c), of the same regulation;
- (c) is subject to the conditions referred to in Article 12 of Regulation (EC) No 1260/1999.

3. The amount of the Community assistance allocated to the various measures of this action shall be as follows, expressed as a percentage of the global amount referred to in Article 5(1):

- (a) scrapping of vessels and permanent reassignment of vessels for purposes other than fishing: minimum of 40 % of the global amount;
- (b) permanent transfer of vessels to a third country, including within the framework of a joint enterprise, and modernisation of vessels: maximum of 28 % of the global amount;
- (c) socioeconomic measures: minimum of 32 % of the global amount.

Article 4

1. *Mutatis mutandis*, the provisions of Regulation (EC) No 2792/1999 are to apply for the implementation of this action, under the provisions and the derogation conditions laid down in title II of this regulation, in particular with regard to:

- (a) the date limit of the administrative decision to grant the assistance,
- (b) the notification of the aid schemes,
- (c) the criteria of eligibility of the fishermen and of the vessels,
- (d) the maximum amount of the premium for a fisherman or for a given vessel,
- (e) the maximum amount of expenditure eligible for the granting of public aid for the modernisation of a given vessel;
- (f) the limits of the financial contribution of the Community and of all the public financial contributions (national, regional and other) of the Member State concerned.

2. However, in case of the granting of a premium for the creation of a joint enterprise within the framework of this action, the management authority shall pay the whole premium to the applicant when the vessel is transferred to the joint enterprise, after the applicant has provided proof that a bank guarantee for an amount equal to 40 % of the premium has been lodged.

3. The premiums for permanent cessation of fishing activities and the public aids for the modernisation of vessels, paid under this action, are regarded as public aid within the meaning of Article 6(1) of Regulation (EC) No 2792/1999.

The fishing capacity withdrawn pursuant to this measure contributes to the adjustment of the fishing effort of the Member States concerned, within the meaning of Article 7 of Regulation (EC) No 2792/1999.

The public aids for the modernisation of vessels, paid under this action, are subject to the provisions of Article 9 of Regulation (EC) No 2792/1999.

For the purposes of the implementation of this action, the compensation referred to in the first article is intended to have the same end result as the socio-economic measures referred to in article 12(3), points (a) and (c) of Regulation (EC) No 2792/1999.

4. Premiums or public aid granted under this action cannot be cumulated with another premium or public aid having the same purpose, and in particular that granted in the context of the structural funds in the Member States concerned.

The Member States concerned shall take all the measures necessary to conform to the provisions of this paragraph, and at the latest three months after the entry into force of this regulation, they shall communicate them to the Commission.

Article 5

1. The amount of the Community participation allocated to this action is set within the framework of the budgetary procedure of the year 2002. It is distributed according to the following percentages:

- (a) Spain: 94,6 %,
- (b) Portugal: 5,4 %.

2. The payment of the Community participation referred to in paragraph 1 shall be carried out by the Commission in accordance with the budgetary commitments and shall be addressed to the payment authority referred to in Article 6.

At from 1 January 2002, the Commission shall carry out the commitment of the totality of the appropriations concerned, at the latest three months after the adoption of this regulation, and in any case before 31 December 2002.

3. Subject to the budgetary resources, the Commission shall carry out the payments according to the following provisions:

- (a) An instalment, representing at most 20 % of the amounts referred to in paragraph 1, is paid at the time of the commitment referred to in paragraph 2.
- (b) The intermediate payments are carried out at the request of the Member State to refund the expenditure actually paid and certified by the payment authority referred to in Article 6.

The cumulated total of the payments referred to in point (a) and the present point amounts at most to 80 % of the amounts referred to in paragraph 1.

- (c) The payment of the balance is carried out at the request of the Member State, after completion of this measure, if
 - (i) the payment authority has submitted to the Commission a certified statement of expenditure actually incurred;
 - (ii) the final implementation report has been submitted to the Commission and has been approved by it;
 - (iii) the Member State has sent to the Commission the statement referred to in Article 38(1) point (f), of Regulation (EC) No 1260/1999.

4. Eligible for the Community participation under the present action are the expenses actually paid by the final beneficiary from 1 July 2001. The deadline for eligibility of the expenditure is fixed at 31 December 2003.

The last date for submission to the Commission of the request for payment of the balance is fixed at 30 June 2004.

5. The requests for intermediate payments and for payment of the balance have to be drawn up in accordance with the model appearing in Annex II of Regulation (EC) No 438/2001 ⁽¹⁾.

They have to be supported by the production of progress reports, in electronic form, in accordance with the model appearing in Annex I of Regulation (EC) No 366/2001 ⁽²⁾.

Article 6

For the purposes of implementation of this action, the management authorities and the payment authorities operating in the context of structural funds interventions in favour of fisheries in Spain and in Portugal during the period 2000-2006, shall fulfil the functions attributed to them by the relevant provisions of Regulation (EC) No 1260/1999.

Except in the case of contrary provisions arising from this regulation, the provisions of Articles 31 and 33 to 39 of Regulation (EC) No 1260/1999, as well as derived legislation, are in force.

Article 7

If necessary, the detailed rules for the application of this title shall be adopted by the Commission according to the procedure referred to in Article 23(2) of Regulation (EC) No 2792/1999.

For this purpose the Commission is assisted by the committee on structures for fisheries and aquaculture established by Article 51 of Regulation (EC) No 1260/1999.

TITLE IV

FINAL PROVISIONS

Article 8

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

It is applicable as from 1 July 2001.

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

⁽¹⁾ Commission Regulation (EC) No 438/2001 of 2 March 2001, laying down detailed rules for the implementation of Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds (OJ L 63, 3.3.2001, p. 21).

⁽²⁾ Commission Regulation (EC) No 366/2001 of 21 February 2001, laying down detailed rules for implementing the measures provided for in Council Regulation (EC) No 2792/1999 (OJ L 55, 24.2.2001, p. 3).