



COMMISSION OF THE EUROPEAN COMMUNITIES

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2003/0237 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 3069/95 establishing a European Community observer scheme applicable to Community fishing vessels operating in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (NAFO)

(presented by the Commission)

EXPLANATORY MEMORANDUM

In 1995, the Northwest Atlantic Fisheries Organisation (NAFO) established a “Pilot Project for Observers and Satellite Tracking”. This formed part of a package of strengthened control and Enforcement measures, which was adopted in order to resolve what, at that time, became known as the “Greenland halibut dispute”. This project provided for, inter alia, observers to be placed on all vessels operating in the Regulatory Area of NAFO. In 1997, This Pilot Project was replaced with a “Program for Observers and Satellite Tracking”, which will be subject to review during the Annual Meeting of NAFO in September 2003.

In view of the special circumstances surrounding the genesis of the Program for observers and Satellite tracking, the Commission undertook in 1995 to ensure its application to Community fishing vessels and to bear the ensuing costs for the observers. This was spelt out in Council Regulation (EC) 3069/95, by way of which the observer component of the program was implemented at Community level.

In December 2002, the Council adopted Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common fisheries Policy. This Regulation constitutes the framework of the Common Fisheries Policy from 1 January 2003. According to Article 23 paragraph 2 of this Regulation, it is now for Member States to, inter alia, control the activities carried out by vessels flying their flag outside Community waters, including being responsible for placing observers on these vessels.

With the adoption of the new framework Regulation for the Common Fisheries Policy, there is no longer any justification for the Commission to bear the administrative and financial burdens entailed with the observer component in this program. It is, therefore, necessary to entrust Member States with the task of running the NAFO Programme for observers from now on. The intention is that Member States shall assume this responsibility from 1 January 2004. This would allow to change-over the observers deployed through the private agency which runs the program on behalf of the Commission. The contract with the company expires on 15.02.2004 but may be prolonged for a limited period if needed in order to ensure a smooth transition.

The Commission shall work closely with Member States to ensure a smooth transition of the responsibility for running this NAFO Programme. The Commission will also evaluate and monitor the application of this NAFO Programme by the Member States concerned.

Under these circumstances, it is necessary to amend Council regulation (EC) No 3069/95 accordingly.

It should also be borne in mind that at a later stage, in the framework of the proposal on the Joint Inspection Structure, the responsibility for ensuring the inspection presence in NAFO will also be transferred to Member States. This will mean that the charter of an inspection vessel by the Commission to undertake patrols in NAFO should not be extended beyond 31 December 2005.

Proposal for a

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amending Regulation (EC) No 3069/95 establishing a European Community observer scheme applicable to Community fishing vessels operating in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (NAFO)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 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 3069/95³ provides for specific rules to implement, at Community level, the scheme for observers which had been agreed upon within the framework of the Northwest Atlantic Fisheries Organisation (NAFO) in 1995 and which aimed at improving control and enforcement in the Regulatory Area of NAFO.
- (2) In view of special circumstances under which the scheme was implemented at Community level in 1995, the Council entrusted the Commission to place observers on board all Community fishing vessels and it is the Community which bears the costs arising from its operation.
- (3) In 2002, Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common fisheries Policy, was adopted⁴. Under that Regulation, Member States are to control the activities carried out by vessels flying their flag outside Community waters, including being responsible for placing observers on such vessels.
- (4) In view of the adoption of that framework Regulation, there is no longer any justification for the administrative and financial burdens involved being borne by the Commission.

¹ OJ C [...] [...], p.[...]

² OJ C [...] [...], p.[...]

³ OJ L 329, 30.12.1995, p. 5. Regulation as amended by Regulation (EC) No 1049/97 (OJ L 154, 12/6/1997, p.2.).

⁴ OJ L 358, 31.12.2002, p. 59.

- (5) The Commission and Member States should work closely together to ensure the effectiveness of the observer programme is maintained and respects the Community's obligations in NAFO.
- (6) Regulation (EC) No 3069/95 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3069/95 is amended as follows:

- (1) In Article 1, the first paragraph is replaced by the following :

“Without prejudice to Article 2 (2) of Regulation (EEC) No 1956/88, Member States shall assign observers to all their fishing vessels engaged in or about to engage in fishing activities in the NAFO Regulatory Area. Duly appointed observers shall remain on board the fishing vessels to which they are assigned until they are replaced by other observers.”

- (2) The following Article 1a is inserted :

“Article 1a

Member States shall forward to the Commission a list of the observers they have assigned pursuant to Article 1 by 20 January at the latest each year and, thereafter, immediately following the assignment of any new observer.”

- (3) In Article 2, the terms “Community observers” are replaced by the terms “duly assigned observers”.

- (4) Article 4 is replaced by the following:

“Article 4

All costs arising from the operation of observers under this Regulation shall be borne by the Member States. Member States may charge these costs, in part or in full, to the operators of their vessels.”

- (5) In Annex I, point 1 (i), the term “Commission” is replaced by the terms “Member States”.

- (6) In Annex I, point 2 (m), the terms “the competent authorities of the Member State concerned” is replaced by the terms “the competent authorities of the Member State which assigned them”.

- (7) Annex II is deleted.

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*.

It shall apply from 1 January 2004.

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

Policy area(s): FISHERIES

Activit(y/ies): Fisheries Conservation, Control and Enforcement

TITLE OF ACTION: EUROPEAN COMMUNITY OBSERVER SCHEME APPLICABLE TO COMMUNITY FISHING VESSELS OPERATING IN THE REGULATORY AREA OF THE NORTHWEST ATLANTIC FISHERIES ORGANISATION (NAFO)

1. BUDGET LINE(S) + HEADING(S)

Chapter B2-90, Article B2-902

110703 – Inspection and surveillance of fishing activities in EC waters

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): -3,000 € million for commitment

2.2. Period of application:

The intention is that Member States shall assume this responsibility from 1 January 2004. This would allow to change over the observers deployed through the private agency which runs the program on behalf of the Commission. The contract expires on 15.02.2004 but it may be necessary to foresee a prolongation for a limited period in order to ensure that there is observer coverage during the transitional period.

2.3. Overall multiannual estimate of expenditure:

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€ million *(to three decimal places)*

	Year 2004	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Commitments	-2,000						-2,000
Payments	-1,350						-1,350

(b) Technical and administrative assistance and support expenditure (see point 6.1.2)

Commitments							
Payments							
Subtotal a+b							
Commitments	-2,000						-2,000
Payments	-1,350						-1,350

(c) Overall financial impact of human resources and other administrative expenditure (see points 7.2 and 7.3)

Commitments/ payments							
TOTAL a+b+c							
Commitments	-2,000						-2,000
Payments	-1,350						-1,350

2.4. Compatibility with financial programming and financial perspective

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 Agreement.

2.5. Financial impact on revenue:⁵

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

OR

Proposal has financial impact:

The proposal will have a positive impact on the Community budget.

An amount of 3.000.000 € has been reserved for the deployment of observers in the NAFO R.A. on the 2004 Budget. This amount takes into account the deployment of observers on board of the fishing vessels of the Member States, but takes also into account the increase of observers to be deployed on the fishing vessels of Accession States active in the Regulatory Area. It is necessary to foresee some expenditure in 2004 to take account of the transitional period.

⁵ For further information, see separate explanatory note.

If Member States will be entrusted with the task of running the NAFO Observer Scheme, the financing will be carried by them.

(NB All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.)

(€ million to one decimal place)

Budget line		Revenue	Prior to action [Year n-1]	Situation following action						
				[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]	
		<i>a) Revenue in absolute terms</i>								
		<i>b) Change in revenue</i>	Δ							

(Please specify each budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions form applicant countries	Heading in financial perspective
Non-comp	Diff	NO	NO	NO	No 03

4. LEGAL BASIS

Article 23 paragraph 2 of Council Regulation (EC) 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention ⁶

5.1.1. Objectives pursued

5.1.2. Measures taken in connection with ex ante evaluation

5.1.3. Measures taken following ex post evaluation

5.2. Action envisaged and budget intervention arrangements

5.3. Methods of implementation

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

(The method of calculating the total amounts set out in the table below must be explained by the breakdown in Table 6.2.)

6.1.1. Financial intervention

Commitments (in € million to three decimal places)

Breakdown	2004	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Action 1	-2,000						-2,000
etc.							
TOTAL	-2,000						-2,000

⁶ For further information, see separate explanatory note.

6.1.2. *Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)*

	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. years]	Total
1) Technical and administrative assistance							
a) Technical assistance offices							
b) Other technical and administrative assistance: - intra muros: - extra muros: <i>of which for construction and maintenance of computerised management systems</i>							
Subtotal 1							
2) Support expenditure							
a) Studies							
b) Meetings of experts							
c) Information and publications							
Subtotal 2							
TOTAL							

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)⁷

(Where there is more than one action, give sufficient detail of the specific measures to be taken for each one to allow the volume and costs of the outputs to be estimated.)

⁷ For further information, see separate explanatory note.

Commitments (in € million to three decimal places)

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 1...n)	Average unit cost	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
<u>Action 1</u> - Measure 1 - Measure 2 <u>Action 2</u> - Measure 1 - Measure 2 - Measure 3 etc.				
TOTAL COST				

If necessary explain the method of calculation

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post	Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
	Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A B C			<i>If necessary, a fuller description of the tasks may be annexed.</i>
Other human resources				
Total				

7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials		
Temporary staff		
Other human resources (specify budget line)		
Total		

The amounts are total expenditure for twelve months.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions		
A07030 – Meetings		
A07031 – Compulsory committees ¹		
A07032 – Non-compulsory committees ¹		
A07040 – Conferences		
A0705 – Studies and consultations		
Other expenditure (specify)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total		

The amounts are total expenditure for twelve months.

¹ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	0 €
II.	Duration of action	1 year
III.	Total cost of action (I x II)	0 €

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

8.2. Arrangements and schedule for the planned evaluation

9. ANTI-FRAUD MEASURES