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NOTE

from: Greek delegation
to: General Secretariat of the Council
No. Cion prop.: 15694/08 PECHE 312 - COM(2008) 721 final
Subject: Proposal for a Council Regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy

Delegations will please find attached written comments received from the Greek delegation on the abovementioned proposal.

Subject: Proposal for a Council Regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (CFP)

The Greek delegation hereby submits comments on and suggestions for the "Proposal for a Council Regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy" (COM/2008/721):

General comments

- The main aim pursued by the proposed reform of the current control system consists on the one hand in establishing an integrated and uniform policy for the control of fishing activities, based on simplification, standardisation and alleviation of the administrative burden, and on the other hand in bringing together the various control provisions, hitherto scattered among several legislative acts, into a single instrument. The attainment of that objective is an urgent need. Let it be noted, however, that the proposed framework does not include the entirety of control provisions currently in force and that there remain instances of overlaps with other regulations.
- The proposal makes numerous references to implementing regulations to be adopted. This will lead to a complex framework, which local authorities will find difficult to apply. This defeats the simplification objective, as these authorities will still have to refer to a multitude of texts.
- There is no simplification of the control procedure.
- The proposed framework is complicated and hard to understand, as it refers to the concurrent operation of several technological systems (VMS, AIS, VDS, ERS).

- Some of the provisions of the proposed framework impinge upon the competencies of other domains governed by a special institutional framework; at the same time, provisions are included which do not deal only with control. This can be expected to cause implementation problems in Member States, as it will necessitate reforms in their respective institutional frameworks.
- The Commission's interventionist role, as described in Article 92, basically implies doubts as to the competent authorities' trustworthiness.

Suggestions and comments Article by Article

TITLE I

Article 4:

The definitions given in this Article must be clear and must be in line with the definitions given in other provisions concerning the fisheries sector and products thereof in such a way as to avoid any confusion.

It is suggested that Article 4 be completed as follows:

- Definitions of the following terms: Arrangements (as used in Article 3), Monitoring, Surveillance, Recreational fisheries, caging, fishery products;
- Replace the definition of an "Official" (6) with that of an "Inspector";
- Definitions 7 and 8 create confusion. The Commission ought to clearly specify what kinds of permit ¹ a vessel need have in order to work (in line with Regulation (EC) No 1006/08):
 - a. within the Member State's territory;
 - b. in fishing areas under the competence of a Regional Fisheries Organisation;
 - c. on high seas;
 - d. in a fishery subject to Multiannual Management and Recovery Plans.

In view of the above, we maintain a reservation in order to examine the difficulties and problems that will arise should the proposed institutional framework entail changes to the existing national framework for professional fishing permits.

¹ Translator's note: The Greek version uses the same word (άδεια) for "licence" and "authorisation". "Fishing licence" has been rendered as "αλιευτική άδεια" and "fishing authorisation" has been rendered as "άδεια αλιείας".

- Definition 14 ("Risk management") is not clear and raises questions as to its implementation;
- In definition 17 the "icing" and "packing" of fresh fish should be deleted from the definition of processing, as they concern the conservation of the product; likewise, "preparing fish for market in any other manner" should also be deleted, as it does not directly refer to processing operations;
- Definition 18 is complicated and hard to understand. It should be reworded so as to refer only to the sale of fishery products to the final consumer. We do not agree with including catering operations, restaurants etc. under its purview.

TITLE II

Article 5:

Para. 6 We do not agree with the provision as proposed, for Member States' efforts to apply control provisions and comply with the numerous obligations these entail cannot be tied to the financing of their development goals. Making EDF financing conditional upon compliance with the Control Regulation is an approach fraught with peril. The European Commission is being extraordinarily strict in proposing this provision, whose contribution to the better application of CFP rules is questionable.

TITLE III

Articles 6 and 7:

In addition to what was pointed out in connection with the relevant definitions (Article 4), there is insufficient clarity as to what is to included in each permit. Clarification is in order, considering that there is no agreement with the corresponding definition in Regulation (EC) 1281/2005, according to which a fishing license includes fishing capacity and more generally the minimum information required for the Community fishing fleet register (Article 15 Reg. (EC) 2371/02).

Article 7

- Para. 1: A new subparagraph should be added referring to TAC status.

- Para. 1f: It is suggested that a list be drawn up of bottom gear.
- Para. 5: The "format and procedure for the issue of fishing licenses and fishing authorisations" does not fall within the scope of a regulation on control.

Article 9:

- Para. 1: The obligation to ensure the regular monitoring of the accuracy of the data is not clear. Further clarification is needed.
- Para. 2 and 6: We do not agree with extending the VMS to fishing vessels of 10 to 15 metres length overall equipped with fixed gear. We propose that such vessels be fitted with a VMS only if they fish under a multiannual management and recovery plan and have a fishing authorisation within the meaning of Article 7.
- Para. 4: This paragraph concerns areas managed by a Regional Fisheries Organisation. What is meant by high seas in this case?
- Para. 5: We do not agree with transmitting detailed and aggregated data to end-users as under Council Regulation (EC) No 199/2008. There is no connection with control of the application of CFP rules.
- Para. 8: Monitoring fishing effort should be an obligation where limits to fishing effort and related conditions for stock management are in force.

Article 10-11:

- The proposed provisions deal with navigation and safety and ought not to be part of a regulation on control. We question the expediency and efficacy of the proposed AIS & VDS systems, which would lead to complications; we further wish to point out the difficulty of installing them, particularly on board small vessels, and the difficulty of ensuring confidentiality of the data and information that their operation would generate.

Article 13:

- If this Article entails further obligations for the Member States to implement new technologies, this should be spelt out in detail, so that we can take a stand as to their expediency and feasibility.

TITLE IV

CHAPTER I/SECTION 1

Article 14:

- Para. 1: Considering the specific characteristics of fishing in the Mediterranean, we propose that the keeping of fishing logbooks (Article 14), landing declarations (Article 21) and sales notes (Article 54) and the recording of catches (Article 23) only apply to the species named in the recent Council Regulation (EC) No 1967/2006 and that this be stated in the proposed regulation as a new paragraph 1a worded as follows:

Para. 1a: "In the case of fishing activity in the Mediterranean, the species to be recorded in the logbook shall be the following:

1. *Engraulis encrasicolus*, *Mullus barbatus*, *Dicentrarchus labrax*, *Merluccius merluccius*, *Mullus surmuletus*, *Lophius piscatorius*, *Lophius piscatorius*, *Sardina pilchardus*, *Trachurus* spp, *Scomber scombrus*, *Sparus auratus*, when quantities fished exceed 15 kilograms,
 2. other small pelagic species, when quantities fished exceed 50 kilograms.
 3. in any case and regardless of quantities fished, *Thunnus thynnus*, *Thunnus alalunga* and *Xiphias gladius*".
- Para. 2 (b)(iv): What shall the "time of the completion of fishing operations using the static gear" be in cases when such gear has been used more than once within a single day?

- Para. 3: we feel that the permitted margin of tolerance is much too narrow at 5 % and should be increased to 20 %.

Article 15:

- Para. 1 and 2: These provisions impose the use of an electronic logbook also on vessels of 10 to 15 metres length overall, thus effectively amending Regulation 1966/2006, application of which has not yet begun. We do not agree with this provision as far as vessels fitted with fixed gear are concerned and propose that only vessels of 10 to 15 metres length overall which are fitted with fixed gear fish under a multiannual management or recovery plan and have a fishing authorisation within the meaning of Article 7 be required to use an electronic logbook.

Article 16:

- Para. 2: the establishment of yearly sampling plans is not an easy measure to implement; it would be useful to use sales data in that connection.

Article 17:

- We do not think 4 hours' prior notification for all Community vessels and the information to be communicated in that connection are feasible in the case of Greek fishing vessels, for in their majority they only go out on short trips (less than 4 hours' duration) and possibly more than once a day. Besides, the exemptions provided for in para. 4 confirm how difficult the Article would be to apply in practice. Furthermore, the particular obligation imposed therein should be maintained only in the case of vessels engaged in fishing species subject to quota.

Article 19:

- The 24 hour time limit for submitting a transshipment declaration is much too short.

Article 20:

We do not agree with the requirement of obtaining an authorisation in order to land catches, a fortiori if this is to apply to each and every vessel. Such a measure cannot possibly be implemented to a fishing fleet such as Greece's and would entail an excessively heavy administrative and economic burden. It should be noted that in many cases vessels go out on more than one fishing trip a day.

Article 21:

- Para 1: it should be stated that the landing declaration concerns only those species that are enumerated in Art. 14, for which we have proposed a list of individual Mediterranean species that are subject to a monitoring obligation.
- Para. 2: It is proposed that in the case of vessels of 10 to 15 metres length overall fitted with fixed gear the transmission of the landing declaration by electronic means be made compulsory only if they fish under a multiannual management or recovery plan and have a fishing authorisation within the meaning of Article 7. We further believe that the proposed 2-hour time limit for submitting landing declarations is much too short and should be extended.

Article 22:

- Para. 2: the establishment of yearly sampling plans is not an easy measure to implement; it would be useful to use sales data in that connection.

TMHMA 2**Article 23(1), 25(1)(b), 26(1)(b):**

- fishing effort data should only concern specific stocks subject to systems for the management of fishing effort.

Article 27:

- Para. 2: The European Commission's decision should be founded on concrete evidence, which should be communicated to the Member States concerned in good time.

Article 28:

- Para. 2: Deduction from fishing opportunities must be compulsory rather than merely possible.
- Para. 3: It is proposed that deductions from fishing opportunities be made during the year in which the prejudice suffered by the Member State occurred, or else in the following year.

CHAPTER III**Article 34:**

- Para. 4: the determination of landing ports in the context of multiannual plans will depend on the particular circumstances obtaining in each Member State (distribution of the fleet by classes, geographic peculiarities, remote islands etc.). It is therefore impossible to set general preconditions to be met by all Member States, other than that of ensuring "inspection", which is a general precondition which can indeed be imposed at EU level. We therefore propose the deletion of subparagraph 4(d) (which refers to the average landed quantity by weight of the species), which could not be applied in our country in practice, as well as of the preconditions in 4(a) and 4(b), which have a restrictive effect.

Article 36:

- Para. 1: The obligation to draw up national control action programmes applicable to each multiannual plan, i.e. to each recovery plan under Article 5 of Regulation 2371/2002 and to each management plan under Article 6 of Regulation 2371/2002, entails a huge administrative and economic burden for the Member States.

CHAPTER IV**SECTION 1****Article 37:**

- Para. 2: The wording of this paragraph is unclear. Are we talking about keeping more than two types of gear on board, or more than one?

Article 38:

- Para. 1: This is impossible to apply in practice or to enforce.

SECTION 2

Article 39:

- Given the morphology of the Greek coastline and the fact that most bays where most fishing vessels dock are under protected status, the provision is impossible to apply.
- Para. 5: The frequency of data transmissions proposed (at least once every 15 minutes) is excessively high.

SECTION 3

Article 40:

- Para. 2: The proposed requirements are excessive and impossible to apply.

Articles 41 and 42:

It is suggested that the provisions be included in Title IV, Chapter I, Section 1.

TMHMA 4

Article 43:

- Para. 2: It is suggested that the definition of the "trigger by-catch level" be worded more clearly and relocated to Article 4.

Articles 44, 45 and 46:

- Complex provisions that are very hard to enforce.

CHAPTER V

Article 47:

- Considering that there is no ban on recreational fishing of a stock subject to a multiannual management plan, although we think it should be forbidden, we agree with the registration of catches (Para. 2), whose purpose ought not to consist not only in allocating them to the Member State's quota, but also in deriving useful conclusions as part of the application of the multiannual plan.

TITLE V

CHAPTER I

Article 48:

- Para. 3: in order notably to avoid implementation problems, this paragraph ought to be reworded, so as to clearly specify (a) whether the minimum size fixed for a given species refers to a minimum size has been fixed at EU level by Regulations in force, as there are also instances of minimum sizes fixed at Member State level, and (b) whether the mention of "geographical origin" concerns only the scope as defined in Article 2.

Article 50:

- Para. 2: the minimum information requirements specified herein are to a certain extent complementary to those specified in Regulation (EC) No 2065/2001, so that some of the information required on fishery products is stipulated in provisions of two different Regulations. This fact makes it more difficult for control authorities to know exactly what they are to check for, and which provision of which Regulation they must take as a basis in the event of an infringement or penalties to be imposed.

CHAPTER II

Article 52:

- Para. 1: Greece's geographic peculiarities (remote regions and islands) together with the operation of fish auction centres in particular places makes it impossible to implement the Article as proposed. We therefore propose the following rewording: "Member States shall ensure that ... are sold and registered at an auction centre or to a registered buyer."
- Para. 2: taking account of our proposal concerning Art. 14, this paragraph should be reworded as follows: "Other fisheries products mentioned in Article 14 shall only be sold at an auction centre or to bodies or persons authorised by Member States."

Article 53:

- The wording of the paragraphs of this Article clearly refers to fisheries products subject to compulsory landing declarations, sales notes and takeover declarations in accordance with the preceding articles of the proposal for a Regulation. It cannot therefore encompass aquaculture products. We therefore suggest that all mention of aquaculture products be deleted from the Article's title and provisions.
- Para. 3: because of the geographic peculiarities that may obtain in various countries, the derogation from paragraph 1 should allow the fisheries products to be weighed at the first point of sale or storage regardless of distance. Besides, the proposed 20 kilometre limit is inadequate to cover distances in many of Greece's island regions.

Article 54:

- Para. 1: the proposed 2-hour time limit for submitting sales notes by electronic means following the first sale is too short and should be extended to at least 48 hours. It ought further to be stipulated that the sales note only concerns species enumerated in Art. 14, for which we have proposed a list of Mediterranean species that are subject to a monitoring obligation.
- Para. 3: this paragraph must be reworded so as to become intelligible.

Article 56:

- Para. 1: fisheries products originating from the fishing activities of vessels having an overall length of less than 10 metres are not subject to the requirement of submitting a sales note under paragraph 1. No exemption need therefore be provided for in their favour.

Article 57:

- Para. 1: we propose that the take-over declaration be submitted (a) for the species and quantities listed in Art. 14 (specified Mediterranean species) and (b) within 48 hours after completion of landing, as the proposed 2-hour time limit is too short.

TITLE VII

The inspections provided for in Art. 65, 67, 71 and 75, which involve carrying out checks in international waters, on other Member States' vessels or on third country vessels, raise a legal problem that must be dealt with, failing which these Articles will be impossible to apply.

CHAPTER 1

Article 65-69:

- we wish to point out the difficulties involved in applying the Articles of this Chapter, which ought to be worded clearly. Moreover, the proposed inspections and checks in Art. 65 mostly concern fishing activity; it is not clear that they also concern the provisions of the Common Market Organisation.

CHAPTERS III & IV

Article 72:

- Para. 1: We propose the deletion of the last part of the paragraph text ("*or within an appropriate delay ... of the inspecting Member State*").
- Para. 2: Unclear as to its application.

Articles 74-80:

- We wish to point out that these Articles solely concern cases of infringements relating to management provisions by fishing vessels, rather than generally relating to all activities within the scope of the proposed Regulation.

Article 81-84:

- We wish to point out that the enforcement measures mentioned herein are not worded clearly: if e.g. a serious primary infringement is detected in a transaction between a fisherman and a processing firm, upon whom will sanctions be imposed, the fisherman or the processing firm?
- The fines proposed, even the minimum of EUR 5 000, are deemed exorbitant from the point of view of Greek fishermen.

TITLE XI

CHAPTER 1

Article 95:

We do not agree with this provision. Suspension or cancellation of Community financial assistance is an extremely severe sanction that will cause many problems to the development and improvement of the fishing industry and have considerable social, economic, environmental and structural impact.

Article 98:

Para. 1.: The deduction of quotas must concern species subject to TAC for which rules on control and inspection have not been complied with.

Article 101:

We do not agree with the emergency measures proposed, which we consider excessively harsh, nor do we support reinforcing the European Commission's management competencies. Moreover, such measures cannot be made part of a regulation on control.

The HEAD OF THE DIRECTORATE-GENERAL

A. PALAIOKOSTAS

Copy to:

1. Office of the Director-General of Fisheries
2. Sea Fishing Directorate, Sections 2,3,4
3. Fishing Extension Work and Fishery Production Inputs Directorate
4. Aquaculture and Inland Waters Directorate

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