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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 485/2005

of 16 March 2005

amending Regulation (EC) No 2792/1999 as regards a specific action for transfers of vessels to countries hit by the tsunami in 2004

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Whereas:

(1) On 26 December 2004, a strong tsunami in the Indian Ocean struck a number of third countries, ravaging their coasts and their industries and causing heavy loss of life. Many fishing vessels were wrecked at sea or destroyed in port.

(2) Within the framework of the common fisheries policy, fishing vessels can be withdrawn from the Community fishing fleet with public aid only if they are scrapped or reassigned for non-profitable purposes other than fishing.

(3) It is appropriate to extend the possibility of withdrawal of fishing vessels from the Community fishing fleet with public aid to vessels which are transferred to the countries affected by the tsunami for the benefit of the fishing communities concerned.

(4) This would help those communities to rebuild their fishing fleets swiftly, taking into account local needs as recorded by the Food and Agriculture Organisation of the United Nations.

(5) To meet the needs of those communities, only vessels which are fully seaworthy, suitable for fishing activity and of an overall length of less than 12 metres should be eligible for the measures provided for by this Regulation.

(6) It is appropriate to provide for the grant of an additional premium to cover the expenses incurred by public or private organisations for the transport of the vessels to the third countries and to compensate owners for equipping their vessels and making them fully seaworthy.

(7) A procedure for the transfer of vessels should be set up.

(8) Reports on steps taken under this Regulation should be submitted by the Member States and by the Commission in order to guarantee transparency of the Financial Instrument for Fisheries Guidance (FIFG) pursuant to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds [2].

(9) It is particularly useful to assess the transfers to ensure that the measures are implemented to the benefit of the fishing communities concerned, to ensure consistency with the general principles of the common fisheries policy and promote long-term sustainability of fishing activities and to avoid negative effects on the local economy.

(10) Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in paragraph I(3) of the Protocol on the role of the national parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities.

(11) Regulation (EC) No 2792/1999 [3] should therefore be amended accordingly,

[1] Opinion delivered on 24 February 2005 (not yet published in the Official Journal).

[2] OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 173/2005 (OJ L 29, 2.2.2005, p. 3).

[3] OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 1421/2004 (OJ L 260, 6.8.2004, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2792/1999 is hereby amended as follows:

1. Article 7 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

'2. Measures to stop vessels' fishing activities may be applied only to vessels 10 years old or more.

However, until 30 June 2006, vessels five years old or more, not using towed gear, may be eligible for permanent transfer in accordance with paragraph 3(d).';

(b) the following point shall be added to paragraph 3:

'(d) until 30 June 2006, permanent transfer of the vessel to a third country hit by the tsunami in the Indian Ocean in December 2004, provided that the following criteria are met:

(i) the vessel has an overall length of less than 12 metres and is not more than 20 years old;

(ii) the Member State which authorises the transfer ensures that the vessel is fully seaworthy and suitable for fishing activity, that it is transferred to a region affected by the tsunami for the benefit of the fishing communities having suffered the consequences thereof and that adverse effects on the fisheries resources and the local economy are avoided.

(iii) the transfer meets the needs identified by the assessment of the Food and Agriculture Organisation of the United Nations and is in accordance with the third country's requests.';

(c) the following paragraph shall be added:

'6. By way of derogation from paragraph 5(a), public aid for the permanent transfer of vessels in accordance with paragraph 3(d) shall be calculated as follows:

(i) for vessels of five to 15 years old, the premium referred to in paragraph 5(a)(i) shall apply and for vessels of 16 to 20 years old, the premium referred to in paragraph 5(a)(ii) shall apply;

(ii) the premium referred to in paragraph 5(a) may be increased by up to 20 % for the following purposes:

— to cover the expenses incurred by the public or private organisations designated by Member States to be responsible for the transfer of the vessel to the third country,

— to compensate the vessel owner benefiting from the premium for equipping the vessel and making it fully seaworthy and suitable for fishing activity in the third countries concerned.

Vessels for which an application for permanent cessation of activities has been submitted to the competent authorities of a Member State before 2 April 2005 may also benefit from the premiums under this paragraph.';

2. the following sentence shall be added to Article 10(4):

'This paragraph shall not apply to vessels transferred pursuant to Article 7(3)(d).';

3. the following Articles shall be inserted:

'*Article 18a*

Procedure for the transfer of vessels pursuant to Article 7(3)(d)

1. Member States shall notify the Commission of the vessels for which a transfer pursuant to Article 7(3)(d) is envisaged, as well as the intended destination.

2. Within two months of such notification, the Commission may inform the Member State concerned that the transfer does not meet the criteria laid down in Article 7(3)(d), and in particular point (iii) thereof.

If the Member State concerned is not so informed by the Commission within two months of notification, it may proceed with the transfer.

Article 18b

Reporting on the transfer of vessels pursuant to Article 7(3)(d)

1. By 30 September 2005 and every three months thereafter Member States shall present to the Commission all available information on transfers of vessels pursuant to Article 7(3)(d).

2. On the basis of the information referred to in paragraph 1 and any other information, the Commission shall report every six months to the European Parliament and to the Council on transfers of vessels pursuant to Article 7(3)(d).

3. Member States shall include in the annual report provided for in Article 37 of Regulation (EC) No 1260/1999 on the implementation of the FIFG intervention and submitted to the Commission in 2007, a section on transfers of vessels pursuant to Article 7(3)(d) of this Regulation.'

Article 2

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

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

Done at Brussels, 16 March 2005.

For the Council
The President
J. ASSELBORN