

# EUROPEAN PARLIAMENT

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*Committee on Fisheries*

**2008/0216(CNS)**

5.2.2009

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## **DRAFT REPORT**

on the proposal for a Council regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (COM(2008)0721 – C6-0510/2008 – 2008/0216(CNS))

Committee on Fisheries

Rapporteur: Raül Romeva i Rueda

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (COM(2008)0721 – C6-0510/2008 – 2008/0216(CNS))**

**(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0721),
  - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0510/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Fisheries and the opinion of the Committee on the Environment, Public Health and Food Safety (A6-0000/2009),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 4**

*Text proposed by the Commission*

(4) Currently control provisions are spread in a wide number of overlapping and complex legal texts. Some parts of the control system are poorly implemented by Member States ***which results in*** insufficient and divergent measures in response to infringements of the rules of the Common Fisheries Policy thereby

*Amendment*

(4) Currently control provisions are spread in a wide number of overlapping and complex legal texts. Some parts of the control system are poorly implemented by Member States, ***and the Commission has not proposed all of the necessary implementing regulations needed for the Regulation (EEC) No 2847/1993. The***

undermining the creation of a level playing field for fishermen across the Community. Accordingly the existing regime and all the obligations therein should be consolidated, rationalised and simplified, in particular through reduction of double regulation and administrative burdens.

*result is* insufficient and divergent measures in response to infringements of the rules of the Common Fisheries Policy thereby undermining the creation of a level playing field for fishermen across the Community. Accordingly the existing regime and all the obligations therein should be consolidated, rationalised and simplified, in particular through reduction of double regulation and administrative burdens.

Or. en

## Amendment 2

### Proposal for a regulation Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

***(14a) The Common Fisheries Policy covers the conservation, management and exploitation of living aquatic resources, so that all types of activities that exploit such resources are treated on an equal basis, whether they be commercial or non-commercial. It would be discriminatory to subject commercial fisheries to strict controls and limits while entirely exempting non-commercial fisheries.***

Or. en

## Amendment 3

### Proposal for a regulation Recital 19

*Text proposed by the Commission*

*Amendment*

(19) Control activities and methods should be based on risk management using cross-checking procedures in a systematic and

(19) Control activities and methods should be based on risk management using cross-checking procedures in a systematic and

comprehensive way.

comprehensive way *by Member States. It is also necessary for Member States to exchange relevant information.*

Or. en

#### **Amendment 4**

##### **Proposal for a regulation Recital 34**

*Text proposed by the Commission*

(34) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. All measures adopted by the Commission to implement this Regulation will comply with the proportionality principle.

*Amendment*

(34) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, *as amended by Council Decision 2006/512/EC of 17 July 2006*. All measures adopted by the Commission to implement this Regulation will comply with the proportionality principle.

Or. en

#### **Amendment 5**

##### **Proposal for a regulation Recital 38 a (new)**

*Text proposed by the Commission*

*Amendment*

*(38a) Data on catches belong in the public domain.*

Or. en

## Amendment 6

### Proposal for a regulation

#### Article 4 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) "Non-Commercial Fisheries" means any fisheries in marine waters including, inter alia, sports fishing, recreational fishing and tournaments, conducted from a vessel which is not required to have a Community fishing licence pursuant to Commission Regulation (EC) No 1281/2005 of 3 August 2005 on the management of fishing licences and the minimal information to be contained therein<sup>1</sup>;***

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<sup>1</sup> OJ L 203, 4.8.2005, p. 3.

Or. en

#### *Justification*

*The term "non-commercial fishing" is clearer than the term "recreational fishing" and should be defined to avoid confusion.*

## Amendment 7

### Proposal for a regulation

#### Article 7 – paragraph 1 – point a a (new)

*Text proposed by the Commission*

*Amendment*

***aa) total allowable catches;***

Or. en

#### *Justification*

*Fishing authorisations should also be required for species under quota limitations.*



## Amendment 8

### Proposal for a regulation

#### Article 9 – paragraph 6 – introductory wording

*Text proposed by the Commission*

6. Community vessels up to 15 meters length overall may be exempted from the requirement to be fitted with a Vessel Monitoring System if they:

*Amendment*

6. Community vessels up to 15 meters length overall **using passive gear** may be exempted from the requirement to be fitted with a Vessel Monitoring System if they:

Or. en

#### *Justification*

*Fishing vessels between 10 and 15 m can exert significant fishing pressure if they use active gear, so the possible derogation should be limited to passive gears.*

## Amendment 9

### Proposal for a regulation

#### Article 14 – paragraph 1

*Text proposed by the Commission*

1. Without prejudice to specific rules, the masters of Community fishing vessels exceeding 10 meters length overall shall keep a logbook of their operations, indicating specifically all quantities greater than 15 kg of live-weight equivalent of each species caught and kept on board, the date and the relevant geographical area, expressed by reference to a sub-area and division or sub-division, or where applicable statistical rectangle in which catch limits apply pursuant to Community legislation, of these catches and the type of gear used. The quantities of each species discarded at sea shall also be recorded in the logbook. The accuracy of the data recorded in the logbook shall be the responsibility of the master.

*Amendment*

1. Without prejudice to specific rules, the masters of Community fishing vessels exceeding 10 meters length overall shall keep a **paper** logbook of their operations, indicating specifically all quantities greater than 15 kg of live-weight equivalent of each species caught and kept on board, the date and the relevant geographical area, expressed by reference to a sub-area and division or sub-division, or where applicable statistical rectangle in which catch limits apply pursuant to Community legislation, of these catches and the type of gear used.

***For catches made in third-country waters, the information shall be broken down by***

*third country and stock by reference to the smallest statistical zone defined for the fishery concerned. Catches made on the high seas shall be recorded by reference to the smallest statistical zone defined by the International Convention governing the catch location and by species or group of species for all the stocks in the fishery concerned.*

The quantities of each species discarded at sea shall also be recorded in the logbook. The accuracy of the data recorded in the logbook shall be the responsibility of the master.

Or. en

*Justification*

*"Paper" is added to distinguish from electronic logbook of Art 15. The additional wording is the same as that found in Article 18 of the current Control Regulation and will contribute to traceability and establishing the origin of the fish.*

**Amendment 10**

**Proposal for a regulation**  
**Article 15 – paragraph 1**

*Text proposed by the Commission*

1. The master of a Community fishing vessel exceeding 10 meters length overall shall record by electronic means fisheries logbook information and shall send it by electronic means to the competent authority of the flag Member State at least once a day.

*Amendment*

1. The master of a Community fishing vessel exceeding 10 meters length overall shall record by electronic means fisheries logbook information and shall send it by electronic means to the competent authority of the flag Member State at least once a day. ***This electronic logbook shall replace the requirement for a paper logbook under Article 14(1).***

Or. en

*Justification*

*To clarify that both paper and electronic logbooks are not both required.*

## Amendment 11

### Proposal for a regulation

#### Article 15 – paragraph 2 – introductory wording

##### *Text proposed by the Commission*

2. Paragraph 1 shall apply to Community fishing vessels exceeding 15 meters length and up to 24 meters length overall as from 1 July 2011, and to Community fishing vessels exceeding 10 meters length and up to 15 meters length overall as from 1 January 2012. Community vessels up to 15 meters length overall may be exempted from paragraph 1 if they:

##### *Amendment*

2. Paragraph 1 shall apply to Community fishing vessels exceeding 15 meters length and up to 24 meters length overall as from 1 July 2011, and to Community fishing vessels exceeding 10 meters length and up to 15 meters length overall as from 1 January 2012. Community vessels up to 15 meters length overall **using passive gear** may be exempted from paragraph 1 if they:

Or. en

##### *Justification*

*Fishing vessels between 10 and 15 m can exert significant fishing pressure if they use active gear, so the possible derogation should be limited to passive gears.*

## Amendment 12

### Proposal for a regulation

#### Article 21 – paragraph 1

##### *Text proposed by the Commission*

1. The master shall be responsible for the accuracy of the landing declaration which shall indicate, as a minimum, the quantities landed of each species stipulated in Article 14 and the area where and the date when they were caught.

##### *Amendment*

1. The master shall be responsible for the accuracy of the landing declaration which shall indicate, as a minimum, the quantities landed of each species stipulated in Article 14 and the area where and the date when they were caught. **The area shall be to the same level of detail as under Article 14(1).**

Or. en

##### *Justification*

*Landing declarations should contain information to the same level of detail as the logbook,*

*which will help in ensuring traceability and establishing the origin of the fish.*

### **Amendment 13**

#### **Proposal for a regulation**

#### **Article 21 – paragraph 4 – introductory wording**

##### *Text proposed by the Commission*

4. Paragraph 2 shall apply to Community fishing vessels exceeding 15 meters length and up to 24 meters length overall as from 1 July 2011, and to Community fishing vessels exceeding 10 meters length and up to 15 meters length overall as from 1 January 2012. Community vessels up to 15 meters length overall may be exempted from the application of paragraph 2 if they:

##### *Amendment*

4. Paragraph 2 shall apply to Community fishing vessels exceeding 15 meters length and up to 24 meters length overall as from 1 July 2011, and to Community fishing vessels exceeding 10 meters length and up to 15 meters length overall as from 1 January 2012. Community vessels up to 15 meters length overall ***using passive gear*** may be exempted from the application of paragraph 2 if they:

Or. en

##### *Justification*

*Fishing vessels between 10 and 15 m can exert significant fishing pressure if they use active gear, so the possible derogation should be limited to passive gears.*

### **Amendment 14**

#### **Proposal for a regulation**

#### **Article 21 – paragraph 5**

##### *Text proposed by the Commission*

5. For vessels exempted from the requirement set out in paragraph 2, the master, or his representative, shall record upon landing and submit as soon as possible and not later than 24 hours after landing, a landing declaration to the competent authorities of the Member State where the landing has taken place.

##### *Amendment*

5. For vessels exempted from the requirement set out in paragraph 2, the master, or his representative, shall record upon landing and submit as soon as possible and not later than 24 hours after landing, a landing declaration to the competent authorities of the Member State where the landing has taken place, ***which shall forward it without delay to the flag Member State.***

*Justification*

*The flag Member State needs to be informed as well.*

**Amendment 15****Proposal for a regulation****Article 23 – paragraph 1***Text proposed by the Commission*

1. Each Member State shall record all relevant data on fishing opportunities as referred to in this Chapter, expressed both in terms of catches and fishing effort, and shall keep the originals of that data for a period of three years or longer in accordance with national rules.

*Amendment*

1. Each Member State shall record all relevant data on fishing opportunities as referred to in this Chapter, expressed both in terms of catches, **discards** and fishing effort, and shall keep the originals of that data for a period of three years or longer in accordance with national rules. ***The data in electronic format shall be kept for a minimum of ten years.***

Or. en

*Justification*

*Data on discards need to be collected and analysed. While the original (paper) records could be destroyed after three years, the data contained in them should be kept longer, for purposes of scientific research, which often relies on historical data.*

**Amendment 16****Proposal for a regulation****Article 23 – paragraph 3***Text proposed by the Commission*

3. All catches of a stock or a group of stocks subject to quota made by Community fishing vessels shall be charged against the quota applicable to the flag Member State for the stock or group of stocks in question, irrespective of the place of landing.

*Amendment*

3. All catches **and discards** of a stock or a group of stocks subject to quota made by Community fishing vessels shall be charged against the quota applicable to the flag Member State for the stock or group of stocks in question, irrespective of the place of landing.

*Justification*

*Discards should be deducted from the national quota, as a means of providing incentives for more selective fishing to avoid catching them in the first place.*

**Amendment 17**

**Proposal for a regulation**  
**Article 34 – paragraph 2**

*Text proposed by the Commission*

2. Where more than the threshold quantity of fish as referred to in paragraph 1 is to be landed, the master of a Community fishing vessel shall ensure that such landing is only made in a designated port in the Community. When the multiannual plan is applied in the framework of a Regional Fisheries Management Organisations, the landings may take place in *the* port of a contracting party of that organisation.

*Amendment*

2. Where more than the threshold quantity of fish as referred to in paragraph 1 is to be landed, the master of a Community fishing vessel shall ensure that such landing is only made in a designated port in the Community. When the multiannual plan is applied in the framework of a Regional Fisheries Management Organisations, the landings may take place in *a designated* port of a contracting party of that organisation.

*Justification*

*Transshipments should only occur in designated ports of RFMOs as well.*

**Amendment 18**

**Proposal for a regulation**  
**Article 37 – paragraph 2 – introductory wording**

*Text proposed by the Commission*

2. In fisheries in which it is allowed to have more than *two types* of gear on board, the gear which is not used shall be stowed so that it may not readily be used in accordance with the following conditions:

*Amendment*

2. In fisheries in which it is allowed to have more than *one type* of gear on board, the gear which is not used shall be stowed so that it may not readily be used in accordance with the following conditions:

*Justification*

*This seems to be a mistake and is not in the current regulation. It seems logical to stow the unused gear even if there are only two.*

**Amendment 19**

**Proposal for a regulation  
Article 41 – paragraph 1**

*Text proposed by the Commission*

1. The master of a fishing vessel shall record all discards above 15 kg of live weight equivalents in volume and shall communicate, where possible by electronic means, this information without delay to its competent authorities.

*Amendment*

1. The master of a fishing vessel shall record all discards above 15 kg of live weight equivalents in volume ***per haul of gear*** and shall communicate, where possible by electronic means, this information without delay to its competent authorities.

*Justification*

*It would be unreasonable to require recording 15 kg of discards during entire fishing trip.*

**Amendment 20**

**Proposal for a regulation  
Article 47 – paragraph 1**

*Text proposed by the Commission*

1. ***Recreational fisheries on*** a vessel in Community waters on a stock subject to a multiannual plan shall be ***subject to an authorisation for that vessel issued*** by the ***flag*** Member State.

*Amendment*

1. ***Non-Commercial Fisheries conducted from*** a vessel in Community ***marine*** waters on a stock subject to a multiannual plan shall be ***evaluated*** by the Member State ***in whose waters they are conducted. Fishing with rod and reel from shore shall not be included.***

*Justification*

*To clarify the text and make the provisions more reasonable and workable.*

**Amendment 21**

**Proposal for a regulation**  
**Article 47 – paragraph 2**

*Text proposed by the Commission*

**2. Catches in recreational fisheries on stocks subject to a multiannual plan shall be registered by the flag Member State.**

*Amendment*

**2. Within two years of the date of entry into force of this Regulation, Member States shall estimate the impact of Non-Commercial Fisheries conducted in their waters and submit the information to the Commission. The relevant Member State and the Commission, on the basis of the advice of the Scientific, Technical and Economic Committee for Fisheries, shall decide which Non-Commercial Fisheries are having a significant impact on stocks. Within three years of the date of entry into force of this Regulation, that Member State, in close cooperation with the Commission, shall develop a monitoring system for fisheries having a significant impact that includes licences and a means of accurately estimating the total catches for each fish stock. Non-Commercial Fisheries shall comply with the objectives of the Common Fisheries Policy.**

Or. en

*Justification*

*To clarify the text and make the provisions more reasonable and workable.*



## Amendment 22

### Proposal for a regulation Article 47 – paragraph 3

*Text proposed by the Commission*

3. Catches of species subject to a **multiannual plan by recreational fisheries** shall be counted against the relevant quotas of the flag Member State. The Member States concerned **shall** establish a share from such quotas to be used exclusively for the purpose of recreational fisheries.

*Amendment*

3. Catches of species subject to a **monitoring system under paragraph 2** shall be counted against the relevant quotas of the flag Member State. The Member States concerned **may** establish a share from such quotas to be used exclusively for the purpose of recreational fisheries.

Or. en

*Justification*

*To clarify the text and make the provisions more reasonable and workable.*

## Amendment 23

### Proposal for a regulation Article 47 – paragraph 4

*Text proposed by the Commission*

4. The marketing of catches from a **recreational fishery** shall be prohibited except for philanthropic purposes.

*Amendment*

4. The marketing of catches from a **Non-Commercial Fishery** shall be prohibited except for philanthropic purposes.

Or. en

*Justification*

*To clarify the text and make the provisions more reasonable and workable.*

## Amendment 24

### Proposal for a regulation

#### Article 50 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***ba) the stock;***

Or. en

#### *Justification*

*The information should include the identification of stock from which the fish came, otherwise its origin cannot be determined, and this article is to ensure traceability.*

## Amendment 25

### Proposal for a regulation

#### Article 54 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Registered buyers, registered auctions or other bodies or persons which are responsible for the first marketing of fishery products landed in a Member State, shall submit electronically, within 2 hours after the first sale, a sales note to the competent authorities of the Member State in whose territory the first sale takes place. If this Member State is not the flag State of the vessel that landed the fish, it shall ensure that a copy of the sales note is submitted to the competent authorities of the flag Member State upon receipt of the relevant information. The accuracy of the sales note shall be the responsibility of these buyers, auctions, bodies or persons.

1. Registered buyers, registered auctions or other bodies or persons which are responsible for the first marketing of fishery products landed in a Member State, shall submit electronically, within 2 hours after the first sale, a sales note to the competent authorities of the Member State in whose territory the first sale takes place. If this Member State is not the flag State of the vessel that landed the fish, it shall ensure that a copy of the sales note is submitted ***without delay*** to the competent authorities of the flag Member State upon receipt of the relevant information. The accuracy of the sales note shall be the responsibility of these buyers, auctions, bodies or persons.

Or. en

## Amendment 26

### Proposal for a regulation Article 69

*Text proposed by the Commission*

Member States shall set up and keep up to date an electronic database where they upload all inspection and surveillance reports drawn up by their officials.

*Amendment*

Member States shall set up and keep up to date an electronic database where they upload all inspection and surveillance reports, ***including observer reports***, drawn up by their officials.

Or. en

*Justification*

*There would appear to be no reason not to put observer reports on the database as well.*

## Amendment 27

### Proposal for a regulation Article 71 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***In cases of hot pursuit commenced in the waters of the inspecting Member State, the coastal Member State shall be informed as soon as it becomes clear that the fishing vessel being pursued is about to enter its waters and before the pursuing vessel enters its waters. The Commission shall be informed at the same time as the coastal Member State.***

Or. en

*Justification*

*If an inspection vessel in hot pursuit has to request permission and possibly to wait several hours, it is not very logical. Notification should suffice in such emergency situations (to the Commission as well, so they have an overview of such events).*

## Amendment 28

### Proposal for a regulation Article 72 – paragraph 1

#### *Text proposed by the Commission*

1. Requests for authorisation of a Member State to carry out inspections on fishing vessels in Community waters outside waters under its sovereignty or jurisdiction, as referred to in Article 71(2)(a), shall be decided by the coastal Member State concerned within 12 hours of the time of the request ***or within an appropriate delay where the reason for the request is a hot pursuit commenced in the waters of the inspecting Member State.***

#### *Amendment*

1. Requests for authorisation of a Member State to carry out inspections on fishing vessels in Community waters outside waters under its sovereignty or jurisdiction, as referred to in Article 71(2)(a), shall be decided by the coastal Member State concerned within 12 hours of the time of the request.

Or. en

#### *Justification*

*See am. on 71.2. If an inspection vessel in hot pursuit has to request permission and possibly to wait several hours, it is not very logical. Notification should suffice in such emergency situations (to the Commission as well, so they have an overview of such events).*

## Amendment 29

### Proposal for a regulation Article 84 – paragraph 7

#### *Text proposed by the Commission*

7. Member States shall also establish a penalty point system under which the master and the officers of a vessel receive appropriate penalty points as a result of an infringement against the rules of the Common Fisheries Policy committed by them.

#### *Amendment*

7. Member States shall also establish a penalty point system under which ***the ship-owner***, the master and the officers of a vessel receive appropriate penalty points as a result of an infringement against the rules of the Common Fisheries Policy committed by them.

Or. en

*Justification*

*Ship-owners need to be included in the system as well, since they bear ultimate responsibility for their vessels.*

**Amendment 30**

**Proposal for a regulation**

**Article 101 – paragraph 2 – point g**

*Text proposed by the Commission*

g) prohibition for fishing vessels flying the flag of the Member State concerned to fish in waters under the jurisdiction of other Member States;

*Amendment*

g) prohibition for fishing vessels flying the flag of the Member State concerned to fish in waters under the jurisdiction of other Member States ***or under a Fisheries Partnership Agreement***;

Or. en

*Justification*

*Vessels that are not allowed to fish in the waters of other Member States should not be allowed to fish under fisheries agreements either; otherwise, what image is the EU giving?*

**Amendment 31**

**Proposal for a regulation**

**Article 105 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***6a. Data on catches held by each Member State shall be in the public domain as of the beginning of the calendar year following the year of capture. Public data shall be aggregated by species, by stock and by gear type.***

Or. en

*Justification*

*The public should have every right to know how much fish is being caught. At present, requests to the Commission for aggregated catch data are refused on the basis that they are*

*confidential. Obviously catches by individual vessels would be confidential.*

## EXPLANATORY STATEMENT

Effective and non-discriminatory implementation of the rules must be one of the fundamental pillars of the Common Fisheries Policy. Respect for the rules and a coherent approach to control is the best way to protect the interests of the fishing sector in the long term. If those involved in fisheries, from the people on the boats to those who sell the fish to consumers, do not respect the rules, the Policy is doomed to fail. Fish stocks will disappear, along with those who depend upon them.

Both the Commission and the European Parliament have repeatedly regretted the poor level of compliance and called for better controls by Member States, harmonized inspection criteria and penalties, transparency of the results of inspections, strengthening the system of Community inspections, etc.<sup>1</sup>

The rules are agreed at the EU level but implementation and enforcement are the responsibility of the Member States, so there are several possible reasons for a failure to properly apply them. The first is juridical, in the sense that the control regulation and related instruments are insufficient, and do not provide the proper legal authority for inspectors to do their jobs. Another is political - do the Member States fulfil their legal obligations to fully implement the rules they have agreed to at Council and allocate sufficient resources to do so? Does the Commission properly verify what the Member States do? It should also be noted that the Commission has failed in its responsibilities as well, for the current regulation called for over 20 implementing regulations, of which the Commission has proposed only a very few since 1993.

The 2007 Special Report of the Court of Auditors<sup>2</sup> examined the question of implementation of one aspect of the CFP (the rules on conservation of resources) and concluded that serious problems existed:

*125. In all, the Court's work has shown that, despite recent improvements, the control, inspection and sanction mechanisms in place are not capable of ensuring that the rules on managing the fisheries resources, and the TAC and quota system in particular, are effectively applied.*

The Court made a great many recommendations to improve the situation and the Commission made an equal number of promises to deal with the problem in the recast of the control regulation. The proposal for such a regulation is the subject of the present report.

The new regulation is to be the final of three regulations that will constitute the control system, after the adoption of the IUU regulation<sup>3</sup> and the regulation on fishing authorisations<sup>1</sup>.

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<sup>1</sup> For instance see the EP resolutions of 06.09.2006 (A6-0228/2006, Morillon), of 23.10.2003 (A5-0331/2003, Figueiredo), of 04.07.2002 (A5-0228/2002, Attwooll), of 17.01.2002 (A5-0470/2001, Miguelez Ramos) and of 06.11.1997 (A4-0298/1997, Fraga Estevez).

<sup>2</sup> Special Report 7/2007 on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources.

<sup>3</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

It is essential that the measures included in the proposal not only incorporate all the necessary aspects of the existing control regulation and the recommendations of the Court of Auditors, but also that they are coherent with the provisions of these two other regulations.

Probably the most important quality of a control system that applies to 27 Member States is that everybody be treated equally, that all those involved in the chain of production - fishermen, processors, buyers and others - feel that they are not discriminated against and carry their share of responsibility. The so-called "level playing field" must be created across the entire Community and along the entire chain of custody. The proposal includes a number of aspects that would move quite some distance in this direction, which should be welcomed. The Community Fisheries Control Agency has a particularly important role to play in this regard, given its Community nature and mandate for impartiality.

As a general remark, since the control regime in the EU is becoming more complex, the Commission must ensure that all of the rules are practical, applicable and efficient. A series of "test cases" should be examined using concrete case studies based on actual examples of control situations to test the efficacy of the proposed measures. This should be done before the control regulation is adopted by Council and should guide the Commission when it proposes the implementing regulations that all three parts of the control system require. Such an exercise could highlight potential difficulties and help resolve them before these pieces of legislation are adopted.

Much of the proposal comprises measures that have been in the regulation for years, but certain new elements merit consideration.

**Recreational Fishing** - This has exploded in the media and dominates all discussion on the proposal. What the Commission is proposing is not clear from the text. What is clear is that, in certain instances, recreational fisheries can be large and have significant impact on fish stocks. For example, according to data from the Member States, French sport fishermen catch 5.000 mt of sea bass, German recreational catches amount to up to 5.200 mt of cod in the Baltic Sea. Recreational catches of bluefin tuna are so serious that the International Commission for the Conservation of Atlantic Tuna (ICCAT) has adopted management measures to control them. Is it fair to commercial fishermen to continue to allow recreational fishermen to fish with no controls whatsoever? An amendment is proposed here that would limit the scope of the regulation to non-commercial fishing conducted from boats (i.e. not from shore) in marine waters (i.e. not inland waters). Member States would have time to evaluate the impact of such fishing on stocks and, in cases where it is having a significant impact, to propose a means of monitoring it. Since it is discriminatory to subject commercial fishermen to catch limitations and other restrictions but to allow non-commercial fishermen to fish without limit, all catches should ultimately come under the national quota.

**Community Fisheries Control Agency** - The Agency has only been operational for a few years but it has already proven its value in improving coordination of controls at sea among Member States during several Joint Deployment Programmes. The Commission proposes increasing the role of the Agency in various areas, such as developing core curricula for

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<sup>1</sup> Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters.



training programmes, assisting to develop common inspection procedures, improving communication and information exchange among Member States, etc. The Agency has a crucial role to play in reducing and, hopefully, eliminating the conviction on the part of many that they are controlled more strictly than their neighbours. The Agency's expanded mandate is an important component of an improved control system. The Attwooll report of 2005<sup>1</sup> welcomed the Agency when it was created and even then, urged that it be given a stronger role.

**Risk Analysis** - An important recommendation from the Court of Auditors was that Member States establish "a control strategy based on a risk analysis", to be included in the control regulation<sup>2</sup>. The Court considered that

*75. Sound knowledge of the various fishery activities, the actors involved, infringements found and penalties imposed in the past is essential for the establishment of sound risk analysis, the definition of a suitable control strategy and the preparation of a relevant programme.*

A risk analysis approach to planning would identify inspection priorities and aid the allocation of resources, making control activities more effective. The Commission took this recommendation on board and has included a number of measures that would provide Member States with the necessary structures, including databases on catches, inspections and other information, procedures for data verification, etc.

Certain of these could be shared among the Member States, in order to promote the fluid exchange of information that would help them establish a common basis for their risk analysis. The extent to which information on matters such as infractions under investigation is exchanged merits careful consideration, in order to ensure confidentiality and the right to privacy. In a common policy such as fisheries, though, where vessels are free to fish throughout the waters of the Community, Member States have a clear need for access to relevant information in order to make their control programmes as effective and efficient as possible. The Agency could have a role in structuring and organizing such information analysis and exchange, including the question of how long such information should be available.

**Costs and Administrative Burden** - Many Member States are worried that the proposal would increase the costs of their control programmes and require them to set up complicated new administrative systems. According to data from the Commission, an inspection at sea costs over ten times as much as those on land (€7.552 at sea, €306 on land, €541 in the marketplace). These data point out the necessity of optimal targeting of controls. Inspections at sea must remain a fundamental aspect of the control system, for going to sea is the only way to verify what is happening there. Use of a risk analysis approach, though, as included in the proposal, would allow Member States to reduce their at-sea inspections while making them better targeted and more effective. The proposal includes many modern technologies that allow significant reductions of cost, such as electronic systems that allow rapid and easy cross-verification of data, avoiding the need for manual comparisons.

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<sup>1</sup> Attwooll report A6-0022/2005 on the proposal for a Council regulation establishing a Community Fisheries Control Agency, EP resolution of 23.02.2005.

<sup>2</sup> See Court of Auditors Special Report 7/2007, paragraphs 129 and 130.

**Inspections at Sea** - The proposal expands the ability of Member States to conduct inspections in each others' waters. Such mutual inspection procedures already exist in some Regional Fisheries Management Organisations of which the Community is a member. The capacity of the Commission to carry out its own investigations would also increase. For reasons once again of the need to eliminate the perception of discrimination and to create the "level playing field", this is a long overdue proposal. If fishing fleets can move throughout Community waters, then inspection vessels should have the same ability. One amendment made here concerns "hot pursuit". The proposal says that if an inspection vessel from one Member State is in hot pursuit of a vessel that goes into the waters of another Member State, then it must request the coastal Member State for permission to carry out an inspection. Since this rather defeats the purpose of "hot pursuit", it is proposed that the inspecting Member State inform the coastal Member State before entering its waters.

**Sanctions** - The Commission is again trying to harmonise sanctions for serious infringements. This idea has been discussed before, in the context of the Aubert report on the IUU regulation<sup>1</sup>. At that time, Parliament agreed with the Commission that there was a need to harmonise the maximum administrative sanctions. This time the Commission is proposing both minimum (at least €5.000) and maximum levels (at least €300.000) for administrative sanctions.

There is also an innovative idea for a system of "penalty points" that would be distributed for vessels and captains that commit infringements. If infringements are repeated, more points are given, and there would be a threshold at which enough points would cause the temporary suspension or cancellation of the fishing authorisation. If no further infringements are committed, the points would disappear after a certain time. This system could be of considerable help in getting Member States to deal with infractions in a more coherent way, part of the "level playing field". An amendment is added to include ship-owners, since they are the ones who are ultimately responsible for what a vessel does.

**Conclusions** - The proposal of the Commission is an important step along the road to developing a "culture of compliance" in the EU and reducing the belief among many that they are strictly controlled while their neighbours are free to do as they wish. All those concerned by the CFP should feel the system is fair, and a non-discriminatory control system is essential for ensuring that the fishing industry has a long term future.

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<sup>1</sup> Aubert report A6-0193/2008 on the proposal for a Council regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.