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COMMISSION DECISION

of 16 December 1997

approving the multiannual guidance programme for the fishing fleet of Germany for the period from 1 January 1997 to 31 December 2001

(Only the German text is authentic)

(98/122/EC)

(OJ L 39, 12.2.1998, p. 21)

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(Only the German text is authentic)

(98/122/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products ([1]) as last amended by Regulation (EC) No 25/97 ([2]), and in particular Articles 5 and 6 thereof,

Having regard to Council Decision 97/413/EC of 26 June 1997 concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation ([3]) and in particular Article 9(1) thereof,

Whereas Decision 97/413/EC was adopted pursuant to the provisions of Article 11 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ([4]), as amended by the Act of Accession of Austria, Finland and Sweden;

Whereas Germany, hereinafter referred to as 'the Member State', on 26 June 1997, in accordance with Article 6(1) of Decision 97/413/EC, submitted to the Commission a fishing effort limitation programme for the period from 1 January 1997 to 31 December 2001, and has supplemented this programme by further information at later dates; whereas Article 9(1) of Decision 97/413/EC provides that the Commission shall adopt the multiannual guidance programmes (MAGP) for the fishing fleets of individual Member States no later than 30 November 1997;

Whereas Article 6(2) of Decision 97/413/EC provides that capacity reductions shall be ensured by the establishment in each Member State of a permanent regime to control the renewal of the fleet, which will determine, segment by segment, the ratio of entries/exits of vessels; whereas the programmes submitted by Member States either contain no information on this issue whatsoever or are unsatisfactory; whereas Member States should therefore communicate the necessary information to the Commission at a later stage;

Whereas Article 7(1) of Decision 97/413/EC provides that the starting point for the objectives fixed for the fishing fleets for 31 December 2001 shall be the fleet objectives fixed by the previous programme for 31 December 1996;

Whereas the objectives fixed by the previous programme should be adjusted in cases where this is justified by new information supplied by the Member State concerned;

Whereas, pursuant to Article 7(2) of Decision 97/413/EC, the particular situation of the fleet of each Member State concerned must be taken into account in fixing the objectives applicable to that fleet;

Whereas Decision 97/413/EC, and in particular Article 9(1) thereof, requires the fixing of annual intermediate targets; whereas since a large part of the first year of the period covered by the programmes will have

([1]) OJ L 346, 31.12.1993, p. 1.
([2]) OJ L 6, 10.1.1997, p. 7.
([3]) OJ L 175, 3.7.1997, p. 27.
([4]) OJ L 389, 31.12.1992, p. 1.

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elapsed at the time of the adoption of the present Decision it is not appropriate to set an intermediate objective for 1997;

Whereas, pursuant to Article 9(1) of Decision 97/413/EC, the Commission shall adopt the detailed rules for the implementation of that Decision; whereas it is useful to clarify certain concepts;

Whereas the starting point for calculating the intermediate and final fleet objectives under MAGP IV are the fleet objectives fixed by the previous programmes for 31 December 1996 (MAGP III); whereas the tonnage objectives set by MAGP III were expressed in gross registered tonnes (GRT), but the MAGP IV objectives must be expressed in units of gross tonnes (GT); whereas not all Member States have submitted GT values for all fishing vessels of the fleet concerned notwithstanding their obligation to measure or estimate the GT of all vessels in their fleet, and to transmit this information to the Commission;

Whereas, in those circumstances, the Commission must, using a practical approach, estimate the missing GT values in order to provisionally determine that Member State's MAGP IV intermediate and final objectives on the basis of those estimates;

Whereas however the Commission cannot accept any claims by Member States that fishing effort and/or capacity has been reduced in as far as they relate to vessels for which the Member State concerned has not fulfilled its obligation to transmit at GT value or estimate to the Commission, since the exact amount of that reduction is not verifiable;

Whereas, in the absence of the required GT tonnage values measured or estimated in accordance with the provisions of Council Regulation (EC) No 2930/86 of 22 September 1986 defining the characteristics of fishing vessels ([1]), as amended by Regulation (EC) No 3259/94 ([2]) and implemented by Commission Decision 95/84/EC ([3]), the Commission will be unable to verify the percentage changes in the fleet capacity or fishing effort represented by changes in the capacity or activity of individual vessels, or by vessel entries or exits to and from the fleet; whereas the Commission will therefore have to assess whether the fishing effort reductions applied to vessels for which the required GT values are available have been sufficient to be almost certain that a Member State has reached its MAGP IV objectives;

Whereas, since the starting point for the MAGP IV objectives are the final MAGP III objectives, a Member State cannot be deemed to have reached either intermediate or final MAGP IV objectives until it has fulfilled its obligations under MAGP III, and in particular the obligation to reach at least 55 % of the MAGP III obligations by reductions in capacity,

Whereas the segmentation of the fleet must take into account the segmentation adopted by the previous programme;

Whereas in accordance with Commission Regulation (EC) No 109/94 of 19 January 1994 concerning the Community register of fishing vessels ([4]), as last amended by Regulation (EC) No 493/96 ([5]), each Member State must communicate all changes to the situation of the fishing fleet and the evolution of fishing effort by fishery;

Whereas the calculation of the objectives of the programme is based on information supplied by the Member State; whereas it may be necessary to revise the objectives if this information is later found to have been inaccurate;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

([1]) OJ L 274, 25.9.1986, p. 1.
([2]) OJ L 339, 29.12.1994, p. 11.
([3]) OJ L 67, 25.3.1995, p. 33.
([4]) OJ L 19, 22.1.1994, p. 5.
([5]) OJ L 72, 21.3.1996, p. 12.

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HAS ADOPTED THIS DECISION:

Article 1

The multiannual guidance programme for the fishing fleet of Germany for the period 1 January 1997 to 31 December 2001, as forwarded on 26 June 1997 and subsequently supplemented, is hereby approved, subject to the conditions laid down in this Decision and the Annex thereto.

Article 2

The Member State shall ensure that any reductions in capacity or fishing effort that are required to meet the final objectives of the programme are achieved progressively. To this end intermediate objectives are set such that at least one quarter of the reductions are achieved by 31 December 1998, half of the reductions are achieved by 31 December 1999 and three-quarters of the reductions are achieved by 31 December 2000.

In order to ensure that the final and intermediate objectives of the programme will be met, the Member State shall communicate to the Commission for approval the regime of entries/exits of vessels referred to in Article 6(2) of Decision 97/413/EC.

Article 3

1. The following units shall be used to measure whether the final and intermediate MAGP IV objectives have been met:

(i) the capacity of a vessel is measured both in terms of its tonnage expressed in gross tonnes (GT) and in terms of its power measured in kW according to the provisions of Regulation (EC) No 2930/86;

(ii) the fishing activity of a vessel is measured in days at sea in accordance with Annex VI to Regulation (EC) No 109/94;

(iii) in accordance with Annex VI to Regulation (EC) No 109/94 the fishing effort of a vessel is measured both as tonnage effort, defined as the product of its activity and its tonnage expressed in GT, and as power effort, defined as the product of its activity and its power expressed in kW.

2. Active and passive gears correspond to the lists of towed and static gears respectively in Annex I, Table 2 to Regulation (EC) No 109/94, with the exception of purse seines which are considered to be active gears for the purposes of the present Decision.

3. Fleet segments and, if applicable, fisheries are defined as shown in the Annex and in accordance with point 1 of the additional provisions thereof.

Article 4

1. Until such time as a Member State has fulfilled its obligations pursuant to Regulation (EEC) No 2930/86 to submit a measured or duly estimated GT value of a vessel, for the purposes of MAGP IV, the GT of that vessel shall be estimated by the Commission as being equivalent to the tonnage of that vessel expressed in GRT.

2. Any fishing effort reduction, including capacity reductions, claimed by a Member State shall not be taken into account by the Commission unless the Member State has fulfilled its obligation pursuant to Regulation (EEC) No 2930/86 to furnish the Commission with the GT value or estimate of the vessel concerned.

3. If a Member State has not transmitted all the values or estimates of GT required pursuant to Regulation (EEC) No 2930/86 necessary in order to determine whether that Member State has reached an intermediate or final objective, the Commission will assess whether the information on tonnage that has been supplied to it is nevertheless sufficient to assume that the Member State concerned has reached that objective. If the Commission concludes that this is the case, it shall consider that the conditions for granting modernisation and construction

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aid laid down in Article 10 of Regulation (EC) No 3699/93 have been fulfilled.

Article 5

As long as a Member State has not fulfilled its global final obligations under MAGP III, and notably the obligation to achieve at least 55 % of the reduction objectives under MAGP III by capacity reductions, it shall be deemed not to have fulfilled its global intermediate and/or final obligations under MAGP IV.

Article 6

In order to monitor and control the implementation of the programme, the Member States shall communicate all changes to the situation of the fishing fleet and the evolution of fishing effort by fishery according to the procedures laid down in Regulation (EC) No 109/94.

The annual communication from the Commission to the Council and to the European Parliament on the progress of the MAGP IV provided for in Article 6 of Regulation (EC) No 3699/93, shall be based on the information contained in the fishing vessel register of the Community and may incorporate additional information contained in the reports communicated by the Member States in accordance with Article 6 of Regulation (EC) No 3699/93.

Article 7

The objectives of the programme are indicated in the Annex. These objectives may be revised by the Commission, pursuant to the procedure laid down in Article 18 of Regulation (EEC) No 3760/92, whenever information gathered in order to calculate the objectives, notably concerning the composition of the catches by segment or by fishery, the starting levels of effort and the GT values or estimates, is found to have been inaccurate.

Article 8

This Decision is addressed to the Federal Republic of Germany.

It shall enter into force from 1 January 1997.

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ANNEX

MULTIANNUAL GUIDANCE PROGRAMME FOR THE FISHING FLEET OF GERMANY FOR THE PERIOD 1997 TO 2001

I. TABLES OF OBJECTIVES

The tables specifying the applicable reduction objectives can be found at the end of this Annex.

II. ADDITIONAL PROVISIONS

1. **Identification of segments and fisheries**

Segments of the fleet are defined in accordance with Article 1(4) and 4 of Decision 97/413/EC. One or more fisheries may be identified within segments using active gears.

Objectives fixed in terms of fishing effort by fishery are valid provided that the measures to limit fishing effort described in the programme submitted pursuant to Article 6 of Decision 97/413/EC, as approved by the Commission, are respected.

The objectives fixed must be attained for each of the segments and where applicable for each of the fisheries by the end of the programme.

Each segment of the fleet is allocated a code number by which the segment to which any vessel belongs is recorded in the fishing vessel register of the Community. All changes to the allocation of vessels to segments must be communicated according to the procedures of Regulation (EC) No 109/94.

2. **Conversion of tonnage objectives from units of GRT to units of GT**

The objectives of the MAGP III fixed for 31 December 1996 serve as the starting point for the calculation of the objectives of MAGP IV. The tonnage objectives for the MAGP III are converted from units of gross registered tonnes (GRT) to units of GT by the application of the following formula to each of the fleet segments or applicable subdivisions of the fleet segments of MAGP III:

$$\text{Objective for 31 December 1996 (GT)} = \text{objective for 31 December 1996 (GRT)} \times \frac{\text{Situation at 31 December 1996 (GT)}}{\text{Situation at 31 December 1996 (GRT)}}$$

where the situation at 31 December 1996 in GRT incorporates, where necessary, calculations made in accordance with Commission Decision 97/259/EC ([1]).

3. **Calculation of the objectives**

The objectives are expressed in terms of tonnage in GT and power as defined in Regulation (EEC) No 2930/86 in kW.

3.1. *Objectives by segment*

Where a segment comprising small coastal vessels has been identified in accordance with Article 3 of Decision 97/413/EC, the objectives fixed by the MAGP IV are to stabilise capacity at its level at 1 January 1997 or, at the choice of the Member State, to limit capacity to a level corresponding to the objectives of the MAGP III for this segment.

The capacity objectives for 31 December 2001 for all other segments are calculated by applying the appropriate reduction rate to the capacity objectives by segment for 31 December 1996 fixed by the MAGP III. If the vessels in one or more segments of the MAGP III are redistributed into one or more segments of the MAGP IV, the sum of the objectives for 31 December 1996 of the MAGP III segments concerned gives the sum of the objectives for 31 December 1996 of the new MAGP IV segments so created. The objectives of the MAGP IV segments for 31 December 1996 are calculated by partitioning this sum among the MAGP IV segments according to the size of those segments at 31 December 1996.

([1]) OJ L 104, 22.4.1997, p. 28.

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The reduction rate applied to each segment is calculated according to the method described in Annex II to Decision 97/413/EC, in which the pilot reduction rate for the segment is multiplied by the proportion of the catch in weight of the segment that is made up of critical stocks.

3.2. *Objectives by fishery*

Where distinct fisheries have been identified in one or more segments, and where the programme for the limitation of fishing effort in each of these fisheries submitted in accordance with Article 6 of Decision 97/413/EC has been approved by the Commission, distinct effort reduction rates are calculated for each of the fisheries. The method of calculation of the reduction rate in each fishery is identical to that for capacity reductions by segment.

The effort objectives by fishery are calculated by applying the appropriate reduction rate to the baseline level of effort for that fishery. The baseline levels of effort for the fisheries in a segment are calculated by partitioning the effort objective for the segment for 31 December 1996 among the fisheries. The effort objective for the segment is given by the product of the capacity objective of the segment for 31 December 1996 and mean activity of vessels in the segment over the reference period agreed with the Commission. The proportion of the effort objective for the segment allocated to each fishery is decided by the Member State subject to approval by the Commission, and is fixed for the duration of the programme.

Without prejudice to the provisions of Articles 4 and 5 of the present Decision, the intermediate objectives expressed in terms of fishing effort will be deemed to have been met if the cumulative fishing effort from the start of the programme to the date of the intermediate objective is equal to or less than the cumulative fishing effort that would have been exerted if all the annual intermediate objectives had been met exactly.

Without prejudice to the provisions of Articles 4 and 5 of the present Decision, the final objectives expressed in terms of fishing effort will be deemed to have been met if the cumulative fishing effort over the period of the programme is equal to or less than the cumulative fishing effort that would have been exerted if all the annual objectives had been met exactly.

3.3. *Authorised adjustments to the objectives*

Member States may at any time submit to the Commission a programme of safety improvements. In accordance with Articles 3 and 4 of Decision 97/413/EC the Commission will decide whether any capacity increase foreseen by such a programme justifies a corresponding increase in the objectives of the MAGP IV.

Where a Member State implements technical measures that result in a reduction in the by-catch of critical stocks, the Commission will, at the request of that Member State, determine whether these measures justify a revision of the weighted reduction rates applicable to the segments or fisheries concerned.

The Decisions of the Commission concerning the provisions of this paragraph will be taken according to the procedures of Article 18 of Regulation (EEC) No 3760/92.

3.4. *Backlog from the previous programme*

Where the objectives for 31 December 1996 have not been achieved, the backlog in a given segment can be made up by a mixture of capacity and activity reductions, provided that a programme for the reduction of effort is submitted to the Commission for approval in accordance with Article 4 of Regulation (EC) No 109/94 and provided that at least 55 % of the backlog for all segments combined is made up by capacity reductions. The reductions in activity resulting from such a programme have been taken into account in order to establish the baseline activity levels for MAGP IV.

4. **Implementation and monitoring**

The implementation of the measures to reduce fishing effort for certain segments of fleet require that evidence is given to the Commission by the Member State that the following are available for each of the segments concerned:

— data concerning activity levels before the entry into force of the measures,

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— effective tools to manage time at sea, and an ability to manage fishing licence schemes,

— data making it possible to follow the effect of the measures implemented. These effects have to be controllable by the Commission, in accordance with the provisions of Council Regulation (EEC) No 2847/93 ([1]) relating to control.

([1]) OJ L 261, 20.10.1993, p. 1.

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Area	Stocks	Segment	Catch composition	Pilot rate	Weighted reduction	Situation 1.1.1997		Objective 31.12.1996				Objective 31.12.2001			
						GT (*)	kW	GT (*)	kW	GT (*) × t ('000)	kW × t ('000)	GT (*)	kW	GT (*) × t ('000)	kW × t ('000)
Baltic and North Sea	Demersal and herring	Small scale coastal < 12 metres		0 %	0 %	4 050	27 999	4 827	31 433			4 827	31 433		
					Subtotal	*4 050*	*27 999*	*4 827*	*31 433*			*4 827*	*31 433*		
Baltic and North Sea	Demersal	Passive gear > 12 metres	DR: 4,8 % OF: 18,6 %	25 %	5,9 %	2 004	5 605	2 186	6 200			2 057	5 834		
Baltic and North Sea	Demersal	Trawlers	DR: 14,9 % OF: 54,4 %	30 %	20,8 %	11 204	34 798	14 910	40 657			11 809	32 200		
North Sea	Flatfish	Beam trawlers	DR: 93,5 % OF: 0,9 %	30 %	28,3 %	1 731	5 903	2 263	6 759	564	1 658	2 263	6 759	404	1 189
North Sea	Flatfish and crustacea	Beam trawlers (Lists I and II)	DR: 25,5 % OF: 5,9 %	30 %	9,4 %	12 544	50 334	11 944	52 522			10 821	47 585		
EU waters	Pelagic	Trawlers	DR: 29,3 % OF: 24,3 %	30 %	16,1 %	18 264	11 749	18 356	12 841	4 684	3 336	18 356	12 841	3 930	2 799
Third country, NAFO, NEAFC and EU waters	Demersal	Trawlers	DR: 9,9 % OF: 10,2 %	30 %	6,0 %	20 357	25 495	33 872	35 529			31 840	33 397		
					Subtotal	*66 104*	*133 884*	*83 531*	*154 508*			*77 146*	*138 617*		
					Total	**70 154**	**161 883**	**88 358**	**185 941**			**81 973**	**170 050**		

DR: Depletion risk.
OF: Overfished.
(*) Includes estimated GT values in accordance with Article 4 of the present Decision. The objectives will be revised as real GT values become available.