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

**FISHERIES MONITORING⁷
UNDER THE
COMMON FISHERIES POLICY**

FISHERIES MONITORING UNDER THE C.F.P.

Introduction

The common fisheries policy has been marked in the past five years by major changes in the field of fisheries monitoring, the first stage of which was the adoption of the 1993 fisheries monitoring and control regulation, in force since January 1994. In spite of the progress achieved the situation has not always been fully satisfactory, as evidenced by the various reports drawn up by the Commission. While significant additional progress is expected following the implementation of recent monitoring-related decisions, this alone will not be sufficient, and additional measures are therefore needed.

Making use of a perspective that is not available when drafting an annual report,¹ this document takes stock of the overall situation and analyses the potential for progress. Part One consists of an overview of what has been achieved since 1993, Part Two contains an analysis of the major gaps that remain and possible ways of remedying them, while the third and final part lists the fields in which closer scrutiny or additional measures are required.

I. PROGRESS SINCE 1992

In 1992 the Commission highlighted major weaknesses in the field of fisheries monitoring.² The legislation concerned has since undergone major changes, from the adoption in 1993 of a new fisheries monitoring and control regulation, wider ranging and more precise than its predecessor, to the Council's adoption in December 1996 of a major plan for extending satellite monitoring.³ Substantial budget resources have been deployed both nationally and by the Community as a whole. Increasing use is being made of modern technology (information technology and satellites). In addition to instruments for the management of catches, a number of schemes have been introduced to regulate fishing effort. While success has been patchy, owing mainly to slowness in reporting in certain Member States, what has been achieved is nothing short of remarkable. In the case of Spain and Portugal the arrangements concerned have replaced a much more rigid scheme that was in force before those two Member States were fully integrated the CFP - without adversely affecting the previous equilibrium. This shows that flexibility and effectiveness can go hand in hand, in particular when modern technology is used.

¹ The annual reports do, however, contain detailed information, in particular some figures not given here - COM (96) 100 final of 18 March 1996 and COM(97) 226 final of 13 June 1997.

² SEC(92) 394 final of 6 March 1992

³ Regulation (EC) No 686/97 amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ No L 102, 19.4.1997)

In the world generally, major changes in mentality and in the legal environment have taken place in recent years in the wake of the 1992 Rio Conference. The instruments adopted (the 1994¹ FAO Agreement on compliance with management measures, the 1995 Code of Conduct for Responsible Fisheries and the 1995² UN Agreement on Straddling Stocks) mirror those changes, with strict adherence to a policy of pursuing purely national interests being gradually replaced by an approach based on international cooperation. The regional fisheries organisation in which those decisive developments were first witnessed was NAFO (Northwest Atlantic Fisheries Organisation), where new rules have been adopted and vital experiments have been conducted since 1995. Fisheries there are now subject to some of the tightest and most effective controls. Another framework is being introduced under the North-East Atlantic Fisheries Convention (NEAFC). Under agreements with non-Community countries protocols are being implemented and experiments are being carried out in cooperation with the countries concerned. Generally speaking, the European Union is acting as a driving force in introducing fisheries control arrangements and, therefore, in putting the principle of responsible fishing into practice, and its experience in the field of satellite monitoring is widely recognised.

At national level, progress is not limited to simply buying more equipment. There has been a considerable increase in monitoring staff in several Member States, and reorganisation has brought about sizeable gains in terms of effectiveness.

Cooperation between national administrations has also grown. Existing bilateral cooperation schemes are now being supplemented by measures aimed at coordinating the work of the Member States concerned and the Commission in respect of certain fisheries. Closer links have thus been forged between the Commission and national administrations in a positive spirit of collaboration. Progress has been particularly effective in the case of sensitive fisheries, with a concentration of efforts on the part both of national administrations and the Commission, viz. NAFO: driftnet fishing, in particular in the Atlantic and herring fishing in the North Sea since the introduction of special arrangements in 1996.

A series of working papers and meetings with national administrations have made it possible to take stock of the situation, both as regards general matters (satellites and non-Community countries) and more specific aspects (driftnets, North Sea herring, etc.).

All this progress is symptomatic of a widespread realisation that strict enforcement is essential to an effective common fisheries policy and, therefore, to the survival of the industry. Increasing numbers of people within the European fishing industry subscribe to that principle, one which demands fairness and, by the same token, transparency, in particular between Member States.

¹ Council Decision of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas; O.J. N° L 177, 16.07.1996, p. 24

² COM(96) 472 of 4 October 1996

II. MAJOR SHORTCOMINGS THAT ARE STILL APPARENT

1. Monitoring of fishing fleets

Overcapacity, i.e. maintaining the means to take catches in excess of what would be needed to exert the pressure on stocks that is recommended by experts, or even in excess of what would be needed to take the quotas decided upon by the Council, is often at the root of the problems relating to fisheries monitoring. The practice of sustaining high catch rates also means that, as large fish have now become scarce, undersized fish may well account for an appreciable share of the stocks available, making it difficult to monitoring the implementation of technical measures designed to protect juveniles.

It is therefore essential to introduce effective rules governing fishing capacity and fishing effort. The experience gained in this field does not go back very far in time, however. It was only when the register of fishing vessels and the third multiannual guidance programmes (MAGP III) were introduced that the question of the validity of the data arose, and it was not until the adoption of the new fisheries monitoring and control regulation in 1993 that these aspects came within the remit of the Commission's fisheries inspectorate.

Difficulties have emerged, however, concerning fleet segmentation and the measurement of tonnages, engine power and fishing time.

Following the adoption of the new generation of MAGPs (covering the period 1997 to 2001) towards the end of 1997, close attention will be paid to monitoring the implementation of MAGP IV, in particular verification of the segmentation of fleets and the parameters relating to the limitation of the fishing effort.

The practice of underdeclaring engine power should come under scrutiny. There is above all a general problem as regards standardising the way in which engine power is measured, in some cases within the same Member State. Moreover, no Member State appears to have a procedure for systematically cross-checking declared engine power against other data such as fuel consumption.

With regard to the monitoring of fishing activity, attention has already been drawn to the successful introduction of the fishing effort management scheme in the Atlantic. Apart from slowness the main problem concerns the validation of the reference levels notified by Member States in respect of (a) the management of the fishing effort in the Atlantic and (b) MAGP IV. Here too, the outlook for enforcement is good if logbooks are available, especially in the Member States that have put into effect the rules on setting up computerised databases, but there are still some delays of a technical nature.

2. Controls at sea

Major differences still exist between Member States as regards the means deployed for carrying out controls at sea. The material resources available, whether seaborne or airborne, tend to vary. This is attributable in particular to objective characteristics such as the size of the EEZ (Exclusive Economic Zone) concerned and, within the EEZ, the size of the continental shelf, where fishing activities tend to be concentrated. A realistic comparison between the means deployed is made difficult, however, by the fact that the competent departments of the various Member States have to perform a number of tasks falling outside the field of fisheries monitoring and that there is no commonly agreed definition of what constitutes a basic inspection.

At sea, checks on catches are based on logbooks and, in some cases, on notifications of the quantities held on board. The special problems posed by non-Community vessels operating in Community waters are dealt with in a separate Commission paper.¹ Cross-checking with landings is, in this case, particularly difficult if not to say impossible. The answer lies in: closer cooperation with the authorities of the non-Community countries concerned; the use of satellites to monitor the location of vessels and, therefore, to increase the effectiveness of inspection vessels; and, on the high seas, in setting up checkpoints where quantities held on board can be verified before the vessel leaves Community waters.

With regard to the volume of catches the role played by logbooks is also limited by the small number of species covered and by geographical exemptions (e.g. the Mediterranean) or the size of fishing vessels (e.g. small boats). On the first point the revision - expected in 1998 - of the Commission Regulation on logbooks will pave the way for an adjustment. In the case of the Mediterranean the exemption will end in 1998, with the result that there is now an urgent need to prepare for the introduction of logbooks in that area. The derogation for vessels less than ten metres long is, in principle at least, fully justified. The counterpart to this derogation is, under the present Regulation, the setting-up in each Member State of alternative arrangements for assessing catches. In the absence of such arrangements, non-exempt fishermen would be justified in fearing discrimination since, owing to its size and in some cases its impact on breeding grounds, the small-boat population can have a major effect on stocks. The actual introduction of catch-assessment arrangements for exempt vessels by all the Member States concerned should therefore be regarded as a matter of priority. This also applies to other exemptions.

In the case of checks carried out at sea it is important not only that inspectors be given access to all the quantities on board but also that they do not needlessly disrupt the work of the fishermen. Drawing inspiration from what has been done in the context of the NAFO and, more recently, NEAFC, codes of good conduct could be drawn up with the help of the various parties concerned.

Technical measures, too, are directly concerned by checks carried out at sea. The biggest problem is the unwarranted or unauthorised use of small mesh-sizes. Since the straightforward "single-net" solution has not been adopted, despite the guarantees it provides in terms of fisheries monitoring, care must be taken to ensure that the conditions under which several mesh sizes may be used on the same trip are complied with. A decision by the Council on this point is expected in 1998.

In the case of Community vessels there are also problems with regard to movements between EEZs. It is not easy to ensure continuous checks. Checkpoints for vessels leaving an EEZ would, however, run counter to the Community spirit. The provisions adopted recently, and closer cooperation between national administrations - which could perhaps be fostered by the Commission - are expected to provide some answers. Movement from one EEZ to another essentially involves vessels large enough to be covered by satellite monitoring, thus greatly facilitating the work of inspection vessels. Services operating at sea must adapt their strategies in order to exploit the potential of satellite monitoring. Moreover, in the Atlantic vessels will be required to notify the quantities they are carrying on board whenever they move from one sector to another. Priority will thus be given to making full use of the provisions adopted recently and, thereafter, to learning from the experience gained in the Atlantic in particular.

¹ COM(96) 300 final, 22 October 1996

Transshipment can also be used in an attempt to evade subsequent checks on catches. In international forums (Baltic Commission, ICCAT/CICTA and IATTC) there has been a move towards stricter provisions - in some cases leading to a total ban - in the case of fraudulent transshipment. Where there is a serious risk of fraud the only solution consists in allowing transshipment only if checks can be conducted sufficiently frequently and at a reasonable cost. Moreover, the possibility of covert transshipment could be limited by combining the checks concerned with position checks by satellite.

3. Controls on landings

Controls on landings are analysed in detail in the recent communication on the future for the markets in fisheries products in the Union: responsibility, partnership and competitiveness.¹ For this reason, only comments not already included in that communication are set out below.

- Basic documents, use of information technology, validation

Here again, the resources deployed by the Member States tend to vary without the Commission being in a position to make meaningful comparisons, given the range of tasks assigned to fisheries inspectors in many Member States and the absence of a commonly agreed definition of what is meant by a basic inspection. International developments, such as ICCAT's 1997 minimum standards for inspections in port, could well provide a useful basis in this respect.

In terms of actual difficulties the reason why inspectors are assigned a range of tasks can, as in the case of logbooks, be traced back to shortcomings in certain Member States with regard to the basic requirements governing the collection of landing declarations and/or sales notes. Procedures for validating and cross-checking the various sources of information are patchy, and much remains to be done if the verification opportunities afforded by computerised records - compulsory since 1996 - are to be fully exploited.

- Checks on vessels flying a flag other than that of the country in which the catch is landed

There are situations in which, at certain Community ports, vessels from non-Community countries are checked less rigorously than are Community vessels. This is also true, and on an even larger scale, of vessels flying the flag of a Member State other than the one in which the catch is being landed. There is a strong feeling among some fishermen that by landing their catch in another Member State some vessels can in effect escape adequate rigorous control. While this feeling is not always fully justified, the problem does exist and is indeed a serious one. It is important to find a solution, since this problem is at the heart of fishermen's concerns about the fairness of controls.

¹ COM(97) 719 final of 16 December 1997, pp. 15 and 16

The Commission takes the view that the Member States are legally in a position to impose a fair level of checks on non-Community vessels, if need be by adopting the necessary national provisions. To this it might be retorted, however, that in the absence of Community provisions there is a risk that a Member State which has adopted the strictest rules might see landings move to a Member State where checks are not as strict. Under current Community rules checks carried out by Member States on non-Community vessels landing at their ports are likely to prove effective only if the vessels have fished in Community waters. No action can at present be taken if the catch has been taken in third-country or international waters. Here too, the situation is evolving rapidly, in particular at the level of regional fisheries organisations, among them NAFO. Community provisions should be aimed at making checks more effective - in particular with regard to vessels flying flags of convenience - and, by the same token, fairer. The foundations have already been laid.¹ The time has come to complete the building work.

The answer lies first of all in clear-cut standards that allow comparisons to be made between the intensity of landing checks in the various Member States and, within each Member State, between classes of vessels. The Commission should be specifically informed of the procedures and levels of inspection for the various fleets flying the flag of one Member State and landing their catches in another Member State. This should be followed by effective cooperation between Member States whereby the authorities of a Member State can acquire the certainty that vessels flying the flag of that Member State and choosing to land their catch in another Member State will be checked fairly. More specifically, when informed that a vessel intends to complete its trip in another Member State, the authorities of the flag state must be confident that they can rely on the cooperation of inspection services in the second Member State. Obliging the latter to act on every request would be going too far, but there must be a guarantee that the checks are, on the whole, carried out with the diligence that is called for. Several types of arrangements - underpinned by varying amounts of legislation - can be adopted in this connection. A fair and effective regime needs to be introduced as soon as possible, however, something which at all events presupposes that the administrations of the various Member States will actively cooperate with each other, just as they have already begun to do in a number of cases, the Commission being a witness to the satisfactory performance of those arrangements.

– *Multiplicity of possible landing points*

The large number of potential landing points means that having inspectors continuously present at each one is out of the question. As a result, some Member States now specify which fish auction markets are to be used, or require that certain types of catch be landed at designated ports, where systematic checks can be carried out. Here too, satellite monitoring can be of immense help to inspectors, in particular where the system can be used to make contact with a beacon and establish in real time (almost) the position of a vessel as it nears the coast. Inspection departments can then, at reasonable cost, ensure a sufficiently high probability of an inspection when the catch is landed and, thereby, make fisheries control much more credible. More generally, as soon as a species is at risk and checks on landings begin to pose a problem, special procedures must be activated including, if need be, drawing up lists of designated ports.

¹ Council Regulation (EC) No 1093/94 of 6 May 1994 setting the terms under which fishing vessels of a third country may land directly and market their catch at Community ports

– Separate marketing channels

The provisions of the present fisheries monitoring and control regulation are fully relevant to traditional marketing channels, in which catches are entered in a logbook and actually sold after being landed. Cross-checking, using sources of information that, to some extent at least, are independent of each other is in such cases feasible. Computerised fish auctions assist this process and fortunately, for some years now, their share of the total catch has been on the increase.

Other than in that particular situation the provisions lose some of their effectiveness, as in the case of exempt vessels. In this respect and as pointed out earlier, it is imperative that Member States introduce compensatory provisions as required under the various instruments.

Problems arise in at least two other cases, however, without the existing rules being fully adapted to cope with them: where the catch is landed and transported prior to sale; and where the catch is not the subject of a genuine sale after being landed, the fishing vessel being part of a vertically integrated firm.

In the first of these two cases an appropriate plan of action should be defined, as was done for the checks on minimum fish sizes. It would combine possible adjustments of the texts and a monitoring strategy after landing, in particular when transportation is involved. Since this is largely an international problem there should be a guarantee, as in the case of vessels landing their catch in a country other than the one whose flag they fly, that they will be effective cooperation between the administrations concerned.

In the case of integrated firms an analysis of the various situations would point to ways of guaranteeing that, in terms of reliability, the figures declared compare with those relating to traditional marketing channels.

– Community vessels landing their catches outside the Community

Here also, problems of fairness and a risk of distortion of competition arise. In the north Atlantic or Baltic, there is a strong feeling among some fishermen that by landing their catches in ports outside the Community, ships are in fact circumventing proper controls on landings. In addition, administrative cooperation on exchanging data with non-Community countries on quantities actually landed is not as organised as it is within the Community. Therefore the international obligations of the port states as regards controls on landings and administrative cooperation between port state and flag state must be clarified. In negotiations with the non-Community countries concerned, obtaining guarantees on this must have a high priority.

4. Controls on the market in fishery and aquaculture products

– General

As the Commission underlined in its recent communication on the future for the market in fisheries products in the European Union, the rules governing the market must help to safeguard resources; effective controls at all stages of marketing are a basic requirement for achieving this objective. The present situation leaves a lot to be desired in several respects.

(i) Common marketing standards, which are one of the building blocks of competition rule harmonisation, are not being applied uniformly or adequately in all Member States. This has meant, for example, that undersized fish have been classified in higher size categories despite the fact that, legally, they cannot be marketed. Although marketing standards should be monitored throughout the chain of production, from the first sales transaction up to the time they are sold to the consumer, there are no actual control procedures in place after the first sales transaction and Commission fishery inspectors have no powers beyond that stage.

(ii) When market intervention takes place as the result of applying a withdrawal price, the quantities withdrawn are not always subjected to the necessary checks. For example, it has been shown that the prescribed denaturing operations are not applied by all Member States, and even where denaturing is done, it does not appear to be adequate because there is still a risk of these products being placed on the market again.

(iii) Regarding imports, the action plan proposed by the Commission in its communication concerning management of preferential economical regimes aims to strengthen the legal and organisational means appropriate for ensuring the respect of the original rules by all the concerned parties.

(iv) Infringements of the rules governing imports are rife, pointing to inadequate controls, in particular as regards the origin of fishery products. There are also difficulties in applying health rules.

– *Minimum sizes*

The main difficulties arise from landings of undersized fish intended for specific markets. Priority should be given to eliminating these marketing channels, which involve transport from the point of landing to the places of consumption, sometimes over long distances. This would also require intervention in transit. The weaknesses in applying controls after landing referred to above are crucial here. When such fish are sold, it is all too easy to claim that those below the minimum size laid down for that particular species come from a region where the minimum size does not apply or from a fish farm, or have been imported.

The regulations should be changed to reduce the scope for fraud. As the Commission suggested in its communication referred to above, the market organisation rules should include new restrictions on fishery product labelling, not only to improve consumer information but also to facilitate checks on compliance with Community rules. Community rules requiring the trade description and origin to be indicated for each species, and applicable at all stages of marketing, would make it easier for the supervisory authorities to identify the product and the minimum sizes applicable.

Current Community regulations already give the national authorities powers which are far from being fully exploited. It would therefore be pointless to adjust these regulations to provide new scope for intervention only for it to remain unused. Thus progress can be achieved by adjusting Community legislation if needed to facilitate the task of the national authorities, but it will also require a greater willingness to deploy the necessary means and coordinate the various authorities concerned, covering landings, transport, imports and marketing.

New forms of administrative cooperation between Member States could be particularly useful in the field of market management, as is already the case in other sectors of the internal market, in the form of exchanges of national inspectors (as provided for in the Community programmes Karolus and Mattheus) and case-by-case involvement of inspectors from other Member States in national controls (food safety or laboratory practice inspections).

5. General: resources allocated, infringements and penalties

– Resources allocated by the various Member States

At present it is not possible for the Commission to carry out a quantitative and objective comparison of the means and methods of monitoring used by the various Member States.

In terms of the human and material resources allocated, the difficulty stems from the diversity of the tasks carried out within one and the same service. First of all, therefore, the resources allocated full-time must be analysed separately. For "shared" resources, the Commission would have to quantify, and if necessary validate, the part actually committed to fisheries controls using the information forwarded to it, along the lines followed for financing new monitoring resources.

Similarly, generalising what was said previously in connection with inspections at sea and on landing, a common definition of what inspection is must be found, where necessary distinguishing between different types depending on the degree of detail. Minimum standards could then be laid down.

– Infringements and penalties

In the sector's legitimate demand for equal treatment of fishermen in the various Member States, the question of penalties plays a central role. The Commission has repeatedly tried to promote progress in this direction. It has been supported by the European Parliament, but the Council has not followed its recommendations. Regulation (EEC) No 2847/93 provides only that Member States, whilst being free to choose the means, have the shared duty to set up a system of deterrent controls and penalties and inform the Commission of the penalty scales and their application in practice. But experience has shown that the information forwarded cannot really be used to bring about the desired transparency. The Commission is therefore unable to guarantee the effectiveness of penalties and even-handed application by the Member States. Even the lists of infringements are too unlike each other to be useful. In addition, the information sent is more often than not incomplete, or is sent so late as to be largely useless.

This situation is a major problem. At the very least the information sent to the Commission should enable it to make proper comparisons. Major infringements at least should be defined and penalised in a comparable way in the various Member States. Progress on this has been made in the extra-Community, and *a priori* more difficult, context of NAFO.

– Cooperation between Member States on infringements and penalties

Even where sufficient resources are allocated, the limitations on inspection and the mobility of fishing activities often leave inspectors with more doubts than legally admissible evidence, which is essential in order to penalise illegal activities properly. Some illegal activities could be better prosecuted by increasing collaboration between the Member States concerned. It is up to the Member States to establish, within the legal cooperation framework, the right conditions and procedures to make such collaboration possible. Existing procedures are often cumbersome and sometimes inconsistent. The effect of procedural incompatibility at Community level is that some infringements cannot be prosecuted, which seriously compromises the CFP monitoring system. However, progress is also possible at Community level without encroaching on the Member States' powers. Member States should proceed with reports drawn up by the supervisory authorities of the other Member States in the same way as the reports drawn up by their own services. Concerted action could enable a harmonised format for inspection reports to be gradually introduced. Here again, the progress made within NAFO provides a useful basis. In addition, distribution procedures must be clarified and speeded up, so that documents are transmitted to the competent authorities in good time.

– Commission measures

Ensuring the effectiveness of the control systems in the various Member States and a balance between effort undertaken and the results obtained is one of the Commission's main tasks. However, the Commission has the impression that, in spite of the progress made, so far this task has not been accomplished in a wholly satisfactory way. The fact that the information it receives is incomplete has already been pointed out. The Commission's work is also hampered by several other factors. The first is the limited human resources at its disposal. This has been all the more serious because the Commission has had to devote a very large part of its resources to specific problems with repercussions beyond the European Union (cf. NAFO, driftnets). Therefore the human resources effectively available for other tasks, covering the main fisheries activities in the European Union, have been reduced. Under these circumstances, the limits imposed by Regulation (EEC) No 2847/93 on the scope for action by the Commission's inspection service are particularly detrimental. If a Member State does not cooperate with the Commission to clear up a dispute, it will be very difficult for it to gather the required information without investing prohibitive levels of human resources. The Commission would be much more effective in its task of supervising controls made by the Member States if Community inspectors had greater autonomy, over and above the power to intervene without prior warning provided under Regulation (EEC) No 2847/93. They should be able to collect information not just for use as evidence against individual operators, but also to establish any shortcomings in the inspection mechanisms introduced. The Member States' obligations to cooperate with the Commission should also be more clearly defined. The rules on access to databases laid down in Regulation (EEC) No 2847/93 could be adjusted to make the Commission inspectorate more effective. It would be much easier to validate these databases if the Commission could access them without having to send an inspection mission, under provisions similar to those recently adopted by the Council for databases on satellite controls¹.

¹ Council Regulation (EC) No 2205/97 of 30 October 1997 amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy. OJ No L 304, 07.11.1997, pp. 1 and 2

III. INTENSIFYING EXISTING MEASURES, IDENTIFYING NEW FIELDS OF ACTION

1. Increasing awareness

The recent changes in attitudes to controls have been a major step forward. But greater and more widespread awareness is still required.

- The issues

Monitoring fishing is essential if we are to have an effective CFP. Inadequate controls place fishermen who do not commit fraud at a disadvantage. Fraud committed by the few deprives others of part of their potential catch. It disrupts trade, pulling prices down. But, because they make official statistics unreliable, inadequate controls also mean that a major part of the work of research establishments must be devoted to estimating actual catches and not to research, thus affecting the quality of scientific advice.

Over and above these immediate consequences, a lack of effective management damages the economic health of the sector as a whole. As with other intervention measures, controls are sometimes seen as a costly burden which the fisheries sector imposes on public authorities. But effective management, which goes hand in hand with proper controls, is all about restoring the economic health of the sector and eliminating its dependence on outside aid. Therefore, the adoption of effective controls as soon as possible is an investment without which there will be no return on all other investments.

- Involving the industry itself

Controls can be effective only if they are seen as a necessity, or even of benefit, by all in the industry and are seen to be applied fairly. The trade can and must be the inspection authorities' principal ally. There are examples in some Member States of trade involvement in controls, and legal action brought by groups of fishermen in fraud cases. Such approaches have proved to be highly effective. But for the desired degree of involvement to be achieved, the control measures introduced must be finely tuned and proportional in the sense that the burden imposed on the trade by each measure must be commensurate with the progress on controls it provides and the size of the risk of fraud. They must also be explained, so that the extent of the problems which the control mechanisms are designed to solve is fully appreciated by those they affect. Finally, they must be convinced that there is no discrimination.

Therefore the discussion between the trade and the authorities must focus on the question of controls. In addition, since the question of transparency plays a crucial role in trade involvement, everything that can help the Commission to secure it will be extremely important.

– Widening the debate

Controls cannot be dealt with between the fisheries supervisory authorities and fishermen. For them to be effective, all the authorities concerned throughout the sector must be involved, including those in charge of shipbuilding and fuel distribution and those responsible for supervising transport, processing and distribution. For some of these authorities, fisheries-related matters may be a priority task. Nevertheless they must be made fully aware of the issues. The same applies to those responsible for imposing penalties: they must be able to appreciate the extent of the fraud and the impact of their decisions.

In addition, the general public must recognise the need for effective controls. A common policy means it is everyone's business. Deficiencies damage the overall credibility of European integration and its outward image. Their impact is felt directly by consumers, and indirectly by European taxpayers. Consumers are also called upon to play an increasing role in combating fishing practices not in line with the principles of sound management. The efforts already made, for example, to make consumers aware of the need to protect juveniles and therefore not to encourage fishing for undersized fish by buying them, must be extended and applied more generally. To achieve this, meeting as it does growing consumer demand for responsible fishing, it is essential to have product "traceability". This confirms the need for origin labelling referred to in connection with undersized fish. But this is a more general problem and is also linked to the question of quality standards: here also, consumers must have the information and guarantees they need to make an informed choice.

2. Establishing integrated common strategies

Controls are necessary, and necessarily expensive. The cost-effectiveness of controls is therefore an increasingly important issue. On the whole the Commission takes the view that controls both within individual Member States and at European level have yet to be governed by efficient overall strategies and must be developed along the following lines:

– Controls after landing

The possibility of bringing together all the available data, from controls at sea to checks during transportation and marketing, and of cross-checking the various sources of information is recognised universally to be essential. Putting in place the overall strategies is proving to be difficult however. The use being made of the scope for cross-checking the different information sources and the different types of control operations, which is at the core of Regulation (EEC) No 2847/93, is too often marginal. Controls beyond the landing stage continue to be of limited extent. The regulations in some Member States at least appear not to provide the basis needed for action at this level. Controls during transportation are frequently the responsibility of a ministry other than the ministry of fisheries. The problem is not confined to the simple matter of compliance with minimum sizes. Illegally landed fish can easily be made to appear lawful when a consignment that is being transported is able to evade checks because it is declared during transportation to have been sold previously. Fish in transit (following importation), or alleged to be such, also constitute a potential source of fraud if checks are not carried out during transportation. It is essential therefore that arrangements be developed for carrying out controls beyond the landing stage in all Member States.

– Optimising the allocation of control effort

The breakdown between controls at sea and on land varies considerably from one Member State to another. This can be explained partly on objective grounds; tradition, however, plays a significant role too. Generally speaking, the rules determining how control effort is allocated, and especially how it is targeted at the more intractable problems are not very easy to identify. The entire question of the strategies for deploying control resources needs to be considered in greater depth therefore. On the operational level the links between the various departments involved in all aspects of control of the fishing industry regularly find themselves hampered by the discontinuities in responsibilities between departments in the Member States, whether it is vertical, for example between the ministries with responsibility for fisheries and transport, or horizontal, between central and regional administrations.

The difficulty of developing strategies which embrace all the control options, which target resources at the most serious problems, and maintain links between the various departments is to be found also at European level, where it is even more acute and problematical.

Most of the progress in this area will have to be made by the Member States, as it is they which have overriding responsibility for control. The Commission, however, can and must assist the development of the necessary strategies, by calling the necessary technical meetings and by making suggestions and recommendations.

3. Introducing and sustaining the necessary resources

Efforts that have been made both by the Member States and at Community level in terms of the material resources provided has meant that considerable progress has been achieved.

These investments need to be optimised, by linking them to general strategies. It must be possible to determine precisely the share set aside for fisheries control out of all the existing resources, and not only out of those for which Community part-financing is sought and in which it will henceforth be necessary to specify that part. Certain types of heavy-duty equipment will not have to be replaced in the immediate future.

These improvements in terms of expenditure transparency and relevance will not however lessen the need for continuing effort. Material resources must continue to be made available for control, with particular attention focusing on the use of modern technology. The Commission must continue therefore to promote the use of methods arising from scientific and technological developments, which are liable to make control more effective.

As far as human resources are concerned, a special effort will be needed. The first stage will be to identify clearly the human resources actually assigned to control activities. In Member States which up to now have invested less than others, these resources will have to be increased. The numbers assigned represent only one aspect of the problem however. The training and motivating of inspection staff will be equally important. Here again, without intending to introduce harmonisation in an area where there is no obligation to do so, coordination at Community level could make increased effectiveness a possibility. The Commission must encourage and facilitate exchanges of officials involved in monitoring fisheries in the Member States.

4. Greater transparency

The need for the Commission to have easier access to the information it requires in order to perform its role of overseeing national control systems has been mentioned already. As far as transparency is concerned, the report the Commission is required to produce annually under Article 35 of Regulation (EEC) No 2847/93 has not been fulfilling its expected role either. The difficulty the Commission has in obtaining relevant and genuinely comparable information has been mentioned above. There is also the matter of deadlines. Delays by Member States in transmitting information both at the initial stage and in reacting to the first draft of the report prepared by the Commission concerning them means that the annual report has been systematically late in appearing and this has undermined its usefulness. It is necessary therefore to review the deadlines set and to ensure that they are properly observed. It is also worth considering the need for an annual report as produced at present. Discussion of the report within the Council should also be much more thorough so that that conclusions are actually drawn from it.

In other words, the principle of Commission reports making it possible for everyone to assess the work that has been carried out and the effectiveness of the control arrangements in the different Member States is fully justified. However, if the goal is to be properly achieved it is necessary that the procedure be revised so that reports become more relevant, are drawn up more speedily, and are discussed in greater depth.

On the matter of transparency, formal reports are not the only means of action available to the Commission. It should also make use of the many meetings it arranges which involve aspects of monitoring, and exploit the opportunities for making contacts on the ground afforded by inspection visits in the Member States in order to make known the scale of the efforts it has deployed in the other Member States, and seek to allay unfounded suspicion between Member States whenever it has the information required.

Improving transparency is not the role solely of the Commission. Exchanges of officials have been taking place between national services and in some Member States even showed a promising rise in 1997. These exchanges must be increased as rapidly as possible. The question must even be asked whether it would be possible for inspectors from one Member State to participate with Community inspectors in inspections in other Member States.

5. Amending legislation where necessary

A large number of new regulations on monitoring and control have been adopted in the last five years, covering a very wide range of aspects. The solution to the outstanding problems mentioned above is clearly not simply to adopt more rules. In any case decisions have been taken that have obviously not had time to produce results yet, such as those on satellite monitoring. An exhaustive regulatory structure will not serve its purpose if the human and material resources, appropriate strategies, political will or support of those involved in the industry are lacking.

Any updating of the regulatory arrangements should take account of the whole body of regulations and not simply of Regulation (EEC) No 2847/93. To start with, it will be necessary to adopt implementing regulations in cases where this has not yet been done, for example for the Regulation amending the arrangements on logbooks, discussion on which can now resume (following agreement in the Council on the technical measures, the terms of which must be reflected in the changes to the logbooks). There is also, however, a series of other instruments for monitoring fisheries, such as Regulation (EEC) No 3759/92 on the common organisation of the market in fishery and aquaculture products¹. All the regulations must be taken into consideration together in order to remove redundancies and to ensure that full use is made of the opportunities they offer of producing a body of rules which is consistent and cohesive.

The Regulation adopted in 1993 nevertheless occupies a central position and has shown with the passage of time that it could be improved. Certain difficulties were less pressing before 1993 than now, for example the problems of non-Community vessels operating in Community waters or landing their catches at Community ports. Regulation (EEC) No 2847/93 should be amended to remedy the shortcomings found in the second part of the instrument. This is particularly necessary with regard to non-Community vessels, checks on catches landed in a Member State other than the flag State, controls at stages after landing and/or first marketing and access to data the Commission needs in order to perform its task of supervising national control systems. There is also the question of what can be done to achieve greater equity in the matter of penalties. A review of the Regulation would mean also that it could be updated and simplified, and where necessary made clearer.

6. Cooperation within and between Member States

In a single Member State the areas affected by fisheries control are frequently the responsibility of separate departments. If monitoring is to be effective, however, all of these areas need to be covered. Direct responsibility for monitoring, moreover, rests with the Member States while problems arise systematically at Community level. Sound coordination is therefore essential.

The Commission cannot take on responsibility for arranging all the necessary cooperation. This is clear in so far as Member States' internal coordination is concerned. But direct cooperation between Member States is necessary too. Experience has shown however that the Commission, enjoying an overview which national administrations may lack, and operating from a position of neutrality that occasionally allows it to provide services through its 'good offices', must perform a very important coordinating role at Community level. This role is in addition to its express role of supervising the effectiveness of national controls and ensuring fairness and transparency.

Awareness of the extent of coordination problems has been growing for some years now and the meeting on monitoring arranged by the Irish Presidency in September 1996 brought this fully to the fore.

¹ OJ L 388, 31.12.1992, p.1.

The number of areas that need to be dealt with is considerable. It includes:

- establishing priorities and general strategies;
- operational problems involving action on the ground;
- exploring what can be done to make controls on new techniques effective;
- exchanges of know-how between Member States so that advances made by some can benefit others while avoiding duplication of effort;
- achieving the degree of harmonisation required for these exchanges, in particular operational exchanges of data;
- establishing a 'common language' so that monitoring effort and results can really be compared (cf engine power of fisheries vessels, defining what constitutes basic inspection).

On these matters the importance of the Commission's role will depend more on its ability to provide genuine added value recognised by the Member States than on a regulation setting out its terms of reference. In any event it can act in a number of different ways:

- by making proposals which must ensure that Community rules provide a favourable framework for cooperation, and if necessary impose an obligation to cooperate;
- in its reports examining the role of the Member States in monitoring the CFP, and hence the effectiveness of cooperation between the responsible services within a Member State as well as the level of cooperation between Member States;
- by taking account, when deciding on requests from Member States for Community assistance towards monitoring expenditure, of evidence that an effective national strategy and successful cooperation with other Member States will guarantee the proper use of funds;
- by arranging exchanges of information between Member States;
- by identifying major problems at Community level, and by encouraging the development of strategies and procedures to promote cooperation appropriate for resolving each of those problems;
- by arranging meetings to deal with specific problems, whether horizontal (e.g. the introduction of satellite monitoring) or vertical, associated with a specific fishery.

The last three points show that what is required is creating and supporting a network among the services responsible for monitoring both in the Member States and at the Commission. Work that has been successfully undertaken on specific points must be extended and encouraged. To do this, a plan needs to be drawn up for the coming months and years, on the initiative of the Commission, acting in concert with the national administrations, in a spirit of partnership. If progress is to be achieved it would be useful to consider approaches taken in other fields, for example on issues linked with environment policy in the IMPEL¹ initiative, or for the completion of the internal market². Opening up the monitoring of fisheries and establishing links with monitoring problems in other areas can only be beneficial.

¹ (COM(96) 500 final.

² Council Resolutions of 16 and 20 June 1994, COM(94) 29 final, COM(95) 20 final.

Conclusions

Enforcement, particularly in an area such as fisheries, can never be perfect. As the Commission has had occasion to stress before, progress will depend on the overall development of fisheries management, since monitoring will not remedy the structural shortcomings of the CFP. Progress cannot be achieved instantaneously: resources will need to be put in place, and structures altered as well as outlooks. Progress on the other hand is crucial and will have to be speeded up. The switch from analysis to the putting in place of solutions will have to be accomplished more rapidly. A rereading of the Commission's 1992 report indicates the extent of the progress that has been achieved. It demonstrates also the difficulties faced in certain areas in getting beyond the stage of establishing the facts and outlining intentions, when there is occasionally a feeling that matters are marking time.

For potential progress to become a reality it will be necessary first for the political will to accord the highest priority to putting in place an effective control system to be reaffirmed and given practical effect. The action to be undertaken will have to involve the Member States and the Commission, which together must set themselves precise goals with a deadline sufficiently short to be effective, bearing in mind scheduling constraints and the period required for making adjustments. For the coming years a timetable exists already of key dates adopted previously. The most important of these are:

- July 1998: first phase in the introduction of satellite position monitoring, and in the Atlantic the incorporation of catch data in the data retransmission procedures required for putting in place the effort management arrangements;
- Early 1999: introduction in the Mediterranean of logbooks and landing and sales declarations, together with the necessary data bases;
- Beginning of the year 2000: second stage of the satellite monitoring plan: introduction of new technical measures in Community waters from the Atlantic to the North Sea;
- The Decision¹ under which Member States can obtain assistance towards monitoring expenditure is due to expire in 2000.

While it is not possible at this stage to determine the content of the decisions that will be taken under bilateral agreements and in international organisations, changes are to be expected in relation to non-Community stocks. NAFO, for instance, is to decide in 1998 on the action to be taken on current pilot projects.

The above timetable suggests that an overall objective be set of putting in place for the year 2000 an expanded monitoring and control system.

¹ Council Decision 95/527/EC on a Community financial contribution towards certain incurred by the Member States in implementing the monitoring and control systems applicable to the common fisheries policy.

In 1998 six priorities will need to be tackled:

- acting forcefully under the existing regulations to put an end to the most serious shortcomings (incomplete application by some Member States of the rules on basic documents, including putting them on computer, incorrect catch declarations, and above all repeated overfishing of quotas for certain stocks);
- examining how combining regulatory arrangements with cooperation will make it possible for controls to be more effective;
- putting in place pilot schemes for coordinating control operations and for joint consideration of horizontal problems; studying coordination methods introduced within the Union in areas other than fisheries;
- amending the corpus of regulations: Regulation (EEC) No 2847/93 and its implementing regulations, and, if necessary, other regulations on fisheries monitoring;
- successfully launching the first phase of satellite monitoring, and paving the way for the Mediterranean to be included in the general rules;
- giving a final update on resources, in particular the human resources, actually assigned to monitoring activities; establishing methods that can be used to make proper comparisons of controls carried out, and of the effectiveness of penalty systems.

In 1999 the basic goals could be:

- follow-up action to that mentioned in the first priority for 1998. It is particularly important that before new technical measures are introduced which are wider-ranging than those now in force, any gaps remaining in the application of the existing ones be remedied;
- extending control operations across the whole of the sector, at sea, on landing and at later stages, and exploiting to the full the opportunities afforded by the cross-checking of the different sources of information, including those linked with satellite monitoring of the fleets concerned;
- proposing a procedure for resolving coordination problems between Member States, including appropriate rules which could have been adopted earlier, drawing on pilot projects on the subject carried out in 1998, and establishing a plan for exchanges of information and staff between all the services concerned;
- developing a comprehensive series of communications measures to alert all the actors concerned to the issues involved in monitoring;
- defining possible statistical objectives for the resources assigned to monitoring by a Member State in terms of the objective characteristics of its involvement in the CFP;
- ensuring that the Mediterranean is included in the general arrangements;
- altering the arrangements for monitoring non-Community resources; promoting arrangements where this is necessary and possible; seeking to ensure that what has been adopted is properly applied, and specifying in each case the division of tasks between the Member States and the Commission;
- preparing the ground for the action to be taken on the budget decision due to expire in 2000.

In the year 2000 it would be possible then to benefit from all the arrangements previously put in place, or about to take effect in January 2000 (second phase of satellite monitoring, new technical measures). It would be possible to assess the effectiveness of the arrangements and draw up a review which would be entirely different from a reiteration of earlier shortcomings

Looked at in the light of the 1992 report on the monitoring of fisheries, and the improvements that needed to be made as identified then, the CFP can be said in a way to be in midstream. It will not be enough to allow the arrangements introduced by decisions adopted from 1996 to 1997 to drift along, however satisfactory they may be. A further effort will be required, which will have to include the amendment of the regulations, but whose overriding priority will have to be closer cooperation between all those responsible for monitoring fisheries.

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