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COUNCIL REGULATION (EC) No 2561/2001

of 17 December 2001

aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco

(OJ L 344, 28.12.2001, p. 17)

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►**M1**	Council Regulation (EC) No 2372/2002 of 20 December 2002	L 358	81	31.12.2002
►**M2**	Council Regulation (EC) No 2325/2003 of 17 December 2003	L 345	25	31.12.2003

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COUNCIL REGULATION (EC) No 2561/2001

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aiming to promote the conversion of fishing vessels and of fishermen that were, up to 1999, dependent on the fishing agreement with Morocco

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) The Agreement on the relations as regards sea fishing between the European Community and the Kingdom of Morocco (hereinafter referred to as 'the fisheries agreement with Morocco'), became null and void on 30 November 1999. Consequently, a significant number of Community vessels that operated within this framework were forced to stop their fishing activities at that date.

(2) The fishermen and owners of the vessels concerned benefited in this connection from the allowances provided for in Article 16(1)(b) of Regulation (EC) No 2792/1999 ([4]) with the assistance of the Financial Instrument for Fisheries Guidance (FIFG), under the derogation conditions laid down by Regulation (EC) No 1227/2001 ([5]).

(3) It is justified to encourage, by appropriate measures at the Community level, the implementation of the conversion plans of the fleets concerned as approved by the Commission on 18 October 2000.

(4) It is necessary to facilitate the permanent cessation activity of the vessels, whether by demolition or by transfer to a third country, including within the framework of joint enterprises. It is also appropriate to facilitate the replacement of fishing gear for the permanent conversion towards other fishing activities, whatever the age of the vessel and even if it were the subject of public aid for construction.

(5) Consequently, there is a need for derogations from certain provisions of Regulation (EC) No 2792/1999.

(6) Moreover, in the spirit of the conclusions of the European Council of Nice, the European Union should signal its solidarity with the Member States concerned, by means of an additional financial effort, over and above the amounts made available inside heading 2 of the financial perspectives for the budget of the European Union, as fixed at the European Council of Berlin on 25 March 1999.

([1]) OJ C 270 E, 25.9.2001, p. 266.

([2]) Opinion delivered on 15 November 2001 (not yet published in the Official Journal).

([3]) Opinion delivered on 18 October 2001 (not yet published in the Official Journal).

([4]) 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 (OJ L 337, 30.12.1999, p. 10). Regulation as last amended by Regulation (EC) No 1451/2001 (OJ L 198, 21.7.2001, p. 9).

([5]) Regulation (EC) No 1227/2001 of 18 June 2001 derogating from certain provisions of Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (OJ L 168, 23. 6.2001, p. 1).

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(7) Consequently, a specific measure of the Community should be instituted to execute the appropriations in question in order to implement part of the conversion plans, on the understanding that the other parts of the aforementioned plans will have to be carried out with the assistance of FIFG appropriations.

(8) The complementary appropriations available should be devoted to the specific measure, on the one hand to the restructuring of the fleet, and on the other hand to the fishermen's early retirement or retraining, away from sea fishing, under individual or collective social plans.

(9) The specific measure must be consistent with the general principles of the structural policy in the fisheries sector. In particular, distortions must be avoided with the provisions in force for the implementation of the FIFG appropriations. An operational mechanism of management must also be envisaged as close as possible to that in force for the Community Structural Funds, as fixed by Regulation (EC) No 1260/1999 ([1]).

(10) The vessels due to operate in international waters or in waters of third countries must fully respect international law with regard to the conservation of fishing resources and in particular the United Nations Convention on the Law of Seas as well as the Code of Conduct of the Food and Agriculture Organisation of the United Nations.

(11) The socio-economic diversification of the coastal areas dependent on fishing naturally fits into the context of the integrated operational regional development programmes and multi-regional programmes arising from the Community support frameworks of the Objective 1 of the Structural Funds for Spain and for Portugal, with the financial assistance of the European Regional Development Fund, of the European Social Fund and of the European Agriculture Guidance and Guarantee Fund, Guidance Section. Under these conditions, it is not justified to envisage a specific intervention devoted to this diversification,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL

Article 1

1. The fishermen and the vessel owners to whom, during 2000 and 2001, compensation was granted under Article 16(1)(b) of Regulation (EC) No 2792/1999, owing to the non-renewal of the fishing agreement with Morocco, for at least a six-month cumulative period of temporary cessation of activity, can benefit from exceptional supporting measures, under the conditions and within the limits envisaged by this Regulation.

2. At the latest three months after the entry into force of this Regulation, Member States shall communicate to the Commission the list of vessels, indicating their internal numbers, as well as the list of names of the fishermen meeting the conditions referred to in paragraph 1 of the Regulation.

([1]) Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ L 161, 26.6.1999, p. 1). Regulation as last amended by Regulation (EC) No 1447/2001 (OJ L 198, 21.7.2001, p. 1).

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CHAPTER II

DEROGATION MEASURES

Article 2

1. By derogation from the provisions referred to below of Regulation (EC) No 2792/1999, public aid to the owners of the vessels and the fishermen referred to in Article 1(1) shall be granted according to the following rules:

(a) where public aid is granted for the demolition of a vessel:

(i) the scales referred to in Article 7(5)(a) shall be increased by 20 %;

(ii) the provisions of Article 10(3)(b)(ii) and those of Annex III, point 1.1(a) shall not be applicable;

(b) where a premium is granted for the permanent transfer of a vessel to a third country, including in the case of a joint enterprise:

(i) the scales referred to in Article 7(5)(a) shall be increased by 20 %;

(ii) the provisions of Article 10(3)(b)(ii) as well as those of Annex III, point 1.1(a), shall not be applicable;

(iii) the minimum age of the vessels referred to in Article 7(2) shall be reduced to five years; for 5 to 9-year-old vessels, however, the reference premium, as referred to in Article 7(5)(a), shall be that applicable to vessels of 10 to 15 years old. This premium shall be reduced by part of the amount previously received in cases of aid granted for construction and/or modernisation; this part shall be calculated *pro rata temporis* of the 10-year period (in the case of aid for construction) or 5-year period (in the case of aid for modernisation) preceding the permanent transfer;

(c) in the event of permanent conversion of a vessel to another fishing activity requiring the change of fishing technique, the replacement of the fishing gear may be the subject of public aid as a modernisation of the vessel, under the following derogation conditions:

(i) the last subparagraph of Annex III, point 1.4, shall not be applicable;

(ii) the scales referred to in Article 9(4)(b) shall be increased by 30 %;

(iii) the provisions of Article 10(3)(a) shall not be applicable;

▼M2

(d) in the case of an individual lump sum payment to a fisherman:

(i) the maximum eligible cost referred to in Article 12(3)(b) and (c) shall be increased by 20 %;

(ii) the requirement laid down in Article 12(3)(b) that beneficiaries must have been employed on a fishing vessel which has permanently ceased its activity within the meaning of Article 7 shall not apply;

(iii) the period of less than one year referred to in Article 12(4)(c) shall run from 1 January 2002.

2. The derogation rules laid down in paragraph 1 shall apply only to premiums and public aid that have been granted under an administrative decision by the authorities referred to in Article 6, taken between 1 July 2001 and 30 June 2003. This period shall be extended to 30 June 2004 for the premiums referred to in Article 12(3)(a), (b) and (c).

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3. The vessel owners shall no longer be eligible for the compensation for temporary cessation of activity mentioned in Article 1 as from the date of the administrative decision granting a premium for the permanent cessation of activity or a public aid for the modernisation of the vessel concerned, which has been taken pursuant to the modalities provided for in paragraph 1.

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In the case of advance payment of this compensation, any amount overpaid will be deducted from the premium for permanent cessation or from the public aid for modernisation, granted for the boat concerned.

CHAPTER III

SPECIFIC MEASURE

Article 3

1. A specific action of the Community is hereby instituted (hereafter named 'this action') aiming to supplement actions taken in the context of the interventions of the Structural Funds in the Member States concerned due to the non-renewal of the fisheries agreement with Morocco.

2. This action:

(a) shall be exclusively reserved for the vessel owners and for the fishermen referred to in Article 1(1);

(b) covers respectively:

(i) measures of permanent cessation of vessels' fishing activities within the meaning of Article 7(3) of Regulation (EC) No 2792/1999;

(ii) measures of modernisation of vessels within the meaning of Article 9(1) of the same Regulation; and

(iii) measures of a socio-economic nature, within the meaning of Article 12(3)(a), (b) and (c), of the same Regulation;

(c) shall be subject to the conditions referred to in Article 12 of Regulation (EC) No 1260/1999.

3. The amount of the Community assistance allocated to the various measures of this action shall be as follows, expressed as a percentage of the global amount referred to in Article 5(1):

(a) scrapping of vessels and permanent reassignment of vessels for purposes other than fishing: minimum of 40 % of the global amount;

(b) permanent transfer of vessels to a third country, including within the framework of a joint enterprise, and modernisation of vessels: maximum of 28 % of the global amount;

(c) socio-economic measures: minimum of 32 % of the global amount.

Article 4

1. *Mutatis mutandis*, the provisions of Regulation (EC) No 2792/1999 shall apply for the implementation of this action, under the provisions and the derogation conditions laid down in Chapter II of this Regulation, in particular with regard to:

(a) the date limit of the administrative decision to grant the assistance;

(b) the notification of the aid schemes;

(c) the criteria of eligibility of the fishermen and of the vessels;

(d) the maximum amount of the premium for a fisherman or for a given vessel;

(e) the maximum amount of expenditure eligible for the granting of public aid for the modernisation of a given vessel;

(f) the limits of the financial contribution of the Community and of all the public financial contributions (national, regional and other) of the Member State concerned.

2. However, in case of the granting of a premium for the creation of a joint enterprise within the framework of this action, the management authority shall pay the whole 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 40 % of the premium has been lodged.

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3. The premiums for permanent cessation of fishing activities and the public aids for the modernisation of vessels, paid under this action, shall be regarded as public aid within the meaning of Article 6(1) of Regulation (EC) No 2792/1999.

The fishing capacity withdrawn pursuant to this measure shall contribute to the adjustment of the fishing effort of the Member States concerned, within the meaning of Article 7 of Regulation (EC) No 2792/1999.

Public aid for the modernisation of vessels, paid under this action, is subject to Article 9 of Regulation (EC) No 2792/1999.

For the purposes of the implementation of this action, the compensation referred to in Article 1 is intended to have the same end result as the socio-economic measures referred to in Article 12(3)(a), (b) and (c) of Regulation (EC) No 2792/1999.

4. Premiums or public aid granted under this action may not be cumulated with another premium or public aid having the same purpose, and in particular that granted, in the context of the Structural Funds, in the Member States concerned.

The Member States concerned shall take all the measures necessary to conform to this paragraph, and at the latest three months after the entry into force of this Regulation, they shall communicate them to the Commission.

Article 5

1. The amount of the Community participation allocated to this action shall be EUR 197 million, distributed according to the following percentages:

(a) Spain: 94,6 %;

(b) Portugal: 5,4 %.

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Within the allocation for Spain, an amount not exceeding EUR 30 million shall be reserved for the measures defined in Council Regulation (EC) No 2372/2002.

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2. The payment of the Community participation referred to in paragraph 1 shall be carried out by the Commission in accordance with the budgetary commitments and shall be addressed to the payment authority referred to in Article 6.

As from 1 January 2002, the Commission shall carry out the commitment of the appropriations entered in the 2002 budget, at the latest three months after the adoption of this Regulation.

The commitment of the appropriations entered in the 2003 Budget shall in principle be undertaken before 30 April 2003.

3. Subject to the budgetary resources, the Commission shall carry out the payments as follows:

(a) an instalment, representing at most 20 % of the amounts referred to in paragraph 1, shall be paid at the time of the commitment referred to in paragraph 2, second paragraph;

(b) the intermediate payments shall be carried out at the request of the Member State to refund the expenditure actually paid and certified by the payment authority referred to in Article 6.

The cumulated total of the payments referred to in point (a) and the present point shall amount at most to 80 % of the amounts referred to in paragraph 1.

(c) The payment of the balance shall be carried out at the request of the Member State, after completion of this measure, if;

(i) the payment authority has submitted to the Commission a certified statement of expenditure actually incurred;

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(ii) the final implementation report has been submitted to the Commission and has been approved by it;

(iii) the Member State has sent to the Commission the statement referred to in Article 38(1)(f) of Regulation (EC) No 1260/1999.

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4. The expenses actually paid by the final beneficiary from 1 July 2001 shall be eligible for the Community contribution under this measure. The deadline for eligibility of the expenditure shall be 31 December 2003. That date shall be 31 December 2004 for the premiums referred to in Article 12(3)(a), (b) and (c).

The last date for submission to the Commission of the request for payment of the balance shall be 30 June 2004. That date shall be 30 June 2005 for the premiums referred to in Article 12(3)(a), (b) and (c).

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5. The requests for intermediate payments and for payment of the balance have to be drawn up in accordance with the model appearing in Annex II to Regulation (EC) No 438/2001 ([1]).

They have to be supported by the production of progress reports, in electronic form, in accordance with the model appearing in Annex I to Regulation (EC) No 366/2001 ([2]).

Article 6

For the purposes of implementation of this action, the management authorities and the payment authorities operating in the context of structural funds interventions in favour of fisheries in Spain and in Portugal during the period 2000 to 2006 shall fulfil the functions attributed to them by the relevant provisions of Regulation (EC) No 1260/1999.

Except in the case of contrary provisions arising from this Regulation, the provisions of Articles 31 and 33 to 39 of Regulation (EC) No 1260/1999, and derived legislation, shall apply.

Article 7

If necessary, the detailed rules for the application of this title shall be adopted by the Commission according to the procedure referred to in Article 23(2) of Regulation (EC) No 2792/1999.

For this purpose the Commission is assisted by the committee on structures for fisheries and aquaculture established by Article 51 of Regulation (EC) No 1260/1999.

CHAPTER IV

FINAL PROVISIONS

Article 8

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

It shall apply as from 1 July 2001.

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

([1]) Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds (OJ L 63, 3.3.2001, p. 21).

([2]) Commission Regulation (EC) No 366/2001 of 21 February 2001 laying down detailed rules for implementing the measures provided for in Council Regulation (EC) No 2792/1999 (OJ L 55 of 24.2.2001, p. 3)