

## COUNCIL REGULATION (EEC) No 2909/83

of 4 October 1983

on measures to encourage exploratory fishing and cooperation through joint ventures in the fishing 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 proposal from the Commission <sup>(1)</sup>,

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

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Council Regulation (EEC) No 101/76 of 9 January 1976 laying down a common structural policy for the fishing industry <sup>(4)</sup> provides in Article 9 that increased productivity may be obtained by the intensification of the search for new fishing grounds and new methods of fishing;

Whereas the conservation of stocks traditionally fished in Community waters necessitates the redeployment of some of the fishing effort to catch and market under-exploited species or to look for new fishing grounds inside or outside Community waters;

Whereas exploratory fishing offers a way of promoting such redeployment; whereas this activity can be encouraged only if some or all of the commercial risks attendant thereon are covered;

Whereas priority should be given to the redeployment of fishing vessels more than 24 meters in length whose activity in traditional fishing zones or areas has been severely restricted;

Whereas the fishery resources of some third countries on the Mediterranean and on the West African coast

are at present under-exploited because production facilities are inadequate in quantity or quality;

Whereas the Community surplus fishing capacity can be utilized in joint-venture schemes, to be set up in third countries between natural or legal persons from the Community and natural or legal persons from the countries concerned, for the purpose of exploiting fishery resources jointly for a limited or prolonged period;

Whereas the Community must support Member States' efforts to promote not only rational utilization of under-used fishing potential but also better cooperation between Member States and third countries; whereas provision should therefore be made for the Community to reimburse some of the expenditure incurred by the implementation of national incentive schemes;

Whereas a substantial financial contribution by the Community to the expenditure incurred by Member States is necessary to promote the redeployment of fishing effort and the launching of joint ventures,

HAS ADOPTED THIS REGULATION:

*Article 1.*

1. In order to help ensure that the market is better supplied or that better use is made of the fishing capacity made available by the restriction of catch possibilities, Member States may introduce measures to encourage the redeployment of fishing in accordance with the provisions of this Regulation.

2. Such redeployment may be achieved by the following measures:

- exploratory fishing voyages to be made by vessels flying the flag of a Member State,
- cooperation with partners in a third country on the Mediterranean or West African coast through joint fishing ventures.

<sup>(1)</sup> OJ No C 243, 22. 9. 1980, p. 1.

<sup>(2)</sup> OJ No C 346, 31. 12. 1980, p. 112.

<sup>(3)</sup> OJ No C 348, 31. 12. 1980, p. 18.

<sup>(4)</sup> OJ No L 20, 28. 1. 1976, p. 19.

3. The Community shall contribute to the expenditure arising from an incentive scheme decided on by the Member States after entry into force of this Regulation.

#### Article 2

1. For the purpose of this Regulation:

(a) 'exploratory fishing voyage' (hereinafter referred to as 'voyage') means a fishing expedition, the object of which is:

- in respect of areas extending up to 200 nautical miles off the coasts of Member States and subject to Community fishing regulations, catching and marketing certain fish species previously under-fished or prospecting special areas,
- in respect of other areas, catching and marketing fish species which have not traditionally been fished by vessels flying the flag of a Member State, of prospecting new fishing grounds;

(b) 'joint fishing venture' means a venture set up in the form of either a contractual association or a company with share capital, between natural or legal persons from the Community and natural or legal persons from a third country on the Mediterranean or the West African coast, for the purpose of jointly exploiting fishing resources of that country.

2. The species and areas referred in the first indent of paragraph 1 (a) shall be determined in accordance with the procedure laid down in Article 16.

#### Article 3

1. Member States which introduce the measures provided for in Article 1 shall, at most twice a year, forward to the Commission, in respect of each project contemplated, a forward plan containing the following information:

- a detailed description of the redeployment operations to be carried out, in particular their duration and the areas and vessels concerned,
- the laws, regulations and administrative provisions laid down for carrying out these operations,
- an estimate of the expenditure on each of these operations,
- the benefits expected for the fishery sector.

2. Estimates of exploratory fishing expenditure to be borne by the Member State concerned shall be made, for each vessel or category of vessel, on the basis of the

number of fishing days at sea, the remoteness of the fishing grounds and the commercial features and estimated value of the species sought.

3. Member States shall communicate to the Commission such laws, regulations and administrative provisions as may affect the operation of the measures provided for in this Regulation.

4. After examining, on the basis of the forward plan provided for in paragraph 1, whether the measures contemplated are in accordance with the provisions of this Regulation and after ascertaining that the conditions for a financial contribution by the Community have been met, the Commission shall approve the measures and the expenditure contemplated.

The Commission's decision shall be communicated to the Member State concerned and to the other Member States.

### TITLE I

#### Exploratory fishing voyages

#### Article 4

1. The Member States which contribute to the financing of voyages to be made by vessels flying their flag shall grant a redeployment premium to help balance the operating accounts.

2. The redeployment premium shall be granted on the basis of the difference between the operating costs incurred and the revenue from the marketing of the catches made by the ship concerned, within the limit of the amount decided on in Article 3 (4).

#### Article 5

The measures referred to in Article 4 shall be intended to encourage primarily:

- voyages undertaken by vessels whose activity in traditional fishing grounds or areas has been severely curtailed,
- voyages outside the area, defined in the first indent of Article 2 (1) (a), undertaken by vessels belonging to shipowners of two or more Member States,

- voyages organized by contract between the owner of the vessel and the processing firm or firms which it is intended shall treat or process the fishing products resulting from those voyages.

#### Article 6

In order to benefit from the measures provided for in Article 4, the voyages must meet the following conditions:

- (a) they must be made by fishing vessels that are more than 24 metres long between perpendiculars;
- (b) they must last for a period of not less than 30 fishing days a year, comprising one or more trips;
- (c) they must make provision for the presence on board of one or more observers or, where this is not possible, the participation of a scientific observer in the preparations for the voyage and the assessment of the results obtained.

#### Article 7

In implementing the measures referred to in Article 4, Member States shall take into account the following factors:

- scientific data concerning the availability of resources,
- identification of a potential market for the species concerned,
- prospects for the long-term profitability of the activities contemplated.

#### Article 8

1. For each voyage which has benefited from the measures provided for in Article 4, the Member State concerned shall forward a report to the Commission. The report shall include information on:

- technical aspects of the voyage, in particular the fishing methods used,
- the species caught,
- the economic results of the voyage,
- any other information collected by the observers.

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

## TITLE II

### Cooperation through joint fishing ventures

#### Article 9

Member States which introduce an incentive scheme for the measures referred to in the second indent of Article 1 (2) shall, as part of such a scheme, grant a cooperation premium to their nationals, whether natural or legal persons, who take part in joint fishing ventures set up in accordance with Article 2 (1) (b); the amount eligible for this premium shall be limited to:

- 25 ECU per gross registered ton per period of three consecutive months for temporary vessel transfers,
- 400 ECU per gross registered ton for the first 300 tons, and 200 ECU per gross registered ton for each additional ton, for permanent vessel transfers.

#### Article 10

1. To obtain the premium provided for in Article 9, the beneficiary must submit a basic draft understanding that has been previously approved by the foreign partner. This draft must include the technical information specified in the Annex and lay down the following conditions:

- (a) in the use of joint ventures set up in the form of contractual associations, the temporary transfer for one or more periods of at least three consecutive months of vessels which have been engaged in fishing for not less than 120 days during the 12 months prior to submission of the basic draft understanding;
- (b) in the use of joint ventures set up in the form of companies with share capital:
  - the temporary transfer for one or several periods of at least three consecutive months or the permanent transfer of vessels which have been engaged in fishing for not less than 100 days during the 12 months prior to submission of the basic draft understanding,
  - the contribution by Community nationals of more than 40 %, or the maximum amount specified by domestic laws where this is less than 40 %, of the authorized capital of the joint venture.

2. The premium provided for in Article 9 shall be granted subject to an undertaking by the beneficiary:

- (a) not to engage in fishing with the vessels in question, during the periods of transfer specified in the contract, in the fishing areas referred to in the first indent of Article 2 (1) (a);
- (b) to have removed from the register of fishing vessels any vessel that has been transferred permanently to the ventures referred to in paragraph 1 (b).

3. All Member States shall take the requisite steps so that the vessels transferred permanently to the ventures referred to in paragraph 1 (b) are permanently excluded from fishing in Community waters.

4. Member States shall forward to the Commission a list of vessels transferred permanently to the ventures referred to in paragraph 1 (b). This list shall be published in the *Official Journal of the European Communities*.

5. Vessels transferred permanently to the ventures referred to in paragraph 1 (b) shall not be eligible for the permanent withdrawal premium referred to in Article 5 of Council Directive 83/515/EEC of 4 October 1983 concerning certain measures to adjust capacity in the fisheries sector <sup>(1)</sup>.

### TITLE III

#### General and financial provisions

##### Article 11

Within the limits of the appropriations entered for this purpose in the budget, the Community shall reimburse Member States 50 % of the eligible expenditure resulting from the grant during a period of three years from the date of entry into force of this Regulation of the premiums provided for in Articles 4 and 9. The total cost charged to the Community's budget is estimated at:

- 11 million ECU for the redeployment premium provided for in Article 4,
- 7 million ECU for the cooperation premium provided for in Article 9.

<sup>(1)</sup> See page 15 of this Official Journal.

##### Article 12

1. Applications for reimbursement shall relate to expenditure incurred in the course of a calendar year by the Member States and shall be submitted to the Commission before 1 June of the following year.

2. The Commission shall take a decision on such applications on one or more occasions, after consulting the Standing Committee for the Fishing Industry.

3. Advance payments may be authorized by the Commission.

4. Detailed rules for the application of paragraphs 1 and 3 shall be adopted in accordance with the procedure laid down in Article 16.

##### Article 13

Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(2)</sup>, as last amended by Regulation (EEC) No 3509/80 <sup>(3)</sup>, shall apply *mutatis mutandis* to financial operations under this Regulation.

##### Article 14

Articles 92, 93 and 94 of the Treaty shall apply, in respect of matters covered by this Regulation, to national aid other than that provided for in Articles 4 and 9.

##### Article 15

By way of derogation from Article 2 of Regulation (EEC) No 1223/83 <sup>(4)</sup>, the amounts referred to in Article 9 of this Regulation shall be converted into national currencies at the representative rates in force on 1 January of the year during which the cooperation premium defined in the said Article 9 is granted.

##### Article 16

1. Where the procedure laid down in this Article is to be followed, the chairman of the Standing Committee for the Fishing Industry (hereinafter referred to as 'the Committee') shall refer the matter to that Committee either on his own initiative or at the request of the representative of a Member State.

<sup>(2)</sup> OJ No L 94, 28. 4. 1970 p. 13.

<sup>(3)</sup> OJ No L 367, 31. 12. 1980, p. 87.

<sup>(4)</sup> OJ No L 132, 21. 5. 1983, p. 33.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the questions under examination. An opinion shall be adopted by a majority of 45 votes, the votes of Member States being weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt schemes which shall be immediately applicable. However, if the schemes are not in accordance with the opinion delivered by the Committee they shall forthwith be communicated by

the Commission to the Council. In that event the Commission may defer for not more than one month from the date of such communication application of the schemes it has decided on. The Council, acting by a qualified majority, may take a different decision within one month.

*Article 17*

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

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

Done at Luxembourg, 4 October 1983.

*For the Council*

*The President*

C. SIMITIS

## ANNEX

**Technical information to be included when drawing up the basic draft understanding referred to in Article 10 (1)**

1. Nature of the venture (contractual or shareholder).
  2. Objectives.
  3. Location of future activity.
  4. Contract or articles of associations.
  5. Name and technical characteristics of vessels concerned.
  6. Conditions concerning the flag and manning.
  7. Technology to be contributed or sold to the joint venture.
  8. Fishing areas and periods of fishing and species concerned.
  9. Marketing forecasts for the products landed.
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