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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COUNCIL REGULATION (EC) No 865/2007

of 10 July 2007

**amending Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy**

THE COUNCIL OF THE EUROPEAN UNION,

1 May 2004 and 31 December 2006 and from 1 January 2007 onwards.

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 <sup>(1)</sup>,

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 <sup>(2)</sup> lays down provisions relating to the management of fishing capacity.

(2) The current provisions applying to the management of fleet capacity should be adapted in the light of experience.

(3) Member States should be allowed to grant a limited increase in tonnage to new or existing vessels in order to improve safety, hygiene, working conditions and product quality on board, provided it does not increase the ability of the vessels to catch fish and gives priority to small scale coastal fisheries within the meaning of Article 26 of Council Regulation (EC) No 1198/2006 of 27 July 2006 on a European Fisheries Fund <sup>(3)</sup>. That increase should be linked to their efforts to adjust fishing capacity with public aid between 1 January 2003 or

(4) The reduction in engine power required for the replacement of engines with public aid under the provisions of Article 25(3)(b) and (c) of Regulation (EC) No 1198/2006 should be considered as an exit of capacity from the fleet with public aid in relation to the application of the entry-exit regime and the adjustment of the reference levels.

(5) Regulation (EC) No 2371/2002 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2371/2002 is hereby amended as follows:

1. Article 11 shall be replaced by the following:

*'Article 11*

**Adjustment of fishing capacity**

1. Member States shall put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and their fishing opportunities.

2. Member States shall ensure that the reference levels expressed in GT and kW for fishing capacity as established in accordance with this Article and with Article 12 are not exceeded.

<sup>(1)</sup> Opinion of 26 April 2007 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(3)</sup> OJ L 223, 15.8.2006, p. 1.

3. No exit from the fleet supported by public aid shall be permitted unless preceded by the withdrawal of the fishing licence as defined in Commission Regulation (EC) No 1281/2005 (\*) and, where provided for, the fishing authorisations as defined in the relevant regulations. Without prejudice to the provisions of paragraph 6, the capacity corresponding to the licence, and where necessary to the fishing authorisations for the fisheries concerned, cannot be replaced.

4. Where public aid is granted for the withdrawal of fishing capacity that goes beyond the capacity reduction necessary to comply with the reference levels as established in accordance with this Article and with Article 12, the amount of the capacity withdrawn shall be automatically deducted from the reference levels. The reference levels thus obtained shall become the new reference levels.

5. On fishing vessels of five years of age or more, modernisation over the main deck to improve safety on board, working conditions, hygiene and product quality may increase the tonnage of the vessel, provided that such modernisation does not increase the ability of the vessel to catch fish. The reference levels, as established in accordance with this Article and with Article 12, shall be adapted accordingly. The corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.

6. From 1 January 2007, in order to improve safety on board, working conditions, hygiene and product quality, Member States shall be entitled to re-allocate to new or existing vessels the following capacity in terms of tonnage, provided such capacity does not increase the ability of the vessels to catch fish:

- 4 % of the average annual tonnage withdrawn with public aid between 1 January 2003 and 31 December 2006 for the Member States that were part of the Community on 1 January 2003 and 4 % of the annual average tonnage withdrawn with public aid between 1 May 2004 and 31 December 2006 for the Member States that acceded to the Community on 1 May 2004, and
- 4 % of the tonnage withdrawn from the fleet with public aid as from 1 January 2007.

The reference levels, as established in accordance with this Article and Article 12 shall be adapted accordingly. The

corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.

Member States shall give priority to small scale coastal fisheries, within the meaning of Article 26 of Council Regulation (EC) No 1198/2006 (\*\*), when allocating fishing capacity under this paragraph.

7. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

(\*) OJ L 203, 4.8.2005, p. 3.

(\*\*) OJ L 223, 15.8.2006, p. 1.

2. Article 13 shall be replaced by the following:

*'Article 13*

**Entry/Exit scheme and overall capacity reduction**

1. Member States shall manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003:

- (a) the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity;
- (b) the entry of new capacity into the fleet with public aid granted after 1 January 2003 is compensated by the previous withdrawal without public aid of:
  - (i) at least the same amount of capacity, for the entry of new vessels equal or less than 100 GT, or
  - (ii) at least 1,35 times that amount of capacity, for the entry of new vessels of more than 100 GT;
- (c) the replacement of an engine with public aid under the provisions of Article 25(3)(b) and (c) of Regulation (EC) No 1198/2006 is compensated by a reduction of capacity in terms of power equal to 20 % of the power of the engine replaced. The reduction of 20 % in power shall be deducted from the reference levels in accordance with Article 11(4).

2. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).'

*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, 10 July 2007.

*For the Council*

*The President*

F. TEIXEIRA DOS SANTOS

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