

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 4 October 1983

concerning certain measures to adjust capacity in the fisheries sector

(83/515/EEC)

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,

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

Whereas recent changes in the law of the sea and the consequent establishment of 200-mile offshore economic zones have modified the situation confronting the fishing industry;

Whereas the precarious state of the stocks of some species in the Community fishing zones has led the Council to regulate fishing for these species and to fix allowable catch limits;

Whereas the Community fishing fleet has had to adjust to the new fishing conditions; whereas this adjustment must continue;

Whereas it is important for the Community, in the interests of fishermen and consumers, to retain, during the period in which threatened stocks are being

reconstituted, Member States' production capacity at the level needed for optimal exploitation of the reconstituted stocks at a later date;

Whereas the diversity of the socio-structural problems calls for separate solutions for each one in order to help maintain optimum productive capacity in each region and help develop the market; whereas the best results can be obtained if on the basis of Community concepts and criteria the Member States introduce specific measures of social adjustment, taking the form of a financial aid, by way of national laws, regulations and administrative provisions;

Whereas the maintenance of the production capacity required in the medium term may be promoted by measures designed to secure a temporary reduction in the fishing activities of vessels which are liable to become unprofitable because of the catch restrictions; whereas aid should be given, in the form of laying-up premiums, to fishermen who undertake to withdraw their vessels from operation and to recognized producers' organizations which draw up plans for reducing the amount of fishing done by their members;

Whereas the maintenance of productive capacity does not obviate the necessity of permanently reducing the capacity of fishing fleets, the technical characteristics of which make it difficult to adapt them to the types of fishing anticipated in the medium term within and outside the fishing zones of the Member States; whereas such reduction in capacity can be encouraged by means

⁽¹⁾ OJ No C 6, 6. 1. 1978, p. 120.

of a cessation premium; whereas the granting of this premium should be conditional on the vessel's first being struck off the register of fishing vessels so as to ensure that it is not again used for fishing in the waters of any Member State;

Whereas, in view of the benefit to the Community of these measures, it is appropriate that the Community should contribute to their cost; whereas it must be able to ascertain that the provisions adopted by the Member States for their application are commensurate with the objectives to be attained; whereas, for this purpose, there should be a procedure whereby close cooperation is maintained between the Member States and the Commission through the Standing Committee for the Fishing Industry;

Whereas this measure is of a specific character and may not therefore be treated as a common measure provided for in the EAGGF, Guidance Section,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. In order to assist, in the fisheries sector, the adjustment of the production capacity of fleets to the new catch possibilities, the Member States may, subject to the conditions laid down by this Directive, introduce a system of financial aid for measures relating to the temporary or permanent reduction of production capacity.

2. Subject to the conditions laid down by this Directive, the Community shall contribute to the expenditure incurred by the Member States under paragraph 1.

Article 2

The financial aid referred to in Article 1 may be granted to producers, whether natural or legal persons, operating one or more vessels flying the flag of one of the Member States, registered in the territory of the Community, the characteristics of which are specifically defined in the appropriate provisions of this Directive.

Article 3

1. The measures for the temporary reduction of production capacity referred to in Article 1 shall be carried out by means of the temporary laying-up of

vessels the length of which between perpendiculars is 18 metres or more and which were commissioned after 1 January 1958.

2. The financial aid referred to in Article 1 consists of the granting to beneficiaries by the Member States and within the framework of the Decision referred to in Article 7 of a daily laying-up premium. This premium shall be:

- fixed on the basis of the supplementary days laid-up in comparison to the average recorded or assessed on a flat rate by category of vessel of the days laid-up in the three calendar years preceding the first application for the grant of the premium,
- calculated on the basis of a maximum of 12 % of the purchase cost or of the insured value of the vessel in question for an average annual period of fishing of 250 days.

3. The aid shall only be granted:

- to vessels which have engaged in fishing or replacing a vessel having engaged in fishing for a period of at least 120 days during the calendar year preceding the first application for the grant of such a premium,
- for periods laid-up of at least:
 - (i) 45 days per year for vessels covered by the laying-up plans set out in Article 4 (1) (a),
 - (ii) 45 consecutive days per year for vessels covered by the undertaking set out in Article 4 (1) (b).

4. Where the premium is assessed on a flat rate by category of vessel, the average referred to in paragraph 2 may in no case be less than 115 days.

Article 4

1. The laying-up premium referred to in Article 3 (2) shall be granted subject to:

(a) *in the case of recognized producer organizations*

the drawing up of plans for the laying-up of the vessels owned by their members in order to reduce fishing activity. Laying-up plans must include the following:

- the name and technical specifications of the vessels concerned,
- the laying-up programme for each vessel,
- the home port or ports during periods of temporary laying-up;

(b) *in the case of other recipients*

a written undertaking by the recipient that the fishing activity of one or more vessels owned by him will be suspended for a given period and that any change of home port while the vessel or vessels concerned are laid up will be notified.

2. Member States may pay the premium, entirely or in part, taking account of the laying-up plans or undertakings given and of the average number of days laid-up recorded during the preceding three calendar years, as soon as the vessel in question has completed a minimum laying-up period such as provided for in the second indent of Article 3 (3). Any premium still payable for laying-up periods completed in excess of each period of 45 days shall not be granted until the end of the year.

Article 5

1. The measures to reduce production capacity permanently, referred to in Article 1, concern vessels the length of which between perpendiculars is 12 metres or more. They shall be effected by means of:

- scrapping,
- the definitive transfer to a third country, or
- the assignment of vessels to purposes other than fishing in Community waters.

2. The financial aid referred to in Article 1 shall consist of the grant by Member States to the owner of a final cessation premium, fixed on a flat-rate basis per gross registered ton, in the context of the Decision referred to in Article 7 and after the issue of the certificate witnessing that the vessel has been struck off the register of fishing vessels.

3. The final cessation premium shall be granted in respect only of vessels which have engaged in fishing for at least 100 days during the calendar year preceding the application for the premium.

4. All Member States shall take the necessary measures to ensure that vessels for which final cessation premiums have been paid are permanently barred from fishing in Community waters.

5. Member States shall forward a list of vessels for which the premium referred to in paragraph 2 has been

granted to the Commission. This list shall be published in the *Official Journal of the European Communities*.

Article 6

1. For each of the measures referred to in Article 1, the Member States shall submit to the Commission:

- a forward plan of the measures proposed,
- a forecast of estimated annual expenditure,
- drafts of any laws, regulations or administrative provisions which they propose to adopt in implementation of this Directive, and
- the provisions enabling this Directive to be applied which predate its entry into effect.

2. When communicating to the Commission the information listed in paragraph 1, the Member States shall make clear the connection between the measure in question and the objectives of the other structural measures existing or anticipated in the fisheries sector.

Article 7

1. Once it has received the information provided for in Article 6, the Commission shall determine whether, on the basis of its conformity with this Directive and account being taken of the other structural measures existing or anticipated in the fisheries sector, the measures contemplated fulfil the conditions for financial contributions from the Community. Within two months of such communication, a decision on the matter shall be taken in accordance with the procedure laid down in Article 13.

2. The Member States shall communicate to the Commission the laws, regulations and administrative provisions adopted following the decision referred to in paragraph 1 as soon as they are adopted.

Article 8

The Community's financial contribution to the aids granted by the Member States under the conditions imposed by this Directive shall be subject to a decision taken in accordance with Article 7 (1) on the national provisions governing them.

Article 9

1. Subject to the conditions set out in the following paragraphs, the Member States' expenditure resulting

from the grant of the aid referred to in Article 1 shall be eligible for Community reimbursement.

2. Only the Member States' expenditure resulting from aid for which the decision to grant it was taken within three years of the date of entry into effect of this Directive shall be eligible.

3. The eligibility of expenditure resulting from the aid referred to in Article 5 shall be restricted to 650 ECU per gross registered ton.

4. Within the limits of the appropriations entered in the budget for that purpose the Community shall reimburse 50 % of the Member States' eligible expenditure.

The total cost charged to the Community's budget is estimated at:

— 44 million ECU for the financial aid referred to in Article 3,

— 32 million ECU for the financial aid referred to in Article 5.

5. Any detailed arrangements for the application of this Article shall be adopted in accordance with the procedure referred to in Article 13.

Article 10

1. Applications for reimbursement shall relate to expenditure incurred over 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 these applications, all at once or on several occasions, after consulting the Standing Committee for the Fishing Industry.

3. Advances may be granted 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 13.

Article 11

Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the

common agricultural policy⁽¹⁾, as last amended by Regulation (EEC) No 3509/80⁽²⁾, shall apply *mutatis mutandis* to operations financed under this Directive.

Article 12

Articles 92, 93 and 94 of the Treaty shall apply, in the field covered by this Directive, to national aid other than that provided for in Articles 3 and 5.

Article 13

1. Where the procedure referred to 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 the Committee either on his own initiative or at the request of the representative of a Member State.

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 consideration. 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 measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication. The Council, acting by a qualified majority, may take a different decision within one month.

Article 14

By way of derogation from Article 2 of Regulation (EEC) No 1223/83⁽³⁾, the amount mentioned in Article 9 (3) of this Directive shall be converted into

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 367, 31. 12. 1980, p. 87.

⁽³⁾ OJ No L 132, 21. 5. 1983, p. 33.

national currencies at the representative rates in force on 1 January of the year during which the premium mentioned in Article 5 (2) of this Directive is granted.

Article 15

Member States which introduce the system of financial aid provided for in Article 1 must do so within six months of notification of this Directive ⁽¹⁾.

Article 16

This Directive is addressed to the Member States.

Done at Luxembourg, 4 October 1983.

For the Council

The President

C. SIMITIS

⁽¹⁾ This Directive was notified to the Member States.