



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.09.1998
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98/ 0274 (CNS)

Proposal for a
COUNCIL DECISION

on a specific measure to encourage diversification out of certain fishing activities and
amending Council Decision 97/292/EC of 28 April 1997

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 8 June 1998, the Council adopted a Regulation¹ amending Council Regulation (EC) No 894/97 of 29 April 1997 laying down certain technical measures for the conservation of fishery resources². Article 11a of the amended Regulation prohibits the use of drift nets intended for the capture of certain species from 1 January 2002.
2. In a joint statement annexed to the minutes of the meeting³, *“The Council and the Commission acknowledge that the decision taken [...] will have unfavourable economic and social repercussions in the short term for a number of fishing fleets. [... The two institutions] agree on the need to introduce in the Community an appropriate range of actions and special supporting measures for fishermen serving on board and the owners of fishing vessels. The measures concerned will have to be exceptional in character, however, and in any event be met from the budget for the affected Member States’ existing structural programmes. [They] will temporarily provide a derogation of the criteria for eligibility under the Financial Instrument for Fisheries Guidance (FIFG) and, if necessary, adjust the upper limit on the relevant eligible expenditure.”*
3. This proposal constitutes the draft *ad hoc* Decision, based on Article 43 of the Treaty, that the Commission undertook to *“present to the Council at the earliest opportunity”*. In accordance with the undertakings entered into on 8 June, this proposed Decision does not have any financial impact on the Community budget.
4. Five Member States are affected by the ban on fishing with drift nets, namely Spain, France, Ireland, Italy and the United Kingdom. In Italy, however, a raft of accompanying measures was introduced in 1997 on a voluntary basis. Since this programme has already been the subject of a specific Council Decision⁴, it is not appropriate to adopt a new specific measure for Italian fishermen. However, for the sake of clarity, that Decision should be amended to list the cases where the cumulation of aid is authorised.
5. This proposal is aimed at two categories of beneficiaries, i.e. fishermen serving on board and owners of vessels. Provision is made for two types of aid: for the permanent cessation of all economic activity and for conversion.
6. This proposal only lays down the maximum amounts of such aid. The Member States are to adjust these payments in line with the actual economic or social loss resulting from the ban on fishing adopted by the Council on 8 June 1998. They should also take into account the cost of conversion and the age of the vessels.

¹ Regulation (EC) No 1239/98 (OJ L 171, 17.6.1998, p.1).

² OJ L 132, 23.5.1997, p.1.

³ Reference 8866/98.

⁴ Council Decision 97/292/EC of 28 April 1997 on a specific measure to encourage Italian fishermen to diversify out of certain fishing activities (OJ L 121, 13.5.1997, p.20).

7. In relation to the abovementioned *ad hoc* Decision for Italy, this proposal aims to simplify the mechanisms while maintaining equal treatment for Italian fishermen on the one hand and for Spanish, French, Irish and United Kingdom fishermen on the other. The scales of aid have therefore largely been maintained (although some new tonnage categories have been added to the tables to take account of the fact that certain vessels, in particular Irish and French vessels, are larger and newer). In addition the 1997 Decision is framed in a multiannual context while the new proposal applies only to the year 1999. It does not therefore provide for any specific compensation for suspension of fishing activities. Finally, in view of the fact that some vessels will have to undergo extremely expensive conversion, a derogation has been proposed from the rules on aid for modernisation of vessels laid down in Regulation (EC) No 3699/93⁵, to raise the ceiling on eligible expenditure and decrease the rate of participation by beneficiaries (there is no change to the rate of Community aid: the Member State concerned must bear the costs of increased public participation in full).

⁵ Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products (OJ L 346, 31. 12. 1993, p. 1). Last amended by Regulation (EC) No 25/97 (OJ L 6, 10. 1.1997, p. 7).

Proposal for a
COUNCIL DECISION

of 1998

on a specific measure to encourage diversification out of certain fishing activities and
amending Council Decision 97/292/EC of 28 April 1997

(98/...../EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

- (1) Whereas, under Council Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the Financial Instrument of Fisheries Guidance³, specific measures may be financed by that Instrument;
- (2) Whereas Article 11a of Council Regulation (EC) No 894/97 of 29 April 1997 laying down certain technical measures for the conservation of fishery resources⁴, as amended by Regulation (EC) No 1239/98 of 8 June 1998⁵, prohibits the use of drift nets intended for the capture of certain species from 1 January 2002;
- (3) Whereas this Decision will have unfavourable economic and social repercussions in the short term for a number of fishing fleets, so justifying at Community level an appropriate range of actions and special supporting measures for fishermen serving on board and the owners of fishing vessels; whereas the measures concerned will have to be exceptional in character, however, and in any event be met from the budget for the affected Member States' existing structural programmes;
- (4) Whereas it is consequently appropriate to derogate temporarily from the criteria for eligibility under the Financial Instrument for Fisheries Guidance (FIFG) and, if necessary, adjust the upper limit on the relevant eligible expenditure;
- (5) Whereas a specific number of fishing vessels flying the Spanish, French, Irish, Italian and United Kingdom flags are affected by the ban on fishing with drift nets

¹ OJ C ..., 1998, p.

² OJ C ..., 1998, p.

³ OJ L 193, 31.7.1993, p. 1.

⁴ OJ L 132, 23.5.1997, p. 1.

⁵ OJ L 171, 17.6.1998, p. 1.

imposed by Regulation (EC) No 1239/98; whereas on 28 April 1997 the Council adopted Decision 97/292/EC on a specific measure to encourage Italian fishermen to diversify out of certain fishing activities⁶; whereas there is therefore no need to adopt a new specific measure for the said Italian fishermen; whereas, however, for the sake of clarity, that Decision should be amended to list the cases where aid may be cumulated;

- (6) Whereas most of the possible measures fall within the scope of the Financial Instrument for Fisheries Guidance (FIFG) as laid down by Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products⁷; whereas they will be financed from the FIFG following normal procedures;
- (7) Whereas the Member States concerned must draw up conversion plans for this purpose;
- (8) Whereas, so as to ensure that compensation is granted only to fishermen and owners of vessels whose income depends on fishing with drift nets as banned by the Council, it must be specified that the fishermen and vessels concerned must have practised these activities in 1995, 1996 or 1997; whereas provision should also be made for effective variation in the amounts of aid depending in particular on the extent to which these activities are actually practised, the cost of conversion and the age of the vessels;
- (9) Whereas the authorities of the Member States concerned must ensure, when implementing their national plan, that beneficiaries may not receive aid other than that provided for under this Decision nor obtain other financial incentives which would not be justified; whereas in particular, cumulation of premiums for the permanent cessation of all fishing activities provided for by this specific measure with aid for construction of new vessels paid before 1998 under Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector⁸ or Regulation (EC) No 3699/93 must be prohibited;
- (10) Whereas the final date for implementing this specific measure must not be later than the date on which the ban on fishing with drift nets comes into force; whereas in any case the commitment by the Member States of the necessary financial means by 31 December 1999, and booking of the expenditure by 31 December 2001, are compatible with the Structural Funds regulations,

HAS ADOPTED THIS DECISION:

⁶ OJ L 121, 13.5.1997, p. 20.

⁷ OJ L 346, 31.12.1993, p. 1. Last amended by Regulation (EC) No 25/97 (OJ No L 6, 10.1.1997, p. 7).

⁸ OJ No L 376, 31.12.1986, p.7. Last amended by Regulation (EC) No 3944/90 (OJ L 380, 31.12. 1990, p. 1).

Article 1

1. In connection with the ban on fishing with drift nets laid down by Regulation (EC) No 894/97 as amended by Regulation (EC) No 1239/98, the Member States concerned shall draw up a conversion plan and communicate it to the Commission. The conversion plans shall be examined by the monitoring committees for the programmes referred to in Article 5(2) of this Decision.

2. To implement the plans referred to in paragraph 1, a specific measure shall be established to grant aid to fishermen and owners of vessels under the conditions laid down in Articles 2 to 6 of this Decision.

Article 2

Fishermen who are nationals of a Member State and worked in 1995, 1996 or 1997 on board a fishing vessel flying the Spanish, French, Irish or United Kingdom flags, using one or more drift nets intended for the capture of the species listed in Annex VIII to Regulation (EC) No 894/97, may receive:

- (a) an individual compensatory payment of up to a maximum of ECU 50 000 if they cease all economic activity before 1 January 2002; this payment:
 - (i) may be cumulated with benefits from early-retirement schemes provided for by the legislation of the Member State concerned, including when the early-retirement scheme in question is part-financed by the FIG under Article 14a(3)(a) of Regulation (EC) No 3699/93;
 - (ii) may not be cumulated with the individual compensatory payment provided for in Article 14a(3)(b) of Regulation (EC) No 3699/93;
- (b) an individual compensatory payment of up to a maximum of ECU 20 000, in the case of conversion to another fishing activity or another sector before 1 January 2002. This payment may be cumulated with the individual compensatory payment under Article 14a(3)(b) of Regulation (EC) No 3699/93 and, if appropriate, with the aid provided for in Title III of that Regulation.

Article 3

Owners of a fishing vessel flying the Spanish, French, Irish or United Kingdom flags, which have used one or more drift nets intended to catch the species listed in Annex VIII to Regulation (EC) No 894/97 in 1995, 1996 or 1997, may obtain for those vessels:

- (a) a compensatory payment of an amount up to the maximum listed in Annex I to this Decision, for the permanent cessation of all fishing activity before 1 January 2002; this payment:
 - (i) may be cumulated with aid for the permanent cessation of fishing activities under Article 8 of Regulation (EC) No 3699/93;
 - (ii) may not be cumulated with any aid for construction which may have been paid under Regulation (EEC) No 4028/86 or Regulation (EC) No 3699/93;

- (b) a compensatory payment of an amount up to the maximum listed in Annex I to this Decision, in the case of permanent conversion to another fishing activity before 1 January 2002; this payment:
 - (i) may be cumulated with aid for the modernisation of the vessel under Article 10 of Regulation (EC) No 3699/93 which would be granted in 1998 or in 1999, under the conditions for derogation laid down in Annex II to this Decision;
 - (ii) may not be cumulated with aid for the permanent transfer to a third country or for setting up joint enterprises under Articles 8 and 9 of Regulation (EC) No 3699/93.

Article 4

1. The Member States may restrict the payments laid down in Articles 2 and 3 to fishermen and owners of vessels who prove that they will actually suffer loss as a result of the ban on fishing referred to in Article 1(1).
2. When establishing the actual individual amount of the payments provided for in Articles 2 and 3, Member States shall take particular account of:
 - (a) the actual extent of use by the beneficiaries (fishermen and owners of vessels) during the reference period, of the drift nets covered by the ban referred to in Article 1(1);
 - (b) the cost of conversion;
 - (c) the age of the vessels.

Article 5

1. The public financial contribution, including that of the Community, for measures under this Decision shall cover all eligible costs up to the maximum amounts laid down in Articles 2 and 3.
2. The Community contribution may run to a maximum of 50% of eligible costs incurred by the Member States. It may not exceed the funding limits for the Member States concerned under the 1994 to 1999 Structural Fund programmes (Community support frameworks, operational programmes and single programming documents for Objective 1 and Objective 5(a)).
3. Save as otherwise provided in this Decision, the payments provided for in Articles 2 and 3 shall be subject to the conditions governing the programmes referred to in paragraph 2; they must therefore be the subject of legally binding commitments in the Member State concerned for which the requisite finance must be specifically committed no later than 31 December 1999. The final date for booking expenditure on these measures shall be 31 December 2001.

Article 6

Without prejudice to other provisions applicable and in particular those of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁹, the authorities of the Member States concerned shall send the Commission each year, at the latest by 1 April for the previous year, a report on the implementation of the conversion plan referred to in Article 1. They shall adopt the necessary provisions to prevent cumulation of aid not expressly authorised by this Decision and any grant of aid not justified.

Article 7

Article 1(b) and (c) of Decision 97/292/EC are replaced by the following:

- “(b) to vessel owners who have undertaken to cease definitively all fishing activity. The aid shall be as set out in Table A in the Annex. This aid:
- (i) may be cumulated with aid for the permanent cessation of fishing activities under Article 8 of Regulation (EC) No 3699/93. However, point 1.1(a) of Annex III to that Regulation shall not apply;
 - (ii) may not be cumulated with any aid for construction which may have been paid under Regulation (EEC) No 4028/86 or Regulation (EC) No 3699/93;
- (c) to vessel owners who have undertaken to diversify definitively towards another fishing activity. The aid for diversifying shall be as set out in Table B in the Annex. This aid:
- (i) may be cumulated with aid for the modernisation of the vessel under Article 10 of Regulation (EC) No 3699/93;
 - (ii) may not be cumulated with aid for the permanent transfer to a third country or for setting up joint enterprises under Articles 8 and 9 of Regulation (EC) No 3699/93.”

Article 8

This Decision is addressed to the Kingdom of Spain, the French Republic, Ireland, the Italian Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at....., [...date...]

For the Council

The President

.....

⁹ OJ L 261, 20.10.1993, p. 1. Last amended by Regulation (EC) No 2635/97 (OJ L 356, 31.12.1997, p. 14).

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ANNEX I

Maximum premiums for vessels (ECU)

Tonnage class GT ¹⁰	Compensatory payment for the permanent cessation of all fishing activity [Article 3(a)]	Compensatory payment for permanent conversion to another fishing activity [Article 3(b)]
< 5	26 000	16 000
5 < 10	60 000	50 000
10 < 20	104 000	94 000
20 < 40	120 000	110 000
40 < 50	156 000	146 000
50 < 60	190 000	180 000
60 < 70	225 000	215 000
70 < 80	260 000	250 000
> 80	295 000	285 000

ANNEX II

Notwithstanding the conditions laid down in Annex IV to Regulation (EC) No 3699/93, the aid for the modernisation of vessels in receipt of the premium provided for in Article 3(b) is amended as follows:

- (a) in point 1.4 (Scales of assistance relating to fishing fleets - Modernisation aid), the maximum of 50% is replaced by 65%;
- (b) opposite "Other regions" in the column headed "Group 1" of Table 3 in point 2.1 (Participation rates - Investments in enterprises), the 60% minimum financial participation by private beneficiaries (C) is replaced by 40%.

¹⁰ If the tonnage in GT is unavailable, a GRT/GT conversion formula is to be used in accordance with Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels (OJ L 274, 25.9.1986, p. 1), as last amended by Regulation (EC) No 3259/94 (OJ L 339, 29.12.1994, p. 11), and with Commission Decisions 95/84/EC of 20 March 1995 (OJ L 67, 25.3.1995, p. 33) and 97/259/EC of 1 April 1997 (OJ L 104, 22.4.1997, p. 28).

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