

**REPORT ON THE IMPLEMENTATION OF THE COMMUNITY SYSTEM FOR  
FISHERIES AND AQUACULTURE OVER THE PERIOD 1993-2000**

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## Introduction

Article 14(2) of Council Regulation No 3760/92 establishing a Community system for fisheries and aquaculture<sup>1</sup> provides that the Commission shall present, by 31.12.2001 at the latest, a report to the European Parliament and the Council on the implementation of that Regulation.

The Commission has already issued two detailed reports on the implementation of Regulation 3760/92. The first report was issued in 1996, covering the years 1993-1995<sup>2</sup> whereas the second report in 2000 reviewed the measures adopted during the years 1996-1998<sup>3</sup>.

The present report presents a general overview of the implementation of Regulation 3760/92, as well as an overview of the major developments in the Common Fisheries Policy (CFP) since the last reform in 1992.

Since 1992, the world of fisheries has witnessed many important changes and developments both at the European and at the global level. Fisheries policy, and the CFP in particular, is required to address problems and look for solutions under conditions which are very different from those of ten years ago.

For example, there is much greater awareness now of the environmental dimension of fisheries. Such awareness is expressed both in legal instruments (such as Article 6 of TEC, the Habitats Directive, the Biodiversity Convention, etc) and through the development and application of new concepts such as the precautionary approach or the ecosystem approach.

Moreover, the international legal dimension of fisheries has been significantly developed through, inter-alia, the entry into force of the UN Convention on the Law of the Sea, the adoption of the UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks, the adoption of the Code of Conduct for Responsible Fisheries and the on-going development of an international jurisprudence on fisheries through the case law of the International Tribunal for the Law of the Sea.

The problems that the CFP is facing are in many respects similar to what they were in 1992 but since they were not properly addressed they are more acute now such as stocks being outside safe biological limits and fleet over-capacity. The emergence of new fishing nations and market globalisation threaten the competitiveness and the survival of many sectors of the European fishing industry. The spectacular development of aquaculture has created new opportunities but it has also brought with it new challenges related to consumer and environmental protection.

The Community framework for fisheries and aquaculture was devised under a quite different background than the one described above and therefore has not always managed to provide answers to the various challenges that emerged during the last ten years. Stock conservation, for example, has been a weak point. The basic management tools were available but there was insufficient political will to make use of them despite the fact that the 1992 reform had enlarged

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<sup>1</sup> OJ L 389/1, 31.12.92

<sup>2</sup> COM(96) 363 final, 22.07.1996.

<sup>3</sup> COM(2000) 15 final, 24.1.2000.

the panoply of available tools mainly through the possibility to adopt multi-annual frameworks for management decisions and to link the conservation and the structural dimensions of the CFP.

The reform debate provides an opportunity for the identification of the shortcomings of the current system and for the adoption of the necessary reforms which will allow the CFP to address the challenges of the new millennium.

## **1. MANAGEMENT OF RESOURCES AND ENVIRONMENTAL ISSUES**

### **1.1. The new management tools**

Regulation No 3760/92 stipulates the use of fishing effort management regimes as a means to control exploitation rates and to link fleet policy with TACs and quotas. This, together with the setting up of a multi-annual framework for decisions on management (objectives and strategies), constituted a novelty at the time of adoption of this basic regulation.

Before a management system for fishing effort could be introduced, it was necessary to define instruments to limit access to fishing in general and to certain fisheries in particular. Thus rules on licences granting access to commercial fishing and on special fishing permits providing access to specific fisheries were adopted.<sup>4</sup>

The basis for fishing effort regimes were subsequently adopted for western Community waters in the Atlantic<sup>5</sup> and a similar approach was initiated for the Baltic Sea<sup>6</sup>.

The fishing effort regime applicable in Western waters had a triple objective. The first was the establishment of conditions allowing the full integration of Spain and Portugal in the general arrangement of access to Community waters. This was fully achieved.

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<sup>4</sup> Council Regulation (EC) No 3690/93 of 20 December 1993 establishing a Community system laying down rules for the minimum information to be contained in fishing licences (OJ No L 341, 31.12.1993).

Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits (OJ No L 171, 06.07.1994)

Council Regulation (EC) No 3317/94 of 22 December 1994 laying down general provisions concerning the authorisation of fishing in the waters of a third country under a fisheries agreement (OJ No L 350, 31.12.1994)

<sup>5</sup> Council Regulation (EC) No 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources (OJ No L 71, 31.03.1995, p5).

Council Regulation (EC) No 2027/95 of 15 June 1995 establishing a fishing effort regime relating to certain Community areas and resources (OJ No L 199, 08.08.1995, p1).

The system established was based on no increase in overall fishing-effort levels, full exploitation of Member States' fishing opportunities and maintaining the existing balance in sensitive areas.

<sup>6</sup> Council Regulation (EC) No 779/97 of 24 April 1997, establishing a fishing effort regime in the Baltic Sea (OJ No L 113, 30.04.1997, p1).

The second objective was the fixing of fishing effort ceilings for the fisheries targeting demersal species which should have also contributed, in synergy with the TAC and quota system, to a better conservation of fish stocks, especially for multi-species fisheries. But the finally agreed effort ceilings were only binding for Spain and since even these have not been revised to compensate for efficiency gains, they became higher than was necessary for the catching of quotas.

The third objective was the collection of necessary data for the further development of input management regimes. This was true in the Atlantic both for demersal and pelagic fisheries (Council Regulation No 2027/95) and later in the Baltic (Council Regulation No 779/97, established within the framework of the integration of Sweden and Finland to the CFP).

The implementation of arrangements for the communication of the deployed effort was delayed in several Member States and it has not worked in an efficient way. The necessity to collect effort data remains both for enforcement purposes and for setting the basis of future effort management regimes.

The failure to implement an efficient effort management scheme was due, inter-alia, to a strong opposition against what was considered as a duplication of instruments with reference to TACs and quotas and to a lack of specific scientific advice establishing the proper quantitative basis for effort reductions. These difficulties should not hide the fact that apart from single species fisheries no effective management can be achieved without combining input with output management. Therefore, the debate on the role of effort management schemes in the future should be reopened in the light of the experience acquired since 1995.

As far as the multi-annual framework for decision-taking is concerned, the Council failed to take a decision on the 1993 Commission proposal for management objectives and strategies<sup>7</sup>. The proposal sought to lay down medium-term strategies for progressively reducing fishing mortality, while attempting to increase spawning biomass so that it attains - or to prevent it from falling below - a proposed lower limit. In order to limit variations in TACs, a rule was suggested that involved reducing fishing mortality preferably when there was adequate recruitment into the fishery, so making it possible to avoid reducing TACs or to reduce them only slightly.

The reasons behind the failure to adopt the proposal on medium-term strategies were the following:

- at the time, the scientific advice did not provide any explicit and precise bases, officially approved by the authorised bodies, for laying down objectives and multi-annual strategies;
- the industry had the impression that the approach proposed did not pay enough attention to their concerns regarding wide variations in TACs;

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<sup>7</sup> Proposal for a Council Regulation fixing management objectives and strategies for certain fisheries or groups of fisheries for the period 1994 to 1997 (COM(93) 663 final).

- many feared that TACs were set automatically in a way that prevented the Council from taking action as the need arose.

Although the Commission did not renew its proposal in the coming years, some progress has been achieved afterwards in that:

- rules concerning year-to-year flexibility in quotas have become fully operative (Council Regulation No 847/96<sup>8</sup>);
- MAGPs constitute in themselves a multi-annual approach to management, with specific targets of reduction of exploitation rates, although they have not been as ambitious as the Commission had originally proposed;
- mid-term objectives in accordance with the precautionary approach have been adopted and complied with for some stocks such as Atlanto-Scandian herring.

The need to lay down multi-annual procedures that take the precautionary approach into account is now widely accepted. The Commission presented in December 2000 a Communication to the Council and the European Parliament on the application of the precautionary principle and the multiannual arrangements for setting TACs<sup>9</sup> thus re-opening the debate on the adoption of multiannual management frameworks to rationalise the management process. Advances in scientific advice, especially mid-term risk analysis having facilitated setting mid-term objectives based on risk management and the experience acquired, from the previous Commission proposal, on the dangers to be avoided, make a multiannual approach more feasible.

## **1.2. The TAC regime (Total Allowable Catches)**

The Community continued to adopt annually the regulations setting up, for most exploited stocks, the TACs, the part of these corresponding to Member States and third countries, and its allocation to Member States in the form of fish quotas. Since 1996 the TAC regime has undergone some important developments:

- a reinforcement of the policy of reducing “paper fish<sup>10</sup>” (mostly, for some precautionary<sup>11</sup> TACs);
- adoption of new TACs in international waters covered by regional fisheries management organisations (redfish, Atlanto-Scandian herring, bluefin tuna, swordfish);

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<sup>8</sup> OJ L 115, 09.05.1996, p 3

<sup>9</sup> COM(2000) 803 final.

<sup>10</sup> This term is applied to TACs and quotas which are well in excess of the real fishing possibilities and have, therefore, little effect in limiting catch.

<sup>11</sup> “Analytical” TACs are those set for stocks which are subject to a full scientific assessment followed by a catch forecast under diverse management scenarios. Otherwise, the TACs are called “precautionary”.

- adoption of new TACs in the North Sea in order to prevent expansion of fishing effort on non-regulated species (sandeel, some flatfish, spurdog, anglerfish and prawn);
- allocation of quotas for some stocks subject to TAC, but not yet distributed among Member States and therefore prone to overfishing (horse mackerel, North Sea blue whiting, sprat).
- setting up rules for flexibility in the year-to-year management of quotas (Council Regulation No 847/96).

This last Regulation deserves special attention. Conferring the TAC and quota system with a certain degree of flexibility was a main requirement of the renewed CFP of 1992, linked to the setting up of objectives and strategies on a multi-annual basis. As said before, little progress was achieved on the latter proposal, but the flexibility system is proving to be an effective contribution to management of TACs and quotas. However, it should have better be a complement to the multi-annual framework which needs to be implemented in the future.

The annual pattern of the end-of-year negotiations to set the TACs for the year ahead has been a dominant feature of resource conservation policy under the CFP. The inevitability of this pattern has given rise to drawbacks that have worsened over the years:

- negotiations in the Council have regularly resulted in the postponement, mainly on grounds of scientific uncertainty, of the stringent measures that are needed if stocks are to recover. The annual repetition of this process can only make the situation worse. It has resulted in a dilatory policy of stock management that has failed to safeguard or restore fish stocks.
- the fixing of TACs on an annual basis makes the adoption of medium-term perspectives almost impossible. Moreover it does not allow for the creation of the necessary links between conservation policy and fleet policy which requires a medium-to long-term perspective.
- the annual fixing of TACs and their sharp fluctuations from one year to another in some cases has created many difficulties for the fishing industry in the programming of its activities.

The current pattern cannot be continued. The CFP needs to introduce multi-annual decision-making mechanisms for TACs for all stocks, focusing on the precautionary approach, in order to avert the risks of crisis and also to rationalise fisheries management, as developed in the Commission's Communication on the precautionary principle and multi-annual arrangements<sup>12</sup>.

Globally TACs and quotas have been an efficient tool for managing monospecific fisheries when there is adequate scientific advice which is taken into account and when there is strict enforcement. On the other hand multispecies fisheries (like most demersal fisheries)

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<sup>12</sup> COM(2000) 803 final, 01.12.2000

cannot be efficiently managed through TACs and quotas as is the case now especially when technical measures are not properly designed and effectively implemented. The recent cod and hake crisis perfectly illustrate this analysis.

### **1.3. Technical measures**

Following the steps initiated in 1996, a consolidation of the key technical measures legislation (Council Regulation No 3094/86 of 7 October 1986) was carried out, resulting in the adoption of Council Regulation No 894/97 of 29 April 1997<sup>13</sup>. This contributed to facilitating understanding and enforcement of the legislation, which had been dispersed over many regulations.

At the same time, the process of revision of this legislation continued and on 25 June 1996 the Commission submitted its proposal for a new Council Regulation on technical conservation measures. The basic principles of the new proposal were:

- harmonisation of mesh sizes over the whole of the area covered by the Regulation;
- significant reduction of the amount of mandatory discarding;
- increase of selectivity of fishing gears;
- simplification of the rules, making them easier to monitor and control;

The Council formally adopted, on 30 March 1998, Regulation No 850/98 “for the conservation on fishery resources through technical measures for the protection of juveniles of marine organisms”<sup>14</sup>. During 1999, two more Council Regulations added to the set of measures by solving certain technical details such as the setting up the rules applicable when using nets of different mesh sizes during the same trip. The new legislative framework became applicable on 1 January 2000.

Although the Council was not able to accept all of the changes proposed by the Commission, the new legal framework constitutes some improvement of fishing practices, in particular in respect of protection of young fish.

In early 1998 the debate on the Commission’s original 1994 proposal for a ban on the use of drift nets was revived. In June 1998, after prolonged debate, the Council agreed on a progressive drift net ban, which will come fully into effect as of 1 January 2002 (Council Regulation No 1239/98 of 8 June 1998<sup>15</sup>). This world-wide ban for Community vessels (except for the Baltic Sea) will have a major beneficial effect for the conservation of small cetaceans and some species of fish. Up to 1 January 2002 the current maximum drift net length of 2.5 km will remain in force.

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<sup>13</sup> OJ L 132, 23.05.1997, p 1

<sup>14</sup> OJ L 125, 27.4.1998, p 1

<sup>15</sup> OJ L 171, 17.06.1998, p 1

Despite all efforts, the technical measures regulations remain complex, difficult to understand and to enforce. In some cases this is almost unavoidable because simpler rules would be less adapted to specific cases. But biologically unjustifiable geographical disparities remain and the complexity of the current rules has resulted in unsatisfactory compliance.

The recently revised Regulation has not been tested long enough to evaluate its effects. Much less ambitious than the Commission had proposed, the new Regulation can only bring, at best, a partial remedy to existing problems. Much stronger measures are needed.

#### **1.4. The conservation of Baltic fishery resources**

Council Regulation No 1866/86 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sund was amended several times to incorporate technical rules adopted by the International Baltic Sea Fisheries Commission (IBSFC). These rules concerned mostly seasonal closures to protect the stocks of cod and salmon and technical specifications of the fishing gear (mesh sizes, escape windows in trawls) which are expected to contribute to the rebuilding of Baltic stocks. Subsequently, Regulation No 1866/86 was consolidated in order to improve its clarity and enforcement. The new consolidated version is Council Regulation No 88/98 of 18 December 1997<sup>16</sup>. There is a well established need to review the technical rules for the Baltic area but this process needs to take place within the framework of the ISBFC.

Despite significant improvements much still needs to be done. Cod and salmon stocks remain very fragile whereas several herring and sprat stocks have suffered from a recent drastic increase in their exploitation rates.

#### **1.5. The conservation of Mediterranean fishery resources**

Following extensive discussions in the early 1990's on the general principles of a conservation and management policy specifically for the Mediterranean, the Council adopted Regulation (EC) No 1626/94 laying down certain technical measures for the conservation of fishery resources in the Mediterranean<sup>17</sup>.

A number of amendments have been introduced to that Regulation in order to implement recommendations issued by the International Commission for the Conservation of Atlantic Tunas (ICCAT) for the management of bluefin tuna and swordfish. These concerned minimum landing sizes, seasonal closures and restrictions on the use of aircraft as an aid to fishing operations.

As a consequence of problems encountered in the enforcement of minimum landing sizes for certain species, the Commission issued a proposal for amending Regulation No 1626/94 with the aim of introducing progressive adaptation of fishing practices to legislation (COM(96)128). Following a negative opinion by the European Parliament, the

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<sup>16</sup> OJ L 189, 22.07.1999, p 61

<sup>17</sup> OJ L 171, 6.7.1994,

Council did not adopt the proposal. The problem of minimum landing sizes will also need to be dealt with in the context of the General Fisheries Commission for the Mediterranean (GFCM).

In 2000, the Council decided to prolong the derogations to Articles 3(1) and 6(1) of Regulation No 1626/94 until 31 December 2002, subject to technical conditions alleviating their impact on resources<sup>18</sup>. The debate on the reform of the CFP should provide a basis for a long-standing solution to this and other problems of certain Mediterranean fisheries.

Until now the technical measures Regulation for the Mediterranean has not been a success. There may be a need to seriously re-evaluate mesh-sizes and landing sizes. There is also a need to consider the introduction of an effort-control management scheme in the absence of TACs. The current inability of the GFCM to adopt such a scheme for the whole area should make the Community reflect on the initiatives that need to be taken on her part.

### **1.6. Environmental issues**

In March 1997 a number of Member States and the Commission participated in the Intermediate Ministerial Meeting on the Integration of Fisheries and Environmental Issues in Bergen, Norway. This meeting took place in the framework of the North Sea Conference and resulted in the adoption of a Statement of Conclusions.

The Commission produced in 1998 and in 1999 follow-up reports on the implementation within the Community of the aforementioned Statement of Conclusions.

On 21 June 1998, the Council endorsed a Community Strategy on Biological Diversity (COM(1998)42). The Strategy calls for the generation of sector-based Action Plans, the subsequent implementation of which will achieve the biodiversity objectives defined in the Strategy. With regard to the fisheries sector, the objectives of the Commission Biodiversity Strategy are twofold:

- to conserve commercially fished species of marine finfish, in order to achieve sustainability of stocks, fishing opportunities and food supply, and
- to reduce the impact of fishing and aquaculture operations on other components of the ecosystem, i.e. non-target species (at all taxonomic levels) and marine habitats.

In 1999, the Commission adopted a Communication on fisheries management and nature conservation in the marine environment where it identifies some priorities and implementing measures that should benefit from increased co-ordination and coherence between fisheries and environment policies and that will be complementary and even synergistic to the conservation of fish stocks and to the conservation of marine nature.<sup>19</sup>

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<sup>18</sup> Council Regulation (EC) No 2550/2000 of 17 November 2000, OJ L 292, 21.11.2000, p.7

<sup>19</sup> COM/1999/0363 final.

The forthcoming adoption of the Biodiversity Action Plan for fisheries and of the Strategy for the integration of environmental considerations into the CFP should form a good basis for discussion on the strengthening of the environmental dimension of the CFP.

### **1.7. The Scientific, Technical and Economic Committee for Fisheries (STECF)**

The Commission gave a new impetus to STECF by reinforcing its membership of qualified experts in the fields of fisheries economics and the environment. Following Article 16 of Regulation No 3760/92, STECF was restructured in 1997 into four sub-groups, some of them of a permanent nature, dealing with the annual review of stock status, economic assessments, environmental issues, and definition of research needs.

At the same time, STECF work was closely linked to a number of Concerted Actions promoted by the Commission in the framework of the AIR and FAIR research programmes. The improvements in the structure and functioning of STECF resulted in the production in 1998, for the first time ever, of an evaluation of the economic consequences of the state of fish stocks and, in early 1999, of the first comprehensive report on the state of all stocks of Community interest.

However, the STECF is now confronted with a considerable workload causing difficulties for its members in the programming of their activities.

### **1.8. Dialogue**

In 1997 the Commission initiated a series of meetings on a regional basis with a view to exchanging ideas on the management of certain fisheries. Participants in these meetings included national authorities, the industry, scientists and economists. The Commission reported twice to the Council on these meetings. The Council welcomed this initiative and encouraged the Commission to continue and further develop it.

The Commission also adopted in 1999 an Action Plan aimed at creating the conditions needed for effective consultation and communication between all involved directly and indirectly in the CFP. Thus the Advisory Committee on Fisheries and Aquaculture (ACFA) was restructured with the introduction of representatives of interests such as the aquaculture sector, operators of auctions, scientific experts and environment and development NGOs<sup>20</sup>. Moreover, Council Regulation No 657/2000 on closer dialogue with the fishing sector and groups affected by the CFP provided for Community funding for some of the costs incurred by European trade organisations in preparing the meetings of ACFA and for the dissemination of information on the CFP to the industry and to groups concerned.<sup>21</sup>

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<sup>20</sup> Commission Decision 1999/478/EC

<sup>21</sup> Council Regulation (EC) No 657/2000 of 27.3.2000, on closer dialogue with the fishing sector and groups affected by the common fisheries policy, (OJ No L 80, 31.3.2000, p7).

## **1.9. Research in support of the Common Fisheries Policy**

To promote fisheries research the Commission may allocate some of the funds made available under the Research Framework Programmes to projects selected under calls for proposals.

Funds of the Fourth Framework Programme were made available to fisheries and aquaculture research through the FAIR specific programme (research programme for agriculture and fisheries, including agro-industry, forestry, aquaculture and rural development). This programme aimed at promoting fisheries and aquaculture research to:

- assess the impact of environmental factors on aquatic resources, and, reciprocally, fisheries and aquaculture ecological impacts;
- improve stock assessment and fisheries management techniques as well as the selectivity of fish harvesting;
- analyse the socio-economic aspects of the fisheries industry;
- promote aquaculture through the study of fish biology;
- increase the value of sea-food products.

During this same period, the Commission was able to allocate significant financial resources to the support of scientific and technical studies in support of the CFP. These studies aimed either at collecting much-needed scientific information to feed into the data bases needed to assess the condition of the stocks, in particular in relation to fish stocks for which precautionary TACs exist, or at addressing very specific questions, the answer to which was of direct relevance to the management of Community fisheries. However, it has not always been possible to focus Community funding on research on those issues that are of paramount importance for the running of the CFP.

In 2000 the Council adopted Regulation No 1543/2000 establishing a Community framework for the collection and management of the fisheries data needed to conduct the CFP<sup>22</sup> and a Decision on a Community financial contribution towards the expenditure incurred by the Member States in collecting these data and for financing studies and pilot projects.

Under this framework, a minimum programme covering the information essential for scientific evaluations will be set up by the Commission. An extended programme will also be drawn up, including additional information likely to improve substantially scientific evaluations. Member States will draw up national programmes which will include, as far as possible, elements required by the minimum Community programme. These will be eligible for Community funding. Community financial assistance may also be available for additional elements of the national programme corresponding to the extended Community programme, once the provisions concerning the minimum programme have been fully met.

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<sup>22</sup> OJ L 176, 15.7.2000, p 1

These programmes will cover six-year periods, except for the first which will only cover the period 2002 to 2006. For economic data, however, the obligation to meet the provisions concerning the minimum programme will be delayed until 1 January 2006 for annual data on the processing industry. The Commission will carry out a review in 2003 examining whether the transmission of annual data on the processing industry effectively needs to be made compulsory from 2006.

Despite all efforts undertaken so far, the data collection necessary for the implementation of the CFP has been largely inadequate. The data required did not cover all areas (Mediterranean) and all domains (economic data) thus making the available scientific advice incomplete. There has been a lack of integration of the economic dimension, a lack of analysis integrating all species fished simultaneously and taking into account the impact of all TAC decisions on fleets. It has also been impossible to obtain adequate scientific advice for the management of inputs.

Moreover, relations between fishermen and scientists have not always been good enough to establish mutual trust. Fishermen complain that their knowledge is not taken into account by scientists.

## **2. MONITORING THE COMMON FISHERIES POLICY**

A new control regime was established by the Council Regulation No 2847/93<sup>23</sup>. The system provided for overall and integrated monitoring covering all aspects of the CFP and applying to all operators in the fishing sector. It required Member States to apply dissuasive penalties and strengthened the Commission's supervisory functions in respect of the national fisheries inspectorates. The system also opened the door to the use of modern technology, in particular satellite-based continuous position-finding systems and computerised systems.

In 1995, the control regime was amended, adding to the existing provisions so as to include measures aimed at the monitoring and inspection of fishing activities subject to fishing-effort restrictions (Council Regulation No 2870/95<sup>24</sup>).

The above measures were highlighted in the two previous reports of the Commission on the implementation of the Community system for fisheries and aquaculture, referred to in the introduction.

Other important modifications followed:

### a) Establishment of a vessel monitoring system (VMS)

Taking account of the experience gained from 1994, at the time of the implementation of pilot projects on satellite monitoring involving up to 350 Community vessels, Council

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<sup>23</sup> OJ L 261, 20.10.1993, p.1

<sup>24</sup> OJ L 301, 14.12.1995, p 1

Regulation No 686/97<sup>25</sup> amending Regulation No 2847/93 as well as Commission Regulation No 1489/97<sup>26</sup> establishing the detailed implementing rules, envisage systematic satellite monitoring of Community vessels. Member States are required to set up such a system aiming to locate fishing vessels flying their flag and enabling the latter to communicate to the Member States in whose waters they are operating and to indicate their position at least once every two hours.

This monitoring applies to all fishing vessels exceeding 24m. length overall or 20m. between perpendiculars. This obligation should have been implemented gradually between 1998 and 2000. In fact, since 1 July 1998, only the vessels operating in sensitive fisheries, such as fishing on the high seas, except for the Mediterranean, and industrial fishing for fishmeal, have been monitored. As from 1 January 2000, all Community vessels exceeding the length mentioned above, wherever they operate, should have been equipped with a satellite tracking device. The same goes for the vessels of third countries operating in Community waters.

The European Community has participated in pilot projects on VMS with Norway and Faeroe Islands during 1999. Bilateral arrangements on the operational use of VMS were concluded with these countries in 2000 and subsequently put in operation. Furthermore, VMS is applied progressively in the framework of Regional Fisheries Organisations to which the European Community is a contracting party, such as NAFO and NEAFC.

#### b) Control of the fishing effort regime

The completion of the fishing effort regime required the adoption of a series of additional provisions during the period 1996-1998:

- Council Regulation No 2205/97<sup>27</sup> amending Regulation No 2847/93, which increased fishermen's obligations operating in "Western waters", by including the obligation to communicate the catches retained on board at the time of the communications of entry and of exit of the fishing effort areas ("hail system").
- Commission Regulation No 1449/98 fixing the detailed rules for the application of the Council Regulation No 2847/93 with regard to the fishing effort report<sup>28</sup>.
- some Regulations introducing minor adaptations to the ceilings of fishing effort established by Regulation No 2027/95.
- implementation of the fishing effort arrangement in the Baltic required the adoption of additional legislation, the most important being Council Regulation No 2635/97<sup>29</sup>,

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<sup>25</sup> OJ L 102, 19.4.1997, p.1

<sup>26</sup> OJ L 202, 30.7.1997, p. 18

<sup>27</sup> OJ L 304, 07.11.1997, p. 1

<sup>28</sup> OJ L 192, 8.7.1998, p. 4

<sup>29</sup> OJ L 356, 31.12.1997, p. 14

amending Regulation No 2847/93. It introduced rules on the registration of fishing effort data in the logbook, the gathering of the effort data by the Member States, and the transmission of those data to the Commission.

## 2.1. Reform of the Control Regime

Taking account, on the one hand, of important progress made since the adoption of the "Control" Regulation in 1993, and on the other hand, of the gaps noted by the Communication from the Commission on fisheries monitoring under the CFP (COM (1998) 92 of 19.02.1998), the Council adopted, on 17 December 1998, Regulation No 2846/98<sup>30</sup> amending Regulation No 2847/93.

The modifications were mainly centred on three main issues identified as a priority by the Commission, namely:

- The improvement of monitoring after landing: this involved ensuring the "traceability" of the fishing products from landing throughout the various stages of the marketing chain. Thus sale notes for the marketed products, transport documents for the products transported to a place other than that of landing for later sale and take-over declarations of responsibility for the products which are not marketed or whose sale is deferred are established and are to be presented by the holders of the products at the time of controls;
- monitoring of third country fishing vessels operating in Community waters: monitoring, inspection and surveillance measures were extended to the fishing vessels flying the flag of third country and operating in the Community fishing zone, in order to ensure that these vessels and the Community vessels are treated in the same manner. This involved, in particular, strengthening the monitoring of landings carried out by these vessels and subjecting them to monitoring by satellite;
- co-operation between the Member States and with the Commission : a general framework aiming to strengthen and facilitate co-operation between all the authorities involved was envisaged in the monitoring of fishing activities. This involves, in particular, facilitating requests for mutual assistance, the exchange of relevant information and the establishment of specific monitoring programmes.

The Commission had also proposed the strengthening of the powers of the Community inspectors who should have had access, within the framework of their observation missions, to files and documents, both in public and private buildings, under the same conditions as national inspectors. By this means they could have evaluated more precisely the effectiveness of the monitoring regimes set up by the Member States and the Commission could have fully guaranteed the transparency recognised by all as being essential for the credibility of the Common Fisheries Policy. However, the Council followed the Commission on this point only partially, by requiring the presence of national inspectors at the time of the observation missions of the Community inspectors.

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<sup>30</sup> OJ L 358, 31.12.1998, p. 5

## **2.2. List of types of behaviour which seriously infringe the rules of the Common Fisheries Policy**

The heterogeneity of sanctions between Member States remains a major weak point for the credibility of Community control arrangements. Previous attempts to move towards a harmonisation of penalties did not succeed. It was decided therefore to focus more on the transparency as regards the follow-up of similar infringements within the Member States.

Council Regulation No 1447/99 fixing a list of the types of behaviour which seriously infringe the rules of the Common Fisheries Policy<sup>31</sup> follows the last amendment of the "Control" Regulation. It aims to draw up a list of types of behaviour for which increased transparency regarding follow-up by the national authorities is necessary.

These types of behaviour constitute clear and obvious failures to meet the obligations imposed by Community legislation. The establishment of such a list does not involve the harmonisation of penalties at Community level. On the other hand, the establishment of this list and the obligation for the Member States to communicate to the Commission the action taken in respect of detected illegal behaviour aim to guarantee increased transparency so that the fishermen's confidence in the supervisory authorities and comparability of each national system's effectiveness are ensured.

Commission Regulation No 2740/1999 lays down the implementation rules for the communication to the Commission of the types of behaviour seriously infringing the CFP rules which have been discovered by the Member States' monitoring authorities and which have been the subject of an official report. Pursuant to this Regulation, Member States are obliged to communicate, in specific terms and by electronic means, the type of proceeding initiated, the decision taken and the nature of the penalties imposed. For the first time, the Member States will communicate this information not later than 31 March 2001 for the cases discovered in 2000.

These arrangements will improve transparency but further progress is still needed as regards the need to harmonise administrative penalties for major infringements and the need to ensure the recognition and admissibility of evidence gathered in a Member State other than the one adopting a decision on a particular infringement.

## **2.3. Financial support**

Enforcement of fisheries regulations requires considerable and often disproportionate expenditure in relation to the budgetary capacity of the Member States. Community support for the years 1996-2000 was organised on the basis of Council Decision 95/527/EC on a Community financial contribution towards certain expenditure incurred by the Member States for implementing the monitoring and control systems applicable to the Common Fisheries Policy<sup>32</sup>. This Community participation was endowed with a budget of €205 million.

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<sup>31</sup> OJ L 167, 2.7.1999, p. 5

<sup>32</sup> OJ L 301, 14.12.1995, p. 30

In December 2000 the Council arrived at a common orientation on the Commission proposal for a further three-year support scheme with a budget of €35 million per year.

#### **2.4. Evaluation**

During the reference period many shortcomings have been identified in the various reports published by the Commission on monitoring the CFP.

There have been deficiencies in inspections carried out by Member States, delays in implementing new control provisions, a lack of means and human resources deployed for control purposes, major discrepancies in the application of penalties which induce a feeling of unequal treatment between Community fishermen and a greater inclination to commit fraud, a lack of adequate information transmitted by Member States, and a lack of sufficient resources and legal powers for the Commission Inspectorate.

Effective control has also been undermined by the complexity of the technical measures, the lack of commitment by fishermen to these measures and fleet over-capacity.

An International Conference on Fisheries Monitoring, Control and Surveillance was organised by the Commission in Brussels on 24-27 October 2000 with the participation of 250 delegates from all over the world. The Conference achieved its goals and encouraged the exchange of experience and the examples of good practice. The increased co-operation of all operators involved in the fishing sector, the use of modern technologies and the improvement of cost/effectiveness were highlighted as key points for ensuring sustainable fisheries.

All CFP players recognise the need for an effective control regime. There is a need to give new impetus to the current dynamics in support of strengthening control arrangements, to fully exploit the possibilities offered by new technologies, to strengthen stakeholders' participation and commitment to the CFP and to be ready to envisage more profound changes, especially with regard to the sharing out of responsibilities between the Commission and the Member States.

### **3. RESTRUCTURING THE FISHERIES SECTOR**

#### **3.1. Multi-Annual Guidance Programmes (MAGPs)**

The problem of excess fishing capacity has been addressed by means of multi-annual guidance programmes (MAGP) for the fishing fleets. These programmes set targets for fleet tonnage and power that must be met before the end of the period of the programme.

The period covered by the present report (1993-2000) coincides with the running of MAGP III and MAGP IV. The latter expires at the end of 2001. The Commission has issued in the past specific reports on these programmes. A report on the final results of MAGP III was submitted to the Council and the European Parliament in July 1997 (COM(1997) 352 final) and a report on the mid-term review of MAGP IV was presented to the Council in May 2000 (COM(2000) 272 final).

The report on MAGP III indicated that during the period 1991-1996 the EU fleet was reduced by about 15% in GRT and 9.5% in KWs. By the end of the programme the capacity of the fleet was below global objectives for tonnage and power but these reductions were achieved by some Member States only. The results were not as ambitious as the Commission would have liked. There were important disparities between the Member States caused by the real difficulties some countries were experiencing in meeting the objectives and in some cases by the obvious lack of will to meet them.

The global objectives of MAGP IV, adopted in June 1997, were very much less ambitious than those proposed by the Commission, representing a reduction of approximately 5% over the 5 year period, i.e. about half the reduction achieved by MAGP III. At 1.1.2000 the Community fleet was already approximately 17% below the final objectives in terms of tonnage and 6% below the final objectives in terms of power. This is again explained by the modest ambitions of the programme. The reductions achieved are not enough to counter the increases in fishing effort due to technological progress over the reference period and must be contrasted with current experience which has shown that the problem of overcapacity is so large that the MAGPs provide only a fraction of the solution for overfishing and stock decline.

MAGP IV has two particular features. First, the reduction rates applied to the segments were weighted according to the proportion in total catches of depletion risk and overfished stocks. Secondly, there are provisions for reducing fishing activity instead of fishing capacity. Both features have undermined the effectiveness of the programme in reducing fishing capacity. Moreover the programme has resulted in considerable complexity and a major administrative burden.

In 2000, the Commission suggested to modify the programme to achieve more substantial reductions over the remaining period by replacing the weighted reduction rates by unweighted rates and by achieving the additional reductions brought about by such replacement purely in terms of capacity. It also suggested the extension of the program until the end of 2002. These ideas were, however, rejected by the majority of Member States in the Council.

The majority of Member States recognise however the need for a simpler and more transparent system, the need for stronger sanctions if objectives are not met and the need to deal more effectively with the effects of technological progress which causes an increase in fishing effort offsetting any benefits achieved by capacity reductions. Another problem that also needs to be tackled is the measurement and control of fleet capacity where further improvements are necessary especially given the fact that a 1% change in capacity can mean the difference between eligibility or non-eligibility for public aid for modernisation and renewal.<sup>33</sup>

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<sup>33</sup> Commission's Annual Report to the Council and the European Parliament on the results of MAGPs for the fishing fleets at the end of 1999, COM(2000) 738 final.

### 3.2. Structural aids

In 1993, "fisheries" structural" measures were integrated into the reformed Structural Funds under Council Regulations 2080/93 and 3699/93. This made it possible to delegate to the Member States the responsibility (under the "subsidiarity" principle) for selecting investment projects in the sector, provided they comply with the measures adopted within the framework of sectoral programming for fisheries. Community financial assistance was also meant to comply with the principles of additionality and concentration of funds.

In addition to aid for the reduction of the fishing effort and for the renewal of the fleet, which has absorbed over half of the Community funds, the majority of the remaining funds were used for the processing industry and for the purpose of helping the sector to comply with Community standards as regards hygiene, public health, working conditions and respect for the environment. Community aid also contributed to the establishment of joint enterprises, to the protection and to the development of coastal areas, to measures for temporary cessation of fishing activities for specific cases, to the construction of collective harbour equipment and to the promotion of the fishery and aquaculture products.

In addition to the programmes specifically dedicated to the sector, coastal areas most dependent on fisheries also benefited from aid available under the Community initiative PESCA or under the development or regional conversion programmes (Objectives 1,2 or 5b of the 1994-1999 Structural Funds package).

Following the reform of the Structural Funds in 1999, the new Financial Instrument for Fisheries Guidance (FIFG)<sup>34</sup> and the subsequent new FIFG implementing regulation<sup>35</sup> were adopted in the same year.

The main point of debate in the Council on the FIFG implementing regulation concerned the conditions for granting public aid to the fleet. The Commission proposal was based on the principle that public funding must not contribute to increasing fishing capacity. After extensive discussions, more stringent rules were agreed for the renewal of fleet within the framework of the MAGPs. Hence, for segments of the fleet where MAGP targets have not been met, Member States will have to withdraw without public aid capacity which is 30% greater than the capacity added with public aid. This provision will be in force until the end of 2001, when the current MAGP programme expires. For those Member States which have met their MAGP targets the rate will be 1 to 1. Finally, the sanctions in case of non-respect of the MAGP objectives and the obligation to provide data for the fishing fleet register have been strengthened.

Furthermore, the conditions regarding the creation and operation of joint ventures have been tightened. The premium for the creation of joint ventures has been set at 80% of the premium for scrapping a vessel.

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<sup>34</sup> Council Regulation (EC) No 1260/99 of 21 June 1999, OJ L 161, 26.6.1999, p. 1.

<sup>35</sup> Council Regulation (EC) No 2792/99 of 17 December 1999, OJ, L 337, 30.12.1999, p. 10.

While retaining a wide range of measures available under the previous regime, the new FIFG implementing regulation also includes innovations in favour of small-scale fisheries and innovations related to the socio-economic measures (supporting fishermen for retraining/diversification outside maritime fisheries). Financial support is available for integrated collective projects to develop and modernise fishing activities in this sector, as well as for young fishermen. There also new measures to encourage the creation of Producers' Organisations and support for the implementation of plans by these organisations to improve the quality of fisheries products. Greater emphasis has been put on measures of collective interest undertaken by the industry itself. The conditions under which various compensatory payments to fishermen and vessel owners may be available have been better defined and include temporary cessation of activities due to unforeseen circumstances or the non-renewal of a fisheries agreement or the introduction of a recovery plan for a resource threatened with exhaustion. Member States will also be able to grant financial compensation to fishermen and vessel owners when the Council imposes technical restrictions on the use of certain gear or fishing methods.

#### **4. MARKET POLICY**

Since its inception in 1970, the common organisation of the market in fisheries and aquaculture products has played an important role in supporting fishermen via a stabilisation of prices. Over recent years, the organisation has had to adapt to the changes witnessed in the market, which have included increased globalisation of markets, greater dependence on imports, continued scarcity of resources, changes in consumption patterns, and concentration and vertical integration within the distribution chain.

Therefore, in 1999, the Council agreed on a major revision of the common organisation of the market with the specific aims of minimising waste, strengthening the associations of fishermen, providing fuller information to consumers and to improve the balance between supply and demand.

The reform encourages fishermen to take a more pro-active, preventative role in managing supply to the market rather than simply intervening “after the event” by the withdrawal of unsold products. This means that the role of Producer Organisations is strengthened and that in particular they will establish new operational programmes, designed to encourage these organisations to manage the landings of their members and take measures to avoid withdrawals. Simultaneously, there is a rebalancing of intervention mechanisms by reducing support for definitive withdrawals and instead favouring aid for stabilising and storing the products.

A major innovation of the reform was to introduce a new labelling requirement at the point of retail sale, which will improve product traceability and thereby reduce fraud concerning the origin and nature of the product sold. The commercial designation, the production method (aquaculture or wild) and the area of capture will be marked on all products on sale to the final consumer. Further down the fisheries chain, the needs of the processing sector have been recognised by the partial suspension of tariffs (or multi-annual tariff quotas) for products needed as raw materials for which there is insufficient Community supply.

The new Regulation<sup>36</sup> and most of its implementing Regulations entered into force on 1 January 2001, with the exception of the provisions on information to consumers which will apply from 1 January 2002.

## **5. EXTERNAL FISHERIES POLICY**

### **5.1. Bilateral Fisheries Agreements**

The Community continued to conclude and manage fisheries agreements over the period 1993-2000. The Community is now party to 23 bilateral agreements. These agreements concern approximately 2800 vessels and provide direct and indirect employment to 40650 persons approximately. The budgetary envelope dedicated to these agreements was 276,1 millions € in 2000 (173,1 millions € in 1990) . This amount represents approximately 28,5 % of the Community CFP budget.

The major development over this period was the adoption by Council, in October 1997, of its Conclusions on the European Community Fisheries Agreements with Third Countries. The Council reiterated that the Agreements are and will continue to be an essential and integral component of the CFP but it also agreed that they needed to adapt to changing circumstances flowing from international commitments and the general budgetary situation of the Union. It also stressed the need to ensure that Agreements are concluded in accordance with a cost/benefit oriented approach and are coherent not only with the other components of the CFP but also with the other policies of the European Union.

Recent developments such as the emergence of the legitimate aspirations of many developing countries to develop their own fishing industry confirmed the need for the Community to rethink its policy in this field. The 2002 reform debate offers the opportunity for such a re-orientation.

### **5.2. Regional Fisheries Organisations (RFOs)**

The Community takes an active part in international co-operation through the work of RFOs. The Community is now party to 10 RFOs. In 1999 the Commission submitted a Communication to the Council and the European Parliament on the Community participation in RFOs. On the basis of this Communication the Council considered that the effective participation of the Community in RFOs is a key element of the Community distant-water fishing policy. It also specified a number of modalities regarding the participation of the Community in these organisations, in particular with regard to scientific work, data transmission and the methodology required for the implementation of the recommendations adopted by the RFOs.

The Council, however, has not been able to adopt a position on the exercise of control of fishing activities in the framework of RFOs. The absence of a clear Community strategy on

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<sup>36</sup> Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L17, 21.1.2000, p.22).

control and monitoring of fishing activities in international waters jeopardises efforts to ensure the continuation of the Community's fleet presence in those waters.

### **5.3. International Agreements on Fisheries**

Over the period 1993-2000 there was a proliferation of international agreements and other instruments related to fisheries. The relevant international law was codified, developed and enhanced through, inter-alia, the entry into force of the Law of the Sea Convention in 1994, the adoption of the UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks in 1995 and the adoption of the FAO Code of Conduct for Responsible Fisheries in the same year. Moreover, an international jurisprudence on fisheries related issues is slowly emerging through the work of the International Tribunal on the Law of the Sea.

The Community is a party to the Law of the Sea Convention, it has accepted the Code of Conduct and it has signed to the UN Agreement in 1995. The Council has also approved the instrument of ratification of the latter Agreement but it has not been possible to deposit it in the UN because not all Member States have finalised their internal ratification procedures.

## **6. PROCESSING INDUSTRY AND AQUACULTURE**

Structural financial aid allocated to processing and marketing of fisheries products for the period 1994-99 amounted to of 529,39 million € which represents 21,9% of the FIFG budget. This budget has been allocated to the construction of new production and marketing units or to the modernisation of the existing ones. It is estimated that this support has greatly contributed to the improvement of the sector. In particular, it has allowed the modernisation of the old equipment and the compliance of the industry with EU health legislation. An evaluation study is foreseen in order to assess the impact of the FIFG measures in support of the processing sector.

The structure of the sector is evolving to face the problems related to the supply of raw material and to the global market. Many small and medium enterprises have disappeared or have been absorbed by big companies. In spite of this concentration process which is leading the industry to move to other areas, including third countries, the processing industry constitute a considerable part of the local economic activity in certain EU areas.

The Community's aquaculture industry has experienced steady growth and for some species impressive growth in production over the last years and decades. Its annual output, all species together, exceeds 1.2 million tonnes; the annual economic value amounts to more than 2.2 billion €. It provides approximately 60.000 full time equivalent jobs, including upstream and downstream activities, increasing by 3% a year during this decade. Aquaculture is the only segment of the fisheries industry in the Community which has seen an increase of employment over recent years. Plausible scenarios for the medium-term future suggest that the number of jobs could increase even further.

At a global level, the Community represents only 3 % of world-wide aquaculture production but for most of the species farmed on its territory it is a world leader.

Because aquaculture is geographically concentrated in a limited number of areas with suitable natural conditions, these global parameters do not adequately reflect the importance of the industry for certain coastal regions of the European Community where aquaculture businesses and associated activities make up a considerable part of the local economy and where alternative employment opportunities are limited.

The aquaculture industry in the European Community is made up

- of long-established species and products such as mussels and oysters, trout and carp;
- of species for which cultivation techniques have improved impressively and which have seen a tremendous growth in output over the last two decades such as salmon, seabream and seabass;
- and finally of a wide range of species (both shellfish and finfish) for which cultivation is still at an experimental or pre-development stage.

There are products largely intended for export markets as well as species almost exclusively for the domestic market. We can find high value species and products for niche markets as well as what can almost be defined as commodities.

As far as the aquaculture businesses are concerned, there are many small to medium-sized, but well established companies which occupy a specific market niche, as well as bigger companies which have been able to achieve a level of diversification or vertical integration which allows them to attenuate the effects of fluctuations in prices and consumer habits. Many businesses are exposed to competition (often from non-Community countries) and pressure from distributors which tend to reduce their margins. Lacking the necessary capital, they find it rather difficult to finance the investments required to renew their production tools and, thus, to maintain their profitability.

All segments of the aquaculture industry have to address some common issues: on the production side, the pressures in relation to food safety, the increasing constraints from environmental concerns and from competition for space and aquatic resources, the threats from external factors such as water pollution; and on the other side the rapidly changing conditions of the market.

In recent years, the aquaculture industry has been required to make significant investments and these are still continuing today. The globalisation of trade in the fisheries and aquaculture sector has led companies to adapt and rationalise their operations in order to remain competitive and profitable within this new and difficult environment.

Since the beginning of 1994, the Community interventions for the sector of aquaculture have been carried out by the Financial Instrument for Fisheries Guidance (FIFG), integrated into the mechanism of the Structural Funds. During the period 1994 to 1999, the FIFG devoted 280 million €- 11% of its budget - to aquaculture.

## **ANNEX I**

### **GLOSSARY OF ABBREVIATIONS USED**

TAC	Total Allowable Catch
MAGPs	Multi-Annual Guidance Programme
RFOs	Regional Fisheries Organisations
CFP	Common Fisheries Policy
NAFO	Northwest Atlantic Fisheries Organisation
NEAFC	North-East Atlantic Fisheries Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
GFCM	General Fisheries Commission for the Mediterranean
STECF	Scientific, Technical and Economic Committee for Fisheries
ACFA	Advisory Committee on Fisheries and Aquaculture
NGOs	Non-Governmental Organisations
VMS	Vessel Monitoring Systems
GRT	Gross Registered Tonnage
FIFG	Financial Instrument for Fisheries Guidance
ICES	International Council for the Exploration of the Sea