

CONSULTATION PAPER

1. BACKGROUND INFORMATION

1.1. Weaknesses in current system

Major weaknesses in the existing control system applicable to the Common Fisheries Policy have been identified by the Commission and by the Court of Auditors¹. National catch registration systems have numerous shortcomings. Basic data are incomplete and unreliable. The legal framework is inadequate and not properly applied by Member States. As a result, the Commission is unable to identify errors and anomalies and take necessary decisions in due time. Inspection systems do not guarantee efficient prevention or detection and there is an absence of general control standards.

Member States do not make optimal use of inspection activities, dedicating too many resources to controls at time of harvest at sea and not enough resources at the time of landing and marketing of the catch. Controls are ineffective and insufficient. The Commission has a limited capacity to evaluate the situation in the Member States and there is an infringement culture in the sector and administrations which puts the whole CFP into question.

Follow-up procedures do not guarantee that sanctions are imposed. Sanctions are either non-existent or not dissuasive. The only procedure available to the Commission is "action in the event of failure" which is a lengthy and not very effective procedure.

Continued failure of control policy will have heavy consequences for the future of fisheries resources, the fishing industry and the regions that are dependent on fishing.

1.2. The need for a new policy framework

A new policy framework is therefore required. It must have a global and integrated approach based on the following criteria:

- Simplification;
- Standardisation;
- Cost effectiveness;
- Development of a culture of compliance.

¹ Special Report No 7/2007 pursuant to Article 248(4) second paragraph, EC, on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources.

Against this background, the new policy framework will pursue the following objectives:

- Develop a new approach as regards inspection and control;
- Rationalisation of the rules;
- Strengthen the capacity of the Commission;
- Harmonise sanctions;
- Strengthening of cooperation and of assistance;
- Develop a culture of control;
- Use of modern technologies;
- Increase cost effectiveness;
- Adapt the mandate of the Agency.

2. CONSULTATION ON THE INITIATIVES PROPOSED BY THE COMMISSION TO MODERNISE AND REFORM THE CONTROL SYSTEM OF THE COMMON FISHERIES POLICY

- **The main thrusts of this possible initiative are presented below where the 9 objectives are identified.**

The services of the Directorate General for Fisheries and Maritime affairs of the European Commission wish to hear the views of the relevant stakeholders on each objective, guided by the following questions:

- Is it appropriate for the Community to take initiatives in each of those areas?
- Which concrete action should be taken in each of those fields? At which level (international, regional, Community, national)? How would it be implemented?
- What would be the likely economic and social impacts of the options envisaged on the Community fishing industry and on third countries? What would be their likely environmental impact? What administrative costs would it trigger for economic operators?

Interested parties are invited to express their views on the 9 objectives identified below, as well as to present their opinions as to what further measures would be appropriate to strengthen the control system of the CFP.

Objective n° 1:

Develop a new approach as regards inspection and control

Possible options

-At Community level, the first objective should be the strengthening of coordination (role of the Common Fisheries Control Agency) and control of the control policies of the Member States.

-At the level of the Member States, the main goal is the development of control policies to ensure that they are in line with the Community legislative framework.

-At the level of technical guidelines: this starts from the assumption that inspection at sea at the European level is ineffective, expensive and not organised. Furthermore, other important areas such as auctions, markets and imports are neglected. The preferred option would therefore be to put the emphasis on the control of landings and to increase the possibilities of access to evidence of infringements. This approach would therefore require:

- standardised and coordinated inspection actions and procedures at sea and on land, including harmonisation of the conversion factors used in the various Member States for obtaining "equivalent live weight" quantities;
- new port and trade control measures, including verifications at stakeholders;
- an inspection and control strategy targeted at high-risk activities ;
- effective "cross checking" systems of data from stakeholders;
- comprehensive traceability methods and processes;
- Controllability of the management and conservation measures

Objective n° 2:

Rationalisation of the rules

Possible options

We need a single control Regulation gathering together the control standards for all the rules of the CFP with a global approach based on simplification and covering all aspects from the capture through to the market. This proposal should put the principles in place while leaving the task of defining the details to implementing regulations. Responsibilities of the Commission and Member States will have to be clearly defined in order to avoid substitution and to ensure that the Commission adheres to its core activity of controlling and verifying implementation of the rules of the CFP by Member States. This exercise will involve the abrogation of the control measures scattered at present in about twenty Regulations, including in the basic Regulation.

Objective n° 3:

Strengthen the capacity of the Commission

Possible options

-Strengthen the capacity of the Commission for the management of the fisheries resources

- Improvement of fishing stops on the Commission's own initiative, to ensure the management of quotas and fishing possibilities in real time to avoid overfishing;
- Development of preventive measures including warning systems.

-Strengthen the capacity of the Commission to ensure compliance with the Community rules

The Commission should have more possibilities to intervene proportionally to the level of the non-compliance of Community provisions:

- The current regulatory framework does not sufficiently enable the Commission to ensure compliance with the rules. The Commission should be able to carry out on the spot checks on the implementation of the CFP by the Member States, without any restriction. A further use of such spot checks would be to provide a direct assistance to the Member States for verifying compliance with rules by operators. This calls for a redefinition of the inspectors' powers and the putting in place of a cooperation mechanism between the Member States and the Commission;
- The method of infringement procedures currently used to ensure the compliance with the CFP is not always the most adequate as is demonstrated by the judgement of the European Court of Justice against one Member State for non respect of technical measures which took 21 years to conclude and which demanded a completely disproportionate amount of the Commission's and the Member State's time and resources;
- Suspension of Community aid in the event of non-observance of the rules of the CFP.

Objective n° 4:

Harmonise sanctions

Possible options

Until now, there is no harmonisation at EC level to monitor infringements and the level of sanctions. It is however possible to introduce administrative sanctions (i.e. fishing permits subject to "penalty points"), and enforcement measures.

Objective n° 5:

Strengthening of cooperation and of assistance

Possible options

Three actions are foreseen:

- Development of inspection and audit methodologies for sea and land inspections;
- Putting in place of a programme of support and co-financing which requires Member States to sign up to specific objectives.
- Ensuring that the CFCA develops the necessary training programmes.

Cooperation between Member States does not have to be limited to cooperation in inspections at sea. It is time to move away from inspections that focus only on technical measures. Cooperation should extend to all stages (unloading, transport, and marketing). It will be advisable therefore to develop this cooperation and to set up a mutual assistance system between the Member States and with the Commission and the CFCA. This could also necessitate an amendment of the mandate of the Agency in order to allow for its involvement in this type of cooperation.

Objective n° 6:

Develop a culture of control

Possible options

This involves more transparency in the implementation of the rules of the CFP and also a better understanding by the stakeholders of the specific control measures which takes account of the views of the fisheries sector.

Objective n° 7:

Use of modern technologies

Possible options

It is of primary importance to promote the use of modern technologies, both to facilitate the cross-checking of data and information and to identify risks and to rationalise control actions at sea and on land.

Objective n° 8:

Increase cost effectiveness

Possible options

The administrative costs both at the level of operators and at the level of administrations must be reduced. We must focus on those obligations that are really effective for control. This also involves the use of modern technologies and the creation of synergies between the control methods of the Member States.

Objective n° 9:

Adapt the mandate of the Agency

Possible options

The mandate of the Agency must be adapted to cover the development of cooperation between Member States and with the Commission.