



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.3.2003
COM(2003) 130 final

**COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL AND THE EUROPEAN PARLIAMENT**

Towards uniform and effective implementation of the Common Fisheries Policy

One of the options identified in the Green Paper on “The future of the CFP” (COM(2001)135 final, 20.03.2001) concerned:

“the possibility of setting up a Community JIS to co-ordinate national and Community inspection policies and activities and to pool the means and resources for control purposes”.

The Communication from the Commission on the reform of the CFP ("roadmap") (COM(2002)181 final, 28.05.2002) proposes, in addition to a new regulatory framework for control and enforcement, the following initiatives:

- an Action Plan for co-operation in enforcement which will list actions to be implemented jointly by the competent authorities in the Member States and the Commission; and
- in addition, following a feasibility study to be carried out in co-ordination with the Member States in 2003, a proposal from the Commission for a JIS at Community level.

The present Communication gives expression to these initiatives.

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1. INTRODUCTION

The reform of the Common Fisheries Policy (CFP) was adopted in Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the CFP,¹ Chapter V of this Regulation provides for a new legal framework for a Community control and enforcement system. This system is designed to ensure that access to and exploitation of fish stocks is controlled throughout the whole fisheries chain and that compliance with the rules of the CFP, including structural and market policies, is enforced. The responsibilities of the Member States and the Commission are clarified, as well as the conditions for engaging in fishing and associated activities. Furthermore, the system lays down the control and enforcement instruments and the conditions for co-operation and co-ordination between Member States. These provisions form the legal basis for a Community approach towards uniform and effective implementation of the CFP.

In addition to the new regulatory framework a co-ordinated effort has to be undertaken at Community level to ensure proper implementation of the rules of the CFP and in particular this framework. Indeed, the Member States and the Commission must now ensure that the rules of the CFP are effectively applied and enforced.

To this end, this Communication proposes:

- an Action plan to be implemented in the short term; plus
- the setting-up of a JIS for effective co-ordination of inspection and enforcement activities by competent national authorities.

2. IMPROVING IMPLEMENTATION OF THE COMMON FISHERIES POLICY

Implementation of the CFP requires a sound organisational inspection and enforcement structure, sufficient means of inspection and surveillance and an appropriate strategy for the co-ordinated deployment of these means.

The objectives to be achieved are:

- Effective implementation of the CFP
- Uniform inspection and enforcement throughout the Community.

Achieving these objectives is essential if the support of the fishing industry is to be gained for the CFP.

¹ OJ L 358, 31.12.2002, p. 59

The new regulatory framework for control and enforcement defines the distribution of responsibilities for fisheries control and enforcement between the Commission and the Member States. The Member States are primarily responsible for the control and enforcement of the CFP, while the Commission is responsible for monitoring and enforcing correct application of Community law by the Member States.

Most Member States have assigned, within the context of their legal and administrative systems, the responsibility for inspection and enforcement of the CFP to several established authorities at both national and regional levels (such as fisheries inspectorates, coastguards, navy, customs, police, etc.). Many of these authorities have duties not only in fisheries but also in other domains. Co-ordination of the inspection and enforcement activities carried out by these authorities presents a major challenge at national level and an even greater one at Community level.

Co-ordination of inspection and surveillance activities by national authorities at Community level has to be improved. Co-ordination should be based on an appropriate Community strategy. Therefore, the Commission proposes:

- to adopt coherent inspection and surveillance strategies, at Community level, by the Commission;
- to pool national means of inspection and surveillance for joint deployment in accordance with the above Community strategy.

Joint deployment of national means of inspections and surveillance, in line with an appropriate Community strategy, will require the setting-up of a proper organisational structure. This organisational structure should ensure operational co-ordination in the genuine interest of the Community as a whole. This approach is essential to effective and uniform implementation of the CFP.

This approach will be based on co-operation between all national authorities involved in inspection and enforcement of the CFP, in accordance, in particular, with Art. 28 of Regulation (EC) No 2371/2002. It will build on initiatives developed by Member States over the years. It will also result in better value for money. National means of inspection and surveillance will be used as rationally and as effectively as possible within a coherent Community strategy.

The Action Plan should be implemented as from 2003.

The initiative launched by the Action Plan will be carried forward and expanded on a permanent basis through the development of a Joint Inspection Structure (JIS). Setting up the JIS will take more time as all the issues involved will need to be carefully addressed. As stated in the Roadmap, the Commission intends to carry out a feasibility study in co-operation with the Member States on the JIS. The Commission will come forward with a legislative proposal on the JIS for adoption by the Council in 2004.

3. PART I - ACTION PLAN FOR CO-OPERATION IN ENFORCEMENT

3.1. Scope and objectives

The Action Plan for Co-operation in Enforcement has to help integrate national control strategies into a Community control strategy. The Action Plan will also promote a European culture of control and enforcement.

To ensure implementation of the Action Plan, the Commission will co-operate closely with the Member States within the framework of the Management Committee for Fisheries and Aquaculture and the Expert Group Fisheries Control which advises the Commission.

The duration of the actions should be set in principle at 2003-2005.

3.2. Community inspection and surveillance strategy

The aim of the first group of actions is to achieve more effective use of national means of inspection and surveillance through:

- a) using the means available as a priority in selected fisheries or stocks;
- b) adopting specific monitoring programmes, including the setting of common inspection priorities and benchmarks for each of the selected fisheries or stocks. These programmes will also include the requirement of making the results of inspection and surveillance activities transparent;
- c) periodically evaluating the effectiveness of implementation of specific monitoring programmes.

3.2.1. More effective use of existing means of inspection and surveillance

The Community inspection and surveillance strategy will be based on existing national means of inspection and surveillance. In accordance with Art. 23(3) of Regulation (EC) No 2371/2002, Member States must ensure that sufficient financial and human resources are allocated to inspection and surveillance of fishing activities. Additional financial and human resources cannot be provided at short notice. Budgetary allocations have to be approved, new inspectors recruited and trained and surveillance vessels requisitioned or built.

The Community strategy will ensure that existing means are used as effectively as possible. The Commission Report on the monitoring of the implementation of the CFP provides for a detailed account of the state of affairs in fisheries control.²

² COM(2001)526 final, 28.09.2001

In most fisheries, the efforts of Member States in terms of inspection and surveillance can be co-ordinated much better from a Community perspective. Inspection and surveillance will apply in each stage from fishing to retail outlets. It is not difficult to find examples where better co-ordination would result in more effective implementation of the rules of the CFP. These examples can be found in the Baltic, the North Sea, Western waters, the Mediterranean as well as international waters.

The following examples are given for the purposes of illustration:

- More than half of the catches of Northern hake are taken in Irish waters. These fishing activities are subject to inspection and surveillance by Irish surveillance vessels. UK, French and Spanish surveillance vessels cannot, as yet, patrol these waters. On the other hand, more than 60% of the catches of Northern hake are landed in Spain. The main burden of inspections of landings of hake falls on Spanish inspectors.
- A large part of the North Sea cod catches takes place in Norwegian waters and the eastern North Sea whilst the bulk is landed in the UK. The burden of landing inspection falls on UK inspectors.
- Vessels from many Member States, as well as vessels listed as having engaged in Illegal, Unregulated and Unreported fishing activities (IUU), use, for example, the port of Las Palmas. At present, the burden of landing controls in Las Palmas rests solely on Spanish inspectors.
- In the Baltic, implementation of conservation measures would be much more effective if in each of the landing ports the same frequency of inspection could be guaranteed.

In all of the above examples the effectiveness of inspection and surveillance at sea would be greatly enhanced by better co-ordination and more frequent inspections of landings.

More effective use of existing means of inspection and surveillance should be achieved by the selection of fisheries or stocks as a matter of priority. Starting with these stocks, this action should be progressively extended to all relevant fisheries or stocks. The selection of relevant fisheries or stocks will be agreed upon at Community level.

It is apparent from several sources of information, such as the Report from the Commission on the monitoring of the implementation of the CFP and the scientific assessment of stocks by the ICES, that conservation and control measures applicable to important fisheries have not been fully implemented. This applies in particular to cod and hake stocks, but also to pelagics and highly migratory species, especially in the Mediterranean. Furthermore, the Community must also co-operate actively with third countries, notably under the FAO IUU Action Plan. Indeed, the responsibility for control and enforcement of conservation measures must be assumed jointly by flag States, coastal States and port States.

Effective implementation and enforcement of conservation and control measures must be ensured as a matter of urgency for the most threatened stocks, such as, for example, the cod and hake stocks in Community waters. This means that all fisheries involved in the exploitation of these stocks must be covered (demersal fisheries in the Baltic, Skagerrak, Kattegat, North Sea and Western waters). Furthermore, control problems observed in other fisheries are jeopardising the conservation of certain other stocks (pelagic fisheries in the Baltic, Skagerrak, Kattegat, North Sea and the Atlantic as well as highly migratory species).

To this end, fisheries exploiting the above stocks, as well as landings by IUU vessels, should be selected as a matter of priority for co-ordinated deployment of national means of inspection at Community level.

Aim: Prioritisation of the use of existing means of inspection and surveillance in selected fisheries or stocks

Action point 1

Select relevant fisheries or stocks

- **Demersal fisheries in regions 2 and 3**
- **Highly migratory species in the Mediterranean**
- **Cod, herring and sprat fisheries in ICES divisions III b, c and d**
- **Industrial and pelagic fisheries in regions 1, 2 and 3**
- **Landings of IUU vessels in Community ports**

3.2.2. Specific monitoring programmes

As regards the selected fisheries activities, a specific monitoring programme must be adopted and implemented. Strategies must be tailored to the characteristics of the fisheries activities in question as well as to applicable conservation and control measures. The programme will cover inspection and surveillance at sea, inspections of landings, including the first sale of the quantities landed, and transport and marketing.

In accordance with Art. 34(c) of Regulation (EEC) No 2847/93,³ as amended,⁴ the Commission may determine which fisheries involving two or more Member States will be subject to specific monitoring programmes for a limited period and the conditions governing such programmes. The Commission will adopt these

³ OJ L 261, 20.10.1993, p. 1

⁴ OJ L 358, 31.12.1998, p. 5

programmes in accordance with comitology procedures. The Member States concerned must adopt the necessary measures to facilitate implementation of these programmes, particularly as regards the human and material resources required and the periods and zones where these are to be deployed.

These programmes will build on the experience of several Member States which have experimented over the years with transboundary co-operation. Several formulas of operational co-operation have been and are being tried out between national authorities in a pragmatic attempt to strengthen control and enforcement in critical fisheries.

All authorities involved in control and enforcement of these measures co-operated actively together as part of the temporary closure of a large area in the North Sea to the fishing of cod in 2001.

This co-operation included the use of means of inspection in waters of neighbouring states (UK, Netherlands and Norway carried out aerial surveillance in the eastern part of the southern North Sea, in German and Danish waters, and a German surveillance vessel with Dutch inspectors on board patrolled the northern part of Dutch waters). Exchanges of inspectors on board of surveillance craft was a pragmatic solution to ensuring that inspection reports could be drawn up by a national inspector of the coastal Member State concerned. This form of co-operation helped to improve enforcement of the rules of the CFP. Indeed, the closure of the North Sea to cod fishing was fully enforced. Follow-up of the few infringements cited, together with intensive surveillance activities, proved to be a genuine deterrent in practice.

In accordance with Art. 28(3) of Regulation (EC) No 2371/2002, the above arrangements can be formalised once the implementation provisions have been adopted by the Commission. The Commission will adopt detailed provisions as soon as possible after this examination has been made by experts from the Member States. The specific monitoring programmes will build on these provisions.

Implementation of specific monitoring programmes by the competent authorities of each of the Member States will only be effective if each authority meets its commitments as part of a coherent Community control strategy. To this end, it is necessary to specify the common priorities for inspection and surveillance at each stage from fishing to marketing, as well as the degree of intensity of inspection and surveillance activities in the form of benchmarks.

For example, the percentage of landings of vessels to be inspected will be established by the Commission in close co-operation with the national authorities. Such benchmarks for inspection should be set for inspection at each stage of the chain. Each competent authority should undertake to achieve these benchmarks.

The common priorities for inspection and surveillance and benchmarks will be tailored to the characteristics of the fishery or stocks in question as well as to applicable conservation and control measures. They will be defined together with experts from the Member States concerned. These priorities will be based on fishing methods used and on the characteristics of vessels in relation to their compliance with conservation and control measures.

Aim: Enhanced effectiveness of inspection and surveillance activities

Action Point 2

The Commission will adopt regulations laying down specific monitoring programmes for the relevant fisheries or stocks and establish:

- **common inspection and surveillance priorities**
- **benchmarks for inspection and surveillance of fishing activities**
- **checks to be made by inspectors**

The Member States should adopt the necessary measures to facilitate the implementation of specific monitoring programmes, particularly as regards the human and material resources required.

Member States should ensure that their competent authorities will achieve the common inspection priorities and benchmarks.

3.2.3. Monitoring and evaluation

The inspection and surveillance exercise must be transparent and verifiable. The results of each inspection must be noted by the inspector in an inspection report. Sightings of fishing vessels must be recorded in a surveillance report. In this way, records can be kept of inspection and surveillance activities by inspectors.

National authorities will monitor and evaluate the inspection and surveillance activities on the basis of common priorities and benchmarks as well as the development of fishing activities. The results will be made available to other Member States and the Commission.

The Commission will assess the results of the implementation of specific monitoring programmes. In this context, the Commission will also carry out unannounced missions in the Member States without being accompanied by national inspectors. These missions will allow the Commission to observe actual compliance levels with the rules of the CFP on an objective basis.

Aim: Enhanced transparency of inspection and surveillance activities

Action point 3

The Commission will periodically review the effectiveness of inspection and surveillance activities in co-operation with national control experts.

3.3. Improving operational co-operation

The provisions laid down in Article 28 of Regulation (EC) No 2371/2002 establish a sound basis for enhancing co-operation and co-ordination between Member States. The Commission intends to organise operational co-operation between the national competent authorities in an orderly fashion. To this end, the Commission will attach priority to the formulation and adoption of detailed rules for implementing the above new provisions.

These detailed rules will provide, among other things, for notification procedures and co-ordination routines where national means of inspection and surveillance are used in waters under the jurisdiction of another Member State. The coastal Member State has primary responsibility for all inspections and surveillance in its waters. Therefore, as a prerequisite, clear and transparent rules must be adopted, in accordance with Article 28(6) of Regulation (EC) No 2371/2002, in order to regulate operational co-operation at Community level.

Experience with voluntary operational co-operation between national authorities responsible for control and enforcement has highlighted a number of practical problems. These problems relate to access to information, operational co-operation between surveillance vessels and aircraft from different Member States as well as follow-up of irregularities and infringements. The Commission will facilitate, where appropriate, operational co-operation between the authorities concerned.

The increased use of modern technologies is a critical success factor. For example, satellite based applications for positioning, timing and navigation such as applications of GNSS (Global Navigation Satellite Systems) are crucial for ensuring the main objectives of the Common Fisheries Policy. They offer improved capabilities for localisation, surveillance, navigation and search-and-rescue. More particularly the Galileo programme for Radio-navigation by satellite is the first programme jointly developed by the EU and ESA (European Space Agency). It aims at developing a cutting-edge technology that will allow any user equipped with a receiver to get access to the signals emitted from a constellation of satellites to determine with great precision its exact position on time and space anywhere in the globe. Community inspection and surveillance services can make full use of modern navigation and communication systems on their strategies, as a large majority of fishing vessels of all sizes have on board such equipment for their own navigation purposes.

Practical problems in the following areas need to be resolved.

3.3.1. Access to information and use of new technology

Control, inspection and surveillance must be rationalised through the use of new technology. The fishing of common marine living resources requires recording and reporting of information on these activities by masters of fishing vessels and buyers at the stage of first sale.

Access to information on fishing activities and inspection is essential in the preparation and performance of inspection and surveillance activities. At national level inspectors are granted access to information in accordance with national laws and procedures.

The following actions are designed to facilitate access to information by inspectors at Community level. Inspectors need to be provided with or have access to all information relevant for the inspections and surveillance carried out by them in a given area. When inspectors operate in the waters of an other member State, in accordance with Art. 28(3) of Regulation (EC) N° 2371/2002, this Member State shall ensure the provision of or access to the relevant information. Information must be made available at two levels:

- Information kept in national databases
- Operational communication between aircraft and surveillance vessels of several Member States.

Extension of the control system (tracking and tracing) to all fishing vessels can be developed by using a remote-sensing vessel detection system (VDS).

In short, space-borne radar imagery is complementary as it gives a real view of the traffic in a region, while VMS shows only those vessels subject to or using VMS. Therefore new inspection applications may cover these aspects.

3.3.2. *Reporting of information on fishing activities*

The processing of information as well as the reporting thereof to authorities must be rationalised. The use of electronic data recording and communication systems can facilitate the tasks of both masters of fishing vessels and buyers as well as the authorities.

Electronic logbooks are crucial in the computerisation of recording and reporting of information. Fishing vessels operate in the waters of several Member States and in international and third country waters. Inspectors from various parties should therefore have access to logbooks on board. They must have access to the information in electronic logbooks for enforcement purposes (continuity and security of evidence of infringements). The electronic logbooks currently commercially available do not guarantee continuity and security of evidence of infringements.

Furthermore, information contained in electronic logbooks must be reported to competent authorities, coastal states, port states and flag states. These authorities must be able to process these reports electronically. Therefore, standardisation of reports and information will be required.

For the above reasons, a minimum level of harmonisation is required for electronic logbooks. Electronic logbooks must meet minimum conditions for recognition of fishing logbooks as control tools. To this end, a working group of national control experts and the Commission and Norway are already examining the above questions.

In order to develop and test electronic reporting devices and electronic logbooks, it is important to set up pilot projects on an international scale. It is important in particular to include fishing vessels operating in international and third country

waters, such as under bilateral Fishery Agreements. Currently, data handling of these fisheries is not rationalised.

Aim: Rationalised data recording and reporting to authorities

Action Point 4

Working in co-operation with the Commission and third countries, Member States will adopt legislation requiring the setting up of pilot projects in order to develop and test electronic reporting devices and logbooks.

3.3.3. Operational procedures and confidentiality

When exercising their duties inspectors may need certain information promptly. Where remote access by electronic means is not yet available, national authorities should appoint co-ordinators for supplying such information promptly.

Aim: Increased effectiveness of inspection and surveillance through accessibility of relevant information

Action point 5

Member States will appoint co-ordinators to provide the relevant information to inspectors from other Member States.

Not all information kept in national databases is confidential. Art. 37 of Regulation (EEC) No 2847/93 defines the confidentiality requirements for information in the field of fisheries control. In order to ensure confidentiality of information concerning the fishing activities of individual vessels or inspection and surveillance information warranting confidential treatment, it will be necessary to establish operational procedures for the provision of such information to inspectors from other Member States.

VMS has made for an electronic network between Fishing vessel Monitoring Centres (FMCs). Experience has demonstrated the reliability and security of this network. Experience with NEAFC has shown that this network can also be used for the communication of standardised predefined reports containing information both on fishing activities and on inspection and surveillance.

Each authority having access to information on fishing activities or inspection and surveillance should implement procedures which guarantee confidentiality. The procedures adopted by NEAFC may be a starting point. The authority supplying confidential information to inspectors from other Member States must have the same guarantees on confidentiality as when supplying this information to national inspectors.

Aim: Guaranteed confidentiality of information concerning individual vessels or individual operators

Action point 6

Working in co-operation with national authorities, the Commission will review national procedures and requirements concerning accessibility of individual data and, where needed, it will introduce harmonised minimum requirements if necessary by adopting legislation.

3.3.4. Secure means of communication between inspection platforms

Communication between several surveillance vessels and aircraft from different Member States presents another challenge for operational co-operation between the competent authorities of the Member States. One of the formulas currently practised by national authorities is based on military procedures (NATO). However, civilian means of inspection are not equipped with the same installations whilst some of the modern civilian means of communication may prove costly.

Both on a bilateral as well as on an international level, further work is required in order to optimise communication and operational routines for deployment of means of inspection and surveillance. Routine exchange of information on fishing activities can be based on VMS technology provided that all inspection vessels can connect to the FMC of the Member States concerned.

However, all information to be exchanged cannot be standardised. Therefore, spontaneous exchange of information concerning irregularities or suspected activities should also be possible in a secure and confidential manner. Standardised communication routines should, therefore, be developed.

Aim: Harmonisation of operational communication routines between inspection platforms

Action Point 7

Working in co-operation with national authorities, the Commission will review operational communication procedures and, where needed, will introduce uniform communication routines.

3.3.5. Follow-up of irregularities and infringements

In order to ensure the implementation in practice of international rules and Community provisions relating to the follow-up of infringements, both in Community waters and in international waters, inspectors need to be informed of the characteristics and registration details of vessels found committing infringements, as

well as being provided with the contact details of the authorities of the flag State of the vessel concerned.

Taking into account the IUU action plan of the FAO, all states are required to provide information on IUU activities to any other state requesting such information. Flag States, coastal States and Port States must form networks between all the competent authorities in order to strengthen co-operation and ensure effective follow-up of infringements.

Aim: Improved effectiveness of follow-up of infringements committed by vessels flying the flag of another Member State or a third country

Action Point 8

The Commission will compile and make available to other Parties a list of national co-ordinators capable of responding at short notice to requests for information on the characteristics of vessels flying the flag of the Member State concerned. Member States must ensure that the co-ordinator can act on behalf of all the relevant competent authorities.

3.4. Enhanced uniformity of inspection and surveillance

Inspection and enforcement are not currently perceived by the industry as being uniform at Community level. Inspection of compliance of fishing activities with the rules of the CFP in one Member State is not the same as in another Member State.

The following actions are intended to contribute to more uniformity, at Community level, in the area of inspection and surveillance.

At the Conference on Fisheries Monitoring, Control and Surveillance⁵ and at the Conference on “The Future of the Common Fisheries Policy”,⁶ the fishing industry forwarded suggestions for improved uniformity.

3.4.1. Fairness and non-discrimination

Inspection and surveillance of compliance of fishing activities with the rules of the CFP has to be carried out by inspectors in a fair and professional way. Inspections must be based on the presumption of innocence. Both the inspector as well as the master and the crew are responsible for the proper conduct of an inspection. They have to co-operate with the inspectors if so requested. Inspectors, for their part, should interfere to the absolute minimum with the activities of the vessel.

Inspection and surveillance must abide by the same high standards regardless of the area where the fishing activities are carried out, the flag which the vessel is flying or

⁵ International Conference on Fisheries Monitoring, Control and Surveillance, Brussels, 24-27 October 2000

⁶ Brussels, 5-7 June 2001

the nationality of the operators responsible for the activities concerned. The adoption of common inspection priorities will help inspectors to select vessels or landings for inspection on objective grounds.

Exchange of inspectors between competent authorities in different Member States will also make for greater uniformity in inspection and surveillance. Inspectors will learn from the methods and practices applied in other Member States.

It is part and parcel of the job of inspection and surveillance that conflicts or disagreements will occur between inspectors and the operators responsible for the activities inspected. Certain operators will think that they have not been treated fairly. It is often more difficult to make a protest in another Member State. Therefore, there must be assurances that everyone may inform the Commission of any irregularities or cases of non-compliance. The Commission will examine such information and will act upon, where necessary.

Aim: Enhanced uniformity of inspection and surveillance

Action Point 9

Member States should adopt the necessary measures to facilitate systematic exchange of inspectors between their competent authorities, notably as regards inspection and surveillance of transboundary fishing activities, including language training for national inspectors.

The Commission will review the information on irregularities and non-compliance which it received from third parties, on an annual basis, together with representatives of the Fishing industry.

3.4.2. Co-operation and safety

A code of conduct for inspection clarifying the duties of inspectors and the procedures to be followed by both masters and inspectors during inspections at sea will contribute in particular to more uniformity at Community level. This code of conduct will provide the basic guidelines on how inspectors and masters at Community level should conduct inspections.

The co-operation of the master and the crew also extends to safe boarding ladders, assistance to inspectors and safe access to fish holds and other relevant areas on the vessel. These matters are the concern of the national inspectors as well as masters and crews.

This code will clarify the extent of the obligations of the master and the crew to co-operate with inspectors and, at the same time, it will also provide guidance to the inspector as to how to conduct an inspection while minimising interference with the fishing activities carried out by the vessel.

Aim: Fair, professional and safe inspection and surveillance of fishing activities throughout the Community in the interest of inspectors, masters and crews

Action Point 10

The Commission will compose a draft code of conduct for inspection to be discussed with national inspectors and the fishing industry by mid 2003.

3.5. Feedback and review

It is important to provide reliable information on the effectiveness of implementation of the CFP. The Commission will evaluate the results of the implementation of the CFP and in 2003 will table the Control report concerning the period 2000-2002.

In accordance with Art. 27 of Regulation (EC) No 2371/2002, the Commission will also report on its own activities and, in particular, the work of its inspectors.

The findings of Commission inspectors concerning weaknesses in the control of certain fisheries or exploitation of certain stocks will be made available to the competent national authorities for comment. The response, in co-operation with all authorities concerned, may be to sharpen controls in the short term.

The Commission has only 25 inspectors. Their work must also be prioritised. The Commission will review the priorities together with national control experts in order to co-ordinate better control of the application of the rules of the CFP by Member States with the actions under action points 1-3.

To this end, the Commission will work closely together with the national authorities concerned. Feedback will be provided to the national authorities, including the inspections carried out by Commission inspectors.

Aim: Enhanced co-operation between the Commission and the competent national authorities

Action Point 11

The Commission will provide regular feedback of inspection information to national control experts.

4. PART II - SETTING UP A JOINT INSPECTION STRUCTURE (JIS)

4.1. Introduction

Co-ordination of inspection and surveillance activities between all the authorities involved will remain a major challenge at national level and an even greater one at Community level. In the long run, co-ordination cannot be ensured by voluntary arrangements and ad hoc solutions alone. Co-ordination must be based on an appropriate organisational structure, both at national and at Community level.

The efficiency of inspections at sea and in ports will be greatly enhanced if the inspectors concerned are always in possession in good time of the pertinent information on the fishing activities concerned. Operational co-ordination between all the authorities involved can be organised more logically and more effectively at Community level.

Co-operation in inspection and enforcement between Member States and with the Commission can be better managed on a permanent basis within the framework of a Joint Inspection Structure (JIS).

The JIS should build on the initiatives developed over the years by the competent national authorities on a voluntary basis to co-ordinate their activities. These voluntary arrangements need to be backed up by a permanent and consistent organisational structure at Community level. Indeed, the Community needs to adopt an organisational structure with a mandate to ensure the co-ordinated deployment of national means of inspection and surveillance.

The responsibilities of the Member States in the area of control and enforcement are laid down in Articles 23, 24 and 25, and of the Commission in Article 26, of Regulation (EC) No 2371/2002. Setting up the JIS will be without prejudice to these responsibilities of the Member States and the Commission.

The JIS will be based in particular on Article 28 of the said Regulation, which lays down the basic requirements for co-operation and co-ordination between Member States.

4.2. Scope and objective

National means of inspection and surveillance need to be deployed in line with a genuine European strategy, including common priorities and benchmarks. Guarantees for a lasting approach need to be built into the organisational structure of control and enforcement at Community level.

This objective will be achieved through uniform inspections and surveillance. Multinational inspection teams will play an important role in this approach. The multinational character of inspection and surveillance under the JIS is essential to ensure mutual confidence of the fishing industry in control and enforcement of the rules of the CFP.

Control of implementation of the rules of the CFP includes in particular inspection and surveillance of licences, vessel characteristics, as well as fishing activities in Community territory and waters and beyond in international waters and third country waters.

As part of the JIS, the Community will actively co-operate with outside partners in the interest of the Community. Effective implementation of conservation measures needs to be ensured through international co-operation regarding all stocks exploited by Community fishing vessels.

Effective control cannot be ensured by inspection and surveillance at sea alone. It is essential also to inspect landings (including first sale) since, at sea, it is not always possible to inspect all quantities retained on board by species. Inspections at sea alone would, therefore, leave too much uncertainty as regards compliance with catch restrictions in particular. The JIS would therefore also co-ordinate inspections of landings, including by multinational inspection teams.

Member States are responsible for control and enforcement of the rules of the CFP. Member States have established legal frameworks for control and assigned competent authorities within the context of their legal and administrative systems. Member States have also invested fisheries inspectors with legal powers of control as well as initiating sanctioning procedures.

These frameworks of basic measures would generally allow national authorities to enforce Community law. However, the differences in practical application between Member States have remained substantial in this field and are perceived by the fishing industry as resulting in unequal treatment of fishermen in different parts of the Community.

4.2.1. *Community Fisheries Control Agency (CFCA)*

The Commission proposes to go ahead with the adoption of the JIS on the basis of:

- adoption by the Commission of Community inspection and surveillance strategies, notably in accordance with Art. 34(c) of Regulation (EEC) No 2847/93;
- pooling of national means of inspection and surveillance by Member States;
- deployment of pooled means by a Community Fisheries Control Agency (CFCA).

The CFCA ensures that pooled means of inspection and surveillance are deployed in accordance with Community inspection and surveillance strategies.

The CFCA will have its own responsibility for the execution of its tasks as well as financial responsibility concerning the budget allocated to it by the Community. As regards its operational duties (deployment of national means of inspection and surveillance), the organisational structure of the CFCA has to take account of the need to ensure co-operation between the agency and the competent national authorities. Other questions, such as control of the performance of the agency and financial control over its spending, have to be regulated in the act by which it is established.

The relevant questions concerning the organisational structure of the CFCA will be dealt with in the proposal of the Commission to be communicated to the Council and the European Parliament by the end of 2003.

4.2.2. *Basic function and tasks of the CFCA*

The CFCA will not change the responsibility of Member States for control and enforcement of the rules of the CFP.

The basic function of the CFCA consists of co-ordination of deployment of national means of inspection and, where appropriate, additional contracted means of inspection for the purpose of joint inspection and surveillance of fishing activities in accordance with the rules of the CFP. It has to ensure co-ordinated deployment of national means in accordance with Community inspection strategies setting priorities and benchmarks.

This function includes the following tasks:

- Planning the deployment of means of inspection and surveillance pooled by Member States
- Organising deployment of means of inspection and surveillance

Organising deployment includes instructions concerning the geographical areas, the stocks, fisheries and the fleets to be surveyed and inspected in a given period (organising does not mean the selection of individual fishing vessels for inspection). Planning the deployment of means of inspection and surveillance will include forming multinational teams for inspection at sea and ashore.

Agreements should be concluded annually between the CFCA and each national competent authority with regard to the pooling of means of inspection and surveillance. These agreements would set out the availability of the means assigned to the pool and the conditions under which they can be deployed.

Each coastal Member State and inspecting Member State will remain fully responsible for application of the rules of the CFP. The CFCA will ensure that inspection and surveillance activities of national authorities are fully co-ordinated. In practice, an efficient working relationship between the CFCA and national authorities must be developed.

The CFCA should assume leadership in the deployment of means of inspection and surveillance in close co-operation with the competent national authorities concerned in all situations where this is in the interest of the Community. It should provide operational co-ordination in the genuine interest of the Community as a whole.

4.2.3. *Interaction with Member States*

Each Member State is and will remain responsible for control and enforcement of the rules of the CFP.

Within the JIS, Member States are responsible for:

- Assigning means of inspection and surveillance to the JIS pool
- Ensuring that the means assigned to the JIS pool comply with specified standards on:

- Maintenance and equipment of surveillance vessels and aircraft
- Training of inspectors and crews in accordance with JIS procedures
- Member States must adopt measures to ensure that the means assigned to the JIS pool comply with the planning and deployment thereof.
- They must also assume responsibility for their means of inspection and surveillance as well as for inspection and surveillance carried out by their inspectors.

Individual national inspectors are responsible for sightings of fishing vessels and inspection of fishing activities in order to verify compliance with the rules of the CFP and for noting the results in, respectively, a surveillance report or an inspection report. They are also responsible for the continuity and security of evidence supporting infringements of the rules of the CFP.

The coastal Member State, and, beyond Community waters, the flag Member State, is responsible for follow-up of infringements in accordance with the relevant provisions of the CFP. Any infringements noted by inspectors should be notified immediately to the relevant Member State.

4.2.4. *Interaction with the Commission*

In addition to its duty in the field of legislation and representing the Community in international negotiations, the Commission is also responsible for evaluating and controlling implementation of the rules of the CFP by Member States and for facilitating co-ordination and co-operation between Member States.

The Commission will also aid co-ordination and co-operation between Member States, among other things, by adopting Community inspection and surveillance strategies, including common inspection priorities and benchmarks.

A Community Inspection and Surveillance programme adopted by the Commission, in accordance with Management Committee procedure, for a relevant fishery or stock would not only set common inspection and surveillance priorities and benchmarks, it would also establish the level of means of inspection and surveillance required for the programme.

At Community level appropriate guarantees should be established to ensure that sufficient means of inspection and surveillance are available. To this end, the Commission shall adopt decisions, in accordance with Management Committee procedures, on the level of means of inspection and surveillance to be assigned to the JIS pool by each Member State.

The CFCA should provide technical advice, at the request of the Commission, for the formulation of Community inspection strategies. It should also provide input into the drafting of evaluation reports on control and enforcement.

The CFCA should report on any control and enforcement problem to the Commission. This would allow the Commission to react at an early stage.

The CFCA should report annually to the Commission concerning the performance of the tasks for which it is responsible, including the spending of the budget allocated to it by the Community. The annual report should be presented to the European Parliament and the Council.

Over the years, the Commission has become involved in inspection and surveillance in international waters. The responsibility of the Commission in the area of control and enforcement of the rules of the CFP does not include an operational role in the inspection and surveillance of fishing activities. Setting up the JIS should help the Commission to withdraw from these tasks.

4.3. Expenditure incurred by control and enforcement

Inspection and surveillance of fishing activities, particularly at sea, calls for significant public expenditure. The budget spent depends on the intensity of fishing activities and the geographical characteristics of the territory and waters to be controlled.

The JIS is expected to make for a better cost-effectiveness ratio of inspection and enforcement activities. However, benchmarking may demonstrate a lack of means of inspection and surveillance and thus generate additional expenditure. Definitive conclusions can only be drawn after a thorough analysis of all requirements in order to ensure effective control and enforcement.

The Commission will examine this question thoroughly before putting forward a legislative proposal on the JIS.

4.4. Feasibility study in co-ordination with Member States

Setting up the CFCA should be examined in detail. As the CFCA helps competent national authorities to deploy the national means of inspection and surveillance in accordance with a truly common strategy, feasibility should be examined in co-ordination with the Member States. The advantages of more cost-effective use of national means should be considered against the cost of setting up an agency.

The feasibility study must be based on a clear concept. All possible tasks of the CFCA should be identified.

4.4.1. Other tasks of the CFCA

In addition to its basic functions and tasks (planning and ordering deployment of means of inspection and surveillance), the CFCA could perform the following tasks:

- a) Within Community waters
 - Collection and evaluation of information on inspection and surveillance activities and fishing activities
 - Drafting of reports on inspection and surveillance
 - Receipt and dispatch of information on fishing activities and inspection and surveillance

- b) Meeting Community obligations in the field of inspection and surveillance within the framework of RFOs or bilateral Fishery Agreements, in accordance with the rules of the CFP, including:
 - Deployment of pooled national means of inspection
 - Collection and compiling of information on inspection and surveillance activities
 - Receipt and communication of information on fishing activities and inspection and surveillance
 - Operational co-ordination and co-operation with other relevant inspection authorities
 - Drafting of reports on inspection and surveillance activities
- c) Technical assistance to the Commission on request:
 - Evaluation of the means of inspection and surveillance required in order to achieve compliance with the rules of the CFP
 - Evaluation and establishment of priorities and benchmarks for inspection and surveillance
 - Development of inspection methods and harmonised inspection procedures and practices
 - Administration of financial contribution to control expenditure
- d) Contribution to the organisation of training of inspectors

4.4.2. *Particular questions to be evaluated*

The feasibility study should explore, in particular, the financial means necessary for the operation of the CFCA and the staff required.

The operation of the CFCA will require regular co-ordination meetings with the competent national authorities. All authorities involved in control and enforcement of the relevant fisheries and stocks should meet regularly to review inspection and surveillance activities and to adjust the planning strategy where necessary.

The CFCA should have unrestricted access to information on fishing activities and on inspection and surveillance kept by the competent national authorities. It would therefore need powerful computerised data-processing and communication facilities. The CFCA should be manned 24 hours a day in order to respond to any queries from inspectors or third parties.

Competent national authorities could assign certain national tasks to the CFCA on a contractual basis. The feasibility study should explore any such synergy at national level.

The following aspects should be addressed in particular:

– **Community waters**

As regards inspections and surveillance of certain fishing activities in Community waters, the following points should be addressed:

- Burdens related to organisation of operational co-ordination of pooled means of inspection and surveillance and, in particular, the organisational co-operation structure between the CFCA and the national competent authorities
- The information demands of the CFCA concerning fishing activities, as needed to co-ordinate deployment of pooled resources
- Burdens related to the collection, compilation and evaluation of information on inspection and surveillance of fishing activities
- The level of means of inspection and surveillance required for a Community control strategy, taking into account the characteristics of the fishery and the applicable conservation and control measures

– **International fisheries**

As regards inspection and surveillance of international fisheries, the study should first look at:

- Cost-benefit of the solutions based on national means of inspection and chartered means
- The level of means required, taking into account the characteristics of the fishery as well as the applicable conservation and control measures
- The requirements in terms of co-ordination of deployment of means and follow-up of inspection and surveillance of international fisheries
- Administrative burdens of inspection and surveillance of international fisheries
- Communication burdens related to inspection and surveillance of international fisheries.

5. CONCLUSION

Now that the reform of the CFP has been adopted, Member States and the Commission must ensure that the rules of the CFP are effectively applied and enforced. The present Communication sets out a Community strategy, both in the short term and in the longer term, for achieving uniform and effective implementation of the CFP. In accordance with their responsibilities laid down under chapter V of Regulation (EC) N° 2371/2002, Member States are assumed to support the actions listed in the Action Plan. The support of the Council and the European Parliament is requested for the Joint Inspection Structure as outlined in point 4.