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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.7.2008
COM(2008) 444 final

2008/0138 (CNS)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 639/2004 on the management of fishing fleets registered
in the Community outermost regions**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- Grounds for and objectives of the proposal

Regulation (EC) No 639/2004 of 30 March 2004 on the management of fishing fleets registered in the Community outermost regions (hereinafter OR's) lays down derogations from the entry/exit scheme foreseen in Article 13 of Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy and from the prohibition to use public funds to modernise or renew the fleet set out in Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. The deadline for such derogations had been extended for one year following the political agreement reached in the Council on 19 June 2006 concerning the European Fisheries Fund (EFF). However, the late adoption of Commission's legal instrument allowing the Member States concerned to grant State aid, together with the limited ability of shipyards has made it impossible to comply with the deadline for the entry into the fleet of the fishing vessels receiving national State aid for renewal by 31 December 2008, as stipulated in Regulation (EC) No 639/2004.

The purpose of this proposal is to extend by one year this deadline with a view to allowing the member States concerned make full use of the agreement reached in 2006.

- General context

The special regime for the management of fleets in OR's is a consequence of the particular structural, social and economic situation of these regions in the Community context. Recognition of the specificity of OR's characteristics honours Article 299(2) of the Treaty.

- Existing provisions in the area of the proposal

The management of fishing fleets in the outermost regions is governed by Council Regulation (EC) No 639/2004 of 30 March 2004 and Commission Regulation (EC) No 2104/2004 of 9 December 2004 laying down detailed implementing rules for Council Regulation (EC) No 639/2004.

- Consistency with the other policies and objectives of the Union

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENTS

- Consultation of interested parties

Exchange of correspondence with the member States concerned has alerted the services of the Commission about the problem.

- Collection and use of expertise

Use of external expertise was not necessary.

- Impact assessment

Given the very limited reach of this proposal, an impact analysis is not required.

3) LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

Extension of the deadline for the entry into the fleet of additional fishing capacity required for the renewal or modernisation of vessels using public aid.

- Legal basis

Articles 37 et 299(2) of the Treaty

- Subsidiarity principle

The proposal concerns an area that falls under exclusive Community competence. The subsidiarity principle therefore does not apply.

- Proportionality principle

The proposal complies with the principle of proportionality, for the following reasons:

Not applicable.

- Choice of instruments

Proposed instrument: regulation amending existing regulation.

Other means would not be adequate, for the following reasons:

Not applicable.

4) BUDGETARY IMPLICATION

The proposal has no implications for the Community budget.

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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 Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Council Regulation (EC) No 639/2004 of 30 March 2004 on the management of fishing fleets registered in the Community outermost regions³ allows derogations from Article 13 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. That Article provides for a general scheme to manage entries into the fleet as well as exits from the fleet.
- (2) Article 2(5) of Regulation (EC) No 639/2004 fixes the period of validity of the derogation from the entry/exit scheme for vessels renewed with public aid. That period was originally set at 31 December 2007 and was then extended until 31 December 2008 following the political agreement reached in the Council on 19 June 2006 concerning the European Fisheries Fund.
- (3) The Commission act allowing the Member States concerned to grant State aid⁵ was adopted later than foreseen. Given the fact that the interested shipyards have a limited capacity, a full implementation of the political agreement reached in the Council on 19 June 2006 becomes impossible within the deadline of 31 December 2008.
- (4) It is, therefore, appropriate to extend for one more year the deadline for the derogation set out in Article 2(5) of Regulation (EC) No 639/2004.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 102, 7.4.2004, p. 9. Regulation as last amended by Regulation (EC) No 1646/2006 (OJ L 309, 9.11.2006, p. 1).

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

⁵ Guidelines for the examination of State aid to fisheries and aquaculture (OJ C 84, 3.4.2008, p. 10)

(5) Regulation (EC) No 639/2004 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 2(5) of Regulation (EC) No 639/2004, "31 December 2008" shall be replaced by "31 December 2009".

Article 2

This Regulation shall enter into force on the twentieth 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