



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.09.2001
COM(2001) 526 final

REPORT FROM THE COMMISSION

**REPORT ON THE MONITORING OF THE IMPLEMENTATION OF THE
COMMON FISHERIES POLICY**

**SYNTHESIS OF THE IMPLEMENTATION OF THE CONTROL SYSTEM APPLICABLE
TO THE COMMON FISHERIES POLICY BY MEMBER STATES**

REPORT FROM THE COMMISSION

REPORT ON THE MONITORING OF THE IMPLEMENTATION OF THE COMMON FISHERIES POLICY

SYNTHESIS OF THE IMPLEMENTATION OF THE CONTROL SYSTEM APPLICABLE TO THE COMMON FISHERIES POLICY BY MEMBER STATES

1. INTRODUCTION

The present report and the Working Documents “Fisheries Control in Member States” respond to obligations laid down in Community legislation, while providing a detailed factual description of fisheries monitoring, inspection and surveillance activities in the period of 1996-1999 as well as an assessment by the Commission of the state of implementation of Community legislation in this domain. At a later stage, these documents will be followed by a Communication on the future orientations in the area of monitoring, control and enforcement under the common fisheries policy, taking into account conclusions to be drawn from the debate on the Green Paper “The future of the common fisheries policy”.

Council Regulation (EEC) N° 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy¹ (hereafter Control Regulation) entered into force on 1 January 1994. It has been amended several times²; the main part of the most recent amendments by Council Regulation (EC) N° 2846/98 have been applied as of 1 July 1999³.

The Control Regulation, together with several specific Regulations containing notably control provisions adopted by Regional Fisheries Organisations (RFO's), defines the legal framework of minimal requirements applicable throughout the Community and beyond Community fishing waters to fishing activities by Community fishing vessels. Member States and, in certain cases, the Commission have been obliged to take measures ensuring the implementation of this legal framework.

Over the past decade, the Commission has presented several communications analysing and emphasising the basic problems relating to the efficiency of fisheries control, as well as the methods for achieving improvements in these areas⁴. The last amendment of the Control Regulation⁵ was mainly based on the Commission's

¹ OJ L 261 of 20.10.1993.

² The amendments of Control Regulation are listed in Annex I.

³ Certain provisions of Control Regulation concerning the Mediterranean fisheries have become applicable first as of 1 January 2000 (see Article 40, as amended by Regulation (EC) N° 2846/98). The same moment has been significant also for the commencing application of the amended technical conservation measures (Council Regulation (EC) N° 850/98 of 30 March 1998, for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125 of 27.4.1998)) and the second phase of the implementation of VMS, both topics thus remaining out of the scope of this report.

⁴ The communications presented are listed in Annex I.

⁵ Council Regulation (EC) N° 2846/98 of 17 December 1998.

Communication COM(1998) 92 (final) and was supplemented by an Action Plan SEC(1998) 949 final listing the actions to promote full implementation of the provisions of this Regulation.

The Commission has also drawn up annual reports about the implementation of technical conservation measures applicable to fishing with driftnets⁶. Therefore, the present report only refers to these sources. This report does not either cover the common organisation of the market in fishery products which has been reviewed in the end of 1997⁷ and amended in 1999 by Council Regulation (EC) N° 104/2000⁸.

The present report responds to obligations laid down in Article 35 of Control Regulation and comprises the third in a series of similar reports⁹. Reaching beyond the formal obligation to submit such a report, it provides a more detailed account supporting the analysis and suggestions for improvements in the area of monitoring, control and enforcement under the common fisheries policy, outlined in the Green Paper “The future of the common fisheries policy”, published early this year.

The report consists of a synthesis of the basic structure of the implementation of the Community control system in Member States. It deals first with the legislation and the organisation of fisheries control at the level of Member States and subsequently with the means of control, the monitoring systems and the inspection and surveillance activities carried out, together with sanctioning procedures. Finally, a summary review is presented of conservation policy and structural policy.

The report is accompanied by separate Working Documents “Fisheries Control in Member States”, each summarising the main features of the respective national control system based on the factual submissions each Member State has transmitted to the Commission within the framework of Article 35 of Control Regulation, and the Commission’s own observations, including those based on the findings of its fisheries inspectors (cf. also Article 29 of the said Regulation). These Working Documents contain also the Commission’s assessments of the factual situation within the field of fisheries control in each Member State.

As the report and the accompanying Working Documents are intended as factual descriptions of the state of affairs in fisheries control, they will, subsequently, be followed by a Communication on the future orientations in the area of monitoring, control and enforcement under the common fisheries policy, taking into account the conclusions concerning this topic to be drawn from the discussions on the Green Paper.

⁶ These reports are listed in Annex I.

⁷ Communication from the Commission to the Council and the European Parliament: “The future for the market in fisheries products in the European Union – Responsibility, partnership and competitiveness”, COM(97) 719 final, of 16.12.1997.

⁸ Council Regulation (EC) N°104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17 of 21.1.2000).

⁹ The previous reports have been Report from the Commission: Monitoring the common fisheries policy, COM(96) 100 (final), of 18.3.1996, and Report from the Commission: Monitoring the common fisheries policy 1995, COM(97) 226 (final), of 13.6.1997.

2. NATIONAL FRAMEWORKS FOR CONTROL

Member States have established legal frameworks for control and assigned competent authorities, within the traditions of their legal and administrative systems. Member States have also invested fisheries inspectors with legal powers of control as well as of the initiation of sanctioning procedures.

These frameworks of basic measures would generally allow national authorities to enforce Community law. However, the differences between the practical applications in Member States have remained substantial in this field and may result in unequal treatment of fishermen in different parts of the Community

The co-operation and co-ordination arrangements established by Member States do not adequately respond to the requirements of transboundary fishing activities.

2.1. Legislation and administration

Pursuant to Article 1 of Control Regulation, each Member State is required to adopt appropriate measures to ensure the effectiveness of the control system applicable to the common fisheries policy. Member States have complied with this demand by introducing national statutes in order to ensure the implementation of Community law, either by adopting totally new legislation or by amending the previous national acts to make them compatible with Community requirements.

In accordance with Article 4 of Control Regulation, Member States shall carry out their monitoring, inspection and surveillance duties on their own account by means of a system of inspection decided by each Member State. Member States have identified the services responsible for the control of the different aspects of Community legislation. During the necessary organisational development and the selection of the competent authorities, the administrative traditions of respective Member States were usually closely followed.

Only in Denmark have the responsibilities for monitoring, inspection and surveillance of fisheries been centralised in a single authority. In other Member States these tasks have been distributed amongst a number of different authorities and form, on many occasions, only one of the various duties of the authorities concerned. Some Member States have even opted for partly or fully decentralised systems (cf., for example, Finland). The mandates of the authorities involved in fisheries control and the limits of their competencies are not always well defined in the framework of national control systems.

The priorities of the authorities entrusted with tasks related to fisheries control do not necessarily coincide with the needs for efficiency of the control system applicable to the common fisheries policy. Although, in some cases, adequate efforts are deployed for fisheries monitoring and control purposes, the Commission has also observed situations where authorities responsible for several duties attribute only a low priority to their fisheries tasks, as well as occasions when the control authorities have been eager to carry out fisheries duties but have not received sufficient technical or political support for accomplishing this goal.

The control systems decided by most Member States present challenges for internal and external co-operation between competent authorities, for exchange of information relevant for enforcement between these authorities as well as for co-ordination of their activities. Some Member States have set up formal committees or services for these purposes, whilst in other Member States the authorities concerned have developed informal practical arrangements for them. The scope for improvement in co-operation and co-ordination between all authorities involved in fisheries control and of the exchange of information between them is far from exhausted. In addition, the current level of these activities between Member States does not adequately respond to the requirements generated by transboundary fishing activities and is presently addressed almost solely within the frameworks of certain RFO's¹⁰.

2.2.Powers of control

The fisheries inspectors in Member States have generally been empowered under national legislation (or at least by the customary practices) to take basic enforcement actions on their own. This represents a clear development.

More specifically, the national officials in question are authorised to carry out inspections on board fishing vessels, landing and storage facilities or other private premises utilised for fisheries-related purposes or during the transport of fish or fish products. Nevertheless, in some Member States the specialised areas of responsibility for different groups of inspectors present additional challenges and necessitate rather far-reaching co-operation between the agencies in question. Moreover, the traditional fields of operation of some inspection authorities have had a restricting effect on their inspection powers.

National systems of crime investigation also influence greatly the scope of the powers of fisheries inspectors after the initial inspection phase. Enquiries in catch or effort documentation belong to these powers without exception; however, in some Member States not the fisheries inspectors, but almost exclusively the national police forces have been allowed to assist the prosecutors by further pre-trial investigations, whereas in other countries the fisheries inspector is quite fluently integrated into the role of investigator, too. The former solution might occasionally appear rather problematic, when account is taken of the particular requirements of fisheries investigations.

The seizure of illegal catches and gear belongs to the competencies of fisheries inspectors in all Member States. These powers have been restricted, however, in some countries to occasions where the culprit is caught in act or where the illegal gear is being used for fishing. These kinds of limitations tend to make the inspection activities less efficient, as, for example, discovered illegal gears not fishing at the moment could not be confiscated because of them.

The detention of vessels is customarily included in the prerogatives of naval inspection services, usually connected to or forming a part of the defence forces of the Member State in question. On shore, fisheries inspectors are not always

¹⁰ For the purpose of this report, the large number of existing multi- and bilateral agreements concerning judicial assistance and co-operation between Member States has not been thoroughly examined.

authorised to stop vehicles used for fish transports; in some Member States they have to acquire the assistance of the police forces for this, even when the subsequent inspection could be carried out by fisheries inspectors alone.

The scope and the precise contents of these powers thus vary quite a lot within the Community: even the precision (or at the most, the existence) of the respective national statutes leaves room for improvement. On the other hand, some of the existing national (mainly procedural) requirements, to be complied with by fisheries inspectors, clearly tend to complicate the accomplishment of their tasks. The number of partly overlapping national provisions concerning these competencies may also bring about unnecessary confusion. Besides, the follow-up of infringements is not always connected sufficiently closely to the powers and mandates of fisheries inspectors in order to allow them to complete their control actions.

2.3. Follow-up of infringements

National procedures for efficient follow-up of all established fisheries-related infringements have obviously been defined in line with the administrative and judicial traditions of each respective Member State. Thus, where the sanctioning of all offences has predominantly been entrusted to the competencies of the general system of criminal courts, this applies to fisheries, too. On the other hand, in countries with a prevailing tradition of administrative sanctioning procedures, it has been regarded convenient to use them also with respect to fisheries matters. These national features rather than the nature of fisheries in question have largely dictated the course of the actions to be taken by the legislature on these occasions.

Similarly, national features of the connection between investigative and judicial authorities have had a clear, if not dominating impact on the procedure to be followed in each Member State regarding fisheries offences. Where criminal cases have traditionally been brought to a prosecuting judge or a public prosecutor, albeit via intermediary (police) authorities, these rules are in force also here. The same applies to countries with a tradition to deal with misdemeanours in a swift procedure of administrative sanctions, which in these circumstances is the obvious method to be utilised here, too.

Within the bounds of the doctrine of jurisdictional sovereignty, the importance of national traditions reaches all the way to inspection procedures and their results. In Member States where the control authorities have been empowered to establish (*constater*) an infringement as a pre-requisite for further procedures, the same system is predominantly in force within fisheries control, as well. On the other hand, where the role of all the controlling and investigating bodies, for example the police forces, has been generally limited to gathering the factual circumstances relating to crimes for the court to decide upon them, the fisheries inspectors usually have neither been authorised to cite or establish, i.e. to pre-judge, the existence of an infringement.

3. MEANS OF CONTROL

The previous deficit of means of inspection and surveillance at sea in Community fishing waters has been reduced. This has been accomplished not only by increasing these means, but also by other measures involving the industry itself more directly in these tasks. Several Member States have succeeded in finding a balance between the means available and the requirements to be fulfilled by the industry.

Community financial contributions have greatly facilitated the acquisition and modernisation procedures of inspection and control equipment. The introduction of advanced technologies, especially VMS, has provided new opportunities.

In spite of the undeniable progress, certain deficiencies still remain: this is generally due to the fact that the means available to the national authorities and the measures taken by them do not adequately match the requirements of establishing a comprehensive control system.

3.1. Human resources

While reassessing their national control systems, some Member States (especially – until recently – Spain, but also Ireland and Portugal) have increased human resources for these purposes, while others have concentrated on a more effective use of the available resources (Denmark, Netherlands, and United Kingdom). In either of these cases, dramatic changes cannot be expected from one year to another.

The number of inspectors required for efficient fisheries control depends on the circumstances of the fisheries in question (i.e. TACs, quotas, technical measures, types of vessels, distances of landing places, coastal topography, risk of illegal landings, landing procedures and the methods of marketing after first sale). Some Member States have adopted national measures obliging the fishing industry to adopt procedures that render inspection and surveillance more effective. The tasks of inspectors have thus been focused on supervisory activities and on ensuring a high probability of inspection in each of the subsequent stages of fisheries-related operations.

Several Member States have sought to develop their system of landing controls in order to achieve greater efficiency. As ingredients of a comprehensive control system, the introduction of measures such as designated port schemes, prior notification of arrival, prior authorisation of discharge, and compulsory first sales by auction has improved considerably the efficiency of these inspection and surveillance activities. The landing controls of unsorted herring catches in Denmark, NAFO landings and landings of freezer trawlers in Germany (level of inspection 100 %) are examples of such developments.

In spite of the improvements observed in many areas, there remain fisheries where the efficiency of control cannot be guaranteed due to a lack of human resources allocated for monitoring and inspection purposes. Within landing controls, this applies to most cases where the landings are allowed to occur at all times in any port.

Some Member States have not provided the Commission with detailed information on the number of specialised fisheries inspectors. In cases such as the national coast guard authorities (for example Greece, Italy, Finland and Sweden), all the officials of these services are potentially authorised to carry out fisheries inspection tasks as a part of their general mandate, whilst many of them may, in practice, hardly ever participate in these kinds of inspections.

In these cases, control deficits cannot be attributed to the lack of human resources; instead, the management and inspection staff may lack experience and training in fisheries duties. In such circumstances, it might prove more beneficial to form specialised fisheries co-ordination and inspection teams. The Commission inspectors have observed in a number of cases a blatant lack of training and experience as how to conduct basic verifications of compliance with applicable rules. Thorough basic knowledge of the technical background of fisheries (for example the recognition of species and the construction of gear) together with a thorough knowledge of the legislation to be applied are indispensable for performing fisheries inspection duties adequately.

3.2.Means of surveillance at sea

The previous deficit of means of surveillance has been reduced. Several new and modernised offshore and inshore surveillance vessels have entered into service over the past years or are presently being constructed. – Nevertheless, the situation is not yet fully satisfactory. The current means available are clearly intended for surveillance within Community fishing waters. Furthermore, several surveillance vessels require renewal and modernisation in order to be adapted to updated standards (speed, fuel consumption, communication facilities) necessary for efficient control actions.

Within the monitoring systems of several Member States, aircraft and other air surveillance is available only for a limited number of hours or days for fisheries. These surveillance actions are programmed far in advance, sometimes on an annual basis; the same might apply to the utilisation of surveillance craft at sea provided by other (military) authorities. These arrangements make fisheries inspection and surveillance to a high degree inflexible and predictable, thus clearly hampering the pursuit of enforcement priorities.

3.3.Advanced technologies

The computerised processing of catch and effort data, already begun before the period in question, continued to improve, as Member States aimed to comply with the requirements set out in Article 19 of Control Regulation. By now, most Member States have established computerised databases; still, scope remains for more progress, especially in the field of automatisisation of the cross-checking facilities of these informatic systems.

The development and the impact of VMS are dealt with more thoroughly in Section 4.3.; this means of monitoring was adopted into large-scale use within the Community during the period covered by this report¹¹. Further advances have taken

¹¹ See more closely Council Regulation (EC) N° 686/97 of 14 April 1997 amending Regulation N°2847/93 establishing a control system applicable to the common fisheries policy (OJ L 102 of

place to combine VMS information with the data contained in the computerised catch and effort registration systems mentioned above. This infrastructure offers a good basis for the future and its contents should be exploited intensively for the purpose of inspection and surveillance.

On an experimental level, Member States and the Commission have also allocated funds to projects such as electronic fishing logbooks and remote sensing by satellite as a complementary tool to VMS.

3.4. Community financial contribution

The second five-year programme of Community financial contribution towards expenditure incurred by Member States for fisheries control, as laid down under Council Decision 95/527/EC¹² (hereafter Decision), has provided for financial solidarity in the field of fisheries control. The Community financial contribution amounts to 4 % of the Community budget for fisheries and at least 10 % of the total expenditure of Member States for control.

As a continuation of the first five-year programme, the Decision provided for Community assistance to the acquisition and modernisation of inspection and control equipment (vessels, aircraft and modern technology for detection of fishing activities as well as the recording, management and transmission of information on such activities). In addition to this type of funding, a second category was introduced for specific measures intended to improve the quality and effectiveness of the monitoring of fishing and related activities (training of inspectors as well as joint inspection programmes involving two or more Member States, specific control programmes by Community initiative, electronic networks pilot projects etc). Furthermore, the Decision implemented the principle¹³ of an additional financial contribution to be allocated to Ireland for control expenditure, including operating expenditures, incurred by the implementation of the so-called Western Waters scheme.

In total, € 205 millions (€ 41 M per year) have been allocated in the Community budget for these purposes. The general level of Community financial contribution has been fixed at 35 - 50 % of the eligible expenditures, whilst specific levels above 50 % have been defined for notably the introduction of new technology, i.e. VMS. All funds have been committed to specific annual programmes of expenditure proposed by the Member States concerned and approved by the Commission. By the end of 2000 and pursuant to the execution of the programmes approved by the Commission, Member States have requested reimbursement of about 50 % of the funds committed (Annex II). — Specific levels of financial contribution have been

19.4.1997) and Commission Regulation (EC) N° 1489/97 of 29 July 1997 laying down detailed rules for the application of Council Regulation (EEC) N° 2847/93 as regards satellite-based vessel monitoring systems (OJ L 202 of 30.7.1997).

¹² Council Decision 95/527/EC of 8 December 1995 on a Community financial contribution towards certain expenditure incurred by the Member States implementing the monitoring and control systems applicable to the common fisheries policy (OJ L 301 of 14.12.1995).

¹³ See more closely Article 7 of Council Regulation (EC) N° 685/95 of 27 March 1995 on the management of fishing effort relating to certain Community fishing areas and resources (OJ L 71 of 31.3.1995).

determined for Ireland; (€ 19,5 M for investments and € 11,5 M for operating expenditure).

Member States were required to submit a five-year national programme containing in particular the objectives of the proposed control and inspection measures, the envisaged operational measures and the anticipated results. Furthermore, Member States were required to present a forecast of their annual expenditure eligible for financial contribution. This innovation in the second five-year was to obtain the retrieval of information on the utility of the annual programmes proposed by Member States. However, no information was provided by any Member States beyond the minimum legal requirements, which thus offered little support.

Most of the Community financial contribution (€ 152 M corresponding to 73 % of the total) has been spent on offshore surveillance craft and VMS. As these major investments have contributed, firstly, to the better availability of updated means of inspection, and, secondly, to the higher precision of their deployment, the second five-year programme has had a synergetic impact on the efficiency of fisheries inspection and surveillance. Moreover, it has facilitated the adoption by the Council of the principle of implementing VMS as a monitoring tool of fishing trips and, subsequently, its fluent introduction.

The number of projects proposed by Member States under the category “specific measures” (training and joint inspection programmes) has been disappointing. The implementation of such projects is beneficial for enhancing co-operation between competent authorities in several Member States (see Section 3.1.).

4. MONITORING SYSTEMS

Each flag Member State and each coastal Member State has a duty to ensure proper recording of data on fishing activities on its territory and in its waters as well as beyond on fishing activities carried out by its vessels. This data shall be entered and compiled on national data base.

Since the previous report on fisheries control, the functioning of the catch and effort monitoring systems of Member States cannot still be considered satisfactory, although during the period in question some Member States have made substantial progress in this field. Given obligations dating back to 1984, the monitoring of catches, landings and sales leaves a lot still to be accomplished. The highly variable methods utilised by Member States to aggregate their effort data have not generally reached a level of adequate performance.

While Spain has implemented thoroughly the effort scheme for Western Waters to regulate the activities of its vessels operating in the waters of other Member States and while some other Member States have made substantial progress in this field, certain Member States remain behind.

Apart from the delays encountered in several Member States in the introduction of VMS, the utilisation of these systems has commenced in a promising fashion.

4.1.Catch registration

Pursuant to Control Regulation, the competent authorities in each Member State are obliged to receive logsheets, landing declarations and sales notes (more recently, partly substituted by take-over declarations) for all landings into the ports of this Member State. This catch information is then collated in a computerised central database in order to aggregate the national catch figures of TAC and quota species. The data obtained from different sources should also be cross-checked and verified to guarantee their reliability against this data. In addition, Member States are obliged to notify regularly their TAC uptake to the Commission.

The requirement to keep logbooks and to submit landing declarations in relation to catches of TAC and quota species dates back to 1984 (subject to the Mediterranean exemption). However, in certain Member States (especially France, but also Spain, Portugal and Finland) the return rate of these documents had still not approached 100 % in 1999. Moreover, whilst some Member States have come up with a general framework of catch registration functioning in a satisfactory manner, no Member State has accomplished an adequate system for these purposes, concerning its vessels operating beyond Community fishing waters. The whole idea of reliable catch registration is gravely jeopardised by the persistent lack of the most elementary documentation related to this topic. — Nevertheless, even the most elaborate systems for retrieving all the logbooks, cannot guarantee the non-existence of “black landings”, as illustrated, inter alia, by the British example (cf. the national description in the Working Document attached).

As of 1994, logbooks and landing declarations have been supplemented by sales notes and transport documents to allow the possibility to compare systematically the information recorded by the master of the vessel with the information from the buyer. In a number of Member States (Ireland, Finland, Sweden and the United Kingdom), these documents were not utilised in a satisfactory manner. This is particularly relevant for sales by-passing the auction system (Spain, France and Portugal). Further efforts are required in order to ensure full compliance with the amendments adopted in 1998 to these provisions of the Control Regulation; if the relevant authorities do not receive sales notes (or take-over declarations) corresponding to all landings, no alternatives are available for independent verification of catch data.

Cross-checking and verification procedures within the catch registration databases are often unnecessarily complex (for example owing to divided responsibilities between several authorities) in some Member States; also the format of sales note data, not corresponding to the requirements set out in Control Regulation, might cause additional complications. Even where logbook and sales note information have been computerised, this has in most cases not been achieved in a manner to facilitate automatic and computerised crosschecking.

A great variety still remains within the compliance of different Member States with their catch notification obligations towards the Commission.

4.2. Effort registration

The obligations of Member States to gather information about the fishing effort of their vessels can be differentiated into two main clusters: Firstly, the Community rules concerning fishing effort in Western Waters (similarly to this, a monitoring obligation has been established in the Baltic Sea area) and, secondly, the national implementation regulations adopted in order to comply with the requirements of multiannual guidance programs (hereafter MAGP), dealt with in Section 6..

Within the Western Waters effort scheme, some Member States have made substantial progress in its application; notably Spain has established and is currently operating a very comprehensive and trustworthy monitoring and control system for its vessels engaged in the fisheries in question, particularly for the so-called list of 300 vessels. Other Member States have still scope for improvement: the French and the Irish monitoring systems for these purposes have not produced any verifiable results up to 1999.

For the Baltic Sea area, the results of the monitoring actions of relevant Member States cannot in general be deemed satisfactory. While differences exist between the levels of ambition, the measures taken by some coastal Member States in this area have only recently established the conditions for collection of the information required for these purposes.

The methods utilised in different Member States to collect the necessary information about their fishing effort vary: some extract this data from logsheets, others use effort messages (especially for Western Waters purposes), whilst in some cases the sources remain unclear. Similarly to catch registration, this data is then entered into a computerised database for national aggregations, as well as crosschecked with other available information about this topic in order to verify its reliability, and regularly conveyed to the Commission. — Although some Member States apply these verification procedures to their fishing effort databases, these practices are not yet sufficiently widespread. Moreover, certain Member States have totally failed to comply with their obligations of informing the Commission about the fishing effort of their vessels, or have conveyed this information only occasionally during the period in question.

4.3. VMS

During the first phase of the implementation of VMS¹⁴, this obligation has concerned all Community fishing vessels exceeding 20 metres between perpendiculars or 24 metres overall length belonging to any one of the following categories: vessels operating on the high seas, except in the Mediterranean Sea; vessels operating in the waters of third countries in a reciprocal basis; or vessels engaged in industrial fisheries.

Member States have been obliged notably to install a satellite-tracking device (« Blue Box ») on the fishing vessels to which VMS shall apply from 30 June 1998,

¹⁴ The Community VMS requirements, laid down in Council Regulation (EC) N° 686/97 and Commission Regulation (EC) N° 1489/97, have entered into force in two phases of application, out of which Phase I has covered the period of 30.6.1998 - 31.12.1999; from 1 January 2000 onwards the Community has entered into Phase II, with a larger number of fishing vessels obliged to participate in this system.

at the latest on that date; to establish by the said date fisheries monitoring centres (FMC); and to ensure from 1 October 1998 onwards that the Commission shall have distant access to their VMS data bases.

By the completion of Phase I, the systems of most Member States were operational, albeit the delays still troubling four of them. Ireland and France have later caught up with the others, whereas the VMS systems are not yet operational in Greece and in Italy. — The transmission of the position reports to coastal Member States and the availability of VMS data for the competent services have not yet become totally operational.

5. INSPECTION AND SURVEILLANCE ACTIVITIES

Each Member State is responsible for the inspection and surveillance of the fishing activities on its territory and in its waters.

Some Member States have introduced in Community fishing waters and/or ashore an effective inspection and surveillance scheme as well as adopted a coherent inspection strategy, both based on a comprehensive control system. However, this observation cannot be generalised to all Member States.

The main reasons for weaknesses noted in inspection and surveillance activities are deficits in the means available and in the training of inspectors, cumbersome procedural demands and irrational programming or a lack of targeting of these activities.

Beyond Community waters, the Commission promotes the joint control schemes of regional fisheries organisations (RFOs) which require co-operation and sharing of responsibilities within the Community as well as with other Contracting Parties. The examples of NEAFC and NAFO should be extended to other areas.

Flag Member States are attributing generally a low priority to monitoring the fishing activities of their vessels in these areas, with exception of the Regulatory Areas of NAFO and NEAFC. Inspection and surveillance beyond Community waters are confined to NAFO, NEAFC and driftnet fisheries.

Systematic monitoring and inspection of landings from international and third country waters do not extend beyond specific obligations (NAFO, Fishery Agreements EU-Morocco and EU-Mauritania).

5.1. Community area and fisheries zone

The number of inspections varies considerably from one Member State to another. Several national authorities focus on the intensity and thus the effectivity of the inspections rather than the total amount of inspections. A large majority of inspections are, however, performed on a routine basis. Only in a few Member States, inspections are carried out as part of a comprehensive control strategy in a targeted fashion.

The effectiveness of fisheries control actions is clearly related to the existence of incentives for the fishermen to profit illegally by the lack of them. When Member States have succeeded in introducing a well-functioning control system, balanced with the probabilities of non-compliance, the fishermen have no reason to take chances; examples of these kind of situations have already been referred to above. On the other hand, if the probability of inspection is low, the economic benefits to be acquired by fraudulent behaviour are high and the expected level of sanctions is low, adequate observance cannot be guaranteed.

Community law requirements for inspection and surveillance require of inspection activity after first sale. The number of inspections after first sale has not yet reached a satisfactory level. As regards landings and subsequent marketing, improvements have been observed notably for the reasons presented in Section 3.1..

Aerial surveillance of inshore areas has reached a rather high intensity, the availability of surveillance vessels and aircraft, often provided by authorities involved in many other duties, for the purpose of fisheries control cannot be sufficiently guaranteed. — In offshore and remote areas, where surveillance generally is carried out mainly for fisheries objectives, the availability of both sea- and airborne means capable of these kinds of tasks presents its restrictions. Adequate inspection and surveillance of these areas is facilitated by VMS.

Owing to the transboundary nature of fishing activities, any doubts from inspectors at sea should be verified at landing by inspectors, perhaps from another Member State, and during the first sale by inspectors, perhaps again from another Member State. The inspectors of the flag state should be informed of the results. — Joint surveillance campaigns by several Member States have often taken the fishermen totally by surprise, since such co-ordinated actions have not been expected to be carried out. The co-ordination of such activities of several national authorities often requires a lot of effort, to accomplish the same on an international level between Member States, has proved even more demanding. The number of examples of this kind remains limited.

For some Member States, the numbers of inspections reach high levels, but the number of infringements observed remains surprisingly low. On several occasions, however, Commission inspectors have observed a totally different proportion between cases inspected and infringements noted in these Member States. Moreover, when Commission inspectors have been accompanying the surveillance vessels of some Member States, the surveillance actions have sometimes been lacking any clearly designed strategy: the consequence of this deficit could easily be, that the control effort has been deployed in areas/periods, where/when the fisheries in question usually did not take place or where/when infringements in general could not be found. — With a comprehensive control strategy, the results measured in numbers of infringements might also stay modest but this situation should still be interpreted as reflecting the higher level of compliance in a reliable and verifiable manner.

Apart from the availability of the means and the training of the officials, referred to above in Section 3.1., other factors have also been noted to affect the efficiency of the inspections accomplished. The control powers of the officials in question might have been legally defined too strictly or in a manner open to all sorts of interpretations. The competencies of various authorities acting separately multiply the challenges for fluent co-operation. — The consequence of these circumstances

might well be summed up as a lack of an efficient control structure, at least as regards results; the French case of undersized hake being constantly landed and marketed is a prime example of this.

After outlining the above examples, in this context, the Commission has to refer to substantial improvements which have taken place in the efficiency of inspections. Indeed, inspection and surveillance of a number of fishing areas and in many ports can be considered quite satisfactory.

5.2. Beyond Community waters

In accordance with Article 2(2) of the Control Regulation, Member States and the Community have to comply with obligations in the field of monitoring, inspection and surveillance, set out in Articles 17 and 18 of the Control Regulation, specific provisions adopted in the framework of Regional Fisheries Organisations (RFOs) and in fishery agreements concluded between the Community and a number of third countries.

When Community fishing vessels operate in the waters of third countries, the Community as the flag party should co-operate with the coastal state in question in order to achieve proper enforcement of applicable rules for example by carrying out landing controls or by transmitting VMS information to the coastal state. — When vessels are operating in international waters, the flag state has to ensure adequate levels of monitoring, inspection and surveillance of their activities. In such cases, the respective flag states are required to co-operate with the other relevant countries, including the coastal states in order to ensure conservation of the living marine resources concerned. In practice, apart from situations such as NAFO or Morocco, only a low priority has been attributed by flag Member States to these issues.

In the frameworks of the relevant Regional Fisheries Organisations (RFOs), the Community is committed to control under schemes agreed within these organisations (for example NAFO, NEAFC, CCAMLR). The Community promotes actively the adoption of control schemes by other regional organisations.

Within NAFO, the Community has contributed to the establishment and the implementation of an efficient control scheme, representing a major achievement compared to the past. The tasks of the Commission have been restricted to inspection and surveillance in the regulatory area (inspectors on EU surveillance vessels and observer scheme), whereas Member States are to take care of landing inspections and the follow-up of infringements. However, obvious burdens have also arisen from this framework: the landing inspections in Member States have often required the presence of both Commission and national inspectors, and the immediate follow-up of cited infringements as well as their sanctioning involve various authorities. The Commission has not been assigned powers to guarantee adequate efficiency by each of the authorities concerned, whereas this would simplify the achievement of compliance with the Community's international obligations throughout Community territory and to maintain a balance in terms of costs and benefits.

Apart from the Mediterranean, where the introduction of fishing zones beyond territorial waters has not been generalised, and the driftnet fishery in the Atlantic, Member States have not carried out inspection and surveillance of their vessels in international waters outside NAFO and (most recently) NEAFC regulatory areas.

Systematic monitoring and inspection of landings into Member States from international and third country waters have been applied only to some specific obligations, arising from the international commitments of the Community (notably NAFO as well as agreements with Morocco and Mauritania).

6. CONTROL OF THE FLEETS

General rules concerning the control of fleet capacity have been adopted at Community level. Accordingly, each Member State is responsible for the adoption of detailed measures ensuring the national implementation of targets set at Community level.

New entries in the fishing fleet are regulated by Member States within their national licensing schemes. In the framework of the fleet register, information is collected on each Community fishing vessel, registered by Member States.

The national measures taken to achieve capacity restrictions in order to attain MAGP objectives have not been ambitious enough to enable the structural policy to obtain the benchmarks determined at Community level for fleet reduction. This has contributed to a widening gap between the factual capacity of the fleets and their fishing opportunities.

In addition, the control of fleet register data, the constancy of the MAGP segmentation and the aimed reduction of fishing effort have fallen short of their objectives.

In the framework of the structural policy, several measures have been introduced in order to achieve a balance between the capacity of the fleet and the available as well as accessible fishing opportunities. The information on fishing fleets is collected in the fleet register, containing both historical and updated information on each fishing vessel from its construction or import into the Community.

The Commission has subsequently adopted MAGPs for all Member States and thus determined for each of them the total objectives for fleet capacity reductions, presented in the respective Commission decisions separately concerning each segment. However, the manner of achieving these global objectives has not been defined in detail in Community law. This legislation assumes detailed rules concerning control procedures to be implemented by Member States.

The fleet register is the main tool for monitoring fleet capacity under the MAGP framework. Moreover, it provides the computerised infrastructure necessary for the management of national vessel licensing schemes, special fishing permit applications and the upkeep of the lists required by Community legislation about certain vessels fishing in Western Waters or in the Baltic Sea area. The contents of the register, notably the data about vessel engine power and tonnage, have customarily been obtained from the central national vessel inspection agency in charge of the national vessel register and/or the initial checks on vessels entering the fleet. In some countries there exist several such agencies.

In order to regulate the size of the fishing fleet, Member States have introduced licensing systems, where the issuing of a licence is considered a prerequisite for the operation of a fishing vessel. Pursuant to these arrangements, the newcomers are to obtain a licence before commencing the exploitation of marine living resources. These licence schemes should allow Member States to control effectively the number of fishing vessels in their fleet. — Nonetheless, the efficient controls of the factual capacity of the fleets have not generally been achieved by these national measures, not ambitious enough to enable the structural policy to obtain the benchmarks determined at the Community level for fleet reduction. This situation has brought about a widening gap between the factual capacity of the fishing fleet of Member States and their available as well as accessible fishing opportunities.

Most fisheries inspection authorities have been entrusted with (at least partial) responsibility for the monitoring and control of the registered vessel characteristics (Articles 24 - 26 of Control Regulation). In practice, these kinds of controls (both by national fisheries administrations and by other competent authorities) have remained almost exclusively on the level of checks on vessel documentation.

The registered data concerning the tonnage of fishing vessels are to a large extent based on vessel remeasurements (or corresponding calculations) according to the London (ICT) convention. Measurements are carried out by authorities, officially recognised bodies or individuals (naval architects) certifying the measurement results. The reliability of these figures has thus risen in general to an adequate level, although this does not apply to all Member States.

On the other hand, the registered engine power of the fleet cannot in general be considered totally reliable. Certain Member States have recently started with attempts to standardise or to rectify their data about this topic. Some Member States have tried to control their vessels with physical checks aimed at the factual engine power in use: still, this has occurred almost exclusively in the Plaice Box. — The use of derated engines together with the newest engine technology causes additional complexities in this respect. If, as in most Member States, the derated engines are not individually and physically checked during their installation, there remains no guarantee of the reliability of the manufacturers certified initial power figures. Furthermore, additional measures have not been implemented for monitoring or verification of the continuity of initial engine powers during the lifespan of vessels.

The priority attributed by some Member States to the verification of information about engine power is low. No Member State has explored, for example, opportunities such as utilising the information on tax-free fuel, supplied to fishing vessels, for control purposes. This would be a relative simple method to analyse globally the scope for discrepancies between declared and real engine power, fuel consumption being an indicator for factually deployed power.

Even on occasions, when the visual picture of the vessel, alongside information about its length/size and fishing method, has caused doubts concerning the reliability of its registered engine power figures, the national authorities have on request provided the Commission with explanations based solely on the documents obtained from engine manufacturers: no physical controls have taken place in these cases and the Commission has not even subsequently been informed of any further actions taken.

Pursuant to national legislation, the existing fishing vessels are not generally forbidden from changing their MAGP segments: in some of these systems, this does not even necessitate a new licence to be issued to such vessels. In these circumstances, Member States in question do not in practice control the constancy of the MAGP segmentation. — Moreover, in several Member States, segments are only monitored ex-post on the basis of the activities carried out by fishing vessels in the course of the preceding year (or a shorter period).

Some of the Member States, required to meet their obligations as set out within the MAGP IV framework by reducing the fishing effort in some of their fleet segments, have also advanced in this area. Some of these Member States manage the activities of their fishing fleets either by issuing special fishing permits, authorising the vessels in question to be engaged in certain fisheries, or by attaching similar kinds of conditions to the licences of the vessels. Nevertheless, certain other Member States, notably France and Sweden, still do not control their aggregated information for the segments in question, although the more general challenges having been encountered during their MAGP IV implementation might account for some of this delay.

7. IMPLEMENTATION OF SANCTIONS

Within the Community framework, Member States are responsible for follow-up of infringements and sanctioning systems. To this end, Member States are to ensure the appropriateness of sanctioning procedures in force. While substantial differences can be observed in the systems established by Member States, solely their efficiency is to be assessed in terms of follow-up procedures and the deterrent impact of sanctioning.

The current sanctioning systems appear too permissive towards fisheries-related offences: all observed infringements are not brought forward to decision-making bodies, warnings are in excessive use and the applied levels of sanctions have remained below the demands of deterrence. Much remains to be achieved also in the field of mutual exchange of evidentiary material and other judicial co-operation in transboundary circumstances.

At present, the treatment of fishermen within the different national sanctioning systems is not necessarily equal : variations could be encountered even within one single system. Under current circumstances, the objective of a harmonised level of sanctions would thus seem rather distant. — Although administrative procedures appear to have resulted in more efficiency, also the achievement of sufficient deterrence of the national sanctioning systems in general would be necessary to ensure full compliance with the common fisheries policy.

According to Article 31 of the Control Regulation, Member States are to ensure that appropriate measures are taken to sanction those responsible for non-respect of the common fisheries policy. Although Member States are at liberty in their choice of procedures in conformity with their national legislations, the proceedings initiated are to deprive those responsible for the infringements the economic benefits deriving from them or to produce proportional results effectively discouraging further offences of the same kind. — The choices taken by Member States have been

illustrated above in Section 2.3.; the requirements set out in Article 31 of the Control Regulation for the type and level of sanctions to be applied focus on their efficiency in deterring from non-compliance and in fully confiscating the benefits acquired by the infringement.

Within the present sanctioning procedures, there often seem to exist arbitrary thresholds between the different authorities dealing with fisheries offences: all the noted infringements are not brought into the (administrative or judicial) decision-making phases. Firstly, national inspectors have been observed not to report or forward all the infringements they have discovered (or to cite all of them, in systems where this would be appropriate). If some intermediary agencies (for example the police forces) are involved, they have neither always presented all the cases brought to them further to the prosecutionary bodies. Thirdly, even the prosecutors tend to have lesser interest in fisheries-related offences (compared with the more “customary” crimes), thus more easily not entered to the courts themselves. These kinds of features have been observed without exception in all Member States, irrespective of the nature of their sanctioning systems, although sometimes accentuated within the criminal ones. — There also seems to exist a gap between warnings issued by fisheries administration and sanctions delivered by the criminal jurisdiction in many Member States: the number of the warnings are generally quite overwhelming when compared to the number of sanctions. Moreover, there have been observed cases concerning repeated offences, where the warnings issued time after time do not seem to have had any deterrent effect, but where apparently the court procedure still has been considered too heavy by the national authorities to be embarked upon.

Member States with an administrative sanctioning system in place seem to have reached, on average, results more proportionate to the offences committed. More importantly, the impact of sanctions applied and their deterrence amongst the fishermen appears to be felt more strongly, when there is a real threat of an immediate and sufficient penalty. Within the administrative systems, there need not be thresholds between authorities or gaps between different levels of sanctions. The initial deliverance of sanctions can be carried out fluently and reasonably by the responsible authorities fully aware of the total situation. The transparency and the compatibility of the sanctions with common standards can be assisted also within these procedures by issuing guidelines to the different administrative authorities dealing with these matters.

As referred to in Section 2.1., there already exist multi- and bilateral agreements between Member States, containing provisions of judicial assistance and co-operation. They have not been closely examined for the purposes of this report. — Reference has to be made also to the recently enlarged competencies of European Union in the area of judicial co-operation in criminal matters (Title VI of the Treaty on European Union).

However, Member States do not appear to continuously exercise such kinds of strategies as in operation within RFO’s about notably mutual exchange of enforcement and evidentiary information. The compatibility of national rules of evidence in each respective Member State has brought up additional challenges even in legal systems closely resembling each other.

The results attained so far in the field of judicial co-operation between Member States concerning fisheries infringements appear to fall short of what is required in order to accomplish satisfactory across the border enforcement of Community rules. Much remains to be achieved in this context, especially while encountering infringements connected to transboundary fishing activities.

At present, the Commission is not in possession of comprehensive detailed information concerning the type and the level of sanctions factually applied to the various fisheries-related infringements in Member States. This situation is to improve, when Member States are to commence to notify the Commission on serious infringements and to provide it with information about their sanctioning as specified in Council Regulation (EC) No 1447/1999¹⁵ and in Commission Regulation (EC) No 2740/1999¹⁶.

However, on the basis of the information obtained so far, it can be concluded that the applied levels of (especially criminal) fines frequently have stayed well below the demands of deterrence. Besides, the necessity to restrict the (usually criminal as opposed to administrative confiscations) to the proceeds of the fishing trip where the offender has been caught in the act, and the illegal gears presently in use, does not tend to present a strong incentive for fishermen to full compliance; this situation has often been combined with a low probability of being inspected. The sanctions with more substantial impacts for fishermen, for example licence withdrawals or suspensions, have never been applied within the criminal court systems of some Member States and appear to have been exceedingly rare also in other criminal procedures.

Conclusively, the Commission is at present not in a position to guarantee that the existing national sanctioning systems would function in an equal manner in all Member States and that, even within each respective Member State, the observed infringements would be treated and punished with equity. Also, the sanctions issued might still vary quite substantially depending on, whether they are to be delivered to domestic (let alone local) fishermen, or to foreigners from neighbouring Member States. Under current circumstances, the objective of a harmonised level of sanctions within the whole Community would thus seem rather distant. — These remaining features as well as the inadequate deterrent impact of these systems pose additional burdens on monitoring, inspection and surveillance of fishing activities and thus compromise the efficiency of fisheries control, a cornerstone of full compliance with the common fisheries policy.

¹⁵ Council Regulation (EC) N° 1447/1999 of 24 June 1999 establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy (OJ L 167 of 2.7.1999).

¹⁶ Commission Regulation (EC) N° 2740/1999 of 21 December 1999 laying down detailed rules for the application of Council Regulation (EC) N° 1447/1999 establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy (OJ L 328 of 22.12.1999).

8. REVIEW OF THE IMPLEMENTATION OF THE COMMON FISHERIES POLICY

Community legislation requires Member States to adopt appropriate measures to ensure the effectiveness of the common fisheries policy. Therefore, the efficiency of national control systems needs also to be assessed in terms of its contribution to the achievement of the aims of the common fisheries policy.

An evaluation of the impact of control systems on conservation of marine living resources reflects the overall efficiency of the Community control system as the aggregated impact of each national control system concerned. The level of this overall efficiency affects the level of ambition directed towards the conservation of fish stocks in question .

The national licensing and registration systems are generally not capable of being utilised for achieving a forced reduction of the fleet capacity nor as effort reduction. The impact of some of the national measures, aimed at the reduction of fishing effort, on the conservation of the stocks has been limited to a few cases. Overcapacity is one of the basic reasons for the existence of discards and “black” fish and cases of inadequacy of national control.

8.1. Conservation policy

Fishing mortality can be regulated in several ways such as by the restriction of catches (TACs and quotas), by restriction of effort (days at sea restrictions as well as periodic closures) or by a combination of these two types of means. The exploitation pattern is regulated notably by technical measures (mesh sizes, minimum fish sizes, closed or restricted areas). The control systems implemented are to ensure that fishing activities comply with these conservation measures.

8.1.1. *Quantitative restrictions of catches*

The number of official overshootings of quotas and the level by which the allowed amounts have been exceeded have reduced over the years, owing also to the introduction of an interannual flexibility into the Community rules concerning annual quotas. Fisheries management methods utilised by Member States differ to a great extent (vessel quotas, weekly maximum landing quantities, temporary closures etc.). — However, in a few cases, the improvement of quota management may only have taken place on paper, whilst significant black landings are tolerated still.

In the Baltic Sea area, the reliability of official catch figures for cod has improved considerably even while landing controls in this area have remained generally not effective enough. In the period 1992-1994, the level of the TAC did not anticipate a new large year-class entering the fishery. The increased catch rates did not match with TAC and quota: “black-landed” catches may have exceeded declared catches. The TAC and quota for herring and sprat have been fixed for a number of years at levels where there was no real risk of overfishing.

In region 2, the landing controls have been considerably reinforced in a number of Member States. The quality of the official landing figures has, therefore, improved.

This information regarding landings of most small pelagics and some demersal species is considered accurate. However, landings of unrecorded catches (black fish) remain a serious problem concerning notably roundfish. The misreporting by area remains substantial for most of the stocks in this region.

In region 3, under-reporting and misreporting of catches is less important than in region 2 even while landing controls in this area have remained generally not effective enough. The TACs in this region are set at a level which are not really compelling. Against that background, less incentive exists for the misreporting of catches. Persistent problems in specific fisheries (anchovy and southern hake) have been resolved by quota swaps. Monitoring systems of fishing activities are rather poor in region 3.

In the Mediterranean Sea area, monitoring systems of catches are currently being introduced. Only one stock (bluefin tuna) is subject to TAC and quota. Member States have implemented specific measures for monitoring catches of this species; however, these measures have not yet reached full efficiency.

The quality of the catch data of vessels operating beyond Community fishing waters in the North Atlantic has improved considerably. The official catch figures correspond to the quantities landed. However, the Commission is not in a position to assess the accuracy of catches recorded in other international fisheries.

In addition to the aspects concerning certain areas or fisheries also difficulties with horizontal dimensions have tended to emerge. Firstly, an imbalance has remained in several Member States between the landing opportunities locally available for the fishermen and the means allocated for controlling these landings. The disadvantages of this lack of proportions have been gravely accentuated by the chronic situation of fleet overcapacity, when compared with the fishing possibilities available for the technically more advanced fleets.

8.1.2. Implementation of fishing effort scheme

Only a few Member States have created management tools for restricting the fishing effort of their vessels. Moreover, even fewer Member States have succeeded in this task; however, some of the schemes currently in operation have proved successful in producing sufficient results both in the field of updated information and in the area of real obstacles for the vessels concerned to override their effort limits.

8.1.3. Implementation of technical measures

Closed areas and area restrictions are generally well respected. The implementation of minimum mesh sizes and minimum fish sizes is satisfactory in the Baltic Sea area and in region 2. However, within some fisheries the enforcement of these measures remains a problem. The use of mesh size obstructing devices, such as blinders, persists notably in fisheries for sole; in other fisheries illegal mesh sizes are utilised (for example, mesh sizes authorised in one fishery are used during the same trip in other fisheries, which require larger mesh sizes). The one-net rule as proposed by the Commission at several occasions would greatly alleviate these difficulties caused to the control authorities.

In region 3 and in the Mediterranean Sea area the situation is less satisfactory. A large market demand exists in these regions for small fish; this presents an incentive to use illegal gear and land undersized fish. The efforts deployed by Member States concerned have not proved successful in eradicating these kinds of fishing behaviour. — The maximum length of driftnets allowed to be utilised notably in the Mediterranean Sea area remains a problem.

8.2. Structural policy

The measures taken by Member States, described in Section 6., have mostly succeeded in establishing operational entry-exit schemes, according to which the new entrants have to be registered and licensed in order to be allowed to engage in fishing activities. However, the systems introduced for these purposes are not capable of being utilised for achieving a forced reduction of the fleet capacity. No Member State has adopted national legislation enabling the authorities to oblige the vessels to be retired from the fishing fleet without a right for (at least almost) total substitution in terms of existing capacity.

In these circumstances, Member States appear to be lacking efficient means to bring about the capacity reductions defined within the framework of MAGPs, still remaining partly not achieved. This dilemma affects the reliability of the registered capacity data notably in Member States, which have introduced national systems converting the overall MAGP objectives into restrictions applying to individual vessels. The national control measures related to this matter have not been adequately adjusted to, or focused on, ensuring the reliability of fleet register information concerning fleet capacity and especially engine power. The constancy of the existing MAGP segmentation cannot always be guaranteed either.

In practice, the balance between fleet capacity and fishing opportunities has generally not been achieved. Moreover, Member States have chosen to regulate the access to waters and resources only in a limited number of cases. Therefore, in most fisheries the situation can be expressed as “too many vessels chasing too few fish”, the equation of the difference being an indicator for monitoring, inspection and surveillance burdens.

9. CONCLUSIONS

The Control Regulation, as amended, offers a complete legal framework of control, covering the whole chain of fish and fisheries products from the net to the plate of the consumer. This framework covers all fishing activities on the territory of the Community and in Community fishing waters as well as all activities of Community fishing vessels beyond these waters. This coverage reaches from conservation and management of fish stocks to measures concerning the common organisation of the market in fishery products, as well, implying not only the obligations of masters and owners of fishing vessels but also the responsibility of fish buyers, processors and subsequent economic operators.

In accordance with Community principles, the responsibility of controlling the application of Community legislation belongs first and foremost with Member States. Several Member States have, indeed, established efficient national control systems on the base of Community law referred to above. The financial contribution towards

control expenditure incurred by Member States has facilitated the allocation of sufficient means for control and the introduction of VMS.

Currently, the success of fisheries control is fragmented with many fishing activities being efficiently controlled but with other activities not controlled at all or with a level of control clearly insufficient. In a number of fisheries, the overall success of control will be as strong as the weakest link in the chain.

The Community bears the overall responsibility for a satisfactory level of implementation of the common fisheries policy. It should not only comply with its international obligations, but also achieve its goals in the area of the protection and conservation of marine living resources as well as secure the protection of its fleets against IUU fishing by other fleets.

Concerning the further extension of the progress achieved over the past years, the full implementation of the recent amendments of Community Regulations will further contribute to the achievement of full compliance with the common fisheries policy. Furthermore, a number of problems enumerated in this report can be resolved by measures to be adopted on the national level of Member States (for example, by the establishment of comprehensive control system, by the adjustment of mandates and by improved organisation and training, by the adoption of rational inspection strategies as well as by the introduction of effective and deterrent sanctioning procedures).

However, not all problems will be resolved in this way. If certain Member States would still not achieve a satisfactory level of control in the future, the current Community control framework is insufficiently compelling for the authorities failing to live up to Community standards. Indeed, the Community framework cannot force compliance with the common fisheries policy even where the Community itself is committed to international obligations. Furthermore, the cooperation and coordination between all authorities involved in fisheries monitoring, inspection and surveillance tasks will remain a heavy burden within the Community control system. These dilemmas obviously require to be addressed at Community level.

As this report will be part of the discussion on the review of the common fisheries policy, launched by the presentation of the Commission's Green Paper "The Future of the common fisheries policy", the Commission is to draw its ultimate conclusions for the future prospects of the Community fisheries control system first after the public debate on these issues is completed. At that stage, the Commission will present to the Council and the European Parliament a Communication on the future orientations in the area of fisheries monitoring, control and enforcement.

ANNEX I

LIST OF THE AMENDMENTS OF CONTROL REGULATION:

Council Regulation (EC) N° 2870/95 of 8 December 1995 (OJ L 301 of 14.12.1995),
Council Regulation (EC) N° 2489/96 of 20 December 1996 (OJ L 338 of 28.12.1996),
Council Regulation (EC) N° 686/97 of 14 April 1997 (OJ L 102 of 19.4.1997),
Council Regulation (EC) N° 2205/97 of 30 October 1997 (OJ L 304 of 7.11.1997),
Council Regulation (EC) N° 2635/97 of 18 December 1997 (OJ L 356 of 31.12.1997) and
Council Regulation (EC) N° 2846/98 of 17 December 1998 (OJ L 358 of 31.12.1998)

LIST OF THE PRESENTED COMMUNICATIONS

Rapport de la Commission au Conseil et au Parlement européen sur le contrôle de l'application de la politique commune de la pêche (SEC(92) 394 final du 6.3.1992)

Rapport de la Commission au Conseil et au Parlement européen sur la participation financière de la Communauté aux dépenses consenties par les Etats membres pour assurer le respect de la politique commune de la pêche (COM(95)243 final du 9.6.1995)

Rapport de la Commission au Conseil et au Parlement européen sur l'établissement d'un système de contrôle des bateaux de pêche communautaires par satellite (COM(96)232 final du 28.5.1996)

Report of the Commission to the Council and European Parliament on monitoring Community conservation and management measures applicable to third country fishing vessels (COM(96)493 final, of 22.10.1996)

Communication from the Commission to the Council and European Parliament: Fisheries monitoring under the common fisheries policy, COM (1998) 92 (final), of 19.2.1998

* * * * *

Action plan of the Commission for improving the implementation of the common fisheries policy (SEC(1998) 949 final), of 5.6.1998

LIST OF THE DRIFTNETS REPORTS

- Report from the services of the Commission on enforcement of Community legislation concerning the use of driftnets in 1994 : SEC(94) 2003 of 25.11.1994.
- Report on the enforcement of Community legislation concerning the use of driftnets in the N.E. Atlantic and the Mediterranean
 - in 1995 : SEC(95) 2259 of 14.12.1995
 - in 1996 : SEC(97) 937 of 13.5.1997
 - in 1997 : SEC(98) 477 of 17.3.1998
- Report on enforcement in 1998 and 1999 of Community legislation on the use of driftnets in fishing for highly migratory species in the NE Atlantic and the Mediterranean – 24.5.2000

ANNEX II

Annual Community financial contribution to expenditure incurred by Member States for fisheries control and the percentage actually used at the end of 2000

€ Million	1996	1997	1998	1999	2000	Total
Contribution						
• 35-50 %	24.4	29.1	31.1	35.6	31.5	151.6
• > 50 %	0.3	2.4	9.5	11.4	3.4	27.1
Contribution to Ireland						
• investments	2.3	3.6	8.4	2.6	2.5	19.5
• operating expenditure	2.5	3.0	3.0	0	3.0	11.5
Total	29.5	38.1	52.0	49.6	40.5	209.6
Actually reimbursed	50 %	69 %	62 %	50.5 %	1 %	47 %

The following amounts of financial contribution have been committed to the existing subcategories:

• surveillance vessels and aircraft	€ 154 M (74 %)
– inshore	€ 21 M
– offshore	€ 133 M
• new technology	€ 40 M (19 %)
– computers	€ 17 M
– networks	€ 4 M
– VMS	€ 19 M
• specific measures and miscellaneous	€ 15 M (7 %)
– training	€ 2 M
– miscellaneous	€ 13 M
Total amount of financial contribution	€ 209 M (100%)