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COUNCIL REGULATION (EC) No 639/2004

of 30 March 2004

on the management of fishing fleets registered in the Community outermost regions

(OJ L 102, 7.4.2004, p. 9)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 1646/2006 of 7 November 2006	L 309	1	9.11.2006
►**M2**	Council Regulation (EC) No 1207/2008 of 28 November 2008	L 327	1	5.12.2008

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on the management of fishing fleets registered in the Community outermost regions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 and Article 299(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [2], and in particular Chapter III thereof, establishes a Community scheme to adjust the fishing capacities of the Member States' fleets, to a level globally compatible with fishing opportunities.

(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 [3] covers modernisation of fishing vessels with public aid and public aid for the renewal of fishing vessels.

(3) Given the relative importance of the fisheries sector in those regions, it is justifiable to take account of the particular structural, social and economic situation of the Community outermost regions (outermost regions) in respect of management of fishing fleets. To that end, the provisions on management of entry/exit schemes and compulsory withdrawal of capacity, in Regulation (EC) No 2371/2002, and the rules on access to public aid for the modernisation and for the renewal of fishing vessels should be adapted to the needs of those regions.

(4) Any capacity increase for fleets registered in ports of outermost regions should also be limited to that justified by local fishing opportunities and the size of fleets kept in balance with those opportunities. To that end the objectives fixed by the multiannual guidance programmes IV (MAGP IV) for each fleet segment, as established in the Annex to Commission Decision 2002/652/EC of 29 July 2002 amending Decisions 98/119/EC to 98/131/EC in order to prolong the multiannual guidance programmes for the fishing fleets of the Member States until 31 December 2002 [4], should be considered as reference levels for, or the upper limit to, the expansion of fleets registered in the French overseas departments, the Azores and Madeira.

(5) Specific reference levels should be determined for vessel segments registered in the Canary Islands, for which no specific objectives were fixed in the MAGP IV framework. These reference levels should take account of the capacity of the local fleet in relation to fishing possibilities.

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[1] Opinion delivered on 4 December 2003 (not yet published in the Official Journal).
[2] OJ L 358, 31.12.2002, p. 59.
[3] OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 2369/2002 (OJ L 358, 31.12.2002, p. 49).
[4] OJ L 215, 10.8.2002, p. 23.

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(6) It is necessary to prevent vessels registered in the outermost regions from being transferred and used in the mainland after benefiting from more favourable treatment as regards the granting of public aid and/or conditions for entry into the fleet.

(7) It is justifiable to apply to the fleets registered in the outermost regions the same rules on fleet capacity management and public aid as are applied to vessels registered in the rest of the Community as soon as the reference levels defined in this Regulation are met, and in any case as from 1 January 2007, except for vessels having received public aid for renewal, where the entry into the fleet might take place until 31 December 2007.

(8) To facilitate the implementation of this Regulation, Member States should collect information on vessels registered in the outermost regions. The Commission should be provided with this information and report on it to ensure full transparency of measures implemented.

(9) As new general rules for fleet capacity management and public aid have been introduced in Regulations (EC) No 2371/2002 and (EC) No 2792/1999 with effect from 1 January 2003, the specific arrangements for the outermost regions should also apply from that date.

(10) The measures necessary for the implementation of this Regulation 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 ([1]),

HAS ADOPTED THIS REGULATION:

Article 1

Specific reference levels

1. For the fleet segments registered in the outermost regions as indicated in Article 299(2) of the Treaty the following specific reference levels for fishing capacity shall apply:

(a) for the French overseas departments, the Azores and Madeira: the respective MAGP IV objectives for each fleet segment, expressed in kW and GT, for each outermost region at the end of 2002;

(b) for the Canary Islands: reference levels that take as their starting point the capacities in kW and GT of the relevant fleet segments for vessels registered in Canary Island ports on 1 January 2003 and may be increased on the basis of fishing opportunities for these segments. Increases may be justified up to the objectives that would have been adopted if MAGP IV procedures had applied to these particular segments and shall be in accordance with the most recent scientific advice validated by the Scientific Technical and Economic Committee for Fisheries established pursuant to Article 33 of Regulation (EC) No 2371/2002.

2. Implementing rules for this Article shall be adopted in accordance with the procedure referred to in Article 5(2).

Article 2

Fleet renewal and modernisation

For the fleet segments covered by Article 1(1):

([1]) OJ L 184, 17.7.1999, p. 23.

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1. by way of derogation from Article 13 of Regulation (EC) No 2371/2002:

   (a) new capacity may enter the fleet, with or without public aid, within the limits of the specific reference levels indicated in Article 1,

   (b) the obligation to achieve a reduction in overall fleet capacity of 3 % of the reference levels is not applicable;

2. by way of derogation from Article 9(1)(c)(i) of Regulation No 2792/1999, public aid to modernise the fleet in terms of tonnage and/or power may be granted;

3. the derogations laid down in paragraphs 1 and 2 above shall cease to apply as soon as the reference levels are reached, and in any case not later than 31 December 2006;

4. by way of derogation from Article 9(1)(a) of Regulation No 2792/1999, public aid for the renewal of fishing vessels may be granted until ►M1 31 December 2006 ◄;

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5. Notwithstanding paragraph 3, for fishing vessels having received public aid for renewal, the derogation in paragraph 1(a) will cease to apply three years after the public aid for renewal has been granted and in any case not later than 31 December 2011.

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Article 3

Transfer of vessels to the continent

Any transfer of a vessel from an outermost region to the continent shall be treated as an entry in the continental fleet within the meaning of Article 13 of Regulation (EC) No 2371/2002. Public aid for fleet renewal and for the equipment or modernisation of fishing vessels shall be reimbursed pro rata temporis in the case of transfer of a vessel to the continent before the end of a period of:

(a) 10 years in the case of public aid for fleet renewal; and

(b) five years in the case of public aid for the equipment or modernisation of fishing vessels

to be dated from the time when the administrative decision to grant aid was taken.

Article 4

Management of capacity

1. Member States shall manage fleets registered in outermost regions in such a way as to comply with this Regulation.

2. Member States shall make available to the Commission information on vessels registered in their outermost regions in accordance with Article 15 of Regulation (EC) No 2371/2002.

3. Rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 5(2).

Article 5

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture.

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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 20 working days.

3. The Committee shall adopt its Rules of Procedure.

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Article 6

Reporting

The Commission shall submit to the European Parliament and the Council a report on the implementation of this Regulation no later than 30 June 2012.

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Article 7

Entry into force

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2003.

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