

CFP Reform 2002

ANALYSIS OF EU FISHERIES POLICY REFORM PROPOSALS AND COMMUNICATIONS



IEEP LONDON

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Towards Uniform and Effective Implementation of the CFP (COM (2003)130)

Introduction

Control and enforcement was identified as an area that needed addressing in the Commission CFP reform Roadmap (COM(2002)181). The new CFP basic Regulation 2371/2002 that followed provided an improved framework for control and enforcement of the CFP. Building on these developments, the Commission produced a Communication on the implementation of uniform and effective implementation of the CFP in March 2003 (COM(2003)130). The Communication is composed of two parts:

- an Action Plan that sets out areas for improved cooperation between Member States, with a focus on priority stocks; and
- the preliminary details of a joint inspection structure, which the Commission intends to formally propose at a future date.

Together, these two elements are intended to improve control and enforcement by coordinating and pooling Member States' resources.

Background

European level control and enforcement has always been a politically sensitive issue, with Member States vigorously defending their powers in this area. The CFP control system introduced in 1993 (Regulation 2847/93) therefore provided for a European inspectorate of inspectorates rather than a fully fledged EU inspectorate. The Commission did not itself have any direct control or enforcement powers, and Member States only had jurisdiction in their own waters. It is widely accepted however that better European level coordination and cooperation could significantly enhance control and enforcement, or at least improve efficiency. This was reflected in the CFP reforms.

Part V of the new CFP basic Regulation 2371/2002 (Community Control and Enforcement Systems) defines the distribution of responsibilities for fisheries control and enforcement between the Commission and Member States. As is normal, Member States are responsible for implementation, control and enforcement of the CFP, while the Commission is responsible for monitoring and enforcing correct application of Community law by the Member States. However, the Regulation explicitly requires Member States to:

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- adopt the measures, allocate the financial and human resources and set up the administrative and technical structure necessary for ensuring effective control, inspection and enforcement, including satellite based monitoring systems;
- make a single authority responsible for coordinating the collection and verification of information on fishing activities, and for reporting to and cooperating with the Commission;
- ensure sanctions effectively discourage further offences, possibly including fines, seizure of gear, catches or vessels, and suspension or withdrawal of licences. A catalogue of sanctions for serious infringements is to be established by the Council; and
- in the case of control and inspection of transboundary fishing activities, ensure that actions are coordinated, including through the exchange of inspectors.

In contrast to previous arrangements, the Commission is empowered to carry out direct inspections on fishing vessels and business premises, in order to evaluate the application of the CFP.

The new Communication develops these commitments further through both a series of action points and the initiation of the institutional framework required to take forward the initiatives in the long term. The ultimate objectives of these two approaches are stated as achieving effective implementation of the CFP, and uniform inspection and enforcement throughout the Community.

Action plan for cooperation in enforcement

The Action Plan for Co-operation in Enforcement is designed to integrate national control strategies into a single Community control strategy and to promote a European culture of control and enforcement. The time frame of the plan is 2003-2005. In the short term, the Commission will co-operate closely in implementation with the Member States within the framework of the Management Committee for Fisheries and Aquaculture and the Expert Group Fisheries Control, which advises the Commission.

The plan sets out 11 Action Points. These fall under four main headings:

- Community inspection and surveillance strategy;
- improving operational co-operation;
- enhanced uniformity of inspection and surveillance; and.
- feedback and review

The aim of the first group of actions is to achieve more effective use of national means of inspection and surveillance. This includes prioritising inspection and surveillance activities in critical EU fisheries or stocks, such as highly migratory species in the Mediterranean; cod, herring and sprat in divisions IIIb, c and d; and landings of IUU vessels in Community ports. Specific monitoring programmes are to be adopted for these stocks, establishing common inspection and surveillance



priorities, and benchmarks for inspection and surveillance of fishing activities.

The second group of actions is concerned with the implementation of Article 28 (Cooperation and coordination) of Regulation 2371/2002. They include improving access to information and use of new technology, reporting of information, and follow-up of irregularities.

The lack of continuity across the EU in implementation and enforcement of the CFP is one of the major industry criticisms of the CFP. Actions intended to address this include the annual review of irregularities and the exchange of inspectors.

Although an integral part of several of the other parts of the plan, the need to improve information on how well the CFP is being implemented is explicitly highlighted. To this end, the Commission makes a commitment to 'regularly' provide feedback of inspection information to Member States with a view to increasing the transparency and accountability of the Commission itself.

Joint inspection structure

While the Action Plan sets out a series of action points that include making enforcement activities more uniform across the EU, they are intended to be short-term. The Commission envisages that in the long-term, these activities, and in particular co-ordination of Member State enforcement, shall be carried forward by a Joint Inspection Structure (JIS). The Communication proposes the establishment of a JIS in broad terms, describing the roles and responsibilities in relation to the Member States and the Commission. At this stage, the Commission proposes that a JIS would take the form of a Community Fisheries Control Agency (CFCA). Following a more detailed feasibility study, the Commission intends to come forward with legislative proposals for the Council to adopt a CFCA during 2004.

Forming a CFCA is justified on the basis that it will create a permanent organisational structure with a legal mandate to coordinate deployment of national inspection and surveillance activities. The legal basis for such a structure is laid down in Article 28 of the CFP Regulation 2371/2002, which details the basic requirements for co-operation between Member States.

Roles and responsibilities

A number of roles of a CFCA are proposed, especially in relation to Member States and the Commission. The key function of a CFCA would be to co-ordinate Member State enforcement activities through the pooling and deployment of national resources. This will ensure that enforcement activities are employed in line with Community inspection and surveillance strategies, and so increase the efficiency of Community enforcement activities. In line with the Action Plan, enforcement resources will often be deployed in multi-national inspection teams. These enforcement activities will not be limited to sea based vessel inspections, but will include landings inspections.

Throughout the Communication, the coordination function of a CFCA is stressed,

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in particular, coordinating the various Member State enforcement agencies. In this respect it is made clear that the Member States remain fully responsible for the application, control and enforcement of CFP rules. The responsibilities of Member States in a JIS include ensuring that resources are allocated to the JIS pool, that these resources are functional and that inspectors are appropriately trained.

The strategic roles of the Commission in implementation of enforcement activities are described. Developing inspection and surveillance strategies, which include required levels of enforcement in particular fisheries, are identified as an important function. The Commission would also adopt decisions on the levels of resources to be assigned by each Member State. In assisting the Commission, the CFCA would provide technical advice on developing strategies and report on its own performance and any problems so that the Commission could react promptly. It is recognized that the Commission has become progressively involved in inspection and surveillance in international waters, and that a CFCA would be able to take over these roles.

Commission feasibility study

In developing a proposal on the creation of a JIS to the Council, the Commission commits itself to undertaking an extended impact assessment. Particular issues to be addressed in this study include:

- identification of all possible CFCA tasks;
- organisational requirements;
- financial requirements for running a CFCA;
- logistical, resource, administrative and communication burdens of operating coordinated inspection activities in both Community and international waters; and
- cost effectiveness.

A legislative proposal for the Council to adopt a CFCA is expected during 2004.

Implementation to date

As a first step towards implementation of the Action plan, the Commission announced a Compliance Work Plan and Scoreboard on 11 June (COM(2003)344). The Work Plan aims to establish a more level playing field in the application of Community rules through focusing on the following areas:

- support to national authorities and promotion of co-ordination between them;
- transparency concerning the application of CFP rules; and
- improved Commission inspections.

The plan recognises the importance of transparency and consultations with the industry in developing control measures, stating the intention to work with the new Regional Advisory Councils (RACs) in achieving this.

The Scoreboard that accompanies the Work Plan is a 'name and shame' exercise, also intended to improve transparency and public scrutiny of Member States' compliance with Community rules. It is publicly available on the internet and will be updated annually. Four main areas are covered: catches taken by fleets, fleet capacity and fishing effort, funding to the fisheries sector, and national monitoring and inspection activities. In addition, it reports on infringement procedures initiated by the Commission against Member States failing to comply with CFP rules.



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