

COMMISSION REGULATION (EC) No 1767/2004**of 13 October 2004****amending Regulation (EC) No 2318/2001 as regards the recognition of producer organisations in the fishery and aquaculture sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products⁽¹⁾, and in particular Article 6(7) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2318/2001 of 29 November 2001 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the recognition of producer organisations in the fishery and aquaculture sector⁽²⁾ contains in particular criteria for the recognition of associations of producer organisations recognised in one Member State. These criteria are not sufficient to cover the recognition of associations of producer organisations recognised in different Member States.
- (2) It is necessary to lay down the conditions and procedure for the Member States' granting of recognition to, and withdrawal of recognition from, associations of producer organisations recognised in different Member States in such a way as to guarantee consistent application of the rules governing the common organisation of the markets in fishery and aquaculture products.
- (3) The setting-up of associations of producer organisations recognised in different Member States may contribute to the general objective of achieving rational and sustainable exploitation of resources falling under the common fisheries policy and securing the long-term viability of the fisheries sector.
- (4) Community competition rules are applicable to production of and trade in fishery products in so far as their application does neither undermine express rules establishing the common market organisation in fishery and aquaculture products nor jeopardise the attainment of the objectives of the common fisheries policy.
- (5) The provisions on an extension to non-members of rules introduced by a producer organisation laid down in Articles 7 and 8 of Regulation (EC) No 104/2000 are not applicable to an association of producer organisations recognised in different Member States.

(6) Regulation (EC) No 2318/2001 should, therefore, be amended.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2318/2001 is amended as follows:

1. In the title the words 'laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the recognition of producer organisations in the fishery and aquaculture sector' are replaced by the following:

'laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the recognition of producer organisations and associations of producer organisations in the fishery and aquaculture sector.'

2. Article 2 is replaced by the following:

'Article 2

1. A Member State may grant recognition to an association of producer organisations recognised in that Member State only on condition that:

- (a) it comprises a minimum proportion of the total number of producer organisations recognised by the Member State concerned in a given branch; and
- (b) the value of the production marketed by the association represents at least 20% of the value of national production in that branch.

2. A Member State may grant recognition to an association of producer organisations recognised in different Member States, on condition that:

- (a) the association has its official headquarters on the territory of that Member State;
- (b) the value of the production marketed by the association represents a minimum proportion of the production of a certain fishery product in a given area;
- (c) the producer organisations forming the association deal with the fishing, production and marketing of jointly exploited fishery resources; and

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 313, 30.11.2001, p. 9.

(d) the association performs its tasks without prejudice to the provisions governing the allocation of fishing opportunities among Member States in accordance with Article 20 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy⁽¹⁾.

3. The Member State hosting the official headquarters of the association shall set up, in collaboration with the other Member States concerned, the administrative cooperation needed to ensure that the conditions for recognition are respected and to carry out checks on the activities of the association. Such administrative cooperation shall also cover the withdrawal of recognition.

4. An association of producer organisations may not hold a dominant position on a given market unless necessary in pursuance of the goals of Article 33 of the Treaty.

5. Articles 3, 4, 5, 6 and 7 of Regulation (EC) No 2318/2001 shall apply *mutatis mutandis* to the associations of producer organisations recognised in one and more than one Member State.

6. Article 2(2) of Commission Regulation (EC) No 908/2000 shall not apply to the associations of producer organisations recognised in different Member States.

Article 2

This Regulation shall enter into force on the seventh day following that of 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, 13 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.