I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 31/83

of 21 December 1982

on an interim common measure for restructuring the inshore fishing industry and aquaculture

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

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

Whereas Article 9 (2) of Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry (3) provides that common measures may be decided upon for the attainment of the objectives mentioned in paragraph 1 of that Article in so far as they relate to the objectives set out in Article 39 (1) (a) of the Treaty ; whereas these common measures may be financed by the Guidance Section of the European Agricultural Guidance and Guarantee Fund, hereinafter referred to as 'the Fund', under Article 1 (3) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (4), as last amended by Regulation (EEC) No 3509/80 (5) ;

Whereas action to restructure inshore fishing is necessary in order to promote the rational use of the available resources and the best use of production factors and to ensure an equitable standard of living for those who depend on fishing for their livelihood ; whereas, for this purpose, the Commission proposed to the Council a common measure to restructure, modernize and develop the fishing industry and develop aquaculture (6) ; whereas this proposal has not yet been approved by the Council ;

Whereas Council Regulation (EEC) No 1852/78 of 25 July 1978 on an interim common measure for restructuring the inshore fishing industry (7), as last amended by Regulation (EEC) No 2992/81 (8), has ensured the financing by the Fund, until 31 December 1981, of investment projects designed to develop inshore fishing or aquaculture ; whereas this measure was intended, first and foremost, to help regions experiencing particular difficulties in developing production structures in the sectors in question ;

Whereas, pending a decision on the structural measures to be implemented as a whole as part of a common fisheries policy, such a measure should be continued under the year 1982 ;

Whereas a contribution from the Fund in the form of a capital subsidy not exceeding 25 % of the total investment represents an appropriate participation in the realization thereof ;

Whereas some regions of the Community find themselves at a disadvantage from the point of view of income and under-employment both in the fishing industry and elsewhere ; whereas structural development measures in these regions should be strengthened ;

Whereas time limits should be laid down for submission of aid applications to the Commission ;

Whereas aid applications submitted for the first time under Regulation (EEC) No 1852/78 and not aided from the Fund for lack of available appropriations should be entertained under this Regulation ;

(1) OJ No C 166, 3. 7. 1982, p. 4.
(2) OJ No C 238, 13. 9. 1982, p. 81.
(3) OJ No L 20, 28. 1. 1976, p. 19.
(4) OJ No L 94. 28. 4. 1970, p. 13.
(5) OJ No L 367, 31. 12. 1980, p. 87.
(6) OJ No C 243, 22. 9. 1980, p. 5.
(7) OJ No L 211, 1. 8. 1978, p. 30.
(8) OJ No L 299, 20. 10. 1981, p. 24.

Whereas, in order to ensure that beneficiaries observe the conditions laid down when aid is granted from the Fund, an effective control procedure should be provided for together with the possibility of suspending, reducing or discontinuing aid from the Fund,

HAS ADOPTED THIS REGULATION :

TITLE I

Provisions concerning the projects

Article 1

1. The Fund may participate, under the year 1982 in the financing of investment projects for :

— the development of inshore fishing in regions were fishing potential makes this possible,

— the development of aquaculture in regions which are particularly suited to this activity.

2. The measures provided for by this Regulation shall constitute common measures within the meaning of Article 6 (1) of Regulation (EEC) No 729/70.

Article 2

For the purposes of this Regulation 'project' means any investment project for :

(a) the purchase or construction of new fishing vessels and the modernization or conversion of one or more existing fishing vessels ;

(b) the construction, equipping or modernization of establishments for rearing fish, crustaceans and molluscs in salt or brackish water.

Article 3

1. In order to qualify for assistance from the Fund, the projects referred to in Article 2 (a) should involve fishing vessels of between 12 and 24 metres in length, measured between perpendiculars. This minimum limit may be reduced from 12 metres to six metres for vessels fishing otherwise than by trawl or purse seine and operated by persons whose main activity is fishing.

In addition, the modernization or conversion work on existing fishing vessels referred to in Article 2 (a) must be carried out on a large scale for the purpose of rationalizing fishing operations, better preserving catches or saving energy and total a minimum of 65 000 ECU per project.

2. In order to qualify for aid from the Fund, the aquaculture projects referred to in Article 2 (b) must involve the breeding or rearing of fish, crustaceans or molluscs for commercial purposes.

Article 4

1. The projects shall provide an adequate guarantee of profitability and contribute to a lasting economic improvement in the structures of the industry in question.

2. Priority for support from the Fund shall be given to projects which bring benefit to regions which have particular difficulties in developing satisfactory production structures and which also fulfil one or more of the following criteria :

— they are consistent with a rational production policy and serve to improve the market supply situation,

— they permit a diversification of fishing activity, in particular through the use of several methods of fishing in keeping with the resources available in the fishing zones concerned,

— contribute to the adaptation of existing fishing capacity in relation to the requirements for the conservation of marine biological resources,

— they improve employment prospects in the inshore fishing industry or in aquaculture,

— they improve the working conditions and, in particular, the safety of the workers concerned.

Article 5

The Member State concerned shall submit to the Commission a document confirming for each project

(a) for fishing vessels :

— that a possible production increase is compatible with the real potential catch,

— that the person operating the vessel in question has sufficient training to make the best use of the vessel's gear ;

(b) for aquaculture :

— that the species to which the projects relate have already been bred commercially.

Article 6

1. Aid from the Fund shall consist of a capital subsidy paid in one or more instalments.

2. For each project :

(a) the beneficiary must finance at least 50 % of the total investment ;

(b) the Member State must finance at least 5 % of the total investment;

(c) the subsidy granted by the Fund shall not exceed 25 % of the total investment.

3. By way of derogation from paragraph 2, in Greece, Greenland, Ireland, Northern Ireland, in Italy in the Mezzogiorno and the French overseas departments:

(a) the beneficiary shall finance at least 25 % of the total investment;

(b) the Member States shall finance at least 5 % of the total investment;

(c) the subsidy granted by the Fund shall not exceed 50 % of the total investment.

TITLE II

General and financial provisions

Article 7

The estimated total cost to the Fund of the common measure is 30 million ECU. This figure shall be referred to for guidance only.

Article 8

1. Applications for aid from the Fund shall be submitted to the Commission before 1 February 1983. The Commission shall take a decision by 31 July 1983.

2. Applications for aid from the Fund shall be made through the Member State concerned and shall have been approved by the said Member State.

3. Applications for aid first submitted under Regulation (EEC) No 1852/78 which could not, owing to lack of available appropriations, receive aid from the Fund, may be taken into consideration under this Regulation and the conditions laid down herein.

Article 9

1. A decision shall be taken on aid from the Fund in accordance with the procedure laid down in Article 12, after the Fund Committee has been consulted on the financial aspects.

2. The decision on aid shall be notified to the Member State concerned and to the beneficiaries.

Article 10

1. Aid from the Fund shall be granted to natural or legal persons or groups thereof bearing the ultimate financial responsibility for the project.

Payments in respect of aid from the Fund shall be made by agencies designated for this purpose by the Member State concerned.

2. The department or agency designated for this purpose by the Member State shall send to the Commission on request all supporting documents and all documents showing that the financial or other conditions imposed for each project are fulfilled. The Commission may, if necessary, make inspection visits.

After consulting the Fund Committee on the financial aspects, the Commission may decide to suspend, reduce or discontinue aid from the Fund, in accordance with the procedure laid down in Article 12:

— if the project is not carried out as planned, or

— if some of the conditions imposed are not complied with, or

— if the beneficiary, contrary to the particulars given in his application and repeated in the decision granting aid, has not, within two years of notification of that decision, begun work and if he has not, before the end of this period, supplied adequate assurances that the project will be carried out.

The decision shall be notified to the Member State concerned and to the beneficiary.

The Commission shall recover any sums not paid or unduly paid.

3. Without prejudice to Article 108 (3) of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities [1], as amended by Regulation (ECSC, EEC, Euratom) No 1252/79 [2], the appropriations made available by a decision taken in accordance with the second subparagraph of paragraph 2 or because the beneficiary abandons the project or reduces the investments laid down in the decision to grant aid, may be used for the financing of other projects.

Article 11

The particulars which applications for aid from the Fund referred to in Article 8 must contain and the form in which projects must be presented are those set out in Commission Regulation (EEC) No 1898/80 [3].

---

[1] OJ No L 356, 31. 12. 1977, p. 1.
[2] OJ No L 160, 28. 6. 1979, p. 1.
[3] OJ No L 187, 21. 7. 1980, p. 1.

Article 12

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Committee for the Fishing Industry, either on the initiative of its chairman or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion within a time limit to be set by the chairman according to the urgency of the matter. Opinions shall be adopted by a majority of 45 votes, the votes of Member States being weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures, which shall apply immediately. However, if they are not in accordance with the opinion of the Standing Committee for the Fishing Industry, the Commission shall forthwith communicate them to the Council ; in that event the Commission may defer their application for not more than one month from the date of such communication. The Council, acting by a qualified majority, may adopt different measures within one month.

Article 13

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

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER