



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.10.2006
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2006/0190 (CNS)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 2371/2002 on the conservation and sustainable
exploitation of fisheries resources under the Common Fisheries Policy**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The amendment to the basic regulation of the Common Fisheries Policy, (Council Regulation 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy Council) results from the political agreement reached by the Council at the time of the adoption of the European Fisheries Fund. It aims at permitting some adaptations of the fleet to improve safety, working conditions hygiene and product quality and to improve energy efficiency.

- **General context**

In the framework of the political agreement reached for the adoption of the European Fisheries Fund for the period 2007-2013, the Council decided to modify the provisions applying to the management of fishing fleet capacity.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) N° 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

This amendment is the result of a political decision adopted by the Council. Consultation with the interested parties took place during the process of adoption of the European Fisheries Fund regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

No impact assessment was carried out. This proposal does not entail any choice, including the choice not to act, since it is the result of a political decision adopted by the Council.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

It is proposed to amend the provisions applying to fleet capacity management which

are included in Chapter III of Regulation 2371/2002, and in particular Article 11 on the adjustment of fishing capacity and Article 13 on the entry-exit scheme and overall capacity reduction. The amendments concern,

- a) The possibility to allocate to new or existing vessels, 4% of the tonnage scrapped with public aid for the purpose of improving safety, hygiene, working conditions and product quality on board.
- b) In order to keep with the existing policy on capacity reduction, the provision that the reduction in power linked to the replacement of the engine with public aid cannot be re-built.

- **Legal basis**

Article 37 of the Treaty establishing the European Community

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

This proposal does not go beyond what is strictly necessary to implement the political decisions taken by the Council and the Commission. It leaves Member States the management of fleet capacity on a vessel per vessel basis.

This amendment to fleet management provisions does not add administrative or financial burden in relation the old provisions; the application of the new rules for fleet management accomplished with the same human and financial resources that were allocated to the management of the old provisions.

- **Choice of instruments**

Proposed instruments: Council regulation on the basis of Article 37 of the Treaty.

Other means would not be adequate for the following reason(s).

It is an amendment to a Council regulation not foreseen by any other instrument.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy³ lays down provisions relating to the management of fishing capacity.
- (2) The current provisions applying to the management of fleet capacity should be adapted in the light of experience.
- (3) Member States should be allowed to grant a limited increase in tonnage to new or existing vessels in order to improve safety, hygiene, working conditions and product quality on board, provided it does not increase the ability of the vessels to catch fish and giving priority to small scale coastal fisheries within the meaning of Article 26 of Council Regulation (EC) No 1198/2006 of 27 July 2006, on a European Fisheries Fund⁴. That increase should be linked to their efforts to adjust fishing capacity with public aid between 1 January 2003 or 1 May 2004 and 31 December 2006 and from 1 January 2007 onwards.
- (4) The reduction in engine power required for the replacement of engines with public aid under the provisions of Article 25(3)(b) and (c) of Regulation (EC) No 1198/2006 should be considered as an exit of capacity from the fleet with public aid in relation to the application of the entry-exit regime and the adjustment of the reference levels.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 358, 31.12.2002, p 59.

⁴ OJ L 223, 15.8.2006, p 1.

(5) Regulation (EC) No 2371/2002 should therefore be amended accordingly,
HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2371/2002 is hereby amended as follows:

(1) Article 11 is replaced by the following:

“Article 11

Adjustment of fishing capacity

1. Member States shall put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and their fishing opportunities.
2. Member States shall ensure that the reference levels expressed in GT and kW for fishing capacity as established in accordance with this Article and with Article 12 are not exceeded.
3. No exit from the fleet supported by public aid shall be permitted unless preceded by the withdrawal of the fishing licence as defined in Commission Regulation (EC) No 1281/2005⁵ and, where provided for, the fishing authorisations as defined in the relevant regulations. Without prejudice to the provisions of paragraph 6, the capacity corresponding to the licence, and where necessary to the fishing authorisations for the fisheries concerned, cannot be replaced.
4. Where public aid is granted for the withdrawal of fishing capacity that goes beyond the capacity reduction necessary to comply with the reference levels as established in accordance with this Article and with Article 12, the amount of the capacity withdrawn shall be automatically deducted from the reference levels. The reference levels thus obtained shall become the new reference levels.
5. Between 1 January 2003 and 31 December 2006, on fishing vessels of 5 years of age or more, modernisation over the main deck to improve safety on board, working conditions, hygiene and product quality may increase the tonnage of the vessel, provided that such modernisation does not increase the ability of the vessel to catch fish. The reference levels, as established in accordance with this Article and with Article 12, shall be adapted accordingly. The corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.
6. From 1 January 2007, in order to improve safety on board, working conditions, hygiene and product quality, Member States shall be entitled to re-allocate to new or

⁵ OJ L 203, 04.08.2005, p 3.

existing vessels the following capacity in terms of tonnage, provided such capacity does not increase the ability of the vessels to catch fish:

- 4 % of the average annual tonnage withdrawn with public aid between 1 January 2003 and 31 December 2006 for the Member States that were part of the Community on 1 January 2003 and 4 % of the annual average tonnage withdrawn with public aid between 1 May 2004 and 31 December 2006 for the Member States that acceded to the Community on 1 May 2004 and,
- 4 % of the tonnage withdrawn from the fleet with public aid as from 1 January 2007

The reference levels, as established in accordance with this Article and Article 12 shall be adapted accordingly. The corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.

Member States shall give priority to small scale coastal fisheries, within the meaning of Article 26 of Council Regulation (EC) No 1198/2006, when allocating fishing capacity under this paragraph.

7. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

(2) Article 13 is replaced by the following:

“Article 13

Entry/Exit scheme and overall capacity reduction

1. Member States shall manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003:

- (a) the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity,
- (b) the entry of new capacity into the fleet with public aid granted after 1 January 2003 is compensated by the previous withdrawal without public aid of:
 - (i) at least the same amount of capacity, for the entry of new vessels equal or less than 100 GT, or
 - (ii) at least 1,35 times that amount of capacity, for the entry of new vessels of more than 100 GT.
- (c) the replacement of an engine with public aid under the provisions of Article 25 (3) (b) and (c) of Regulation (EC) No 1198/2006 is compensated by a reduction of capacity in terms of power equal to

20% of the power of the engine replaced. The reduction of 20% in power shall be deducted from the reference levels in accordance with Article 11(4).

2. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).”

Article 2

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

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

Done at Brussels,

*For the Council
The President*