COUNCIL REGULATION (EEC) No 105/76

of 19 January 1976

on the recognition of producers' organizations in the fishing industry

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 100/76 of 19 January 1976 on the common organization of the market in fishery products [1], and in particular Article 5 (2) thereof,

Having regard to the proposal from the Commission,

Whereas the authorities of the Member State on whose territory the producers' organizations referred to in Article 5 (1) of Regulation (EEC) No 100/76 have their official headquarters are in a better position than Community institutions to check that these organizations fulfil the conditions laid down for their recognition;

Whereas effective concentration of supply can be achieved only by the formation of producers' organizations which operate on a sufficiently large scale;

Whereas producers' organizations should be prevented from discriminating between Community producers or groups of producers on grounds of nationality or place of establishment; whereas any discrimination between organizations within one economic area based on the location of their headquarters must also be prohibited;

Whereas, in the interests of member producers, only those forms of association which are sufficiently integrated should be encouraged;

Whereas assessment of the amount of aid to be granted may be facilitated by the keeping of separate accounts within the producers' organizations;

Whereas under certain national laws a minimum period of membership is required; whereas that should also be made a Community requirement, since it is likely to introduce an element of stability into the working of producers' organizations, while preventing the granting of financial support to temporary organizations;

Whereas it is necessary to ensure that no adverse effect is caused to the application of national provisions whose purpose is in certain cases to protect the organization or its creditors from the financial consequences of the departure of members or to prevent members from leaving the organization in the course of a budget year;

Whereas, in order to avoid any distortion of competition in the marketing and processing of fishery products, recognition of producers' organizations should not be extended to activities which go beyond the first marketing stage;

Whereas recognition should be withdrawn when a producers' organization no longer fulfils the required conditions;

Whereas at the beginning of each year a list of the organizations recognized during the previous year and those from which recognition has been withdrawn during the same period should be published for the information of Member States and all concerned,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Member State on whose territory a producers' organization has its official headquarters in accordance with that Member State's legislation shall be competent to grant and withdraw recognition of producers' organizations within the meaning of Article 5 (1) of Regulation (EEC) No 100/76.

2. Member States shall recognize producers' organizations applying for recognition if they fulfil the conditions listed in Article 2 and if their activities cover one or more of the products falling within heading Nos 03.01 to 03.03 of the Common Customs Tariff (excluding products smoked elsewhere than on fishing vessels).

Article 2

1. Producers' organizations must, in so far as the product or products for which they apply for

[1] See page 1 of this Official Journal.

recognition are concerned, comply with the conditions laid down in Article 5 (1) of Regulation (EEC) No 100/76 and with the following requirements:

(a) they must show that they are sufficiently active economically:

(b) they must not discriminate between Community producers or groups of producers within an economic area, particularly on grounds of nationality or place of establishment;

(c) they must have the necessary legal status under national legislation;

(d) they must include in their rules:

(aa) the obligation to keep separate accounts for the activities for which recognition is granted;

(bb) provisions to ensure that members wishing to leave the organization are free to do so provided that they have been members of the organization for at least three years following its recognition and provided that they notify the organization of their intention at least one year in advance.

The provisions referred to in (bb) shall apply without prejudice to national provisions laid down by law or regulation whose purpose is in specific cases to protect the organization or its creditors from any financial consequences which might arise from a member's departure or to prevent members from leaving the organization in the course of the budget year.

2. The following shall be adopted in accordance with the procedure laid down in Article 32 of Regulation (EEC) No 100/76:

— the substance of the obligation referred to in the first indent of the second subparagraph of Article 5 (1) of Regulation (EEC) No 100/76, which obligation shall not however extend beyond the first marketing stage;

— the criteria with which the common production and marketing rules referred to in the second indent of the second subparagraph of Article 5 (1) of that Regulation must comply;

— the minimum output of the product or group of products concerned which the producers' organizations must represent in order to comply with the condition set out in paragraph 1 (a).

Article 3

The procedure for the granting and withdrawal of recognition shall be fixed in accordance with the procedure laid down in Article 32 of Regulation (EEC) No 100/76.

Article 4

Recognition of a producers' organization shall be withdrawn if the conditions set out in Article 2 are no longer fulfilled or if recognition is based on false information; if the organization obtained or benefits from recognition by fraudulent means recognition shall be withdrawn retroactively.

Article 5

Where a Member State grants or withdraws recognition of a producer's organization, it shall so inform the Commission within two months.

Article 6

At the beginning of each year the Commission shall publish in the *Official Journal of the European Communities* a list of the producers' organizations recognized during the previous year and those from which recognition has been withdrawn during the same period.

Article 7

1. Council Regulation (EEC) No 170/71 of 26 January 1971 on the recognition of producers' organizations in the fishing industry [1], as amended by Regulation (EEC) No 490/72 [2], is hereby repealed.

2. References to the Regulation repealed by virtue of paragraph 1 shall be construed as references to this Regulation.

Article 8

This Regulation shall enter into force on 1 February 1976.

[1] OJ No L 23, 29. 1. 1971, p. 11.
[2] OJ No L 59, 10. 3. 1972, p. 2.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 January 1976.

For the Council

The President

J. HAMILIUS