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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

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► <u>M1</u> Council Regulation (EC) No 1451/2001 of 28 June 2001	L 198	9	21.7.2001
► <u>M2</u> Council Regulation (EC) No 179/2002 of 28 January 2002	L 31	25	1.2.2002
► <u>M3</u> Council Regulation (EC) No 2369/2002 of 20 December 2002	L 358	49	31.12.2002
► <u>M4</u> Council Regulation (EC) No 1421/2004 of 19 July 2004	L 260	1	6.8.2004
► <u>M5</u> Council Regulation (EC) No 485/2005 of 16 March 2005	L 81	1	30.3.2005

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- **C1** Corrigendum, OJ L 2, 5.1.2001, p. 41 (2792/1999)
- **C2** Corrigendum, OJ L 240, 10.7.2004, p. 16 (2369/2002)



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**

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas:

- (1) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽⁴⁾ defines the general objectives and tasks of the Structural Funds and the Financial Instrument for Fisheries Guidance ('FIFG'), their organisation, the assistance methods, the programming and general organisation of the aid provided by the Funds and the general financial arrangements;
- (2) Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽⁵⁾ lays down the objectives and general rules of the common fisheries policy; the development of the Community fishing fleet must in particular be regulated according to the decisions that the Council is called upon to take by virtue of Article 11; it is for the Commission to translate these decisions into precise measures at the level of each Member State; furthermore, Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽⁶⁾ is to be complied with;
- (3) Council Regulation (EC) No 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance ⁽⁷⁾ defines the specific purpose of structural measures in the sector, as it is defined in Article 1 of the said Regulation; under Article 4 thereof the Council is to decide, no later than 31 December 1999, on the terms and conditions of the contribution of the FIFG to the restructuring of the sector in order to ensure that this restructuring achieves its intended objectives;
- (4) the provisions concerning the programming should be fixed;
- (5) the multiannual guidance programmes for the fishing fleets for the period from 1 January 1997 to 31 December 2001 are to remain in force until they expire; appropriate provisions should be laid down for the period commencing on 1 January 2002;
- (6) the provisions for the monitoring and implementation of the multiannual guidance programmes should be specified, in particular concerning the mechanism of fleet entries and exits as well as the framework of public aid for the renewal of the fleet, the modernisation of vessels and the establishment of joint enterprises;

⁽¹⁾ OJ C 16, 21.1.1999, p. 12.

⁽²⁾ OJ C 279, 1.10.1999, p. 325.

⁽³⁾ OJ C 209, 22.7.1999, p. 10.

⁽⁴⁾ OJ L 161, 26.6.1999, p. 1.

⁽⁵⁾ OJ L 389, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 1181/98 (OJ L 164, 9.6.1998, p. 1).

⁽⁶⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2846/98 (OJ L 358 31.12.1998, p. 5).

⁽⁷⁾ OJ L 161, 26.6.1999, p. 54.

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- (7) small scale coastal fishing has a special status in terms of the objectives for fishing effort adjustments; it is important that this specificity is translated into concrete measures at the level of this Regulation;
- (8) socio-economic accompanying measures will be needed to implement the restructuring of the fishing fleets;
- (9) detailed rules should be fixed for the granting of aid for the protection and development of the aquatic resources, for aquaculture, for equipment in fishing ports, for processing, for marketing, for inland fishing and for the promotion of fisheries and aquaculture products;
- (10) certain measures having a structural character for the benefit of producer organisations currently being implemented under Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products ⁽¹⁾ should be included among the structural measures, and such inclusion should not jeopardise the regulatory role of the producer organisations as defined in Regulation (EEC) No 3759/92; it is also convenient to include other measures of collective interest undertaken by the professionals;
- (11) detailed rules should be fixed for the granting of indemnities and financial compensation to fishermen and vessel owners, in cases of temporary cessation of activity or of technical restrictions being applied to certain equipment on board or fishing methods;
- (12) the programmes are to envisage the means necessary for the execution of innovative actions and technical assistance;
- (13) achieving a lasting balance between aquatic resources and their exploitation and environmental impact represent an important interest for the fisheries sector; it is as important, therefore, to provide for appropriate measures to preserve the trophic chain as it is to provide for aquaculture and the fish processing industry;
- (14) insofar as such measures are not limited to the granting of Community aid, it is appropriate in particular to regulate State aid schemes in this sector, without prejudice to Articles 87 to 89 of the Treaty, and to integrate the programming of the restructuring of Community fishing fleets in a coherent manner in the context of structural assistance as a whole;
- (15) the measures necessary for implementing this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾;
- (16) Council Regulation (EC) No 2468/98 of 3 November 1998 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products ⁽³⁾ as well as other provisions should be repealed; at the same time, for the proper execution of the aid, actions and projects approved up until 31 December 1999 the repealed provisions should remain applicable to that end,

⁽¹⁾ OJ L 388, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 3318/94 (OJ L 350, 31.12.1994, p. 15).

⁽²⁾ OJ L 184, 17.7.1999, p. 23

⁽³⁾ OJ L 312, 20.11.1998, p. 19.

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HAS ADOPTED THIS REGULATION:

*Article 1***Objectives**

1. This Regulation provides a framework for all structural measures in the fisheries sector carried out in the territory of a Member State, without prejudice to regional particularities with a view to achieving the objectives set out in Article 1 (1) of Regulation (EC) No 1263/1999 and the objectives of the common fisheries policy, in particular conservation and long-term sustainability of resources.

2. Structural policy in this sector aims at guiding and facilitating restructuring. Restructuring shall comprise actions and measures with a lasting effect that contribute to achieving the tasks defined in Article 1 (2) of Regulation (EC) No 1263/1999.

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3. Measures adopted pursuant to paragraphs 1 and 2 shall not increase fishing effort.

*Article 2***Means**

The Financial Instrument for Fisheries Guidance, hereafter referred to as the 'FIFG' may, under the conditions laid down in Article 16 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, provide assistance for the measures defined in Titles II, III and IV of this Regulation within the fields covered by the Common Fisheries Policy as defined in Article 1 of Regulation (EC) No 2371/2002.

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TITLE I

PROGRAMMING*Article 3***Common provisions****▼M3**

1. Programming, defined in Article 9(a) of Regulation (EC) No 1260/1999, shall be in accordance with the objectives of the Common Fisheries Policy and in particular with the provisions of Chapter III of Regulation (EC) No 2371/2002. To this end, programming shall be revised as necessary and in particular in application of fishing effort limits decided under Article 5 of ►**C2** Regulation (EC) No 2371/2002 ◀.

Programming shall cover all the fields referred to in Titles II, III and IV.

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2. Programming of measures part-financed by the FIFG in Objective 1 regions shall be in accordance with Article 2(2), first subparagraph of Regulation (EC) No 1263/1999.

Programming of measures part-financed by the FIFG outside Objective 1 regions shall be in accordance with Article 2(2), second subparagraph of Regulation (EC) No 1263/1999. Articles 14, 15(2), 15(3), first subparagraph, 15(5), 15(6), 15(7), 19(3) and 19(4) of Regulation (EC) No 1260/1999 shall apply.

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3. The development plans defined in Article 9(b) of Regulation (EC) No 1260/1999 shall demonstrate that public aid is necessary with regard to the objectives pursued, in particular that, without public aid, the

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

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fishing vessels concerned could not be modernised, and that the planned measures will not jeopardise the sustainability of fisheries.

The contents of the plans shall be as set out in Annex I.

TITLE II
FISHING FLEET

▼B*Article 7***Adjustment of fishing effort****▼M3**

1. Member States shall take appropriate measures to comply with the relevant provisions of Regulation (EC) No 2371/2002.

Where necessary, this shall be achieved either by stopping fishing vessels' fishing activities permanently, in accordance with the applicable provisions of Annex III, or by restricting them or by a combination of both.

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2. Measures to stop vessels' fishing activities may be applied only to vessels 10 years old or more.

However, until 30 June 2006, vessels five years old or more, not using towed gear, may be eligible for permanent transfer in accordance with paragraph 3(d).

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3. The permanent cessation of fishing vessels' fishing activities may be achieved by:

- (a) the scrapping of the vessel;
- (b) until 31 December 2004, permanent transfer of the vessel to a third country, including in the framework of a joint enterprise within the meaning of Article 8, after agreement by the competent authorities of the country concerned, provided all the following criteria are met:
 - (i) there exists a fisheries agreement between the European Community and the third country of transfer as well as appropriate guarantees that international law is not likely to be infringed, in particular with respect to the conservation and management of marine resources or other objectives of the Common Fisheries Policy and with respect to working conditions of fishermen.

Derogations may be granted by the Commission on a case by case basis for permanent transfers in the framework of joint enterprises to third countries, where Community interests do not justify the conclusion of a fisheries agreement and the other conditions for transfer would be fulfilled;

- (ii) the third country to which the vessel is to be transferred is not a country which is a candidate for accession;
- (iii) the transfer results in a reduction of fishing effort on the resources previously exploited by the vessel transferred; however, this criterion shall not apply when the vessel transferred has lost fishing possibilities under a fisheries agreement with the Community or under another agreement;
- (iv) if the third country to which the vessel is to be transferred is not a contracting or Cooperating Party to relevant regional fish-

▼ M3

eries organisations, that country has not been identified by such organisations as one which permits fishing in a manner which jeopardises the effectiveness of international conservation measures. The Commission shall publish a list of the countries concerned on a regular basis in the C series of the *Official Journal of the European Communities*;

- (c) permanent reassignment of fishing vessels for non-profitable purposes other than fishing;

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- (d) until 30 June 2006, permanent transfer of the vessel to a third country hit by the tsunami in the Indian Ocean in December 2004, provided that the following criteria are met:

- (i) the vessel has an overall length of less than 12 metres and is not more than 20 years old;
- (ii) the Member State which authorises the transfer ensures that the vessel is fully seaworthy and suitable for fishing activity, that it is transferred to a region affected by the tsunami for the benefit of the fishing communities having suffered the consequences thereof and that adverse effects on the fisheries resources and the local economy are avoided.
- (iii) the transfer meets the needs identified by the assessment of the Food and Agriculture Organisation of the United Nations and is in accordance with the third country's requests.

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5. Public aid for final cessation paid to beneficiaries may not exceed the following amounts:

- (a) scrapping premiums:
 - (i) vessels of 10 to 15 years old: see Tables 1 and 2 in Annex IV;
 - (ii) vessels from 16 to 29 years old: the scales in Tables 1 and 2 decreased by 1,5 % per year over 15;
 - (iii) vessels of 30 years old or more: the scales in Tables 1 and 2, less 22,5 %;

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- (b) premiums for permanent transfer within the framework of a joint enterprise: the amounts referred to in Article 8(3); however, no public aid for this purpose can be given for vessels with a tonnage less than 20 GRT or 22 GT, or of 30 years old or more;
- (c) premiums for other permanent transfer to a third country: the maximum amounts for the scrapping premiums referred to in (a), less 70 %. However, no public aid for this purpose may be given for vessels with a tonnage less than 20 GRT or 22 GT, or of 30 years old or more;
- (d) premiums for permanent reassignment of the fishing vessel for non-profitable purposes other than fishing: the amounts for the scrapping premiums referred to in (a).

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6. By way of derogation from paragraph 5(a), public aid for the permanent transfer of vessels in accordance with paragraph 3(d) shall be calculated as follows:

- (i) for vessels of five to 15 years old, the premium referred to in paragraph 5(a)(i) shall apply and for vessels of 16 to 20 years old, the premium referred to in paragraph 5(a)(ii) shall apply;

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- (ii) the premium referred to in paragraph 5(a) may be increased by up to 20 % for the following purposes:
- to cover the expenses incurred by the public or private organisations designated by Member States to be responsible for the transfer of the vessel to the third country,
 - to compensate the vessel owner benefiting from the premium for equipping the vessel and making it fully seaworthy and suitable for fishing activity in the third countries concerned.

Vessels for which an application for permanent cessation of activities has been submitted to the competent authorities of a Member State before 2 April 2005 may also benefit from the premiums under this paragraph.

▼B*Article 8***Joint enterprises**

1. Member States may take measures to promote the creation of joint enterprises.

For the purpose of this Regulation 'joint enterprise' means a commercial enterprise with one or more partners who are nationals of the third country in which the vessel is registered.

2. In addition to the conditions laid down in Article 7 and Annex III for the grant of a premium for permanent transfer, the following conditions shall apply:

- (a) the creation and registration of a commercial enterprise, in accordance with the laws of the third country, or the acquisition of holdings in an enterprise that is already registered, for the purpose of engaging in a commercial activity in the fisheries sector in the waters under the sovereignty or the jurisdiction of the third country. The Community partner must hold a significant proportion, generally between 25 % and 75 %, of the share capital;
- (b) ownership of the permanently transferred vessel must be handed over to the joint enterprise in the third country. For five years the vessel may not be used for fishing activities other than those authorised by the competent authorities of the third country, nor may it be used by other shipowners.

3. The premiums for the creation of joint enterprises may not exceed 80 % of the maximum amount of the premium for scrapping referred to in Article 7(5)(a).

The premiums cannot be cumulated with the premiums referred to in Article 7(5)(a),(c),(d).

4. The management authority shall pay 80 % of the 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 20 % of the premium has been lodged.

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5. Each year for five consecutive years from the date of constitution of the joint enterprise or the date on which the Community partner acquired holdings in the enterprise, applicants shall submit to the management authority a report on the implementation of the activity plan, including data on catches and markets of fisheries products, in particular products landed in or exported to the Community, with supporting documents, together with the enterprise's balance sheet and a statement of its net worth. The management authority shall forward the report to the Commission for information.

The balance of the premium shall be paid to applicants after five years of activity and after the fifth report has been received.

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6. The guarantee shall be released, provided all the conditions are met, once the fifth report has been approved.

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7. Where necessary, the Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Articles 23(2).

▼M3*Article 9***Public aid for fleet renewal and for the equipment or modernisation of fishing vessels**

1. Public aid for fleet renewal and for the equipment of fishing vessels, including for the use of more selective fishing techniques and of Vessel Monitoring Systems or for the modernisation of fishing vessels may be granted only on the following conditions and those set out in the second subparagraph of Article 3(3) and in Annex III:

- (a) public aid for the renewal of fishing vessels may be granted until 31 December 2004;
- (b) public aid for the renewal of fishing vessels may be granted only for vessels under 400 GT;
- (c) public aid for the equipment of fishing vessels, including for the use of more selective fishing techniques and of Vessel Monitoring Systems, or for the modernisation of fishing vessels may be granted provided that:
 - (i) the aid does not concern capacity in terms of tonnage or of power;
 - (ii) the aid does not serve to increase the effectiveness of the fishing gear;
- (d) by derogation from point (c)(i), public aid for the modernisation of fishing vessels may be granted subject to the provisions of Article 11(5) of Regulation (EC) No 2371/2002.

2. The effect of granting public aid shall be accounted for in the annual implementation report referred to in Article 21.

3. The indicators relating to the granting of public aid for fleet renewal and modernisation of fishing vessels in the plans, set out in Annex I(2)(d), shall be drawn up in accordance with this Article.

4. Expenditure eligible for public aid as referred to in paragraph 1 may not exceed the following amounts:

- (a) construction of fishing vessels: twice the scales in Table 1 in Annex IV;
- (b) equipment and modernisation of fishing vessels including, where applicable and until 31 December 2003, the cost of re-measuring tonnage in accordance with Annex I to the 1969 Tonnage Measurement Convention: the scales in Table 1 of Annex IV.

▼B*Article 10***Common provisions on fishing fleets****▼M3**

1. Public aid for fleet renewal and for the equipment and the modernisation of fishing vessels may be permitted only where, within the time allowed, the Member State has complied with Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels ⁽¹⁾.

⁽¹⁾ OJ L 274, 25.9.1986, p. 1. Regulation as last amended by Regulation (EC) No 3259/94 (OJ L 339, 29.12.1994, p. 11).

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3. The following provisions shall apply to the accumulation of public aids to the fishing fleet:

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(a) expenditure on equipment and modernisation shall not be eligible for aid for five years following the grant of public aid for the construction of the vessel concerned except for equipment in vessel monitoring systems or in acoustic deterrent devices;

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(b) permanent withdrawal premiums within the meaning of Article 7(5) and premiums for the creation of joint enterprises within the meaning of Article 8 may not be added to other Community aid granted under this Regulation or Regulations (EEC) No 2908/83 ⁽¹⁾, (EEC) No 4028/86 ⁽²⁾ and (EC) No 2468/98. These premiums shall be reduced:

(i) by a part of the amount previously received in the case of equipment and modernisation aid; this part shall be calculated pro rata temporis for the five-year period preceding the permanent withdrawal or the setting up of the joint enterprise;

(ii) by the total amount previously received in the case of aid for the temporary cessation of activities within the meaning of Article 16(1) of this Regulation and under Article 14 of Regulation (EC) No 2468/98 paid during the year preceding permanent withdrawal or the setting up of the joint enterprise;

(c) aid for the equipment in vessel monitoring systems may not be added to aid granted under Council Decision 2001/431/EC.

4. Public aid for renewal or for modernisation and equipment, under this Regulation shall be reimbursed pro rata temporis when the fishing vessel concerned is deleted from the fishing vessel register of the Community within ten years from the renewal, or within five years of the modernisation works. ► **M5** This paragraph shall not apply to vessels transferred pursuant to Article 7(3)(d). ◀

▼ **B***Article 11***Small-scale coastal fishing**▼ **M3**

1. For the purposes of this Article, ‘small-scale coastal fishing’ means fishing carried on by fishing vessels of an overall length of less than 12 metres and not using towed gear as listed in table 2, Annex I of Commission Regulation (EC) No 2090/98 of 30 September 1998 regarding the fishing vessels register of the Community ⁽³⁾.

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2. Member States may take additional measures as provided for under this Regulation to supplement the measures to improve the conditions in which small-scale coastal fishing is carried on, under the terms laid down in this Article.

3. Where a group of owners of vessels or families of fishermen involved in small-scale coastal fisheries cooperatively implement an integrated collective project to develop or modernise this fishing activity, a lump-sum premium part-financed by the FIFG may be granted to the participants.

⁽¹⁾ Council Regulation (EEC) No 2908/83 of 4 October 1983 on a common measure for restructuring, modernising and developing the fishing industry and for developing aquaculture (OJ L 290, 22.10.1983, p. 1). Regulation as last amended by Regulation (EEC) No 3733/85 (OJ L 361, 31.12.1985, p. 78).

⁽²⁾ Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector (OJ L 376, 31.12.1986, p. 7). Regulation as last amended by Regulation (EEC) No 3946/92 (OJ L 401, 31.12.1992, p. 1).

⁽³⁾ OJ L 266, 1.10.1998, p. 27. Regulation as amended by Regulation (EC) No 839/2002 (OJ L 134, 22.5.2002, p. 5).

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4. For the purposes of paragraph 3, the following projects, *inter alia*, may be considered integrated collective projects:

- safety equipment on board and improvement of sanitary and working conditions,
- technological innovations (more selective fishing techniques) that do not increase the fishing effort,
- organisation of the production, processing and marketing chain (promotion and added value of the products),
- professional requalification or training.

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5. The lump-sum premium shall not exceed EUR 150 000 per integrated collective project. The management authority shall determine the amount of the premium actually paid and how it is shared between the beneficiaries according to the scale of the project and the financial commitments made by each participant.

*Article 12***Socioeconomic measures**

1. For the purposes of this Article, ‘fisherman’ means anyone engaging in his main occupation on board an operational seagoing fishing vessel.

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2. Member States may take, for fishermen, measures of a socioeconomic nature associated with the adjustment of fishing capacity within the meaning of Article 11 of Regulation (EC) No 2371/2002.

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3. Financial assistance from the FIFG may be granted only for the following measures:

- (a) part-financing of national early-retirement schemes for fishermen, provided that the following conditions are fulfilled:
- (i) at the time of early retirement, the age of the beneficiaries of the measure must be not more than 10 years from the legal retirement age within the meaning of the legislation in force in the Member State, or the beneficiaries must be aged at least 55;
 - (ii) the beneficiaries can show that they have worked for at least 10 years as fishermen.

However, contributions to the normal retirement scheme for fishermen during the period of early retirement shall not be eligible for financial assistance from the FIFG.

In each Member State, for the entire programming period the number of beneficiaries may not exceed the number of jobs eliminated on board fishing vessels as a result of those vessels permanently stopping fishing activities within the meaning of Article 7;

- (b) granting individual compensatory payments to fishermen who can show that they have worked for at least twelve months as fishermen, on the basis of an eligible cost limited to EUR 10 000 per individual beneficiary, provided the vessel on which the beneficiaries were employed has been the object of measures permanently stopping its activities, within the meaning of Article 7;

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(c) granting non-renewable individual compensatory payments to fishermen who can show that they have worked for at least five years as fishermen, to help them:

- (i) to retrain outside marine fisheries under an individual or collective social plan, on the basis of an eligible cost limited to EUR 50 000 per individual beneficiary; the managing authority shall determine the individual amount according to the scale of

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the retraining project and the financial commitment entered into by the beneficiary;

- (ii) to diversify their activities outside marine fisheries under an individual or collective diversification project, on the basis of an eligible cost limited to EUR 20 000 per individual beneficiary; the managing authority shall determine the individual amount according to the scale of the diversification project and the investment made by the beneficiary;

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► **C1** (d) granting individual premiums to fishermen younger than 35 years ◀ who can demonstrate that they have worked at least five years as fishermen or can demonstrate equivalent vocational training and who acquire for the first time part or total ownership in a fishing vessel, provided that the following conditions are fulfilled:

- (i) the fishing vessel must have an overall length between 7 and 24 metres; at the time of acquisition of ownership it must be aged between 10 and 20 years, it must be operational and it must be registered in the fishing vessel register of the Community;
- (ii) the transfer of ownership does not occur within the same family up to the second degree.

The management authority shall determine the amount of each individual premium in particular on the basis of the size and age of the vessel and of the financial conditions of the acquisition (cost of acquisition of ownership; level and conditions of bank loan; guarantee, if any, given by a third party; and/or other financial engineering facilities).

The management authority shall also establish the other conditions and criteria under which acquisition takes place.

In any event, the amount of the premium may not exceed 10 % of the cost of acquisition of ownership nor exceed the amount of EUR 50 000;

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- (e) in the event that a recovery plan is adopted by the Council or where special or emergency measures are adopted by the Commission or by one or more Member States, the maximum amounts of aid referred to in points (b) and (c) may be increased by 20 %. Furthermore, the requirement that the vessel on which the crew members were employed must have permanently stopped its activities, as laid down in point (b), shall not apply.

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4. The management authority shall make the necessary arrangements, in particular through appropriate control mechanisms, to ensure:

- (a) that the beneficiaries of the measure referred to in paragraph 3(a) permanently give up work as fishermen;
- (b) that no one fisherman can benefit from more than one of the measures referred to in paragraph 3;

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- (c) that the compensation referred to in paragraph 3(b) or 3(e) is refunded on a *pro rata temporis* basis where the beneficiaries return to their work as fishermen within a period of less than one year after being paid the compensation;

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- (d) (i) that the compensation referred to in paragraph 3(c)(i) for reconversion is refunded on a *pro rata temporis* basis where the beneficiaries return to their work as fishermen within a period of less than five years after being paid the compensation, and
- (ii) that the compensation for diversification referred to in paragraph 3(c)(ii) contributes to a reduction of the fishing effort developed by the fishing vessels on which the beneficiaries are active;

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(e) that the beneficiaries of the measure referred to in paragraph 3 (c) actually engage in a new activity;

(f) that the premium referred to in paragraph 3(d) is refunded on a *pro rata temporis* basis where the ownership acquired by the beneficiary is transferred, or where the vessel is subject to a permanent withdrawal pursuant to Article 7, within a period of less than five years after being paid the premium.

5. All arrangements, methods of calculation, criteria and other rules that the management authority shall establish for the implementation of this Article shall be described in the programme complements referred to in Article 18(3) of Regulation (EC) No 1260/1999.

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6. The Member States may introduce nationally financed accompanying measures for crew members of affected fishing vessels in order to facilitate temporary cessation of fishing activities in the framework of plans for protection of aquatic resources.

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TITLE III

PROTECTION AND DEVELOPMENT OF AQUATIC RESOURCES, AQUACULTURE, FISHING PORT FACILITIES, PROCESSING AND MARKETING AND INLAND FISHING

*Article 13***Scope**

1. Member States may, under the conditions specified in Annex III, take measures to encourage capital investment in the following fields:

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(a) works aimed at the protection and development of aquatic resources, including freshwater resources, except restocking;

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(b) aquaculture;

(c) fishing port facilities;

(d) processing and marketing of fishery and aquaculture products;

(e) inland fishing.

2. Financial assistance from the FIFG may be granted only for projects which:

(a) contribute to lasting economic benefits from the structural improvement in question;

(b) offer an adequate guarantee of technical and economic viability;

(c) avoid counterproductive effects, particularly the risk of creating surplus production capacity.

TITLE IV

OTHER MEASURES*Article 14***Measures to find and promote new market outlets**

1. Member States may, under the conditions specified in Annex III, take measures to encourage collective operations to find and promote new market outlets for fishery and aquaculture products, in particular:

(a) operations associated with quality certification, product labelling, rationalisation of product names and product standardisation;

(b) promotion campaigns, including those highlighting quality;

(c) projects to test consumer and market reactions;

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- (d) organisation of and participation in trade fairs and exhibitions;
 - (e) organisation of study and sales visits;
 - (f) market studies and surveys, including studies relating to the prospects for marketing Community products in third countries;
 - (g) campaigns improving marketing conditions;
 - (h) sales advice and aids, services provided to wholesalers, retailers, and producer organisations.
2. Priority is to be given to investments:
- (a) to encourage the sale of surplus or underexploited species;
 - (b) implemented by organisations officially recognised within the meaning of Regulation (EEC) No 3759/92;
 - (c) jointly implemented by several producer organisations or other organisations of the sector recognised by national authorities;
 - (d) pursuing a quality policy for fishery and aquaculture products;
 - (e) to promote products obtained using environmentally friendly methods.
3. The measures must not be based around commercial brands nor make reference to particular countries or a geographic zone, except in specific cases where official recognition of origin with reference to a specified geographical zone for a product or process is granted pursuant to Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽¹⁾. The reference may be used only from the date on which the name has been entered in the register provided for in Article 6(3) of Regulation (EEC) No 2081/92.

*Article 15***Operations by members of the trade**

1. The Member States may encourage the creation and facilitate the operation of producer organisations recognised under Regulation (EEC) No 3759/92:
- (a) aid can be granted to producer organisations created after 1 January 2000 for three years following the date of recognition. This aid for the first, second and third years must be within both the following limits:
 - (i) 3 %, 2 % and 1 % respectively of the value of the products marketed by the producer organisation;
 - (ii) 60 %, 40 % and 20 % respectively of the administrative costs of the producer organisation;
 - (b) without prejudice to the aid referred to at (a), aid may be granted to producer organisations that have been specifically recognised under Article 7a(1) of Regulation (EEC) No 3759/92 during the three years following the date of the specific recognition to facilitate the implementation of their plans to improve quality. The amount of this aid, for the first, second and third years shall not exceed 60 %, 50 % and 40 % respectively of the costs incurred by the organisation in implementing the plan;
 - (c) the aid referred to at (a) and (b) shall be paid to the final beneficiaries during the year following that for which it was granted, and not later than 31 December 2008.
2. The Member States may encourage short-term operations of collective interest with a broader scope than operations normally undertaken by private businesses, carried out with the active contribution of

⁽¹⁾ OJ L 208, 27.7.1992, p. 1. Regulation as last amended by Regulation (EC) No 1068/97 (OJ L 156, 13.6.1997, p. 10).

▼B

members of the trade themselves or carried out by organisations acting on behalf of the producers or by other organisations having been recognised by the management authority, and serving to attain the objectives of the common fisheries policy.

3. Eligible operations shall relate in particular to the following topics:

- (a) management and control of conditions for access to certain fishing zones and quota management;
- (b) management of fishing effort;
- (c) promotion of gear or methods recognised by the management authority as being more selective;
- (d) promotion of technical measures for the conservation of resources;
- (e) promotion of measures improving the working conditions and the sanitary conditions concerning the products, on board and landed;
- (f) collective aquaculture facilities, restructuring or improvement of aquaculture sites, collective treatment of aquaculture effluent;
- (g) eradication of the pathological risks of fish farming or parasites in catchment areas or coastal ecosystems;
- (h) collection of basic data and/or preparation of environmental management models for fisheries and aquaculture with a view to drawing up integrated management plans for coastal areas;
- (i) organisation of electronic trade and other information technologies to disseminate technical and commercial information;
- (j) creation of business incubators in the sector and/or centres for the collection of fishery and aquaculture products;
- (k) access to training, particularly in quality, and organisation of transmission of know-how on board vessels and on land;
- (l) design and application of systems to improve and control quality, traceability, health conditions, statistical instruments and environmental impact;
- (m) creation of added value in products (*inter alia*, through experimentation, innovation, the addition of value to by-products and co-products);

▼M4

- (n) improvement of knowledge and transparency in production and in the market, including statistics and economic analysis.

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Expenditure incurred in the normal production process in firms shall not be eligible under this paragraph.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 23(2).

Article 16

Temporary cessation of activities and other financial compensation

1. The Member States may grant compensation to fishermen and owners of vessels for the temporary cessation of activities in the following circumstances:

▼M3

- (a) in the event of unforeseeable circumstances, particularly those caused by biological factors; the granting of compensation may last for no more than three consecutive months or six months over the entire period from 2000 to 2006. The managing authority shall furnish the Commission with scientific proof of these circumstances in advance;

▼ B

- (b) where a fisheries agreement is not renewed, or where it is suspended, for the Community fleets dependent on the agreement; the granting of compensation may not last longer than six months; it may be extended by a further six months provided a conversion plan approved by the Commission is implemented for the fleet concerned;

▼ M3

- (c) where a recovery or management plan is adopted by the Council or where emergency measures are decided by the Commission or by one or more Member States, the granting of compensation by a Member State may last for one year and may be extended by one further year.

▼ M4

1a. The Member States may grant financial compensation to shellfish farmers where the contamination in the shellfish due to the growth of toxin-producing plankton or the presence of plankton containing marine biotoxins makes it necessary, for the protection of human health, to suspend harvesting for more than four consecutive months or, where the losses incurred as a result of the suspension of harvesting during a period of concentrated sales, represents in excess of 35 % of the annual turnover of the enterprise concerned, calculated on the basis of the average turnover of that enterprise over the previous three years. The granting of compensation may cover no more than six months of suspension of harvesting over the entire period from the entry in force of Council Regulation (EC) No 1421/2004 of 19 July 2004 amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector ⁽¹⁾ to the end of 2006.

▼ M2

2. The Member States may grant financial compensation to fisherman and owners of vessels where Community legislation imposes technical restrictions on the use of certain gear or fishing methods; this aid is intended to cover the technical adjustment and may not be paid for more than six months.

▼ M3

3. ► **M4** The financial contribution from the FIGG to the measures referred to in paragraphs 1, 1a and 2 per Member State for the entire period from 2000 to 2006 may not exceed the higher of the following two thresholds: EUR 1 million or 4 % of the Community financial assistance allocated to the sector in the Member State concerned. ◀

However, in the case of a recovery or management plan adopted by the Council or of emergency measures decided by the Commission, these thresholds may be exceeded on condition that the measure includes a decommissioning scheme with the aim of withdrawing, within two years of the adoption of the measure, a number of fishing vessels with a fishing effort at least equal to the effort of the fishing vessels suspended from fishing activity as a consequence of the plan or emergency measure.

To obtain Commission approval for a financial contribution from the FIGG, a Member State shall notify the Commission of the measure and provide it with a detailed calculation of premiums. The measure shall enter into force only after the Commission's approval has been delivered to the Member State.

The managing authority shall determine the amount of compensation as provided for in paragraphs 1 and 2 to be paid in individual cases taking account of relevant parameters such as the real losses suffered, the scale of the conversion effort, recovery plan or technical adjustment effort.

⁽¹⁾ OJ L 260, 6.8.2004, p. 1.

▼M4

Where a recovery plan is adopted by the Council or emergency measures are adopted by the Commission or by one or more Member States, Article 10(3)(b)(ii) shall not apply.

4. Recurrent seasonal suspension of fishing and aquaculture activity shall not be eligible for compensation under paragraphs 1, 1a, 2 and 3.

▼B*Article 17***Innovative measures and technical assistance**

1. The Member States shall envisage in the plans referred to in Articles 3(3) and defined in Article 9(b) of Regulation (EC) No 1260/1999 the means necessary to undertake studies, pilot projects, demonstration projects, training measures, technical assistance, the exchange of experience and publicity connected with the preparation, implementation, monitoring, evaluation or adjustment of the operational programmes and the single programming documents.

2. 'Pilot project' means a project carried out by an economic operator, a scientific or technical body or another competent body to test, in conditions approaching actual conditions in the industry, the technical reliability and/or financial viability of an innovative technology with a view to acquiring and disseminating technical and/or financial knowledge of the technology being tested. Pilot projects shall always comprise scientific monitoring of sufficient intensity and duration to obtain significant results; they must be the subject of scientific reports forwarded to the management authority. The latter shall immediately forward such reports to the Commission for information.

Experimental fishing projects shall be eligible as pilot projects provided their aim is the conservation of fishery resources and they implement more selective techniques.

▼M4

Small-scale, applied-research initiatives, not exceeding EUR 150 000 in total cost and three years in duration, carried out by an economic operator, a scientific or technical body, a representative professional organisation or other competent body, shall be eligible as pilot projects, provided that they contribute to the objectives of sustainable development of the aquaculture industry in the Community.

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3. The measures referred to in paragraph 1 may, in particular, concern the topics referred to in Article 15(2) and (3), provided they are implemented on the initiative of public or semi-public bodies or other bodies designated to that end by the management authority.

They may also include the construction or transformation of vessels provided that these vessels are destined exclusively for fisheries research and training activities, undertaken by public or semi-public bodies, under the flag of a Member State.

4. In addition, the measures referred to in paragraph 1 may include the promotion of equal employment opportunities between men and women working in the sector.

TITLE V

GENERAL AND FINANCIAL PROVISIONS**▼M3***Article 18***Compliance with the conditions governing assistance**

The managing authority shall ensure that the special conditions governing assistance listed in Annex III are complied with.

It shall also satisfy itself as to the technical capacity of beneficiaries and the financial viability of firms as well as their respecting all rules of the Common Fisheries Policy before granting aid. If during the grant period it is found that the beneficiary does not comply with rules of the

▼ **M3**

Common Fisheries Policy, the grant shall be reimbursed in proportion to the gravity of the infringement.

Detailed rules for the implementation of this article may be adopted in accordance with Article 23(2).

▼ **M5***Article 18a***Procedure for the transfer of vessels pursuant to Article 7(3)(d)**

1. Member States shall notify the Commission of the vessels for which a transfer pursuant to Article 7(3)(d) is envisaged, as well as the intended destination.

2. Within two months of such notification, the Commission may inform the Member State concerned that the transfer does not meet the criteria laid down in Article 7(3)(d), and in particular point (iii) thereof.

If the Member State concerned is not so informed by the Commission within two months of notification, it may proceed with the transfer.

*Article 18b***Reporting on the transfer of vessels pursuant to Article 7(3)(d)**

1. By 30 September 2005 and every three months thereafter Member States shall present to the Commission all available information on transfers of vessels pursuant to Article 7(3)(d).

2. On the basis of the information referred to in paragraph 1 and any other information, the Commission shall report every six months to the European Parliament and to the Council on transfers of vessels pursuant to Article 7(3)(d).

3. Member States shall include in the annual report provided for in Article 37 of Regulation (EC) No 1260/1999 on the implementation of the FIFG intervention and submitted to the Commission in 2007, a section on transfers of vessels pursuant to Article 7(3)(d) of this Regulation.

▼ **M3***Article 19***Obligatory financial contributions and State aid**

1. Without prejudice to paragraph 2, Articles 87, 88 and 89 of the Treaty shall apply to aid granted by Member States to the fisheries and aquaculture sector.

2. Articles 87, 88 and 89 of the Treaty shall not apply to obligatory financial contributions by Member States to measures co-financed by the Community and provided for under the development plans referred to in Article 3(3) of this Regulation and defined in Article 9(b) of Regulation (EC) No 1260/1999 or under Article 5 of Regulation (EC) No 2370/2002 of 20 December 2002 establishing an emergency Community measure for scrapping fishing vessels. ⁽¹⁾

3. Measures which provide for public financing exceeding the provisions of this Regulation or of Regulation (EC) No 2370/2002 concerning obligatory financial contributions, as referred to in paragraph 2, shall be treated as a whole on the basis of paragraph 1.

▼ **B***Article 20***Monetary conversion**

For Member States which are not in the euro zone, the amounts in euro set by this Regulation shall be converted into national currency at the

⁽¹⁾ OJ L 358, 31.12.2002, p. 57.

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rate published in the C series of the *Official Journal of the European Communities*.

The conversion shall be made at the rate applicable on 1 January of the year of the Member State's decision to grant the premium or aid.

*Article 21***Implementing rules**

The form of the expenditure statements and annual implementation reports shall be adopted by the Commission in accordance with the procedure laid down in Article 23(2).

▼M3*Article 22***Committee procedure**

The measures necessary for the implementation of this Regulation relating to matters referred to in Articles 8, 15, 18 and 21 shall be adopted in accordance with the management procedure referred to in Article 23(2).

▼B*Article 23***Committees**

1. The Commission shall be assisted:

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- (a) for the purpose of the implementation of Articles 8, 15, 18 and 21 by the Committee on structures for fisheries and aquaculture established by Article 51 of Regulation (EC) No 1260/1999; and
- (b) for the purpose of the implementation of Articles 9 and 10 by the Committee for fisheries and aquaculture established by Article 30 (1) of Regulation (EC) No 2371/2002.

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2. Where reference is made to this paragraph, the provisions of Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committees shall adopt their rules of procedure.

*Article 24***Transitional provisions**

The following shall be repealed with effect from 1 January 2000:

- Regulation (EC) No 2468/98,
- Article 7(1), (2), (3) and Article 7b of Regulation (EEC) No 3759/92;
- Regulation (EEC) No 3140/82 ⁽¹⁾.

However, the repealed provisions shall remain applicable for aid, measures and projects approved before 31 December 1999.

References to the repealed Regulations and Articles shall be understood as references to this Regulation.

⁽¹⁾ Council Regulation (EEC) No 3140/82 of 22 November 1982 on granting and financing aid granted by Member States to producers' organisations in the fishery products sector (OJ L 331, 26.11.1982, p. 7).

▼B

Article 25

Entry into force

This Regulation shall enter into force on the third day following that of 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.

▼B*ANNEX I***CONTENTS OF THE PLANS****1. Quantified description of the current situation for each of the fields referred to in Titles II, III and IV**

- (a) Strengths and weaknesses;
- (b) summary of operations undertaken and impact of funds used in previous years;

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- (c) requirements of the sector.

▼B**2. Strategy for restructuring the sector**

- (a) Results of consultations and measures to involve the competent authorities and bodies and socioeconomic partners at the appropriate levels;
- (b) objectives:
 - (i) general objectives under the common fisheries policy;
 - (ii) priorities;
 - (iii) objectives specific to each area of assistance, quantified if possible;
- (c) demonstration that public aid is necessary to attain the objectives sought; steps taken to prevent counterproductive effects, particularly as regards the creation of surplus capacity;
- (d) with regard to the fleet:

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- (i) indicators concerning the development of the fleet in relation to the objectives of the recovery or management plans;

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- (ii) fishing techniques and gear to be encouraged in the event of redeployment of fishing activities;
- (e) anticipated impact (on employment, production, etc.).

3. Means to attain the objectives

- (a) The measures (legal, financial or other) planned in each field to implement the plans, particularly aid schemes;
- (b) indicative financing schedule covering the entire programming period and listing the regional, national, Community or other resources provided for each area of assistance;
- (c) the requirements in terms of studies, pilot projects, demonstration projects, training, technical assistance and publicity measures connected with the preparation, implementation, monitoring, evaluation or adjustment of the measures concerned.

4. Implementation

- (a) Management authority designated by the Member State;
- (b) steps taken to ensure efficient and effective implementation, including monitoring and evaluation; definition of the quantified indicators;
- (c) provisions relating to checks, penalties and publicity measures;
- (d) with regard to the fleet:
 - (i) the methods for monitoring trends in fishery resources, particularly vulnerable resources;
 - (ii) for static gear, the arrangements for monitoring fishing effort, including trends in the number and size of gear.

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ANNEX III

SPECIAL CONDITIONS AND CRITERIA FOR ASSISTANCE

▼M31. **Implementation of measures relating to fishing fleet activities (Title II)**1.0. *Age of vessels*

For the purpose of this Regulation, the age of a vessel is a whole number defined as the difference between the year of the managing authority's decision to grant a premium or aid and the year of entry into service as defined in Regulation (EEC) No 2930/86.

▼B1.1. *Permanent withdrawal (Article 7(3))*

- (a) Permanent withdrawal may concern only vessels which have carried out a fishing activity for at least 75 days at sea in each of the two periods of 12 months preceding the date of the application for permanent withdrawal or, as the case may be, a fishing activity for at least 80 % of the number of days at sea permitted by current national regulations for the vessel concerned.

In the Baltic Sea the number of 75 days shall be reduced to:

- 60 for vessels registered in ports situated north of parallel 59°30'N,
- 40 for vessels registered in ports situated north of parallel 59°30'N and fishing for salmon;

- (b) the following conditions must be met:
- (i) prior to its permanent withdrawal, the vessel must be registered in the fishing vessel register of the Community;
 - (ii) the vessel must be operational at the time the decision is taken to grant the premium;
 - (iii) after permanent withdrawal, the fishing licence must be cancelled and the vessel declared permanently deleted from the fishing vessel register of the Community;
 - (iv) in the event of permanent transfer to a third country, the vessel must be registered in the register of the third country without delay and may never return to Community waters;
- (c) if a vessel is lost between the date of the decision to grant the premium and the actual date of permanent withdrawal, the management authority shall make a financial correction for the amount of the compensation paid by the insurance;
- (d) no public aid within the meaning of Article 7 may be paid for a vessel transferred to a third country to replace a lost vessel belonging to a joint enterprise within the meaning of Article 8.

1.2. *Joint enterprises (Article 8)*

- (a) In addition to the conditions for the permanent transfer of a vessel to a third country within the meaning of Article 7(3)(b) and point 1.1 of this Annex, vessels, transferred within the framework of joint enterprises, must meet the following conditions:
- (i) they must have been operating for at least the last five years, under the flag of a Member State of the Community:
 - in Community waters,
 - and/or in the waters of a third country either under a fisheries agreement with the Community or under another agreement,
 - and/or in international waters where fisheries are ruled by an international Convention;
 - (ii) they must, within six months of the date of the decision to grant the premium, be fitted out with the technical equipment needed to operate in the waters of the third country under the terms of the fishing authorisation issued by the authorities of the third country; they must comply with the Community safety regulations and be adequately insured as decided by the management authority; costs

▼B

- associated with such a fitting, if any, are not eligible for a Community aid;
- (b) when the application for the premium for joint enterprises is lodged, beneficiaries must provide the management authority with the following information:
- (i) a description of the vessel, including, in particular, the internal number, registration number, tonnage, power and year of entry into service;
 - (ii) during the last five years: service and activity of the vessel (and conditions under which the activity was carried on); indication of fishing zones (Community waters/other); any previous Community, national or regional aid received;
 - (iii) proof of the project's financial viability, including, in particular:
 - a financing plan showing the contributions of the different shareholders in cash and in kind; level of contribution of Community/third country partners; proportion of the premium provided for in Article 7(5)(b), which is to be invested in cash in the capital of the joint enterprise,
 - an activity plan covering at least five years, showing, in particular, fishing zones, places of landing and final destination of catches;
 - (iv) a copy of the insurance contract;
- (c) the following conditions must be met by the beneficiary during a period of five years from the transfer of ownership of the vessel to the joint enterprise:
- (i) any change in the conditions under which the vessel is operated (particularly change of partner, change in the share capital of the joint enterprise, change of flag, change of fishing zone), within the limits of the conditions referred to in Article 8(2), shall be subject to prior authorisation by the management authority;
 - (ii) a vessel lost through shipwreck must be replaced by an equivalent vessel within one year of the shipwreck;
- (d) if the conditions at (a) and (b) are not fulfilled when the application for the premium for joint enterprises is lodged, the public aid shall be restricted to the premium for permanent transfer referred to in Article 7(5)(c);
- (e) without prejudice to Articles 29(4) and 38 of Regulation (EC) No 1260/1999, the management authority shall carry out a financial correction on the difference between the premium for joint enterprise and the premium for permanent transfer of the same vessel (hereinafter called 'difference'), in the following cases:
- (i) if the beneficiary notifies to the management authority a change in operating conditions that lead to non-compliance with the conditions referred to in Article 8(2) of this Regulation, including the sale of the vessel, the transfer of holding by the Community partner or the retirement of the Community shipowner in the joint enterprise the financial correction shall be equal to part of the amount of the difference; this part shall be calculated *pro rata temporis* over the period of five years;
 - (ii) if during a control it is found that the conditions provided for in Article 8(2) of this Regulation and point (c) of this paragraph are not complied with, the financial correction shall be equal to the difference;
 - (iii) if the beneficiary fails to provide the activity reports provided for in Article 8(5) of this Regulation after having been served notice by the management authority, the financial correction shall be equal to part of the amount of the difference; this part shall be calculated *pro rata temporis* over the period of five years;
 - (iv) if the vessel is lost and not replaced, the financial correction shall be equal to part of the amount of the difference; this part shall be calculated *pro rata temporis* over the period of five years.

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1.3. Fleet renewal (Article 9)

- (a) Vessels must be built to comply with the Regulations and Directives governing hygiene, safety, health, product quality and working condi-

▼ M3

tions and the Community provisions concerning the measurement of vessels and the monitoring of fishing activities.

- (b) Vessels shall be entered in the Community fishing fleet register.
- (c) Without prejudice to Article 12(3)(d), the transfer of ownership of a fishing vessel shall not give rise to Community aid.

1.4. *Fishing Vessels equipment and modernisation (Article 9)***▼ M4**

- (a) Vessels must have been registered in the fishing vessels register of the Community for at least five years, except for equipment in vessel monitoring systems or in acoustic deterrent devices. Changes in vessel characteristics must be communicated to this register and the vessels must be measured in accordance with Community provisions, when they are modernised.

▼ M3

- (b) Investments should relate to:
 - (i) the rationalisation of fishing operations by the use of more selective or low impact fishing technologies and methods on board in order to avoid undesirable by-catches, other than those provided for in Community law,

and/or

- (ii) improvement of the quality and safety of products caught and preserved on board, the use of more selective fishing techniques and of better preserving techniques and the implementation of legal and regulatory provisions regarding health,

and/or

▼ M4

- (iii) improvement of working and safety conditions,

and/or

- (iv) the purchase of acoustic deterrent devices for the purpose of Council Regulation (EC) No 812/2004 of 26 April 2004 laying down measures concerning incidental catches of cetaceans in fisheries ⁽¹⁾.

Without prejudice to Article 16(2), the replacement of fishing gear shall not be considered eligible expenditure, except if the vessel is subject to a recovery plan and is required to end its participation in the fishery concerned and fish for other species with different fishing gear. In this case, the Commission may decide that the first replacement of fishing gear, where fishing possibilities are significantly reduced by a recovery plan, may be considered as eligible expenditure.

▼ M31.5. *Socio-economic measures (Article 12)*

Measures to support the training of fishermen or the diversification of their activities outside marine fisheries must contribute to a reduction of the fishing effort developed by the beneficiaries even if they continue fishing on a part-time basis.

▼ B2. **Investment in the areas referred to in Title III**2.0. *General provisions*

- (a) Projects in undertakings may involve capital investment in production and management (construction, enlargement, equipping and modernisation of facilities);
- (b) capital investment to improve conditions of hygiene or human or animal health, to improve product quality or reduce pollution of the environment and, where relevant, to increase production itself, shall be eligible for assistance;

⁽¹⁾ OJ L 150, 30.4.2004, p. 12.

▼B

- (c) the transfer of ownership of an undertaking shall not give rise to the grant of Community aid.

2.1. *Protection and development of aquatic resources*

► **M4** Expenditure eligible for assistance from the FIFG may concern the installation of fixed or movable facilities to protect and develop aquatic resources, the rehabilitation of rivers and lakes, including spawning areas and the facilitation of migration up and downstream for migratory species and the scientific monitoring of projects. ◀ Such projects must:

- (a) be of collective interest;
- (b) be implemented by public or semi-public bodies, recognised professional organisations or other bodies designated to that end by the management authority;
- (c) not have a negative impact on the aquatic environment.

Each project must include scientific monitoring for at least five years, comprising in particular the evaluation and monitoring of the development of aquatic resources in the waters concerned. The management authority shall forward the scientific monitoring reports to the Commission every year for information.

▼M42.2. *Aquaculture*

- (a) For the purposes of this Regulation,
 - ‘aquaculture’ means the rearing or culture of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment; the organisms remain the property of a natural or legal person throughout the rearing or culture stage, up to and including harvesting;
- (b) the promoters of intensive fish-farming projects shall forward the information provided for in Annex IV to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽¹⁾ to the management authority together with their application for public aid. The management authority shall decide whether the project must be submitted for assessment pursuant to Articles 5 to 10 of that Directive. Where public aid is granted the cost of collecting information on environmental impact and any assessment costs shall be eligible for assistance from the FIFG;
- (c) the initial costs incurred by aquaculture enterprises to join in the Community eco-management and audit schemes set up by Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)⁽²⁾, as well as investments in works concerning the installation or improvement of water circulation in aquaculture enterprises and on service vessels shall be eligible;
- (d) fishing vessels as defined in Article 3(c) of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy⁽³⁾ will not be considered as service vessels even when they are exclusively used in aquaculture;
- (e) within the measures related to aquaculture in the FIFG Programmes, priority shall be given to:
 - (i) the development of techniques that substantially reduce environmental impacts;
 - (ii) the improvement of traditional aquaculture activities that are important in maintaining the social and environmental tissue of specific areas;
 - (iii) the modernisation of existing enterprises;
 - (iv) measures intended to benefit aquaculture falling under the scope of Articles 14 and 15 of this Regulation;

⁽¹⁾ OJ L 175, 5.7.1985, p. 40. Directive as last amended by Directive 2003/35/EC of the European Parliament and of the Council (OJ L 156, 25.6.2003, p. 17).

⁽²⁾ OJ L 114, 24.4.2001, p. 1. Regulation as amended by the 2003 Act of Accession.

⁽³⁾ OJ L 358, 31.12.2002, p. 59.

▼M4

- (v) farmed species diversification;
- (f) By way of derogation from the column for Group 3 in Table 3 in point 2 of Annex IV, and without prejudice to the rates of contribution for the outermost regions, the following rates of contribution shall apply:
 - (i) for investments concerning the use of techniques that substantially reduce environmental impact, or concerning finfish farming projects that have a beneficial impact on the environment, the contribution of private beneficiaries (C) shall be at least 30 % of eligible expenditure in Objective 1 regions and at least 50 % in other areas. The assessment of environmental benefits shall be carried out at charge of the promoter and verified by the management authority. Where public aid is granted, assessment costs shall be eligible for assistance from the FIFG;
 - (ii) for investments concerning the construction of new intensive finfish farms not included in the priorities listed in point (e), the contribution of private beneficiaries (C) shall be at least 50 % of eligible expenditure in Objective 1 regions and at least 70 % in other areas.

▼B*2.3. Fishing port facilities*

Priority shall be given to investments of collective interest to fishermen using a port and contributing to the general development of the port and to the improvement of services offered to fishermen. Investments shall relate in particular to installations and equipment intended:

- (a) to improve the conditions under which fishery products are landed, treated and stored in ports;
- (b) to support fishing vessel activities (provision of fuel, ice and water, maintenance and repair of vessels);
- (c) to improve jetties with a view to improving safety during the landing or loading of products.

2.4. Processing and marketing

- (a) For the purposes of this Regulation, 'processing and marketing of fishery and aquaculture products' means all operations, including handling, treatment, production and distribution, between the time of landing or harvesting and the end-product stage;
- (b) investments shall not be eligible for assistance where they concern:
 - (i) fishery and aquaculture products intended to be used and processed for purposes other than human consumption, with the exception of investments exclusively for the treatment, processing and marketing of fishery and aquaculture product wastes;
 - (ii) the retail trade.
- (c) Notwithstanding group 3 in Table 3 in paragraph 2 of Annex IV, where investments concern the use of collective facilities or techniques that substantially reduce environmental impact, the contribution of private beneficiaries (C) may be restricted to 30 % of eligible expenditure in Objective 1 regions and 50 % in other areas, instead of 40 % and 60 % respectively.

2.5. Inland fishing

- (a) For the purpose of this Regulation, 'inland fishing' means fisheries carried out for commercial purpose by vessels operating exclusively in inland waters of the territory of Member States and which are not subject to the provisions of Title II;
- (b) when the investment concerns the construction of a vessel for inland fishing, the provisions of point 1.3(a) of Annex III shall apply;
- (c) when the investment concerns the modernisation of a vessel for inland fishing, the provisions of point 1.4(b) of Annex III shall apply;
- (d) investments shall not be eligible for assistance if they are likely to jeopardise the equilibrium between the fleet size and the corresponding fish resources available;
- (e) scrapping premiums for vessels for inland fishing shall not be eligible for assistance;

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- (f) the management authority shall take all necessary measures to ensure that vessels receiving financial assistance from the FIG under Article 13 shall continue to operate exclusively in inland waters.

3. Measures to find and promote new market outlets (Article 14)

- (a) Eligible expenditure shall cover in particular:
 - (i) the costs of advertising agencies and other service providers involved in the preparation and implementation of promotion campaigns;
 - (ii) the purchase or hire of advertising space and the creation of slogans and labels for the duration of promotion campaigns;
 - (iii) expenditure on publishing, external staff, premises and vehicles required for the campaigns;
- (b) the beneficiary's operating costs (staff, equipment, vehicles, etc.) shall not be eligible.

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ANNEX IV

SCALES AND RATES OF ASSISTANCE

1. Scales of assistance relating to fishing fleets (Title II)

TABLE 1

Category of vessel by tonnage (GT)	EUR
0 < 10	11 000/GT + 2 000
10 < 25	5 000/GT + 62 000
25 < 100	4 200/GT + 82 000
100 < 300	2 700/GT + 232 000
300 < 500	2 200/GT + 382 000
500 and above	1 200/GT + 882 000

TABLE 2

Category of vessel by gross registered tonnes (GRT)	EUR
0 < 25	8 200/grt
25 < 50	6 000/grt + 55 000
50 < 100	5 400/grt + 85 000
100 < 250	2 600/grt + 365 000

From 1 January 2000, for vessels longer than 24 metres between perpendiculars, and from 1 January 2004, for all vessels, only table 1 shall apply.

▼M3

2. Rates of financial participation

- (a) For all the operations referred to in titles II, III and IV, the limits on Community financial participation (A), total State financial participation (national, regional and other) by the Member State concerned (B) and, where applicable, financial participation by private beneficiaries (C) shall be as follows, expressed as a percentage of eligible costs.

Group 1:

Permanent withdrawal premiums (Article 7), premium for the creation of joint enterprises (Article 8), small-scale coastal fishing (Article 11), socio-economic measures (Article 12), protection and development of aquatic resources (Article 13(1)(a)), fishing port facilities with no financial participation by private beneficiaries (Article 13(1)(c)), measures to find and promote new market outlets with no financial participation by private beneficiaries (Article 14), operations by members of the trade with no financial participation by private beneficiaries (Article 15), temporary cessation premiums and other financial compensation (Article 16), innovative measures and technical assistance including pilot projects carried out by public bodies (Article 17).

Group 2:

Fleet renewal, equipment and modernisation of fishing vessels (Article 9).

Group 3:

Aquaculture (Article 13(1)(b)), fishing port facilities with financial participation by private beneficiaries (Article 13(1)(c)), processing and marketing (Article 13(1)(d)), inland fishing (Article 13(1)(e)), measures to find and promote new market outlets with financial participation by private beneficiaries (Article 14), operations by members of the trade with financial participation by private beneficiaries (Article 15(2)).

Group 4:

Pilot projects other than those carried out by public bodies (Article 17).

- (b) With respect to operations concerning the protection and development of aquatic resources (Article 13(1)(a)), fishing port facilities (Article 13(1)(c)), measures to find and promote new market outlets (Article 14) and

▼ **M3**

operations by members of the trade (Article 15), the managing authority shall determine whether they fall under group 1 or group 3, in particular on the basis of the following considerations:

- collective versus individual interests,
- collective versus individual beneficiary (producers' organisations, organisations representing the trade),
- public access to the results of the operation versus private ownership and control,
- financial participation by collective bodies, research institutions.

▼ **M1**

TABLE 3

	Group 1	Group 2	Group 3	Group 4
Objective 1 regions (*)	50 % ≤ A ≤ 75 % B ≥ 25 %	A ≤ 35 % B ≥ 5 % C ≥ 60 %	A ≤ 35 % B ≥ 5 % C ≥ 40 %	A ≤ 75 % B ≥ 5 % C ≥ 20 %
Objective 1 regions located in a Member State covered by the Cohesion Fund	50 % ≤ A ≤ 80 % B ≥ 20 % (**)	A ≤ 35 % B ≥ 5 % C ≥ 60 %	A ≤ 35 % B ≥ 5 % C ≥ 40 %	A ≤ 75 % B ≥ 5 % C ≥ 20 %
Outermost regions	50 % ≤ A ≤ 85 % B ≥ 15 % (**)	A ≤ 40 % B ≥ 10 % C ≥ 50 % (***)	A ≤ 50 % B ≥ 5 % C ≥ 25 % (****)	A ≤ 75 % B ≥ 5 % C ≥ 20 %
Outlying Greek islands which are under a handicap due to their distant location	50 % ≤ A ≤ 85 % B ≥ 15 % (**)	A ≤ 35 % B ≥ 5 % C ≥ 60 %	A ≤ 35 % B ≥ 5 % C ≥ 40 %	A ≤ 75 % B ≥ 5 % C ≥ 20 %
Other areas	25 % ≤ A ≤ 50 % B ≥ 50 %	A ≤ 15 % B ≥ 5 % C ≥ 60 %	A ≤ 15 % B ≥ 5 % C ≥ 60 %	A ≤ 50 % B ≥ 5 % C ≥ 30 %

(*) Including those referred to in Article 6(1) of Regulation (EC) No 1260/1999.

(**) Notwithstanding the general arrangements for Objective 1 regions, and only in duly justified exceptional cases.

(***) Notwithstanding the general arrangements for Objective 1 regions, and only for vessels of less than 12 metres overall length other than trawlers, provided the vessels are registered in a port located in one of the outermost regions and actually carry out their fishing activity from that port or another port in one of these regions for a period of at least five years.

(****) Notwithstanding the general arrangements for Objective 1 regions, and only in enterprises of small economic size to be defined in the programme complement referred to in Article 19(4) of Regulation (EC) No 1260/1999.

In the case of investment in small and medium-sized businesses within the meaning of Commission Recommendation 96/280/EC⁽¹⁾ the (A) rates for groups 2 and 3 may be increased by an amount for forms of finance other than direct assistance, provided that this increase does not exceed 10 % of the total eligible cost. The contribution of the private beneficiary shall be reduced accordingly.

A summary description of the derogations provided for under the first subparagraph shall be included in the operational programmes or single programming documents for the areas concerned referred to in Articles 18 and 19 of Regulation (EC) No 1260/1999.

(1) OJ L 107, 30.4.1996, p. 4.