Subject: State aid N 144/2003 – United Kingdom 
Fishing Vessels (Decommissioning) Scheme 2003

Sir,

1. Procedure.

By a letter dated 27 March 2003, the UK authorities notified the Commission of the scheme entitled “Fishing Vessels (Decommissioning) Scheme 2003”. After request, further information was received by letters dated 27 May 2003, 2 June 2003 and 12 August 2003.

2. Description.

This scheme aims at the decommissioning of fishing vessels registered in England, mainly those whose fishing activity is focused on cod in the North Sea and West of Scotland in order to meet the obligations arising from the Community’s cod recovery plan. A reduction of effort in cod fishing by 15-20% is expected. This scheme is similar to the Scottish Decommissioning scheme, approved as State Aid N127/2003.

The basic rules will be enshrined in a Statutory Instrument, the draft of which has been communicated to the Commission.

The scheme will apply to vessels decommissioned by scrapping or by permanent reassignment for non profitable purposes other than fishing, but not to vessels permanently transferred to a third country.

Applications must concern English based and registered vessels which are over 10 meters in length and are granted with Category A licences under UK law (except licences for pelagic pursers, pelagic freezers and pelagic trawlers). These vessels must, at the time of application, have the same ownership as on 1 January 2003 and be operational. They must have carried out fishing activity for at least 75 days at sea during each of the calendar years 2001 and 2002. In addition, they must have caught cod in the North Sea.

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1 Category A licence is a licence which authorises fishing in all or any part of the Community waters for all or any of the species of sea fish for which the United Kingdom has a share of the Community total allowable catch.
and/or West of Scotland in 2001 and spent at least 50% of their time in these areas in 2001. There is no limit on the age of eligible vessels.

Applications will be considered on the basis of individual, competitive bids to be submitted by vessel/licence owners for compensation for the permanent removal of their vessel and its fishing licence from the UK licensing system. The applications will be evaluated and ranked for support within the overall level of funding available for the scheme. Awards to individual applicants will be the amount bid under individual approved applications.

As a result of the working of the scheme which is based on bids, there are not fixed rates of grant. However, the UK authorities assured that, for vessels of 10 years or more, the premia to be granted will not exceed the limits set out in article 7 of and Annex IV to Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector, as last amended by Regulation (EC) No 2369/2002 of 20 December 2002 (hereinafter referred to as the Regulation 2792/1999), plus an additional 20% scrapping premium, provided for under the Regulation (EC) No 2370/2002 of 20 December 2002 establishing an emergency Community measure for scrapping fishing vessels, which may be granted to vessels required to reduce their fishing effort by 25% or more as a consequence of a recovery plan. On the other hand, for vessels less than 10 years old, for which no provision is made in the Regulation 2792/1999, the maximum awards will be within the limits set out in the Regulation 2792/1999 for vessels of 10-15 years of age, increased by 1.5% for each year less than 10 years of age. An additional 20% scrapping premium may be granted to those vessels under the above mentioned conditions of the Regulation 2370/2002.

The budget for this scheme is up to £ 10 million across England. It is intended to be a one-off exercise, with awards made following a single bidding round. The number of recipients is estimated at approximately 25. It is envisaged payments will be made over the financial year 2003/04.

This scheme will be co-financed by FIFG. The rates of FIFG financial participation will be 50% up to the ceiling provided for by Annex IV in areas outside Objective 1. No applications are envisaged from Objective 1 areas. However, for vessels less than 10 years of age the awards will be entirely financed by national funds.

3. Assessment.

3.1 The scheme described involves the transfer of State resources into private undertakings which they would have not have received in the normal course of their business. The resources are intended to a specific category of enterprises and are therefore State aid in the sense of Article 87 of the EC Treaty. The scheme must, therefore, be assessed in the light of the Guidelines for the examination of State aid to fisheries and aquaculture (hereinafter referred to as the Guidelines).

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Point 2.2.1. of the Guidelines states that aid for permanent withdrawal of fishing vessels is compatible with the common market provided that it meets the requirements of Regulation 2792/1999 for eligibility for Community aid. It also provides that aid schemes for such permanent withdrawal can differ from those requirements if they are of a limited duration. If so, they are assessed on a case-by-case basis. Although the Guidelines do not refer directly to Regulation 2370/2002, we can consider, by analogy, that they also refer to this Regulation. In fact, Regulation (EC) No 2370/2002 was adopted in line with the Regulation 2792/1999 and provides for an additional incentive to adapt fishing effort to the level of the resources available, adaptation which constitutes one of the aims of the Regulation 2792/1999.

3.2 According to article 2 (1) of Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, the main objective of the Common Fisheries Policy is to ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions (see also point 3 of the introduction of the Guidelines). It also provides that for this purpose the Community shall take measures to protect and conserve living aquatic resources and to provide for their sustainable exploitation and shall aim to contribute to efficient fishing activities. Furthermore, the above mentioned Regulation provides for the adoption of multi-annual recovery plans for stocks outside safe biological limits (Article 5) and for the reduction of the Community fleet in order to bring it into line with available resources (article 11). It has also to be noted that the Regulation (EC) No 2369/2002 recognises that the objective of achieving a stable and enduring balance between the capacity of fishing fleets and the fishing opportunities available to them can be achieved only by capacity withdrawal and that Community financial support to the fisheries sector should be concentrated mainly on the scrapping of fishing vessels (fourth and fifth recitals in the preamble to the Regulation (EC) No 2369/2002). It is clear from this that the protection of threatened fish stocks by, among other means, the reduction of the fishing capacity of fleets fishing against these stocks is one of the priorities of the Common Fisheries Policy in order to ensure long term viability of the fisheries and the fishing fleets.

3.3 Several stocks of particular importance to the UK fleet are now seriously depleted. Therefore, they have been subject to significant reductions in TACs and Quotas over the past few years. Especially for cod, additional conditions for monitoring, inspection and surveillance in the context of a recovery plan are provided for under the Annex XVII of the Council Regulation (EC) 2341/2002. A new multi-annual recovery plan for cod is foreseen to be adopted in the near future. The Commission presented already the proposal for a relevant Council Regulation.

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7 Regulation of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required, OJ L356 of 31.12.2002, p. 12.
8 COM/2003/0237 final.
3.4 This scheme complies with the provisions laid down in Regulation 2792/1999, either with regard to the conditions of decommissioning or with regard to the ceilings of premiums, with the exception of the eligibility of and the premium’s ceilings for vessels less than 10 years old.

Concerning the conditions of decommissioning, the UK authorities assured the Commission that all the conditions relevant to the decommissioning by means of scrapping or permanent reassignment for purposes other than fishing (except the condition concerning the age of the vessels) provided for in article 7 and Annex III of the Regulation 2792/1999 will be applied.

On the other hand, the eligibility of vessels of less than 10 years of age is justified and consistent with the above mentioned objectives of the common fisheries policy (under 3.2.) as these vessels spend the most time at sea and fish the hardest, contributing substantially to cod fishing mortality. Their exclusion from the scheme would thus undermine the objective of the scheme to reduce substantially the fishing effort of the English fleet fishing for cod. In addition, these vessels have been built without public aid and there is therefore no problem of aid cumulation.

Concerning the ceilings of the premium, the UK authorities assured the Commission that, for vessels of 10 years and over, they will not make payments in excess of the maximum rates set out in article 7 (5) of and Annex IV to the Regulation 2792/1999 plus the additional 20% scrapping premium to vessels complying with the conditions of Regulation 2370/2002.

For vessels of less than 10 years of age the above mentioned ceilings will be increased by 1,5% for each years less than 10 years of age. This increase is justified because the value of these vessels is higher than that of the vessels of the age groups provided for under the Regulation 2792/1999. In addition, the percentage of the increase corresponds to the system of the calculation of the rates of premia for older vessels provided for in the Regulation 2792/1999. The absence of flexibility in the intensity of the aid would be a disincentive for the decommissioning of newer vessels, which contribute substantially to fishing mortality. In this context, the Commission notes that no FIFG funds will be used to finance the payments to vessels of this age group. According to the confirmations of the UK authorities, all payments for vessels of less than 10 years of age will be entirely financed by national funds.

It has also to be noted that, for the ranking of the applications, there will be taken into consideration, among other matters, the benefit derived from, and value for money represented by, the bid and the extent to which the approval of the application will contribute towards fulfilment of the obligations of the United Kingdom deriving from Annex XVII of Regulation (EC) No 2341/2002, in order to ensure that there will be approved the applications that contribute the most to the achievement of the objectives of the Common Fisheries Policy.

On conclusion, this scheme, which is of limited duration, serves to achieve the aim of substantially reducing the capacity of English fleet fishing mainly for cod, balancing capacity with available fishing opportunities and ensuring long term viability of the fisheries and the fishing fleets. It is thus consistent with the objectives of the Common Fisheries Policy.

On these grounds, this aid scheme can be considered compatible with the common market.
4. Decision.

In view of the above, the Commission has decided not to raise any objection to this aid scheme.

The Commission reminds the UK authorities of Article 21 of Regulation (EC) No 659/1999 which provides for the obligation of annual reports on state aid schemes.

In addition, the Commission specifies that its assessment of this measure is only related to the compatibility of the above national aid measure with the common market.

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Your request should be sent by registered letter or fax to:

European Commission
Directorate General for Fisheries
DG FISH-D-3 (Legal Unit)
Rue Joseph II, 99
B-1049 Brussels
(Fax number : 0032 2 295.19.42)

Yours faithfully,

For the Commission

Franz FISCHLER
Member of the Commission