II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 July 2004

concerning aid granted to the fisheries and aquaculture sector in Corsica from 1986 to 1999

(notified under document number C(2004) 2585)

(Only the French text is authentic)

(Text with EEA relevance)

(2005/238/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having called on interested parties to submit their comments in accordance with the above provision,

Whereas:

I. PROCEDURE

(1) A meeting was held in Brussels on 21 May 1996 between France and the Commission concerning the situation of certain economic sectors in Corsica, including the fisheries sector. The Commission learned during this meeting that public aid had been granted to the sector without it having been notified to permit its examination in accordance with Article 93 (now Article 88) of the Treaty.

(2) By letter dated 14 June 1996, the Commission asked France to provide details of this aid.

(3) By letter dated 7 July 1996, France informed the Commission that it had asked the authorities in Corsica to forward the information requested. Since the Commission did not receive this information, a first reminder was sent on 12 September 1996.

(4) Subsequently, by letter dated 17 December 1996, France sent certain information concerning the aid in question. The aid was entered in the register of unnotified aid under number NN 11/97 on 6 January 1997.

(5) Having found that it did not have all the information necessary to examine the aid scheme, the Commission requested additional information by letter dated 24 April 1997. Documentation was sent by letters dated 3 December 1997 and 11 August 1998.

(6) The Commission then made a new request for further information by letter dated 11 February 1999. A meeting was then held at the Commission on 22 February 2000 with representatives of the authorities of Corsica. Following this meeting, the Commission again sent France a list of the information it needed to analyse the aid measures. After a further two reminders, a large part of the information required arrived by letter dated 11 April 2001.

(7) In addition, the Commission was informed of Report No 1077 of the French National Assembly drawn up in the name of the Committee of Inquiry into the use of public funds and the management of public services in Corsica [1] (hereinafter referred to as the report of the National Assembly). The report, published in 1998, describes the aid granted to the fisheries and aquaculture sector in 1997 (see point I.C.1.b of the report).

[1] Report available on the Internet site of the National Assembly: http://www.assemblee-nationale.fr/dossiers/corse.asp

(8) The Commission informed France by letter dated 30 October 2001 of its decision to initiate the formal investigation procedure provided for in Article 88(2) of the Treaty against the following aid measures implemented in Corsica:

— aid for purchasing new and second-hand vessels for the whole period from 1986 to 1999,

— aid for converting and equipping existing vessels during the period from 1 January 1987 to 28 October 1998 where the work carried out resulted in increased engine power.

(9) By the same decision, the Commission informed France that it had decided to regard as being compatible with the common market aid for converting and equipping vessels where the work carried out did not result in any increase in the power of the vessel and aid for shore facilities for fishermen.

(10) By this decision, the Commission also requested France to provide it with the information necessary for examining the aid for aquaculture.

(11) By letter dated 21 December 2001, France submitted comments concerning the aid regarding which the formal investigation procedure had been initiated and provided information on the aid for aquaculture.

(12) The decision to initiate the procedure was published in the *Official Journal of the European Communities* [1]. The Commission called on the interested parties to submit their comments on the aid in question. The Commission received no comments following publication of the decision.

II. **DESCRIPTION**

(13) The aid measures covered by this Decision are those for which the formal investigation procedure was initiated and those for which the Commission enjoined France to provide information. This decision therefore concerns the following four types of aid:

— aid for purchasing new vessels during the period from 1986 to 1999,

— aid for converting and equipping existing vessels during the period from 1 January 1997 to 28 October 1998 where the work carried out resulted in increased engine power,

— aid for purchasing second-hand vessels for the period from 1986 to 1999,

— aid for aquaculture for the period from 1994 to 1999.

(14) The aid for the fishing fleet was instituted by the Assembly of Corsica, which, on 29 March 1985, adopted Decision 85/10a 'on aid for the modernisation of the fleet'. This Decision was amended on several occasions: Decision 90/99 of 30 November 1990, Decision 91/1032 of 19 December 1991, Decision 93/25 of 23 February 1993, Decision 95/16 of 9 March 1995, Decision 95/79 of 11 September 1995 and Decision 97/36 of 11 April 1997. France stressed that the most recent of those Decisions (97/36) was not amended until the end of the programming period covered by the single programming document (SPD) concerning Structural Fund measures in force at the time, i.e. until 31 December 1999. As regards the aid for aquaculture, France stated that the regional authorities in Corsica applied Community legislation directly, in accordance with the Aid Guide published by the Corsican Economic Development Agency (ADEC). The part of the Guide relating to fisheries and aquaculture, describing the aid that may be granted, was sent to the Commission.

(15) The aid dates back to 1985. Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [2] does not lay down any limitation period for the examination of unlawful aid within the meaning of Article 1(f) thereof, i.e. aid implemented before the Commission is able to reach a conclusion about its compatibility with the common market. However, Article 15 of that Regulation stipulates that the powers of the Commission to recover aid is subject to a limitation period of 10 years, that the limitation period begins on the day on which the aid is awarded to the beneficiary and that that limitation period is interrupted by any action taken by the Commission. Consequently, the Commission considers that it is pointless to examine the aid covered by the limitation, i.e. aid granted more than ten years before any measure taken by the Commission concerning it.

(16) The Commission considers that the limitation period was interrupted by its request for information sent to France on 14 June 1996. Accordingly, the limitation applies to aid granted to beneficiaries before 14 June 1986. The limitation therefore applies, in particular, to aid granted before 14 June 1986 by the Region of Corsica but paid to beneficiaries only in subsequent years, after the eligible investments had actually been made. Consequently, the Commission takes into account, in the analysis below, aid granted by decisions taken between 14 June 1986 and 31 December 1999.

[1] OJ C 25, 29.1.2002, p. 2.

[2] OJ L 83, 27.3.1999, p. 1. Regulation as amended by the 2003 Act of Accession.

Aid for purchasing new vessels

(17) Decision 85/10a of 1985 laid down that aid could be granted for the purchase of vessels of less than 18 metres intended for fishing from Corsica if the vessels concerned, except where special derogation was granted, were built in France. The subsidy was 20 % of the purchase price, with an additional subsidy of 10 % where it was the first purchase of a new vessel and a further 10 % where the vessel was built in Corsica. In addition, with the aim of encouraging Corsican shipyards using traditional timber-construction methods, the subsidy could be increased by 20 % of the purchase price with a special contribution from the specific funding available for the promotion of the timber sector. The contribution from the shipowner had to be at least 10 %.

(18) Decision 90/99 amended the aid rates, increasing the basic rate from 20 % to 30 % and reducing the additional aid of 20 % for timber construction to 5 %.

(19) Decision 95/16 amended the aid rates as follows: the basic rate remained at 30 % and it was laid down that the eligible investment could include the purchase of the hull, equipment and 80 lengths of net (6 400 metres). The aid for a first purchase remained at 10 % and the specific aid where the vessel was built in Corsica was reduced from 10 % to 5 %, still with an additional 5 % in the case of timber construction. The requirement for the vessel to be built in France was abolished.

(20) Decision 95/79 restricted aid for the purchase of nets to the first purchase of a vessel by the applicant. The subsidy of 5 % where the vessel was timber-built in a Corsican shipyard was also abolished.

(21) Decision 97/36 did not make any substantial change to the provisions described above. It continued to stipulate that the contribution from the shipowner had to be at least 10 %.

Aid for converting and equipping vessels

(22) Decision 85/10a of 1985 laid down that the conversion of vessels of less than 18 metres at a cost of at least 25 000 French francs (FRF) was eligible for aid where the aim was to make a significant improvement to fishing potential (winches, net winches, echo sounders, gantries, navigation equipment, net rollers, etc.) and allow the refrigerated storage of fish or improve the energy efficiency of the means of propulsion (diesel engine of a capacity suited to the size of the vessel, adjustable pitch propeller, nozzles, etc.).

(23) A subsidy of 15 % could be granted for the cost of this equipment. Decision 93/25 increased this to 30 % of the cost of the investment.

(24) Decision 95/79 did not change the rate of aid but specified that, if the owner of the vessel applied for Community aid, the grant from the Corsican authorities would be calculated in accordance with the aid rates provided for in the relevant Community rules. The minimum cost above which investment is eligible was lowered to FRF 20 000. Decision 95/79 also laid down that, if the application for aid for converting or equipping a vessel was submitted for the first purchase of a new or second-hand vessel by a fisherman, the first 80 lengths of net could receive a 30 % subsidy.

Aid for purchasing second-hand vessels

(25) Decision 85/10a of 1985 laid down that a grant of 10 % could be paid for the purchase of a second-hand vessel at a price of at least FRF 50 000. An additional subsidy of 5 % could be paid for a first purchase. The purchaser had to contribute at least 15 % of the cost of the vessel.

(26) Decision 91/1032 increased the basic rate from 10 % to 15 %. Decision 95/16 increased the rate to 20 % for vessels less than 20 years old.

Aid for aquaculture

(27) Aid for aquaculture was laid down in the 1994 planning agreement between the national and regional governments and in the single programming document for Community aid under Objective 1. The rules on the Financial Instrument for Fisheries Guidance (FIFG) were applied for the implementation of projects part-financed by the Community.

(28) Aid for collective or private investments. Collective investments cover the promotion of fishery products, market research and technical support for aquaculture undertakings. Investments in undertakings are intended to make aquaculture undertakings more competitive with a view to increasing the quality of products on the market. These investments are connected with compliance with health standards and improving the conditions for product marketing: packaging equipment, storage facilities, service vessels, computer equipment, ice-making machines, refrigerated vans, etc.

(29) The maximum rate of aid was 25 % of the investment in order to take account of possible financing by the FIFG.

III. **REASONS FOR OPENING THE FORMAL INVESTIGATION PROCEDURE**

(30) The Commission based its decision to open the formal investigation procedure on the various versions of the Guidelines for the examination of State aid to fisheries and aquaculture (hereinafter referred to as the Guidelines). According to point 3.4 of the 2001 Guidelines [1], currently in force, unlawful aid must be examined in the light of the Guidelines applicable when it is granted. In 1986 and 1987, the Guidelines applicable were those published in 1985 [2]. Subsequently, the Guidelines applicable were the following: those published in 1988 [3] for aid granted from 1 January 1989, those published in 1992 [4] for aid granted from 1 July 1992, those published in 1994 [5] for aid granted from 1 January 1995 and those published in 1997 [6] for aid granted from 1 January 1997.

(31) The Commission also referred to the successive Council Regulations concerning Community structural measures in the fisheries and aquaculture sector, to which these Guidelines constantly refer, in particular as regards eligible investments and permissible aid rates. These regulations are as follows: 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 [7], Council Regulation (EEC) No 4028/86 of 18 December 1986 on Community measures to improve and adapt structures in the fisheries and aquaculture sector [8], 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 [9] and 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 [10].

Aid for purchasing new vessels

(32) The Commission expressed doubts on the compatibility of these aid measures for two reasons.

(33) Firstly, based on the Guidelines, the Commission pointed out that aid for the purchase of new vessels was compatible with the common market if granted for investments contributing to achievement of the objectives of the multiannual guidance programme for the fishing fleet (MAGP), which sets out a number of requirements and a list of the means necessary for their fulfilment, in particular adjustment of the capacity of the fishing fleet of each Member State in line with the fishery resources to which it has access. However, France did not achieve the objective set out in MAGP III [11], in force from 1992 to 1996. It accordingly had to stop granting aid for the construction and modernisation of fishing vessels as from 1 January 1997. Subsequently, by letter dated 28 October 1998, the Commission told France that it could restart granting investment aid on certain conditions. In its letter dated 30 October 2001 informing France of its decision to initiate the formal investigation procedure, the Commission assumed that the aid granted from 1 January 1997 to 28 October 1998 infringed the Guidelines applicable over that period.

(34) Secondly, the Commission noted that, given the possible aid rates and the possibility of cumulation with aid under other schemes, the aid had exceeded the maximum permissible rate.

Aid for converting and equipping vessels

(35) The Commission expressed doubts regarding the compatibility of the aid granted from 1 January 1997 to 28 October 1998 for converting and equipping vessels where the work carried out resulted in an increase in the vessel's engine capacity since, in the same way as for aid for purchasing vessels, aid of this kind did not contribute to achieving the objectives of the MAGP.

[1] OJ C 19, 20.1.2001, p. 7.
[2] OJ C 268, 19.10.1985, p. 2.
[3] OJ C 313, 8.12.1988, p. 21.
[4] OJ C 152, 17.6.1992, p. 2.
[5] OJ C 260, 17.9.1994, p. 3.
[6] OJ C 100, 17.3.1997, p. 12.
[7] OJ L 290, 22.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 3733/85 (OJ L 361, 31.12.1985, p. 78).
[8] OJ L 376, 31.12.1986, p. 7. Regulation as last amended by Regulation (EC) No 3946/92 (OJ L 401, 31.12.1992, p. 1).
[9] OJ L 346, 31.12.1993, p. 1. Regulation as last amended by Regulation (EC) No 25/97 (OJ L 6, 10.1.1997, p. 7).
[10] OJ L 312, 20.11.1998, p. 19.
[11] Commission Decision 92/588/EEC of 21 December 1992 on a multiannual guidance programme for the fishing fleet of France for the period 1993 to 1996 pursuant to Council Regulation (EEC) No 4028/86 (OJ L 401, 31.12.1992, p. 3). Decision as last amended by Decision 95/238/EC (OJ L 166, 15.7.1995, p.1).

Aid for purchasing second-hand vessels

(36) The Commission expressed doubts regarding the compatibility of some of the aid granted for purchasing second-hand vessels from 1 January 1989 because the Decision of the Assembly of Corsica provided for the possibility of granting such aid for purchasing vessels without any maximum age limit although the 1988 Guidelines, applicable at that time, prohibited aid for vessels more than 15 years old, reduced to 10 years by the 1992 Guidelines, applicable from 1 July 1992, and the subsequent Guidelines.

(37) In addition, the Commission informed France that the 1998 Guidelines and subsequent Guidelines stipulated that aid for purchasing second-hand vessels could be granted only in the event of first purchases by young fishermen or possibly the acquisition of part-ownership or the replacement of a vessel following total loss. It also pointed out that, given the possible aid rates and the possibility of cumulation with aid under other schemes, the aid might have exceeded the maximum permissible rate.

IV. **COMMENTS SUBMITTED BY FRANCE**

(38) In its reply, France gave a detailed explanation of the reasons why the aid granted had not, in fact, exceeded the permissible rates, including where there had been cumulation with aid from other sources, in particular Community aid. In support of its arguments, it enclosed a copy of the Aid Guide drafted by ADEC.

(39) France also explained that the age requirements for vessels for the purposes of aid for purchasing second-hand vessels, as laid down in the Guidelines, had been included in the Guide and had been respected.

(40) France also forwarded to the Commission, along with its comments following the opening of the formal investigation procedure, information on aid granted for aquaculture required by the 'injunction to provide information' contained in the Commission letter dated 30 October 2001.

V. **ASSESSMENT**

(41) The aid measures in question confer a financial advantage on a category of undertakings carrying out a specific activity, i.e. fishing or aquaculture. The resources necessary for implementing these measures are public resources. Since the products of the beneficiary undertakings are sold on the Community market, the measures strengthen the position of those undertakings, both on the French market compared with undertakings from other Member States wanting to introduce their own products onto that market and on the market of the other Member States compared with undertakings selling their products on those markets. Consequently, these measures distort or threaten to distort competition. They constitute State aid within the meaning of Article 87(1) of the Treaty.

(42) These measures can be considered compatible with the common market only if eligible for one of the derogations provided for in the Treaty. Since this aid benefits undertakings in the fisheries and aquaculture sector, to be able to benefit from the derogation provided for, they must correspond to one of the exceptions provided for by the Guidelines (the various versions of these which have been applicable since 1986 are listed in recital 30).

Aid for purchasing new vessels (1986-1999)

(43) In its comments, France explained that the maximum aid rates had been respected. The Commission notes that the Aid Guide drafted by ADEC states that the maximum rate must not exceed the rate provided for in the Regulation on structural measures financed from the FIFG. This aid is, in this respect, therefore compatible with the common market, subject to what is stated below.

(44) There remains, however, the problem of aid granted over the period from 1 January 1997 to 28 October 1998 in view of the obligation on France to stop paying aid for constructing or modernising vessels under the rules of the common fisheries policy, which was lifted by letter dated 28 October 1998 [1]. In its letter dated 30 October 2001 informing France of the opening of the formal investigation procedure, the Commission assumed that aid had been granted during this period. This hypothesis was based on two factors: firstly, the fact that, according to France's letter dated 11 April 2001, Assembly of Corsica Decision 97/36 had not been amended, which meant that the Decision had been applied continuously from the date of its adoption until the end of 1999 and, secondly, the fact that the report of the National Assembly expressly stated that aid had actually been granted for constructing vessels in 1997 (point I.C.1.b of the report).

(45) It would be useful to quote an extract from the report of the National Assembly:

'…. — aid for fisheries and aquaculture:

[1] See recital 33.

…. In 1997, ADEC processed 114 applications submitted by both private undertakings, for the purposes of modernising the fleet and aquaculture… Of the 114 applications processed, only 16 were rejected.

In total, the applications resulted in aid from the Corsican authorities of more than FRF 13 million, made up of FRF 11,5 million as investment aid and FRF 1,6 million as operating aid. Almost half of the aid granted for investments was for modernising the fleet.

In 1997, 10 fishing vessels were constructed, …'.

(46) France made no comment regarding the assumption made in the Commission's letter dated 30 October 2001, neither stating, for example, that application of Decision 97/36 had been suspended nor that no aid had been granted during the period concerned. It is therefore safe to assume that aid was actually granted during that period.

(47) The successive versions of the Guidelines consistently stipulated that aid for purchasing new vessels was compatible with the common market if it was granted for investments that contributed to achieving the objectives of the MAGP [1]. More specifically, for aid granted from 1 January 1997 to 28 October 1998, to which the 1997 Guidelines applied, point 2.2.3.1 of those Guidelines laid down that 'Aid for the construction of new fishing vessels may be deemed to be compatible with the common market subject to the requirements of Articles 7 and 10 and Annex III (paragraph 1.3) of Regulation (EC) No 3699/93 […].'

(48) Article 10(1) of Regulation (EC) No 3699/93 lays down that 'Member States may take such measures to promote the construction of fishing vessels as comply with the global annual intermediate objectives and the final objectives by segment under their multiannual guidance programme within the stated time limits. Member States shall, when forwarding any pertinent aid proposal, inform the Commission of provisions taken to ensure that this condition is complied with.' Under that provision, the Commission reminded France by letter dated 4 July 1997, that 'it must therefore stop granting aid for construction or modernisation as from 1 January 1997'.

(49) By letter dated 8 August 1997, France replied, indicating in particular that: 'At the beginning of 1996, the intermediate objectives of MAGP II not having been achieved by 31 December 1995, the French authorities had already taken the necessary steps to freeze investment projects resulting in increased fleet capacity. In addition, in July 1996, in order to accelerate the reduction in the fishing fleet, a plan for the withdrawal of fishing vessels from the fleet was implemented…, the plan provided for the withdrawal from the fleet of between 10 000 kW and 15 000 kW. Therefore, at the beginning of 1997, France thought it would be able to fulfil its objectives under MAGP III. Consequently, authorisation was given for limited volumes of investment, accompanied by national aid, essentially in cases where there was an urgent need to replace vessels or fit new engines… However, the full effects of the withdrawal measures were seen only at the end of the first half of 1997…'.

(50) In fact, it was only in the second half of 1998 that France was able to achieve the objectives of the MAGP. By letter dated 28 October 1998, the Commission informed France that 'following our meeting of 21 October 1998, our previous meetings and the clarifications contained in your letters dated 5 and 22 October 1998, I have the pleasure to announce that the Directorate-General for Fisheries can accept a resumption of investments such as you envisage, i.e, in a very measured manner, giving priority to young fishermen, without increasing capacity and in compliance with the objectives of the MAGP'.

(51) It can be seen from this exchange of correspondence that France was perfectly aware that it was not achieving the intermediate objectives of MAGP III and that, despite this, aid for purchasing new vessels was authorised. The requirements laid down in Article 10 of Regulation (EC) No 3699/93 was not therefore fulfilled. Consequently, under point 2.2.3.1 of the 1997 Guidelines, the aid granted during that period for purchasing new vessels was incompatible with the common market.

Aid for converting and equipping vessels (1 January 1997 to 28 October 1998)

(52) The opening of the formal investigation procedure concerned aids for converting and equipping vessels granted during the period from 1 January 1997 to 28 October 1998 where the work carried out increased the power of the vessel, because, as in the case of the aid for purchasing new vessels, such aid did not contribute to achieving the objectives of the MAGP.

[1] See recital 33.

(53) The report of the National Assembly (point I.C.1.b) refers to aid for modernising vessels. As well as stating that ten fishing vessels had been built, the report also said that '… 38 vessels have undergone various types of alterations and re-equipping…'. It is therefore clear that aid for modernising vessels was granted during the period.

(54) The successive Decisions adopted by the authorities of the Region of Corsica expressly stipulated that aid could be granted for fitting 'an engine of a capacity suited to the size of the vessel'. This appears to indicate that aid for modernising vessels could be granted for purchasing a more powerful engine. In addition, as in the case of aid for purchasing vessels, France made no comment regarding the assumption made in the Commission's letter dated 30 October 2001 that aid for purchasing an engine more powerful than an existing engine was granted during the period. It is therefore safe to assume that aid for modernising vessels was actually granted in certain cases where the work carried out resulted in increased engine power.

(55) As in the case of aid for construction, point 2.2.3.2 of the 1997 Guidelines stipulates that 'Aid for the modernisation of commissioned vessels may be deemed compatible with the common market subject to the requirements of Articles 7 and 10 of, and Annex III (paragraph 1.4) to, Regulation (EC) No 3699/93 […]'. Article 10(2), of Regulation (EC) No 3699/93 lays down that 'Member States may take measures to promote the modernisation of fishing vessels. Such measures shall be subject to the conditions referred to in paragraph 1 (construction of vessels) where investments are likely to result in an increase in fishing effort'.

(56) The requirement laid down in Article 10 of Regulation (EC) No 3699/93 was not therefore fulfilled. Consequently, under point 2.2.3.2 of the 1997 Guidelines, aid granted during that period for modernising vessels, where modernisation resulted in increased power, was incompatible with the common market.

Aid for purchasing second-hand vessels (1986-1999)

(57) As already indicated in recital 39, France provided information showing that the age requirement had actually been respected. The doubts expressed on this subject by the Commission in opening the formal investigation procedure have therefore been dispelled. The same holds for the maximum possible rate of aid.

(58) In addition, with regard to the requirement to restrict such aid to first purchases by young fishermen and the replacement of vessels following total loss, France also indicated in its reply dated 21 December 2001 that this aid was granted in accordance with the Community provisions in force. Consequently, this aid can be deemed to be compatible with the common market.

Aid for aquaculture (1994-1999)

(59) In accordance with the successive versions of the Guidelines, aid for aquaculture is compatible with the common market where the requirements laid down in the Regulation on Community structural measures in the fisheries sector are fulfilled.

(60) As France indicated in its letter dated 21 December 2001, the Aid Guide took account of those requirements, stipulating in particular that the maximum authorised aid rate must take account of aid from other sources.

(61) Accordingly, the aid granted for aquaculture can be deemed to be compatible with the common market.

VI. **CONCLUSIONS**

(62) The following State aid implemented in the Region of Corsica in France by Decision of the Assembly of Corsica 85/10a of 29 March 1985, as amended by Decision 90/99 of 30 November 1990, Decision 91/1032 of 19 December 1991, Decision 93/25 of 23 February 1993, Decision 95/16 of 9 March 1995, Decision 95/79 of 11 September 1995 and Decision 97/36 of 11 April 1997 is incompatible with the common market:

— aid for purchasing new vessels granted during the period from 1 January 1997 to 28 October 1998,

— aid for converting and equipping existing vessels granted during the period from 1 January 1997 to 28 October 1998 where the work carried out resulted in increased engine power.

(63) In accordance with Article 14 of Regulation (EC) No 659/1999, France must recover the aid concerned.

(64) The following aid is compatible with the common market:

— aid for purchasing new vessels granted outside the period from 1 January 1997 to 28 October 1998,

— aid for converting and equipping existing vessels granted outside the period from 1 January 1997 to 28 October 1998 or granted during that period where the work carried out did not result in increased engine power,

— aid for purchasing second-hand vessels,

— aid for aquaculture,

HAS ADOPTED THIS DECISION:

Article 1

The following aid measures implemented by France in the Region of Corsica and introduced by Decision of the Assembly of Corsica 85/10a of 29 March 1985, as amended by Decision 90/99 of 30 November 1990, Decision 91/1032 of 19 December 1991, Decision 93/25 of 23 February 1993, Decision 95/16 of 9 March 1995, Decision 95/79 of 11 September 1995 and Decision 97/36 of 11 April 1997 are incompatible with the common market:

(a) aid for purchasing new vessels granted during the period from 1 January 1997 to 28 October 1998;

(b) aid for converting and equipping existing vessels granted during the period from 1 January 1997 to 28 October 1998 where the work carried out resulted in increased engine power.

Article 2

The following aid measures implemented by France in the Region of Corsica and introduced by the Decision of the Assembly of Corsica referred to in Article 1 are compatible with the common market:

(a) aid for purchasing new vessels granted outside the period from 1 January 1997 to 28 October 1998;

(b) aid for converting and equipping existing vessels granted outside the period from 1 January 1997 to 28 October 1998 or granted during that period where the work carried out did not result in increased engine power;

(c) aid for purchasing second-hand vessels;

(d) aid for aquaculture granted from 1994 to 1999.

Article 3

1. France shall take all measures necessary to recover from the beneficiaries the aid referred to in Article 1 that was unlawfully granted to them.

2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of this Decision. The aid to be recovered shall include interest from the date on which it was granted to the recipient until the date of its recovery. Interest shall be calculated and applied in accordance with Chapter V of Commission Regulation (EC) No 794/2004 [1].

Article 4

France shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 14 July 2004.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 140, 30.4.2004, p. 1.