



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION
ON THE MONITORING OF THE MEMBER STATES' IMPLEMENTATION
OF THE COMMON FISHERIES POLICY 2000 – 2002

{SEC(2004) 1718}

1. INTRODUCTION

This report responds to obligations laid down in Article 35 of the Council Regulation (EEC) N° 2847/93 of 12 October 1993¹ (hereafter the Control Regulation) establishing a control system applicable to the CFP. It contains the Commission's assessment of how the Member States have implemented the Community control system and applied the Control Regulation during the period 2000-2002. It is mainly based on the annual control reports submitted to the Commission by each Member State, as well as on the Commission's own observations.

The previous assessment report from the Commission,² which covered the period 1996-1999, highlighted areas where deficiencies existed in the implementation of the CFP in the Member States. The main problems identified concerned the lack of co-ordination and co-operation both nationally and internationally, the lack of cohesive internal control strategies, the allocation of insufficient means, resources and control effort and the need for suitable deterrents to illegal activity via the sanctioning systems. The report was, to a considerable extent, taken into account in the 'Roadmap' for reform of the CFP and in the resulting framework Regulation.

It should be emphasized that the report covers the period 2000-2002 and thus only reflects the situation up to the reform of the CFP. The report is accompanied by Working Documents, entitled 'Fisheries control in Member States', which contain the Commission's detailed description and assessment of the factual situation as regards fisheries control in each Member State.

2. NATIONAL FRAMEWORKS FOR CONTROL AND ENFORCEMENT

All the Member States have established legal and administrative frameworks for the control and enforcement of the CFP. There are differences between the states, not least due to inherent legal and administrative traditions, and two main approaches can be discerned. Firstly, fisheries control may be the responsibility, mainly or totally, of an inspectorate under the direct authority of the fisheries department of the relevant ministry. Secondly, responsibilities may be entrusted to one or several other authorities not subordinated to the responsible ministry. Fisheries control is then only one task among many.

Internal co-operation and co-ordination for the implementation of a comprehensive control strategy are the main challenges for many national control systems, and the **division of competencies in some Member States poses considerable problems** in this respect. The **structures for co-operation between Member States also need to be reinforced** and this is particularly relevant in view of the trans-boundary nature of fishing activities and the increasing amount of fish being transported around the Member States.

The **control powers** of national officials entrusted with fisheries control tasks are now **in general sufficient** to fulfil these duties. **Problems may arise in areas where the powers of the inspection authorities must be supplemented with powers of an authority with secondary responsibility.** This is particularly the case for transport controls and for the

¹ OJ L 261 of 20.10.1993.

² COM(2001) 526 final of 28.9.2001

follow-up of infringements, where the police in many cases are required to assist in or lead the investigations. There is probably also **scope for an extension of powers in relation to control of businesses related to fisheries.**

All Member States have established systems for follow-up of infringements which at least theoretically should be able to fulfil the requirements of the Control Regulation, i.e. to deprive offenders of the economic benefit of illegal acts and to act as a deterrent. Most Member States deal with fisheries infringements primarily through criminal procedure. The primary principal penalty is the fine. Fines, or ranges of fines, are normally defined in legislation and often a statutory maximum is set. Tariffs, sometimes official and public, are used by quite a few Member States. The most important accessory sanctions are confiscation and forfeiture. The possibility to withdraw licenses or other authorisations needed to fish is provided for, at least in theory, in all Member States.

3. MEANS OF CONTROL

The increasing need to proactively control the fishing industry has placed further pressure on available financial resources. Some Member States have increased budgets accordingly, whilst others have tried to adapt their existing resources and working practices to meet these demands.

The Member States have made **significant efforts to reduce the deficit in the means of surveillance at sea**, partly helped by financial contribution from the Commission. In conjunction with VMS this should increase the efficiency of maritime control. However, inspection platforms whose suitability for control purposes is not satisfactory continue to be deployed, and it is **not always possible to establish the extent to which these means are used in fisheries control.**

The **lack of human resources remains a serious problem in several Member States, notably for carrying out landing inspections**, which remains one of the most essential elements of control. This situation is exacerbated when control authorities also undertake other duties which often results in a lower priority being attributed to fisheries tasks. The **level of expertise and qualifications of control staff must be improved**, particularly where fisheries control is not their sole task, and training should be intensified accordingly.

4. MONITORING SYSTEMS

All Member States have introduced VMS and established Fisheries Monitoring Centres to monitor the positions of fishing vessels. However, if the VMS appears to be fully operational in the large majority of the Member States, **problems still remain where in some Member States a considerable number of vessels are not yet fitted with the equipment or do not transmit correctly.** Often manual reporting obligations are not complied with and there is no follow-up by the authorities concerned. VMS data are generally under-utilized for control purposes, particularly for verification of fishing effort.

Many national catch and effort registration systems cannot be considered satisfactory, although some Member States have made substantial progress in this field. Moreover, **the satisfactory integration of monitoring systems** which allow systematic cross-checking of information from VMS, the fleet register, logbooks and sales notes, **remains the exception.**

Even where such integrated systems do exist they are not used to their full potential. Cross-checking procedures are often unnecessarily complex, for example where several different authorities have been given responsibilities in this respect.

Sales notes and transport documents are still not satisfactorily used in some Member States, particularly for frozen fish and fish by-passing the auction system.

5. CONTROL OF FLEETS AND EFFORT

The **data in the various national fleet registers has generally been improved**, although inconsistencies still remain. **Engine power data has proved particularly difficult to assess and verify and cannot be considered completely reliable**. Certain Member States only met their MAGP ceilings by adjusting or redefining the segmentation of their fleet rather than tackling the over-capacity. Additional national measures, such as decommissioning, proved successful in reducing fleet sizes. In Western Waters the effective implementation of fishing effort limitation remains open to question, and in the Baltic Sea it was deemed as generally unsuccessful. **Whilst many Member States have mostly succeeded in stabilising their fleet, over capacity persists in many segments**, not least because developments in technology have increased real capacity beyond the nominal capacity indicated by the power of engines. This means that the gap between fishing capacity and the available fishing opportunities is still there.

6. INSPECTION AND MONITORING ACTIVITIES

In order to strengthen overall control **some Member States have established various national and regional strategies, both for control at sea and ashore, but this does certainly not apply to all States or areas**. Control activity at sea has intensified and gained in effectiveness, partly due to the acquisition and upgrading of maritime means. The number and quality of shore based inspections appear to have improved somewhat during the relevant period, although it is still frequently observed that inspections are carried out without sufficient strategy and knowledge of fisheries, fishing methods and the applicable regulations.

On the whole, the control effort carried out by most of the Member States is not considered by Commission as being altogether fully effective. Many problems relate particularly to controlling landings both before and after first sale, the transport of catches and the verification of catch area. All these activities should be cross-checked against the various sources of control and surveillance information available. In many areas, Member States do not lack the capacity to improve control but rather the willingness to use it.

In view of the trans-boundary nature of fishing activities, it is crucial that there is effective co-operation and co-ordination between the Member States. Joint surveillance actions, although limited in number, have given promising results and should be intensified. Co-operation in the vertical sense, i.e. throughout the whole production chain, needs to be greatly improved, particularly since fish is increasingly landed and sold in different Member States. There is an apparent lack of effort on the part of the Member States concerned in this respect.

In regard to **notification of catches to the Commission**, the Member States have mostly overcome some of the problems in delays and data format previously identified. **Although some difficulties in the flow of data have been resolved, the Commission remains**

reserved about the quality of the data. Indeed, in spite of reductions in certain TAC's in 2000 and 2001, an analysis made by the Commission indicates that the catch levels in those fisheries were not substantially reduced. The **monitoring of activities of fishing vessels operating beyond Community waters remains an issue which must be particularly targeted** and much data is entirely absent for certain activities in waters where EU agreements with third parties have been concluded.

Community wide **deficiencies in landing controls and cross-checks** between logbooks, landing declarations and sales data **certainly allowed for under-declaration of catches or even non-declaration when the quota for the species concerned were exhausted.** In many areas the lack of co-ordinated control at sea and on shore has resulted in unacceptably high fishing mortality on certain 'pressurised' stocks, large discard rates at sea and the proliferation of 'black fish' activity for both pelagic and demersal stocks subject to quota restrictions. On the whole **the catch monitoring systems of many Member States suffer inherent weaknesses,** many of which could be overcome by a more effective and systematic cross-check of the data available.

7. IMPLEMENTATION OF SANCTIONS

Although the fines provided for in national legislation are, with a few exceptions, set at a high maximum level, for most types of infringements the fines actually imposed are situated at the lower end of the available range. Member States do not fully use their possibilities to confiscate gear and catch. Undersize fish and illegal gear are regularly confiscated, but generally the Member States could make better use of their powers to confiscate in addition to imposing a fine. Although all Member States have legal provisions making it possible to withdraw licences and other authorizations to fish, it is extremely rare that these powers are used. Formal procedural restrictions, the excessive financial consequences and the impact such measures have on persons not directly responsible for the infringement are the main reasons put forward.

Handling times are excessive on the whole, and the level of awareness among prosecutors and member of the judiciary dealing with fisheries cases vary significantly. Further specialisation of prosecutors should be considered and efforts to sensitise members of the judiciary should be intensified.

The treatment of fisheries infringements and offenders still vary to a considerable degree between different parts of the Community. There are indications that there is a certain amount of discriminatory treatment of foreign fishermen, both in the levels of fines and in the procedures used. The co-operation between Member States in the area of sanctions is still seriously underdeveloped. Improvements are still urgently needed so that all actors in the fisheries sector are effectively deterred from breaking the rules and that a level playing field is created throughout the Community.

8. CONTROL AND ENFORCEMENT PROBLEMS BY AREA, FISHERIES AND STOCKS

In the Baltic Sea, despite joint control programmes within the context of IBSFC, the high fishing mortality rate in the cod stocks has continued up to 2002. In Region 2, for both demersal and pelagic stocks, designated ports, prior notification and time restrictions for discharge have been introduced to improve control. Key elements of the Community

‘recovery plans’ and ‘emergency measures’ for cod and hake were provisions specifically aimed to aid and enhance control at sea and ashore. However, high discard rates and ‘black fish’ activity remain serious problems for stocks subject to quota restrictions. The mis-recording of ICES areas in logbooks remains problematic for accurate catch assessment in many stocks despite the introduction of VMS. In Region 3, the TAC’s are at levels which are not generally seen as restrictive and therefore widespread problems of the deliberate misreporting do not exist. The impact of the ‘emergency measures’ for hake in the Bay of Biscay has been difficult to assess due to the weak landing controls applied in the relevant Member States.

With regards to the implementation of technical measures, in Regions 1 and 2, whilst the rules concerning restricted areas are generally respected, **illegal attachments and mesh size in relation to the catch composition retained on board remain serious concerns. Landing of undersize fish still occurs** in Baltic Sea fisheries, by beam trawlers working in the North Sea and trawlers targeting Nephrops or hake in the Bay of Biscay. In Region 3 and the Mediterranean Sea there is still a large market demand for small fish, which presents an incentive to use illegal gear.

In the Mediterranean **serious problems persist with vessels using driftnets longer than the maximum allowed** and still taking catches of swordfish and bluefin tuna despite the prohibition to use driftnets to catch highly migratory species from the beginning of 2002. Trawling activities and certain traditional fishing methods used within the three miles from the shore remain a common practice in the Mediterranean Sea, which all entail a negative impact on fish spawning areas, nurseries and the biodiversity of the marine environment. Efforts deployed by the Member States concerned have proved unsuccessful in eradicating these problems.

9. SUMMARY AND CONCLUSIONS

At Community level, there have been **improvements in the Member States’ application and enforcement of the CFP** over the period 2000-2002. However, these improvements are **not always in proportion to the investments made** in sea and aerial means and new technologies. Additionally, the **enforcement of measures implemented still often lacks uniformity** when considering the different fisheries or parts of the production chain which need to be controlled. The lack of uniformity is particularly striking as regards the follow-up of infringements, where the treatment of infringements and offenders varies greatly between different parts of the Community, between Member States and even within Member States. **Therefore, many serious weaknesses previously identified still remain and have prevented the CFP from achieving its goals.**

Advanced technologies, such as VMS, should continue to be used and developed in order to improve control methodology and strategy. Properly integrated into comprehensive monitoring systems, they will serve as an **invaluable complement to a physical control presence** and contribute greatly to developing control systems which are both efficient and cost effective. They will also provide the essential tools for improving co-operation and co-ordination between national authorities, between Member States and between the Commission and the Member States.

The availability and quality of control means is positive but they cannot, by themselves, be the sole criterion for assessing the performance of control activity by the Member

States. The great challenge is to use existing tools to their full potential. The fact that means are used in an optimal way in one Member State does not necessarily indicate that the Community as a whole utilises them efficiently. In order to obtain the desired results, it will be **necessary to implement more Community wide control strategies**. Accordingly, **co-operation and co-ordination between administrations at all levels must be greatly strengthened** and the proposed Community Fisheries Control Agency will have a crucial role to play in this respect.