



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.4.2007  
COM(2007) 167 final

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

**ON THE MONITORING OF THE MEMBER STATES' IMPLEMENTATION OF  
THE COMMON FISHERIES POLICY 2003-2005**

{SEC(2007) 425}

## 1. INTRODUCTION

Article 27 of Council Regulation (EC) No 2371/2002 of 20 December 2002<sup>1</sup> requires the Commission to draw up every three years an evaluation report to be submitted to the European Parliament and the Council on its control activities and on the application of the Common Fisheries Policy (CFP) rules by the Member States. In addition Article 35 of Council Regulation (EEC) N° 2847/93 of 12 October 1993<sup>2</sup> (hereafter the Control Regulation) requires the Commission to draw up an assessment report every three years on the application of the regulation on the basis of implementation reports submitted by the Member States.

This report responds to these obligations and is the first adopted since the 2002 reform of the CFP. It covers the period from 2003 to 2005. Issues related to sanctions and serious infringements are not covered in detail by the report as they are dealt with separately in the Communications from the Commission on behaviours which seriously infringed the rules of the CFP in 2003<sup>3</sup> and 2004<sup>4</sup>.

## 2. COMMISSION INSPECTION PROGRAMMES 2003-2005

These programmes focussed on the most sensitive aspects, identified as areas of high risk in terms of non-compliance. These include:

- (1) Stocks subject to regional recovery and management measures such as cod, hake, bluefin tuna, pelagic fisheries and Greenland halibut.
- (2) Horizontal control issues such as satellite monitoring, activity by third country vessels and marketing.

All programmes included a series of missions to the Member States, some without prior notice, and were followed up by detailed analysis of information received directly and from other sources. In some cases the inspection unit was able to remotely access the fisheries control data bases of the Member States.

The extent of verification by Commission inspectors is limited by the personnel available and the legal powers of the inspectors. Commission inspectors may carry out inspections of vessels and premises and have access to all relevant information. They normally operate in the field by observing national inspectors carrying out their work and in this way are able to assess the physical implementation of control measures by the competent authorities of the Member States.

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<sup>1</sup> OJ L 358, 31.12.2002, p 59

<sup>2</sup> OJ L 261, 20.10.1993, p 1, as last amended by Regulation (EC) N° 1967/2006 (OJ L 409, 30.12.2006, p 11)

<sup>3</sup> COM (2005) 207, 30.05.2005

<sup>4</sup> COM (2006) 387, 14.7.2006

## 2.1. North Sea and Western Waters cod recovery programme

By the end of 2004 all Member States had an administrative system in place for the effort limitation scheme. In general the arrangements for the allocation and transfer of days were significantly more advanced than the control measures adopted at the ports of landing. The following specific issues were identified in all Member States during the inspection missions:

- There was a lack of strategy to secure compliance with the effort limitation scheme.
- Vessel Monitoring System (VMS) information was not used effectively to cross check prior notifications of landing and fishing effort recorded in vessel logbooks.
- By-catch rules, which in some instances allowed a higher allocation of days at sea, were not systematically checked.
- Member States did not properly enforce the reduced margin of tolerance of 8% for catch estimates in the logbook.

**Conclusion:** The cod recovery scheme was implemented in a manner that would cause minimum disturbance to fishing activity. The impact of the scheme was further reduced by unreliable catch data caused by mis-declaration.

## 2.2. Northern hake recovery programme

**Control measures** - Most Member States had working systems for designated ports and the prior notification of landings specific to the programme. Both were seen as important tools for targeting inspections. However many Member States had difficulty with enforcing the reduced margin of tolerance for catch estimation in the EC fishing logbook.

**Recording of catches** - A large proportion of catches of hake are transported from landing in one Member State for sale in another. Member States had not required that the hake is weighed prior to transportation, and as a result the accuracy of the data in the landing declaration could not be guaranteed. Furthermore the lack of some of the basic legal catch registration documents in some Member States (logsheets, landing declarations, transport documents and sales notes) prevented effective cross-checks and prevented efficient validation of the landing data.

**Technical measures** - Technical measures in most Member States are usually controlled at sea. In the two missions conducted at sea poor inspection strategy and lack of sanctions resulted in a general lack of effective control. Moreover the lack of effective control of landings of undersized hake in several Member States remained a major concern.

**Conclusion:** A lack of co-ordinated control of the international transport of hake combined with a poor standard of catch registration and the landing of undersized fish reduced the effectiveness of the Northern hake recovery programme.

### 2.3. Southern hake and *Nephrops* recovery programme

**Management of fishing effort** – As 2005 was the first year of the implementation of the recovery measures for southern hake and *Nephrops*, it was difficult to evaluate the impact of those measures on the reduction of fishing effort. In Spain the maximum number of days at sea was the same under earlier national legislation.

**Specific control measures** - Both Member States concerned had difficulty with enforcing the reduced margin of tolerance for catch estimation in the logbook. Portugal successfully introduced the required Special Fishing Permit and required catches to be weighed prior to transportation.

**Recording of catches** – Lack of sufficient inspections and cross-checks between catch registration documents and surveillance data undermined the reliability of catch records.

**Conclusion:** The impact of the programme was limited as it only really affected 250 out of the 11 000 vessels involved in the southern hake fishery. Despite this the human resources devoted to control of the programme were not sufficient. Landings of undersized fish, including hake, reduced the effects of the recovery programme.

### 2.4. Baltic Sea transitional technical control measures for cod

The analysis of catch registration documents revealed major weaknesses in the catch declarations. The records analysed by the Commission inspectors showed an overall average under declaration of recorded catches of 23% in the logbooks. Observed averages in individual Member States ranged between 8% and 49%.

The landing and marketing of fish in the Baltic Sea area is based on direct sales and transport to other markets. There is neither the practice nor the infrastructure to systematically sort and weigh catches at the point of landing. Vessels enter port and land fish directly according to market demands, and in many cases catches are landed and transported immediately to the buyer's premises or to an auction in another Member State.

Where landing inspections resulted in the detection of suspected infringements, lengthy sanctioning procedures, as witnessed in many Member States, a lack of immediate enforcement action and a low level of sanctions undermined the credibility and effectiveness of the inspection efforts.

**Conclusion:** The lack of control in the Baltic Sea seriously undermined the catch report system which led to fishermen under recording catches, thus preventing a major reduction in fishing mortality.

### 2.5. BACOMA trawl escape window in the Baltic Sea

All Member States visited during the programme had implemented the BACOMA measures and it was seen that this measure had more success than the first variant introduced in 2002. In addition several exchanges of inspectors or joint inspection operations were carried out between different Member States, showing a continuation of management plans for cod in the Baltic Sea that had been in place since 2001.

**Conclusion:** The BACOMA trawl escape window, accepted by both fishermen and control authorities, has been successfully enforced.

## **2.6. Highly migratory fish**

Missions in 2003 concluded that there was virtually no catch registration systems put in place by Member States for bluefin tuna.

A further evaluation was therefore made of the management measures implemented for the bluefin tuna fishery and the application of new rules on cage farming and minimum size. This confirmed the continuing need to make improvements in the catch reporting system, in particular the accuracy of the logbook and landing declaration figures and revealed that the movements of fishing vessels were not tracked systematically.

Missions carried out to France, Italy, Spain and Greece confirmed that prohibited driftnets are still used in several Member States.

## **2.7. Regional fisheries management organisations**

**NAFO** - The European Commission maintained an inspection vessel in the Northwest Atlantic Fisheries Organisation (NAFO) Regulatory Area for approximately 10 months of each year. From 2004 the responsibilities for inspection and deployment of observers started to be transferred from the Commission to the Member States although the Commission inspection vessel continued to be used as a support platform. In addition the Commission co-ordinated the activities of inspection vessels from other Member States, and its inspectors participated in landing inspections.

The presence of Commission inspectors at sea in the Greenland halibut fishery made it possible to directly collect actual catch data which, when analysed, revealed discrepancies in the catch registration system of one of the Member States involved. After discussions between the Commission and the Member State concerned the fishery was closed by this Member State.

**NEAFC** - The Commission co-ordinated the inspection activity of the Member States patrol vessels at sea in the North-East Atlantic Fisheries Commission (NEAFC) Regulatory Area. The European Commission also co-ordinated an increase in inspections in port of vessels engaged in fisheries in the NEAFC Regulatory Area, and targeted in particular vessels listed as engaged in Illegal, Unreported and Unregulated (IUU) activities, following the publication of the NEAFC IUU list in the Community TAC and quota regulation for 2005.

## **2.8. Third country fishing vessels**

In response to increasing imports of fish from third country catching vessels, either directly or following transshipment at sea and concerns over the part played by vessels engaged in IUU activities, Commission inspectors carried out 12 missions to assess compliance in Community ports with the fisheries control regime in place.

The prevailing situation found in most Member States was that the deliveries of non EU fisheries products were considered as imports and as such to be controlled by the

Customs and Veterinary services. Consequently fisheries monitoring obligations were either ignored or carried out in a haphazard manner. The fisheries authorities of most of the Member States were not aware of the extent of fish from third country catching vessels entering their national ports. Some evidence was found of fish that had come from IUU listed vessels or by vessels not authorised by the Commission's Health & Consumer Protection Directorate General.

Following the series of missions a significant number of Member States acknowledged the situation and started to take steps to comply with all the fisheries requirements for third country fishing vessels.

## **2.9. Pelagic weighing procedures**

Within the framework of the EU-Norway-Faeroes agreements a pelagic working group was set up. This group recommended a number of measures to improve the weighing and inspection of landings of pelagic fish which were incorporated into Community legislation under the annual quota regulations for 2003-2005.

Commission inspectors carried out missions to both the Member States and the third countries concerned. They found that initially compliance with the rules was at best patchy, with some countries using nominal weights, and the rules themselves were often misunderstood. At the end of the programme however significant improvements were seen in the Member States concerned. Of particular note was the enforcement action taken by the Irish and British authorities on the suspected systematic mis-declaration of catches over a long period. The agreement of Norway and the Faeroe Islands to adopt the same measures as the Community was also a significant step in achieving a level playing field.

## **2.10. Vessel monitoring system (VMS)**

Experience of previous missions had shown that national authorities have been slow to innovate and exploit the potential of VMS despite the large number of fishery management measures that can be automatically monitored by analysing VMS data.

A programme was therefore set up to assess the use by Member States of VMS in recovery plans for the Baltic and North Sea. All Member States concerned had the technical and operational infrastructure in place although in some not all the required vessels were properly equipped with VMS. The benefits of VMS technology were mainly seen as a tool for tactical surveillance to back up other inspection activities and generally it was not used as a management tool for fishing effort. Commission inspectors also found a number of discrepancies between catch registration documents and data from VMS in most Member States which had not been picked up by the national authorities:

In some Member States there was a lack of compliance by fishermen with the VMS regulations which was not followed up with effective sanctions by the competent authorities, partly because there was no legal framework for sanctions in place. Globally, at least up to the end of 2005, Member States did not make full use of VMS technology to manage fisheries.

## 2.11. Marketing and traceability

Although the situation varied significantly between Member States, Commission inspectors found that Member States are reluctant to change traditional marketing practices. As a consequence, the implementation of the EU grading standards was not a priority and such standards were applied and controlled only when they did not disturb the local operators and practices.

The responsibility for the control of the traceability rules for fisheries products was in the majority of the Member States spread among different national or regional authorities. Coordination between these authorities was often totally absent. The situation was worse for imported products and as a consequence, huge quantities of fisheries products entered the Community without any indication of the basic compulsory information, such as the origin and the catching area. The common use of local commercial denominations, not present in the official national list, commonly covered the sale of undersized or undeclared fish through the use of specific local names, for example *whiting* for hake; *atun* for bluefin tuna.

## 3. CONTROL IN THE MEMBER STATES

### 3.1. Annual reports

In accordance with Article 35 of the Control Regulation Member States have submitted annual reports on how they have applied the Control Regulation. On the basis of the annual reports a compilation of the available information on Member States' control activities and structure of control is presented in tabular form in the Annex.

These tables describe the fishing activity of each Member State followed by data on inspection resources and activity, catch registration and a list of the operational authorities involved in fisheries control. Examination of the information provided by the Member States is however hindered by the near impossibility to make rational comparisons on a number of issues. The information is not supplied in a standard format, for example the reports provided ranged from 1 page (Malta) to over 100 pages (Spain) in length and there is no standardised list of information that must be provided or guidelines on their content. The most important possible conclusions are nevertheless highlighted in the following paragraphs.

#### 3.1.1. Available resources

**Equipment** - Generally the hardware in terms of patrol ships and aircraft can now be considered sufficient for the task. New technologies, including VMS, are now much more widely used. However computer technology is rarely used to its full potential and in a number of Member States it is greatly under-utilised, including that related to VMS.

**Personnel** - Human means are variable in quality and quantity.

Professional standards relating to fisheries control often show significant gaps. Training is variable and many inspectors are not fully qualified for the work required, although improvements have been seen.

In most Member States fisheries inspectors are involved in non-fisheries tasks or fisheries inspection is just one of their duties carried out and may be of a low priority. It is therefore impossible to compare the numbers of inspection personnel given in the tables.

If, for example, in Denmark there has been a reduction in the number of inspectors, other Member States, such as Ireland, Spain and the United Kingdom have increased the staff allocated to control and inspection activities. In Italy a re-alignment of inspectors has provided a greater focus on fisheries control. A number of Member States have improved the quality of their existing human resources through improved training of inspectors.

### 3.1.2. *Inspection activities*

**Inspection intensity** - What constitutes an inspection in terms of the elements inspected and the standards to which they are inspected is not properly defined despite previous attempts by the Commission to standardise the reporting of inspection activity.

As mentioned above some inspection activity is carried out as part of other work, for example sanitary controls or safety checks. The recording of inspection activity is patchy and not harmonised in a way that would enable results to be compared between Member States. As a consequence numbers of inspections cannot be directly compared.

**Organisation of inspections** - There were still many gaps in control activity. Port inspections are too often poorly organised, some of the basic catch registration documents are still not collected in many Member States. Transport controls seem to be non-existent in places; cross-checks are far from being systematic. Furthermore inspection benchmarks (for example the 20% inspection rate in some cod and hake fisheries) have not been met in several instances.

**Strategies** - The high cost of enforcement in relation to the value of fish catches is a barrier to effective control. The use of available resources for fisheries control could be improved by allocating a greater share to control measures that tackle the greatest risks of jeopardising the aims of the CFP. A better use of well defined risk-based strategies could increase the efficiency of the control resources. There is however a lack of a real strategy in most Member States, even if a small number of Member States have started to analyse compliance risks and use this to allocate resources and plan inspection activity.

The limited resources available are therefore not being used with the greatest effectiveness. This is particularly evident in those fisheries subject to recovery programmes. In a number of cases the bottleneck of effective control is the number of inspections carried out at the point of landing. In this context it may be more cost-effective to shift resources from control at sea to the control of landings.

**Cooperation between Member States** - Positive results may be seen resulting from the international co-ordination of inspectors. Operation SHARK in the North Sea where several Member States worked together in real-time to prevent offenders from escaping detection by hiding in the waters of another Member State has resulted in a

number of successful prosecutions. The pelagic working group has resulted in major improvements in monitoring and control and has provided transparency between the Member States and some third countries.

### 3.2. Non-compliance and sanctions

Infringing the rules of the CFP is a risk some individual fishermen may be prepared to take given the low chance of detection of infringements or the application of any dissuasive sanctions. As may be seen in the Communications on serious infringements most penalties imposed on offenders are insufficient to have a real deterrent effect. Statistically across the Community the amounts paid in penalties in 2003 and 2004 were roughly 0.4%<sup>5</sup> and 0.2%<sup>6</sup> of the value of fish landings in 2002 and 2003 respectively; however the variation between Member States was striking. Apart from two Member States where assessments have been made, there remains a general lack of understanding of the relationship between compliance risks, inspection activity and the effect of follow-up, including sanctions.

### 3.3. Overall results achieved in terms of compliance with CFP rules

**Positive evolutions** – The problems arising from non-compliance, the consequent damage to fish stocks and the lack of economic and social stability have been recognised by the Member States, both at government level and within parts of the fishing sector itself. The Commission has been a part of this process by encouraging compliance, by providing a greater transparency and facilitating international co-operation, and, in more extreme cases, by using the deterrent effect of infringement proceedings before the European Court of Justice. A particular success has been the improvements seen in the monitoring and control of the pelagic fisheries and, although to a lesser extent, the acknowledgement by Member States of their failure to effectively control the landings of third country fishing vessels and their recognition they have to improve their enforcement system in this area.

**Major shortcomings** – Compliance with key rules of the CFP remains poor in many fisheries.

**Quotas** - Compliance with Total Allowable Catches (TAC's) and quotas remains one of the major problems of the CFP. These problems and related control aspects are probably felt more acutely when significant reductions in quotas are decided in response to the need for a drastic reduction in fishing mortality rates. Undeclared and mis-reported landings seriously undermine in some cases the management of TAC's and quotas. Fishery scientists are forced to make estimations of 'real' catches because the official figures are not considered reliable in some Member States. For example while the declared catch for southern hake was 5 549 tonnes scientists used an estimated figure of 6 810 tonnes. For Irish Sea cod the declared catch was 2 700 tonnes while the estimation was 4 420 tonnes. Similar examples can be found in other areas (North Sea, Baltic...).

**Effort** - Control of fishing effort, which should complement quota limits, seems to be implemented in a way that causes least effect on actual fishing activity. There is

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<sup>5</sup> COM (2005) 207, 30.05.2005

<sup>6</sup> COM (2006) 387, 14.7.2006

no evidence that the reduction in fishing effort has compensated for over-capacity in the fleet, even taking into account the effect of decommissioning schemes. VMS has not been used to effectively monitor fishing effort so that it can be considered a missed opportunity.

**Technical measures** - Significant quantities of undersized fish are still landed, especially in southern Europe where banned gears (drift nets) are still in use, while in Northern waters trawl blinders (to retain small fish) have not been eradicated.

## **4. CONCLUSIONS AND RECOMMENDATIONS**

### **4.1. Future of the report**

There have been important difficulties in the preparation of this report due the lack of a standard reporting format from the Member States and in particular the lack of a standard definition of a fisheries inspection in order to ensure comparable statistics. In conjunction with the exercise in improving the Communication on serious infringements the Commission is considering listing the essential elements required of a fisheries inspection before it can be included in control statistics and standardising the format of the annual report made by the Member States.

The Commission has started consulting national administrations and relevant stakeholders on the future format of the report, with a view to agreeing, by the end of 2007, standardised characteristics of inspections that may be included in the next annual reports.

The publication of control statistics on the internet by Member States may also be considered.

### **4.2. Immediate priorities for improving enforcement and compliance**

Priorities for action should be in the short term:

- Ensure full use of existing regulatory tools – e.g. receipt of basic catch registration documents, cross-checks, VMS and use of transport checks;
- Allocate more skilled human resources to fisheries control;
- Adopt a systematic approach to training of inspectors;
- Strengthen co-operation and co-ordination between Member States and within Member States at all levels;
- Improve systems of sanctions so that they are more related to the type and seriousness of offences. Sanctions need to be more dissuasive and to deprive those responsible of any economic benefit arising out of an offence;
- Strengthen the means devoted to the control of landings of vessels fishing beyond Community waters;

- Use as quickly as possible of new technologies, such as the electronic logbook, to improve the flow of information;

The Community Fisheries Control Agency will have a crucial role to play in these respects and in many other issues mentioned in this report.

At Community level harmonised and simplified reporting on fisheries control must be put into place.