COUNCIL REGULATION (EC) No 2372/2002

of 20 December 2002

instituting specific measures to compensate the Spanish fisheries, shellfish industry and aquaculture, affected by the oil spills from the Prestige

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 36 and 37 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

After consulting the Economic and Social Committee,

Whereas:

(1) In November 2002, the tanker Prestige, carrying 77 000 tonnes of heavy fuel oil, was shipwrecked off the coast of Galicia, causing oil spills to start arriving to the Spanish coast as from 16 November 2002.

(2) Owing to the environmental effects of the aforementioned oil pollution, in addition to fisheries, all shellfishing and certain aquaculture activities have been forbidden along large parts of the Spanish Atlantic coastline. Moreover, the oil spills have also damaged certain aquaculture sites located in the affected coastal regions of Spain.

(3) Council Regulation (EC) No 2792/1999 [3] lays down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. In particular, Article 13(1) and the more specific rules enclosed in Annex III of the said Regulation, determine the eligible costs within the fields of aquaculture as well as the protection and development of aquatic resources, to be co-financed from the Financial Instrument for Fisheries Guidance (FIFG). In addition, Article 16 of that Regulation lays down the terms on which the Member States may receive a financial contribution from the FIFG towards compensation they grant to fishermen and vessel owners for the temporary cessation of activities in the event of unforeseeable circumstances.

(4) However, the criteria for the eligibility of expenses within the fields in question, to be co-financed from the FIFG, have not been designed for the type of measures necessary to cope with the consequences of oil pollution.

(5) Besides, the granting of compensation for the temporary cessation of activities is currently allowed to fishermen and vessels owners, but not to other persons or enterprises engaged in shellfish industry or aquaculture. Also the aggregated amounts of financial contributions from the FIFG to these purposes have been restricted by the said Article 16.

(6) In these circumstances, it is necessary to facilitate the compensation to be granted for temporary cessation of fishing, shellfish and aquaculture activities affected by the oil pollution described above. In addition, it is appropriate to facilitate the cleaning, the repairing and the reconstruction of shellfish and aquaculture sites and the replacement of shellfish stocks in order to restore their production capacity, as well as the replacement of fishing gear, damaged by the oil spills in question.

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

(8) On the understanding that the other parts will have to be carried out with the assistance of FIFG appropriations, the complementary appropriations necessary for these purposes should be made available from the assistance defined within the framework of 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 [4], and especially Article 5(1) thereof.

(9) These complementary appropriations available should be devoted to the specific measures taken, on one hand compensating the persons and enterprises engaged in Spanish fisheries industry, shellfish and aquaculture for the temporary cessation of their activities, and on the other hand providing for assistance for reinstating the previous activities affected by the oil pollution.

(10) The specific measures must be consistent with the general principles of the structural policy in the fisheries sector.

(11) The measures necessary for the implementation of this (instrument in question) should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [5].

(12) The necessity to adopt immediate measures to remedy the situation following the 'Prestige' shipwreck requires a derogation from the period laid down in paragraph 1(3) of the Protocol on the role of national parliaments,

[1] Not yet published in the Official Journal.
[2] Opinion of 19.12.2002 (not yet published in the Official Journal).
[3] OJ L 337, 30.12.1999, p. 10.
[4] OJ L 344, 28.12.2001, p. 17.
[5] OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down exceptional supporting measures for the persons and enterprises, engaged in the Spanish fisheries, shellfish industry and aquaculture in the Spanish coastal areas affected by the oil pollution from the Prestige shipwreck, as well as the conditions for and the limits of such support.

Article 2

Specific measures

1. The following specific measures may be taken by Spain for the persons and enterprises referred to in Article 1:

(a) compensation to persons and owners of enterprises for the temporary cessation of their activities;

(b) measures to encourage the replacement of fishing gear, of other auxiliary equipments and the reparation of the affected boats and the substitution of their damaged elements;

(c) measures to encourage the cleaning, the repairing and the reconstruction of shellfish and aquaculture sites;

(d) measures to compensate for the replacement of shellfish stocks.

2. The expenses incurred within the framework of the specific measures shall be eligible under the condition that the temporary cessation of the activities referred to in point (a) as well as the damages caused to the gear or the sites referred to in points (b), (c) and (d) have been due to the oil spills from the Prestige shipwreck.

3. The rates of assistance for the specific measures are specified in the Annex.

Article 3

Derogations from Regulation (EC) No 2792/1999

1. By derogation from the provisions of Regulation (EC) No 2792/1999, the specific measures referred to in Article 2 shall be granted in accordance with paragraphs 2 to 6 of this Article.

2. The compensations for the temporary cessation of activities, referred to in Article 16(1)(a) of Regulation (EC) No 2792/1999, may be granted also for persons and owners of enterprises engaged in the Spanish shellfish industry and aquaculture.

3. The limits of two and six months prescribed in Article 16(1)(a) of Regulation (EC) No 2792/1999 shall not apply.

4. The financial contribution from the FIFG to the compensations referred to in paragraphs 1 and 2 shall not be taken into consideration when determining compliance with the thresholds referred to in the first subparagraph of Article 16(3) of Regulation (EC) No 2792/1999.

5. The restrictions set out in Annex III, point 1.4, last paragraph, of Regulation (EC) No 2792/1999 shall not be applicable with regard to the replacement of fishing gear damaged by the oil pollution from the Prestige shipwreck.

6. The following costs shall be eligible under Article 13(1) of Regulation (EC) No 2792/1999:

(a) costs incurred by the cleaning, the repairing and the reconstruction activities aimed at restoring the production capacity of shellfish and aquaculture sites affected by the oil pollution in question;

(b) costs of the restocking necessary to reinstate the shellfish stocks aquaculture sites affected by the oil pollution in question.

Article 4

Applicability of general provisions

The provisions of Regulation (EC) No 1260/1999 [1] and No 2792/1999 [2] shall apply for the implementation of the specific measures defined in Article 2 under the provisions and the derogation conditions laid down in this Regulation.

Article 5

Additional Community participation

1. In addition to the assistance of FIFG appropriations, the complementary amount of the Community participation allocated to the purposes of this Regulation shall be EUR 30 million.

2. This additional amount shall be made available from the funds previously allocated for the purposes of Regulation (EC) No 2561/2001.

Article 6

Amendment to Regulation (EC) No 2561/2001

In Article 5(1) of Regulation (EC) No 2561/2001 the following subparagraph is added:

'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.'

Article 7

Implementation reports

Spain shall present to the Commission a consolidated report of the implementation of the specific measures, referred to in Article 2, for every year of their implementation by 31 March of the following year. The first of such reports will be due on 31 March 2004.

[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).

[2] 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).

Article 8

Detailed rules

The measures necessary for the implementation of this Regulation shall be adopted in accordance with management procedure referred to in Article 9(2).

Article 9

1. The Commission shall be assisted by the committee on structures for fisheries and aquaculture established by Article 51 of Regulation (EC) No 1260/1999.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

Article 10

Final provisions

This Regulation shall enter into force on the third day following that of 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, 20 December 2002.

For the Council

The President

M. FISCHER BOEL

ANNEX

RATES OF ASSISTANCE

The rates of assistance for the specific measures, referred to in Article 2, are defined according to the groups listed in Annex IV, point 2 of Regulation (EC) No 2792/1999 and to the rates determined in Table 3 of the said Annex, as amended by Council Regulation (EC) No 1451/2001, as follows:

1. Temporary cessation of shellfish or aquaculture activities	Group 1
2. Replacement of fishing gear	Group 2
3. Cleaning, repairing and reconstruction of shellfish and aquaculture sites	
— carried out by public authorities	Group 1
— carried out by private enterprises	Group 3
4. Replacement of shellfish stocks	Group 1