

Brussels, 18 October 1999

OPINION

of the Committee of the Regions

of 16 September 1999

on the

Proposal for a Council Regulation (EC) on the common organisation of the markets in fishery and aquaculture products

(COM(1999) 55 final - 99/0047 CNS)

The Committee of the Regions

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament on the future for the market in fisheries products in the European Union: responsibility, partnership, competitiveness (COM(1997) 719 final);

HAVING REGARD TO the Proposal for a Regulation (EC) from the Council on the common organisation of the market in fishery and aquaculture products (COM(1999) 55 final - 99/0047 CNS)¹;

HAVING REGARD TO the 1992 United Nations Conference on Environment and Development in Rio de Janeiro. In particular Chapter 17 of Agenda 21 which addressed the issue of sustainable use and conservation of marine living resources of the High Seas;

HAVING REGARD TO the Commission Decision dated 4 March 1999 to consult the Committee of the Regions on this issue, in accordance with Article 198 C (first paragraph) of the Treaty establishing the European Community;

HAVING REGARD TO the Bureau decision dated 7 May 1999 instructing Commission 2 - "Agriculture, Rural Development and Fisheries" - to draft the opinion;

HAVING REGARD TO the draft opinion (CdR 182/99 rev. 1) adopted by Commission 2 on 16 June 1999 (rapporteurs: **Sir Simon Day** (UK, EPP) and **Mr Nordwall** (SV, PES));

adopted this opinion at its 30th plenary session on 15 and 16 September 1999 (meeting of 16 September 1999).

1. Introduction

1. The Commission's communication² set out some guidelines as to how the markets in fishery products could be improved. Extensive consultation followed within the industry at large and the Commission has now published its formal proposals at the behest of the Council of Ministers.
2. Some of the aspects included within that debate have been covered in proposals already published, and on which the Committee of the Regions has already commented. Future proposals are anticipated relating to market transparency.
3. The current proposal on the common organisation of the market in fishery and aquaculture products is intended to replace that which has existed since 17 December 1992 (Regulation (EEC) No. 3759/92³) as well as consolidating into a single regulation the provisions of Council Regulation (EEC) No. 105/76⁴, on the recognition of producer organisations in the fishing industry, and No. 1772/82⁵, laying down general rules pertaining to producer organisations.

2. The proposed regulation

1. The regulation proposes a thorough overhaul of the organisation of the markets in fishery and aquaculture products, in particular:
 - to enable the common organisation of the markets in these products to contribute to the responsible management of resources,
 - to improve transparency and knowledge of these markets, including amongst consumers,
 - to give greater responsibility, in particular to producer organisations, to achieve optimal management of resources and returns,
 - to encourage partnerships between different operators to maximise efficiency,
 - to encourage greater use of forecasting by producer organisations, to adjust supply and demand,
 - to improve market stability by encouraging fixed price contracts,
 - to revise the intervention arrangements to improve efficiency,
 - to raise competitiveness,
 - to clarify and simplify existing regulations.
2. Articles 1-3 make no change to what is currently in force, although the definition of fishery products needs clarification. As drafted, it would appear that aquaculture products are solely farmed and not taken from the sea. There is no distinction made between exclusively wild-caught species, such as crab, urchins, etc., and exclusively farmed species such as oysters. There are also species that can be either caught or farmed, e.g. scallops and mussels. The list of fishery products set out in the Table under Article 1 refers to various ways in which crustaceans and molluscs can be processed but omits "depuration", a technique used throughout the EU. At all events, essentially sedentary species such as non-marine-fauna bivalve molluscs (clams, razor shells,

cockles), gasteropod molluscs (ormer), bivalve molluscs Pectinidae (scallops) and crustaceans such as barnacles, which are taken from natural beds, should be considered in the same way as the same products when they are farmed

3. Article 4 brings in a new provision which in respect of retail sales will necessitate effective labelling. This will need to show the local market name of the species, the production method (taken at sea or farmed) and the geographic area, by reference to ocean or sea, of the catch. We would welcome this as a minimum requirement but we would still hope to see greater local branding of fish and aquaculture products. To facilitate marketing of fish products, including by tele-auctioning, it is important that there are quality criteria. These are laid down currently in Regulation (EEC) No. 103/76⁶ and are enforced by Member States.
4. Articles 5-12 cover regulations for producer organisations. The latter are in effect suppliers' co-operatives, set up to assist the offshore fisheries industry in ensuring a regular supply of fish to the market, but where appropriate within quota limits, and may exercise an intervention policy to provide a more stable price for fish.
5. Article 5 therefore sets out the rules for the operation of producer organisations and the obligations of their members. A new provision is proposed in Article 5 paragraph 1 (b)(4) which, although not directly within the remit of marketing organisations, encourages producers to consider the delicate nature of the marine environment and promotes fishing methods which complement moves toward sustainability.
6. The recognition of producer organisations is undertaken by Member States and Article 6 sets out the procedure for this and also the withdrawal of recognition. Provision is made in Article 38 for reference to, and resolution by, a Management Committee for Fishery Products, representative of all the Member States, in the event of dispute.
7. Article 7 affords discretion to Member States to recognise, in addition to those set up under Article 6, producer organisations that agree and undertake to improve the quality and marketing of certain fishery products in accordance with the Regulation (EC) No. 2406/96⁷. In this respect, attention needs to be made to further development of vertical integration, especially between family businesses or groups of businesses and the retail chains and supermarkets. As reflected in earlier opinions, we believe that assistance to the fisheries industry should be undertaken in a less discriminatory manner and that assistance is not geographically limited according to the whim of the Member State.
8. Article 8 allows Member States, in certain circumstances, to ensure that non-members of producer organisations, in broad terms, do not undermine the price stability objectives of producer organisations and Article 9 provides for financial compensation in certain circumstances. Whereas, though, Article 8 reproduces Article 5 in Regulation (EEC) No. 3759/92, there is one significant change in that the provisions relating to non-members only apply for a maximum period of 12 months. It is not clear whether this is for the purpose of regular review but, as drafted, it could be construed that this will be an absolute limit.
9. Article 10 requires all producer organisations in advance of each fishing year to submit operational programmes showing their marketing plans and how they intend to manage the output of their members. Grant aid to a producer organisation will be withdrawn if these plans are not submitted or where it has failed to implement planned measures. If a producer organisation is penalised twice, the third offence will lead to

withdrawal of recognition.

10. As drafted, Article 10 is unworkable. Whereas it is reasonable for a marketing plan to be prepared in advance of the first year, it is not possible to finalise a catch plan until the final quota is determined. In practice this can be as much as six months into the fishing year in question. The fact that not all species are necessarily subject to quota does not invalidate the need to defer the catch plan, as the amount of quota will influence the extent to which non-quota fish are caught.
11. However, recognising the additional burden that Article 10 imposes on producer organisations, Member States are obliged, under Article 11, to provide additional grant aid for a period of five years following the year in which they are granted recognition. This is welcomed.
12. Article 12 provides additional grant aid to producer organisations which can prove that at least 10% of their production will be sold through pre-sale contracts. The purpose of this provision is to recognise that such contracts help to plan supply. Grant aid is proposed for five years starting on 1 January 2001, the date from which it is proposed that the new regulation comes into force. However, during 1998, proposals were published by the European Commission to amend Regulation (EEC) No. 2847/93⁸ on control regulation. These include a provision under which a Member State may require that the first marketing be by sale at an auction centre. If adopted, such a provision would be in conflict with the proposed Article 12 or, at the very least, could be discriminatory.
13. Articles 13-16 cover interbranch organisations and agreements. Whereas producer organisations cover the off-shore fishing industry, recognition is also available to organisations or associations which represent a significant share in the production, trade or processing of fishery products, subject to certain conditions and types of activity undertaken. Thus, for example, the study and development of techniques to optimise the operation of the market, including information and communication technology, the regional branding of fish products and organising training schemes to improve product quality, would all be appropriate activities. Nothing must be done, however, which hinders competition. Non-compliance with the conditions will lead to withdrawal of recognition. There are similar provisions for non-members as for those relating to producer organisations. Unlike producer organisations, there is no grant aid provided specifically for interbranch organisations but it is our view that, to improve market efficiency, there should be initial grant aid over a three-year period to facilitate their establishment. The discretionary element relating to recognition should not be made mandatory provided, of course, that the pre-conditions are met.
14. Articles 17-24 govern the principles of intervention. The first relates to pricing policy. Article 17 gives producer organisations the right to set a withdrawal price, in effect a reserve price, below which they will not sell. Removal of products withdrawn from the market in this way must be undertaken in a way which does not interfere with the normal marketing of the product concerned. In order that producers are compensated for the unsold catch, producer organisations are empowered to fund this from an intervention fund. The latter is replenished in part by way of a levy on successful sales. Details of the list of products applicable, the duration in which withdrawal prices are applicable and the level of withdrawal prices proposed and applied have to be notified to the Member State concerned.
15. Under Article 18, the Management Committee for Fishery Products will set a guide price, applicable throughout the EU, in advance of the fishing year, or part of a year, in

- question, in respect of each fish product. The guide price will take into account the average prices received in the previous three years, current trends in supply and demand, the need to stabilise prices, avoid unnecessary surpluses and to balance the interests of producers and consumers.
16. Article 20 defines the Community withdrawal price as between 70% and 90% of the guide price, subject to certain adjustments, but that in no circumstances will the withdrawal price exceed 90%.
 17. Article 21 provides financial compensation to producer organisations implementing a price intervention policy. Producer organisations must use the Community withdrawal price as its norm, but are allowed to vary this by up to 10% either way to reflect, in particular, seasonal fluctuations in market prices. Such financial compensation will be paid only where products are withdrawn from the market and either disposed for other than human consumption or do not otherwise interfere with normal marketing.
 18. The amount of financial compensation and the quantities eligible will be gradually reduced during the 2001, 2002 and 2003 fishing years but producer organisations will be expected to offset that through their own intervention funds. However, the financial compensation proposed in Article 21, paragraph 3(a), is significantly less than the current regime and, whilst recognising the need to reduce the reliance on intervention, the scale of reductions proposed are unreasonable.
 19. Under Article 23, where products are withdrawn from sale due to their inability to meet the withdrawal price and, in respect of certain products, a buyer has not been found at the Community withdrawal price (subject to the 10% tolerance factor) and the product is then stored or preserved, "carry-over aid" may be payable. There are limits to what can be claimed and in any event the grant aid will not exceed the costs of preservation or storage. Of the permitted processing methods, marinating is now included. The discretionary element in this Article should be made mandatory, as provided in the original Regulation (EEC) No. 3759/92.
 20. The effect of this provision is to encourage producer organisations to use this facility as a temporary withdrawal from the market rather than a permanent withdrawal and the revised grant aid system is designed to provide an incentive for this to happen. In the context of fishery resources, this is a sensible direction to take.
 21. For those producer organisations that set their own withdrawal prices under Article 17, a flat rate grant is payable. We are pleased to see that this is mandatory. However, Article 24, paragraph 5, appears to be contradictory. In any event, the quantities eligible for flat rate aid should remain unchanged from that specified in the original Regulation (EEC) No. 3759/92.
 22. Article 25 provides for private storage aid for products that are frozen on board vessels. The rules for this are similar to carry-over aid set out in Article 23 but, for the same reasons as set out in paragraph above, the discretionary element should be removed.
 23. Articles 26-27 are concerned with compensation payments in respect of tuna fish for canning. The European Commission believes that whilst there are no significant changes as to the principles of these compensation payments, the threshold for payments is too high and, as a consequence, likely to result in payments being made when the grounds for them could be insufficient. The proposal is that the threshold is reduced from 91% to 85% of the Community producer price. The COR disagrees with

the Commission proposal, and thinks that the threshold should remain at 91%.

24. Articles 28-30 concern trade with third countries. In order to ensure more competitive and stable supplies to the processing industry, particularly of species which the EU is unable to provide or only in small amounts, it is proposed to suspend import duties on these products, but only if the imported value is equal to, or higher than, the intervention price adopted within the EU.

However, the COR thinks that consideration should be given to the position of certain 'sensitive products' such as loin fillets of tuna, so that they continue to be covered by the present quota system with CCT duties remaining at 24%.

25. There are some general provisions included within Articles 31-43. The most significant is the continued provision of a Management Committee for Fishery Products as provided under Article 37 and its jurisdiction on disputes, and the ability to make new measures, under Article 38.

26. The financial table incorporated in the annex reveals that:

- annual expenditure on community withdrawal and carry-over grant aid will fall from 12m euros in 2000 to 7m euros from 2003;
- annual expenditure on independent withdrawals and carry over grant aid will remain unchanged at 3.5m euros;
- annual expenditure on private storage aid will be increased from 0.5m euros in 2000 to 2m euros in 2002 onwards;
- annual expenditure on compensatory allowance for tuna will be reduced from 4m to 2.5m euros from 2001 onwards;
- annual expenditure on the new allowances to producer organisations will average 5.25m euros in the first three years and 3m euros in the last 2 years. After 2005, only newly created organisations will be eligible for assistance and the expenditure is expected to be 0.5m euros per annum;
- expenditure on the new allowances to producer organisations for recourse to contracts is estimated at 1.7m euros in 2001, 2.7m euros in 2002 and 4.7m until 2005;
- the additional allowance in respect of the reform of the market organisation is expected to cost 3m euros in 2001, rising to 5m euros in 2003 and 2.7m euros in 2004 and 2005. The schedule shows a credit of 4.5m euros in 2006 which is not explained. If this figure is reduced to zero then this column in the table adds up correctly.

27. Taking these figures as stated, noting that they represent estimated maximum figures, the assistance provided to support the common market organisation for fisheries products rises from 20m euros in 2000 to 25m euros in 2003, falls to 22.7m euros in 2004-05 and falls further to 15.5m euros in 2006, assuming that there is not a 4.5m euros credit (see previous paragraph).

3. Conclusions

1. The proposal largely consolidates existing regulations, but the main emphasis is on increasing efficiency and there is a welcome recognition of the role of producer organisations in achieving that. However, it is vital that the regulation reflects practicalities, especially in relation to the timescale for the production of marketing and

catch plans.

2. There is a need to ensure consistency of approach by all Member States and therefore elements of discretion should be removed.
3. One of the efficiency gains that could be achieved is through encouraging greater co-operation and communication between the managers of fish auctions and fish catchers in the various regions of the EU and the use of electronic auctions. Financial assistance to facilitate the greater use of electronic auctions would help develop this initiative.
4. The proposals to improve labelling to give details of origin are welcomed. These could go further to extend into regional branding and marketing but, as a minimum requirement, are acceptable.
5. The effect of reducing intervention aid is to put EU producers at a potential disadvantage relative to third countries. Care must be taken to ensure that this does not lead to an increase in imports of fish products from third countries at the expense of the EU fisheries industry.

4. Recommendations

We recommend the following amendments to the draft regulation:

- i. In Article 4, paragraph 2, after “indicate” insert “as a minimum and on the basis that it does not prejudice local branding of fish and aquaculture products, especially where this improves customer awareness and confidence”.
- ii. In Article 5, paragraph 1(b)(4) amend: "encourage the adoption of those methods of fishing which do most to maintain equilibrium and sustainability of the resource". In Article 7, paragraph 1, delete “may” and insert “shall”.
- iii. In Article 8, delete “period not longer than 12 months” and insert “periods not longer than 12 months without annual review”.
- iv. In Article 10, paragraph 1, delete “Before the beginning of the fishing year” and in paragraph 1(b) after “members” insert “the plan to be submitted within two months of the date on which the producer organisation concerned is formally notified of the final quota for all species for the fishing year in question”.
- v. In Article 12, paragraph 1, insert at the beginning “Notwithstanding any provision to the contrary”.
- vi. In Article 13, paragraph 1, after “Member States” delete “may” and insert “shall”.
- vii. In Article 13, insert a new numbered paragraph 8 as follows “Member States shall grant aid the establishment of interbranch organisations over a 3 year period in accordance with the provisions of Article 11”.
- viii. In Article 21, paragraph 3(a)(i), for “2%” substitute “5%”; in paragraph 3(a)(ii) for “5%” substitute “8%”; in paragraph 3(a)(iii) for “8%” substitute “10%” and in paragraph 3(b) for “8%” substitute “10%”.
- ix. In Article 23, paragraph 3, both in the first paragraph and the second paragraph, delete “may” and insert “shall”.
- x. In Article 24, paragraph 5, delete the first sentence in its entirety and in the second sentence delete “referred to in the previous subparagraph” and insert “of the products concerned and put up for sale in accordance with Article 5(1)”.
- xi. In Article 25, paragraph 2, delete “may” and insert “shall”.
- xii. The triggering threshold for compensation payments for tuna for canning should remain at 91%.

- xiii. Provision should be made for financial assistance to encourage greater co-operation and communication between managers of fish auctions and fish catchers in the various regions of the EU and in particular towards the use of electronic auctions.
- xiv. In Annexes I and II, the lists of fresh and frozen products eligible for Community private storage aid should include swordfish.
- xv. The inclusion in Annex V of certain sensitive products such as loin fillets of tuna should be reviewed.

Brussels, 16 September 1999

The President

Acting Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Manfred Dammeyer

Vincenzo Falcone

¹ OJ C 078 of 20.3.1999, page 1

² COM(1997) 719 final du 16.12.1997

³ OJ L 388 of 31.12.1992, p. 1-36

⁴ OJ L 20 of 28.1.1976, p. 39-41

⁵ OJ L 197 of 6.7.1982, p. 1-2

⁶ OJ L 20 of 28.1.1976, p. 29-34

⁷ OJ L 334 of 23.12.1996; p. 1-15

⁸ OJ L 261 of 20.10.1993, p. 1-16.

- -

CdR 182/99 fin E/o .../...

CdR 182/99 fin E/o