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COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0144 (CNS)

Proposal for a

COUNCIL REGULATION

**instituting a temporary specific action aiming to promote the restructuring of the
European Union fishing fleets affected by the economic crisis**

(presented by the Commission)

EXPLANATORY MEMORANDUM

(1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The current oil price is at an historic high, even in real terms, and corresponds to a systemic shift in the global economy. The Commission is considering this issue in its widest perspective, and it has to that effect recently published the Communication "Facing the challenge of higher oil prices" (COM(2008) 384, Brussels, 13-VI-2008) on this issue. The Commission notes that oil markets are global, giving the Commission, and indeed the EU, little possibility to intervene directly. It is acknowledged that the continued rise in oil prices, which has taken remarkable proportions over recent months, is putting a very heavy pressure on the fishing sector. Fisheries is not the only sector suffering from problems due to high oil prices, but the fisheries problem is specifically complex because of the constraints arising from the facts that the fishing fleet suffers from systemic overcapacity aggravated by low catch opportunities compared to the past. Furthermore, fish prices have stagnated to a great extent and the vast majority of fishing companies are small and medium enterprises (SMEs). High oil prices are a structural problem which requires structural remedies. However, short term actions also need to be contemplated to ensure that the fishing sector is not completely wiped out. In its 1835th meeting held in Strasbourg on June 17, 2008, the Commission took note of the info-note SEC(2008) 2079/3 concerning an emergency package to address both the immediate situation of economic and social hardship of the EU fisheries sector, and to make a lasting contribution to tackling systemic overcapacity. This response must be EU-wide and co-ordinated in order to avoid distorting competition and discriminations between Member States or fleets. The deep crisis triggered by high fuel prices makes it imperative, more than ever, to attack the root of the structural problems of the sector. The package focuses primarily on reducing overcapacity and ensuring that vessels can operate more efficiently and at higher productivity. Since this emergency situation requires coordinated solutions at EU level, the package relies basically on an enhanced use of the European Fisheries Fund (EFF). It consists mainly of measures based on temporary derogations from rules under the EFF, to support a faster adaptation of the Community fleet to the present situation and to provide temporary relief in order to cushion economic and social consequences in the transitional phase.

- **General context**

The fisheries sector is a key component of the economic life of many coastal regions of the European Union, and it brings a distinct contribution to food security and national health by providing a range of high-quality products. Total employment in 2005 in the whole value chain for fisheries products of the EU-27 amounted to about 407,000 persons, with 187,000 people employed in the catching sector and 18,000 jobs in ancillary activities. The EU fisheries sector has long suffered from a vicious circle of poor economic profitability and over-exploitation of stocks due to a significant overcapacity. Several steps have been taken since the 2002 reform of the Common Fisheries Policy to counter this vicious circle, but overcapacity and excessive fishing effort still jeopardise the economic viability of the sector. Within

the context of this structural fragility, the drastic increase in oil prices has hit the fisheries sector particularly hard, especially as this is happening in a market situation where first sale fish prices have continued to stagnate for the last decade.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund

- **Consistency with the other policies and objectives of the Union**

The measures proposed are designed in accordance with the objectives of the Common Fisheries Policy and are consistent with the Community's policy on sustainable development.

(2) **CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

- **Consultation of interested parties**

Impossible due to the urgency of the proposal

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

In view of the urgency of the proposal no formal impact assessment has been conducted. Nevertheless, the following elements can be advanced which show that the proposed derogations are the best possible option.

It is likely that the current global climate of high oil prices will continue to squeeze the margins and the liquidity of fishing operators. The international Brent oil price has more than quintupled from \$20 per barrel in 2002 to over \$140 per barrel by the end of June 2008 and shows no signs of stopping. Marine fuel prices in the EU over the period have actually increased by some 240% and are now regularly above 0.7€/l.

It is estimated that in 2006 EU fleets spent about €1 billion on fuel, i.e. roughly 15-20% of the value of landings, with prices ranging between 0.45-0.55 €/litre. Nowadays the fuel price is substantially higher. At current price levels, fuel costs of the whole of the fleet would be about €2 billion/year, or about 30% of the value of EU landings.

An estimation of fuel costs as a proportion of income shows that the segments most affected are the towed gears (e.g. trawlers) which tend to have engines with large engine power. Fuel costs in some cases represent up to 50% of the landing value. The impact on vessels using passive gears (e.g. traps, gillnets, long-lines) is significantly less, but can still account for between 5-20% of total fisheries income. In terms of job losses, available evidence allows us to conclude that at current fuel prices job losses could be as high as 15% or more. Job losses would not be limited to the capture sector, as many harbour services, auctions, etc. depend on vessel activity.

EU catches have steadily declined since 1993, at an average of 2% per year. Almost all demersal stocks have declined in recent years and are currently not sustainable. Pelagic stocks, which have more pronounced cyclical developments, are in general in a healthier condition. Low catch opportunities means that the sector operates at low productivity rates. Consequently, unit costs increase and margins are depressed.

In spite of declining landing volumes for most stocks, first sale prices for many important species have stagnated or even declined in real terms. This is due in part to the perishable nature of fish, to the atomisation of supply and to the strong buying power of processors and marketing chains which have access to fish products at low import prices from the global market. In any event, the inability for fishermen to pass higher costs down the chain is a stark contrast to what happens in many other industrial sectors.

One of the main challenges for the EU fishing industries has been and still is the structural imbalance between fleet capacity and resources in many fisheries. Overcapacity of the EU fleet was estimated some years ago to be in the region of 40%. The CFP has for several years attempted to address this problem which, however, is far from being solved. Because of overcapacity and because the resource base has been eroded by decades of overfishing, the industry has low resilience to external economic pressure, such as the increase in fuel prices.

However economic analysis shows that even for some heavily fuel dependent demersal and pelagic fleets, a combination of reduced fleets, recovered fish stocks and higher fish prices will return profitability to most of the sector.

Structural interventions are therefore essential in relation to addressing the overcapacity issue thus helping improvements in the resource base, reducing the dependency on fuel and increasing the value of fish on the market.

(3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal institutes an ad hoc special, temporary regime which will derogate from some provisions of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund for a period up to 31 December 2010

- **Legal basis**

Articles 36 and 37 of the Treaty

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The Council Regulation in question opens new possibilities for Member States to use more effectively the European Fisheries Fund in order to support the restructuring of the fleets most seriously hit by the economic crisis. The way it has been designed ensures that the effects of the proposed Regulation do not go beyond what the crisis requires and does not jeopardise the basic goals of the Common Fisheries Policy, in particular as regards the balance between fishing capacity and resources.

The proposal has no new financial implications for the Community budget. Member States shall apply the derogations by reprogramming their national EFF operational programmes, within the limits of the commitment appropriations currently defined for the EFF for the period 2007-2013.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

The proposal consists of temporary derogations from a Council regulation, which requires another Council Regulation.

(4) BUDGETARY IMPLICATION

It does not reflect any budgetary implications except a change in the annual profile of Payment Appropriations (PA) under the EFF.

Proposal for a

COUNCIL REGULATION

instituting a temporary specific action aiming to promote the restructuring of the European Union fishing fleets affected by the economic crisis

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund³ lays down the rules regarding Community structural assistance in the fisheries sector. In particular, Chapter I of Title IV of that Regulation lays down the terms on which the Member States may receive a financial contribution from the European Fisheries Fund (EFF) for the measures for the adaptation of the Community fishing fleet.
- (2) The EFF aims to contribute to the steps that have been taken since the 2002 reform of the Common Fisheries Policy (CFP) in view of reducing pressure on fish stocks, whilst ensuring sustainable social and economic conditions for the sector concerned.
- (3) In the context of the recent economic situation, following in particular the drastic increase in fuel prices, there is an impending need to take additional measures aiming for a more rapid adaptation of the Community fishing fleet to the current situation, addressing the need to ensure sustainable social and economic conditions for the sector concerned. Such measures should contribute to attaining the general objectives set out in Article 33 of the Treaty and the CFP objectives as laid down in Article 2 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁴. In this context, they should address both the immediate situation of economic and social hardship while tackling systemic overcapacity.

¹ OJ C , , p. .

² OJ C , , p. .

³ Official Journal L 223, 15.08.2006 p 1

⁴ OJ L 358, 31.12.2002, p. 59. Regulation as last amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1.).

- (4) It is of importance to ensure that such action will be equally available for all Member States and therefore needs to be addressed and coordinated at Community level to ensure that it will be equally available for all Member States and to avoid distorting competition between Member States or fleets.
- (5) Consequently, there is a need for a Community initiative supplementing and allowing for temporary derogations from certain provisions of Regulation (EC) No 1198/2006. This initiative should therefore provide for specific measures of general nature and for the implementation of Fleet Adaptation Schemes in the Member States, which effectively address the current economic difficulties, whilst ensuring the long-term viability of fisheries sector.
- (6) In view of the exceptional nature of those measures and of the economic hardship they intend to address, their duration should be limited to the shortest possible period sufficient to achieve the expected aims.
- (7) These measures should be implemented by the Member States in the context of their operational programme under the ERF and financed from the funds allocated to them in that framework.
- (8) Moreover, Member States should be entitled to supplement the actions benefiting from such funds by financing certain measures through solely national funds with no financing from Community financial instruments. In view of the need to rapidly tackle the serious situation faced by the fisheries sector, those measures, aimed to bring about structural improvement and long-term economic viability of the sector, should not be subject to the application of Articles 87, 88 and 89 of the Treaty. In order to limit possible distortions of competition and effects on internal market, those measures shall be subject to certain limitations.
- (9) This initiative should provide for Community contribution to measures for permanent and temporary cessation of fishing activities, for investments on board aiming to reduce fuel dependency of fishing vessel, for socio-economic compensation as well as for certain actions of more collective nature. In order to ensure the effectiveness of those measures, as well as to allow Member States to make use of the available funds to the fullest extent possible, the thresholds for private participation in the financing of the measures should be lowered.
- (10) In order to contribute to restructuring, temporary cessation of fishing activities should be made available. Temporary cessation of fishing activities should in particular be aimed to enhance economic benefits by supporting stock recovery or by promoting more favourable marketing conditions. To that effect, Member States should be encouraged to link the period of temporary cessation with considerations of biological dynamics, seasonality and market dynamics. In the context of the economic crisis, it is also necessary to facilitate the compensation to be granted to fishers that have temporarily ceased their activities prior to the adoption of this Regulation.
- (11) In view of assisting the fishing sector to adapt to less fuel consuming fishing techniques, it is appropriate to facilitate the replacement of existing equipment on board fishing vessels allowing for new, less energy consuming, fishing techniques. In this regard, additional possibilities for contributions to investments on board fishing vessel should be made available.

- (12) Community contribution should also be provided for collective actions aimed at delivering expertise to vessel owners in relation to energy audits for vessels, and expert advice on the development of restructuring and modernisation plans and Fleet Adaptation Schemes. Moreover, financing should be made available for pilot projects aiming at reducing energy consumption for vessels, engines, equipment or gear.
- (13) In view of long-term viability of the fishing sector, a new instrument should be introduced allowing Member States to reduce capacity and to increase profitability of the fleets. This should take the form of Fleet Adaptation Schemes and concern fleets where the energy costs represent on average at least 30% of the production costs. These Fleet Adaptation Schemes should result in a capacity reduction of the fleets concerned of at least 30%.
- (14) Where measures are implemented by Member States in the context of Fleet Adaptation Schemes, with a view to ensure the long-term viability of one or more of their fleets through capacity reduction, more favourable conditions should apply.
- (15) There is a need to encourage Member States to further extend their permanent cessation schemes in order to adjust their fleets to the available resources. Consequently, it is appropriate to allow for further contribution possibilities to permanent cessation. In order to facilitate restructuring, further possibilities for temporary cessation of fishing activities should be allowed for fishers and vessel owners concerned by Fleet Adaptation Schemes.
- (16) Furthermore, Member States having adopted a Fleet Adaptation Scheme should also be allowed to implement partial decommissioning measures ensuring a more cost efficient use of funds available under the EFF for reducing capacity and energy consumption of the fleet concerned. Within such partial decommissioning measures, vessel owners withdrawing one or more of their vessels from the fleet should be allowed to re-use part of the capacity withdrawn for a new smaller and less energy consuming vessel. In addition, Member States should be allowed to allocate a limited amount of the total capacity withdrawn under the Fleet Adaptation Scheme to new vessels. In such case, funds should be made available only for the part of the capacity which is permanently withdrawn.
- (17) Given the urgency of the situation and the need for immediate action in all Member States, it is appropriate to increase the percentage of Community co-financing under the EFF of the measures under this initiative to 95%. In the same context, it is relevant that these funds are made available to Member States within shorter delays than usually applicable.

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1
Subject matter

1. This Regulation establishes a specific action of the Community designed to provide for exceptional and temporary support for the persons and enterprises active in the fisheries sector affected by the economic crisis induced by the increase of oil prices in 2008, as a special regime under the European Fisheries Fund (hereinafter referred to as "EFF").
2. This specific action shall consist of:
 - (a) general measures supplementing and derogating from certain provisions of Regulation (EC) No 1198/2006, and
 - (b) special measures supplementing and derogating from certain provisions of Regulations (EC) No 2371/2002 and (EC) No 1198/2006 that are conditional upon the implementation of a Fleet Adaptation Scheme as referred to in Article 12.

Article 2

Scope

This Regulation shall apply only to public aid which has been the subject of an administrative decision by the relevant national authorities by 31 December 2010.

Article 3

Financial Framework

1. The measures provided for under this Regulation may receive financial support from the EFF within the limits of the commitment appropriations defined for the period 2007-2013.
2. Public aid granted under this specific action may not be cumulated with another public aid having the same purpose, and in particular that granted by the European Agricultural Fund for Rural Development (EAFRD), the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, other Community financial instruments and national funds.

Article 4

Application of State aid rules

1. Without prejudice to paragraph 2, Articles 87, 88 and 89 of the Treaty shall not apply to aid granted by Member States, pursuant to and in conformity with this Regulation within the scope of Article 36 of the Treaty.
2. Aid granted by Member States with no financing from Community financial instruments and exceeding the limits laid down in Article 1(3) of Commission

Regulation (EC) No ... /2008 of July 2008 on the application of Articles 87 and 88 of the Treaty to small and medium-sized enterprises active in the production, processing and marketing of fisheries products shall be subject to the application of Articles 87, 88 and 89 of the Treaty.

3. Where aid is granted by Member States with no financing from Community financial instruments within the limits laid down in Article 1(3) of Commission Regulation (EC) No ... /2008 of July 2008 on the application of Articles 87 and 88 of the Treaty to small and medium-sized enterprises active in the production, processing and marketing of fisheries products, Member States shall forward to the Commission a summary of the information regarding such aid prior to its implementation. Moreover, each year, by 1 July at the latest, Member States shall submit to the Commission a report on the aid granted under this paragraph.

CHAPTER II

GENERAL MEASURES

Article 5 *General measures*

Public aid to the persons and enterprises referred to in Article 1 may be granted until 31 December 2010 according to the rules set out in this Chapter.

Article 6 *Temporary cessation of fishing activities*

1. In addition to the measures provided for in Article 24 of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of aid measures for the temporary cessation of fishing activities for fishers and owners of fishing vessels for a maximum duration of three months implemented during the period from 1 July 2008 to 31 December 2009, provided that:
 - (a) the temporary cessation of fishing activities commenced before 30 November 2008, and
 - (b) the beneficiary enterprises become subject within six months from the date of entry into force of this regulation to restructuring measures such as Fleet Adaptation Schemes, fishing effort adjustment plans, national decommissioning schemes, fishing plans, other restructuring/modernization measures.
2. The measures provided for in paragraph 1 may cover the following costs:
 - (a) the fixed cost incurred by the vessel owners when the vessel is tied-up in the port, such as port charges, insurance cost, maintenance costs, financial costs related to loans;

- (b) part of the basic salary of the fishers.
- 3. The total public aid per Member State to the measures provided for in paragraph 1 shall not exceed the higher of the following two thresholds: EUR 6 million or an amount equal to 8% of the EFF financial assistance allocated to the sector in the Member State concerned.
- 4. Member States shall monitor compliance with the conditions set out under Article 70 of Regulation (EC) No 1198/2006 of aid granted in accordance with this chapter and the Commission shall make financial corrections in accordance with Article 97 of the same Regulation if Member States fail to ensure that within six months from the date of entry into force of this regulation the persons or enterprises benefiting from this aid fail to become subject to restructuring measures as foreseen in paragraph 1(b).

Article 7

Investments on board fishing vessels and selectivity

By way of derogation from point (a) of Annex II to Regulation (EC) No 1198/2006 where a contribution is granted for the financing of equipment which significantly improves energy efficiency on board fishing vessels, including small scale coastal fishing vessels, the minimum private financial participation to that operation shall be 40%.

Article 8

Socio-economic compensation

In addition to the measures provided for in Article 27 of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of early departure measures, including early retirement for workers in the fisheries sector, with the exception of workers in the aquaculture sector and in the sector of processing of fisheries and aquaculture products.

Article 9

Collective actions

- 1. In addition to the collective actions provided for in Article 37 of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of measures providing assistance for:
 - (a) carrying out energy audits for groups of vessels, and
 - (b) expert advice on the development of restructuring or modernisation plans, including Fleet Adaptation Schemes referred to in Article 12.
- 2. By way of derogation from point (a) of Annex II to Regulation (EC) No 1198/2006, where a contribution is granted for the financing of measures referred to in paragraph 1, the maximum rate for public contribution shall be 100%.
- 3. The EFF may contribute to the financing of compensation granted to producer organizations which are no longer entitled to benefit from aid under the second and third sub-paragraph of Article 10(1) of Council Regulation (EC) 104/2000 of 17

December 1999 on the common organisation of the markets in fishery and aquaculture products⁵, in order to offset the costs arising from the obligations imposed on them under Article 9 of the same Regulation, and subject to the conditions laid down in Article 10, paragraphs 2, 3 and 4, of that Regulation.

Article 10
Pilot projects

In addition to the measures provided for in Article 41(2) of Regulation (EC) No 1198/2006, the EFF may contribute to the financing of pilot projects testing technical improvements aiming at reducing energy consumption for vessels, engines, equipment or gear.

CHAPTER III

SPECIAL MEASURES APPLICABLE ONLY TO FLEETS CONCERNED BY FLEET ADAPTATION SCHEMES

Article 11
Measures applicable only to fleets subject to Fleet Adaptation Schemes

Public aid to the persons and enterprises referred to in Article 1 may be granted until 31 December 2010, according to the rules set out in this Chapter, provided they are subject to a Fleet Adaptation Scheme referred to in Article 12.

Member States shall monitor compliance with the conditions set out under Article 70 of Regulation (EC) No 1198/2006 of aid granted in accordance with this chapter and the Commission shall make financial corrections in accordance with Article 97 of the same Regulation if Member States fail to ensure that the requisite reductions in fishing capacity, permanent cessations or temporary cessations do not take place in accordance with this chapter.

Article 12
Fleet Adaptation Schemes

1. Member States may adopt and implement Fleet Adaptation Schemes aimed at restructuring the fishing fleets affected by the economic crisis.
2. Fleet Adaptation Schemes may include the measures provided for in Chapter I of Title IV of Regulation (EC) No 1198/2006 and those provided for in this Regulation.
3. A Fleet Adaptation Scheme shall concern only fleets where the energy costs represent on average at least 30% of the production costs, based on the turnover in 2007, of the fleet concerned by that scheme.

⁵ Council regulation (EC) 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products, OJ L 17, 21.1.2000, p.22

4. A Fleet Adaptation Scheme shall fulfil the following requirements:
 - (a) it shall result, by 31 December 2012 at the latest, in a permanent reduction of at least 30% of the fishing capacity of the fleet covered by the scheme; that threshold may be lowered to a minimum of 20 %, subject to the approval of the Commission, where the Fleet Adaptation Scheme concerns a Member State whose fleet is less than 100 vessels, and a 30% reduction would disproportionately affect the viability of the fisheries related activities depending on it;
 - (b) it shall include the list of the vessels covered by the scheme, identified by their names and Community Fishing Fleet Register numbers.
5. Each fishing vessel may be included only in one Fleet Adaptation Scheme. The conditions for including a fishing vessel in a Fleet Adaptation Scheme shall be as follows:
 - (a) Vessels must have carried out a fishing activity of at least 60 days at sea per year during the two years preceding the date of the adoption of the Fleet Adaptation Scheme;
 - (b) Vessels must be operational at the date of the adoption of the Fleet Adaptation Scheme.
6. At the latest nine months after the entry into force of this Regulation, Member States shall communicate to the Commission the Fleet Adaptation Schemes adopted.
7. When a Member State requests a revision of its operational program for the purpose of incorporating the Fleet Adaptation Schemes, Article 18 of Regulation (EC) No 1198/2006 shall apply accordingly.

Article 13
Compliance and audit of Fleet Adaptation Schemes

1. The reports mentioned in Article 67 of Regulation (EC) No 1198/2006 shall include the results achieved in the implementation of the Fleet Adaptation Schemes.
2. The Commission may perform audits on the implementation of the Fleet Adaptation Schemes. To that purpose, it may be assisted by external experts financed by the EFF under the provisions of Article 46(1) of Regulation (EC) No 1198/2006.
3. Non compliance by a Member State with the conditions laid down in a Fleet Adaptation Schemes or failure to achieve the results foreseen therein within the fixed deadline shall be considered to be an irregularity in the sense of Article 97 of Regulation (EC) No 1198/2006. The criteria for corrections as laid down in that Article shall apply accordingly.

Article 14
Permanent cessation of fishing activities

1. For the purposes of Article 23 of Regulation (EC) No 1198/2006, Fleet Adaptation Schemes are assimilated to the fishing effort adjustment plans referred to in that Article.
2. The provisions of Article 23(2) of Regulation (EC) No 1198/2006 shall not apply to permanent cessation measures adopted in the context of a Fleet Adaptation Scheme.
3. Within six months from the adoption of a Fleet Adaptation Scheme, the vessels listed for permanent cessation of fishing activities under this Fleet Adaptation Scheme shall cease permanently their fishing activities.

Article 15
Temporary cessation of fishing activities

1. In addition to the measures provided for by Article 24 of Regulation (EC) No 1198/2006 and in Article 6 of the present Regulation, the EFF may contribute to the financing of aid measures for temporary cessation of fishing activities for fishers and owners of fishing vessels included in a Fleet Adaptation Scheme, provided that the temporary cessation is implemented during the period going from 1 January 2009 to 31 December 2009 and has a maximum duration of:
 - (a) 3 months prior to the permanent withdrawal of the vessel or during the period of engine replacement; a maximum of 3 additional months may be granted as of 1 January 2010 where the process of engine replacement is still ongoing;
 - (b) six weeks in the case of the other vessels included in a Fleet Adaptation Scheme when those vessels are subject to one of the other measures referred to in Article 12 paragraph 2.
2. The measures provided for in paragraph 1 may cover the following costs:
 - (a) the fixed cost incurred by the vessel owners when the vessel is tied-up in the port, such as port charges, insurance cost, maintenance costs, financial costs related to loans;
 - (b) part of the basic salary of the fishers.
3. The total public aid per Member State to the measures provided for in paragraph 1 shall not exceed the higher of the following two thresholds: EUR 6 million or an amount equal to 8% of the EFF financial assistance allocated to the sector in the Member State concerned.

Article 16
Investments on board fishing vessels and selectivity

1. By way of derogation from point (a) of Annex II to Regulation (EC) No 1198/2006, where a contribution is granted for the financing of equipment or of gear or engine

replacement which significantly improves energy efficiency on board fishing vessels, including small scale coastal fishing vessels, the minimum private financial participation to that operation shall be 40%.

2. Member States shall fix the minimum private financial participation referred to in paragraph 1 on the basis of objective criteria such as the age of the vessel, the energy efficiency improvement, or the amount of capacity reduction included in the Fleet Adaptation Scheme.
3. The age limit referred to in Article 25(1) of Regulation (EC) No 1198/2006 shall not apply to the vessels receiving aid under this Article for equipment or gear replacement.
4. By way of derogation from Article 25(3)(c) of Regulation (EC) No 1198/2006, the EFF may contribute to one replacement of the engine per vessel of more than 24 metres in overall length included in a Fleet Adaptation Scheme, provided that the new engine has at least 20% less power than the old one and it increases energy efficiency.
5. By way of derogation from paragraph 7 of Article 25 of Regulation (EC) No 1198/2006, one additional replacement of gear shall be allowed to vessels included in a Fleet Adaptation Scheme under the condition that the new gear significantly improves energy efficiency. The conditions laid down in points (a) and (b) of that paragraph shall not apply.

CHAPTER IV

MEASURES FOR PARTIAL DECOMMISSIONING UNDER FLEET ADAPTATION SCHEMES

Article 17 *Partial decommissioning*

Public aid to vessel owners permanently withdrawing one or more vessels included in a Fleet Adaptation Scheme in order to build a new vessel of lesser fishing capacity and lesser energy consumption may be granted until 31 December 2010 according to the rules laid down in this Chapter, and provided that the Fleet Adaptation Scheme fulfils the following two requirements:

- (a) it includes vessels using one and the same fishing gear, and
- (b) it includes vessels representing at least 70% of the capacity of the fleet using that gear in the Member State.

Such permanent withdrawal is hereinafter referred to as partial decommissioning.

Member States shall monitor compliance with the conditions set out under Article 70 of Regulation (EC) No 1198/2006 of aid granted in accordance with this chapter and the Commission shall make financial corrections in accordance with Article 97 of the same

Regulation if Member States fail to ensure that the requisite reduction in fishing capacity does not take place in accordance with this chapter.

Article 18

Public aid for the permanent cessation of fishing

1. In addition to Article 23 of Regulation (EC) No 1198/2006, a vessel owner engaging in partial decommissioning shall be entitled to receive public aid for the permanent cessation of fishing activities for the difference between the capacity withdrawn and the capacity re-allocated to a new vessel.
2. The fishing capacity of the new vessel shall not be higher than 40% of the capacity withdrawn by the vessel owner.
3. Where appropriate, Member States shall adapt the fishing licence accordingly.

Article 19

Withdrawal and reallocation of fishing capacity

1. By way of derogation to Article 11, paragraphs 3 and 4, of Regulation (EC) No 2371/2002, Member States shall be entitled to re-allocate up to 25 % of the capacity permanently withdrawn in the context of a Fleet Adaptation Scheme to new vessels as referred to in Article 17.
2. The reference levels referred to in Article 12 of Regulation (EC) No 2371/2002 are deducted by the difference between the capacity permanently withdrawn and the capacity re-allocated.
3. The capacity re-allocated under paragraph 1 need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13 of Council Regulation (EC) No 2371/2002.
4. In Fleet Adaptation Schemes where partial decommissioning is applied to more than 33 % of initial fleet capacity, the total reduction in capacity under the Fleet Adaptation Scheme shall be of at least 66 %.

CHAPTER V

FINANCIAL PROVISIONS

Article 20

Financial provisions

1. By way of derogation to Article 53 of Regulation (EC) No 1198/2006, the contribution from the EFF to operations financed in the context of this specific action shall be subject to a ceiling of 95% of the total public expenditure and shall not be taken into account for the purposes of the ceilings referred to in Article 53(3).

2. By way of derogation to Article 81(1) of Regulation (EC) No 1198/2006, a second pre-financing amount representing 7 % of the contribution from the EFF for the period 2007 to 2013 to the operational programme shall be paid by the Commission upon request by the Member State. For operational programmes adopted in 2007, the above request shall be submitted to the Commission at the latest by 31 October 2008. For operational programmes adopted in 2008, the above request shall be submitted to the Commission at the latest by 30 June 2009. It may be spread to two financial years in accordance with the available budget of the EFF.
3. By way of derogation to Article 81(2) of Regulation (EC) No 1198/2006, where the second pre-financing amount is paid in accordance with paragraph 2, the total amount paid as pre-financing shall be reimbursed to the Commission by the body designated by the Member State if no application for payment under the operational programme is sent within 24 months from the date on which the Commission paid the first instalment of the second pre-financing amount.

CHAPTER VI

FINAL PROVISIONS

Article 21 *Implementing rules*

The implementing rules for this Regulation may be adopted in accordance with the procedure referred to in Article 101(3) of Regulation (EC) No 1198/2006.

Article 22 *Entry into force*

This Regulation shall enter into force on the 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,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

The underlying Council Regulation constitutes a temporary action which supplements the measures provided for under the European Fisheries Fund (EFF) in Council Regulation (EC) No 1198/2006 of 27 July 2006. Therefore, this legislative financial statement complements the already existing legislative financial statement of the EFF Regulation. It does not reflect any budgetary implications except a change in the annual profile of Payment Appropriations (PA) under the EFF. This modified profile in PA results from the doubling of potential pre-financing from 7% to 14% of the programmed EFF total amount.

1. NAME OF THE PROPOSAL:

Council Regulation instituting a temporary specific action aiming to promote the restructuring of the European fisheries fleets affected by the economic crisis

2. ABM / ABB FRAMEWORK

Policy Area concerned: Maritime Affairs and Fisheries
Activity: 11.06 European Fisheries Fund (EFF)

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B..A lines)) including headings:

11.0612: EFF convergence objective and 11.0613: EFF outside convergence objective

3.2. Duration of the action and of the financial impact:

Entry into force of Regulation until 31 December 2010

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
11.0612 and 11.0613	Non-comp	Diff ⁶	NO	NO	NO	No 2

⁶ Differentiated appropriations

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		2008	2009	2010 and years after	Total
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Operational expenditure⁷

Commitment Appropriations (CA)	8.1.	a				
Payment Appropriations (PA) ⁸		b	230.975	70.372	-301.347	0.000

Administrative expenditure within reference amount⁹

Technical & administrative assistance (NDA)	8.2.4.	c				
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c				
Payment Appropriations		b+c	230.975	70.372	-301.347	0.000

Administrative expenditure not included in reference amount¹⁰

Human resources and associated expenditure (NDA)	8.2.5.	d				
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e				

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c +d +e				
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⁷ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

⁸ Re-programmed PA for additional advance payments reflected in 2008 for all MS whose Operational Programmes were adopted in 2007 and reflected in 2009 for all MS whose Operational Programmes will be adopted in 2008. No net increase throughout the total programming period.

⁹ Expenditure within article xx 01 04 of Title xx.

¹⁰ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

TOTAL PA including cost of Human Resources		b+c +d +e	230.975	70.372	-301.347	0.000
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4.1.2. *Compatibility with Financial Programming*

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement¹¹ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. *Financial impact on Revenue*

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:**
4.2. Human Resources FTE (including officials, temporary and external staff)
– see detail under point 8.2.1.

No change compared to EFF legislative financial statement

Annual requirements	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later
Total number of human resources						

5. CHARACTERISTICS AND OBJECTIVES

Details of the context of the proposal are presented in the Explanatory Memorandum and the Legislative Financial Statement attached to the EFF Regulation.

5.1. **Need to be met in the short or long term**

The package of measures proposed is intended to provide for exceptional and temporary support for the persons and enterprises active in the fisheries sector affected by the economic crisis induced by the increase of oil prices in 2008 within the overall context of the EFF.

5.2. **Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy**

See EFF Financial Statement

¹¹ See points 19 and 24 of the Interinstitutional agreement.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

See EFF Financial Statement

5.4. Method of Implementation (indicative)

- Centralised Management
 - directly by the Commission
 - indirectly by delegation to:
 - executive Agencies
 - bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
 - national public-sector bodies/bodies with public-service mission

X *Shared or decentralised management*

X with Member states

with Third countries

Joint management with international organisations (please specify)

Relevant comments:

6. MONITORING AND EVALUATION – NO CHANGES COMPARED TO EFF LEGISLATIVE FINANCIAL STATEMENT

6.1. Monitoring system

See EFF Financial Statement

6.2. Evaluation

6.2.1. Ex-ante evaluation

This proposal has no additional financial consequences but only changes the schedule for payments, so that a specific ex-ante evaluation of this proposal is not required.

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

See arrangements set for the EFF

6.2.3. Terms and frequency of future evaluation

See arrangements set for the EFF

7. ANTI-FRAUD MEASURES

See arrangements set for the EFF

8. DETAILS OF RESOURCES – NO CHANGES COMPARED TO EFF LEGISLATIVE FINANCIAL STATEMENT

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av. cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1 ¹²																
Action 1																
- Output 1																
- Output 2																
Action 2																
- Output 1																
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No.2 ¹																

¹² As described under Section 5.3

Action 1.....																
- Output 1																
Sub-total Objective 2																
OPERATIONAL OBJECTIVE No.n 1																
Sub-total Objective n																
TOTAL COST																

8.2. Administrative Expenditure

No impact on administrative expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff ¹³ (XX 01 01)	A*/AD						
	B*, C*/AST						
Staff financed ¹⁴ by art. XX 01 02							
Other staff ¹⁵ financed by art. XX 01 04/05							
TOTAL							

8.2.2. Description of tasks deriving from the action

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

¹³ Cost of which is NOT covered by the reference amount

¹⁴ Cost of which is NOT covered by the reference amount

¹⁵ Cost of which is included within the reference amount

8.2.4. *Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1 Technical and administrative assistance (including related staff costs)							
Executive agencies ¹⁶							
Other technical and administrative assistance							
- <i>intra muros</i>							
- <i>extra muros</i>							
Total Technical and administrative assistance							

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (XX 01 01)						
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)						

¹⁶ Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– *Officials and Temporary agents*

Calculation– *Staff financed under art. XX 01 02*

8.2.6. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ¹⁷							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2 Total Other Management Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)							

Calculation - *Other administrative expenditure not included in reference amount*

¹⁷ Specify the type of committee and the group to which it belongs.