



EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

OPINION OF THE HIGH LEVEL GROUP

Subject: Administrative burden reduction; priority area *Fisheries*

Executive summary:

The **administrative costs** for the legislative act in scope of the Action Programme for Reducing Administrative Burdens in the EU for the priority area Fisheries (Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy) **amount to €79.7 m.**, which represents less than 0.1 % of the costs for all acts measured. Of these costs, 92.7 % or €73.9 m. have been classified as administrative burdens.

The HLG supports quantified reduction recommendations amounting up to € 39.3 m. (49 %) for Regulation (EEC) No 2847/93 as well as other reduction recommendations as specified in part IV.

I. Background

- (1) The High Level Group (HLG) was set up to advise the Commission with regard to the Action Programme for Reducing Administrative Burdens in the EU, and in particular to provide advice on administrative burden reduction measures.¹ The HLG has appointed Mr. Côte-Real Goucha and Mr. Hontelez as its reporting members for the priority area 'Fisheries'.
- (2) 'Fisheries' is one of the 13 priority areas in scope of the Action Programme which covers more than 40 pieces of legislation in these priority areas.² For the priority area Fisheries the Action Programme covers one piece of legislation:

¹ Cf. Commission Decision C(2007)4063.

² Cf. Communication from the Commission COM(2007)23 final, 2.3.

- Ø Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy (the ‘Control Regulation’).
- (3) The Member States' obligation to control and enforce the Common Fisheries Policy (CFP) is set out in some detail as part of the CFP itself – in particular, through the Control Regulation. The CFP is the European Union's instrument for the management of fisheries and aquaculture. Art. 3 (e) of the EC-Treaty sets out that the activities of the Community shall include a common policy in the sphere of agriculture and fisheries. First common measures for the fisheries sector date from 1970, before the CFP as such was created in 1983 (encompassing conservation of stocks, vessels and installations, market controls, and external agreements with other nations). The CFP was reformed in 2002 to ensure sustainable exploitation of living aquatic resources. In addition, the reform aimed at contributing to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking into account the interests of consumers. Fisheries controls play a key role in encouraging compliance, deterring fraud and ensuring sustainable fishing. Effective controls will contribute to address problems associated with overfishing and the overexploitation of stocks.
- (4) To ensure that the fishing pressure is not higher than the stocks can sustain, the conservation measures under the CFP set up rules for total allowable catches (TACs), limitation of fishing effort, technical measures (rules related to fishing gears and minimal landing sizes), and impose obligations to record and report catches and landings. The CFP also includes several measures to limit the environmental impact of fishing.

II. State of play

- (5) On 14 November 2008 the Commission adopted a proposal³ for a reform of Council Regulation (EEC) No 2847/93, the main Control Regulation of the CFP. Despite some progress, the current control system continues to suffer from substantial shortcomings identified by both the Commission and the Court of Auditors⁴, which – if not remedied – will have significant consequences for the future of fisheries resources, the fishing industry and the regions dependent on fishing. The proposed reform provides a new legal framework for the control and enforcement of the CFP.
- (6) On 22 April, the European Parliament adopted a report which agrees on the need for a new control regulation. The Parliament underlined that, for a control system to be effective, everybody has to be treated equally – fishermen, processors, buyers and other people involved in the chain of production. To this end, the new system

³ Cf. COM(2008)721 final;
http://ec.europa.eu/fisheries/cfp/control_enforcement/reform_control_en.htm

⁴ Cf. SPECIAL REPORT No 7/2007 on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources together with the Commission's replies (2007/C 317/01); <http://eca.europa.eu/portal/pls/portal/docs/1/673627.PDF>

aims at establishing a level playing field for the industry by covering all aspects from capture through to the market.

- (7) On 7 May and 13 May, the Committee of the Regions (CoR) and the European Economic and Social Committee (EESC) respectively adopted opinions generally supporting the Commission's proposal for reform.⁵ The CoR emphasised that a reduction of administrative burden was possible, thus increasing the cost effectiveness of the control systems, provided full use is made of modern technologies and streamlined control systems. The EESC believes the new system will establish a global and integrated approach to control, focusing on all aspects of the CFP.
- (8) The HLG acknowledges the measures already taken as well as ongoing reduction activities by the Commission concerning the act currently in scope of the Action Programme. The main aim of the Commission's actual proposal for a reform of Council Regulation (EEC) No 2847/93 is to establish an improved and more effective control system, to foster a culture of compliance with fisheries rules and create a level playing field for Europe's fishermen; rules need to be both simpler and more comprehensive, and the system more cost-efficient; full use should be made of modern information technologies. According to the impact assessment provided by the Commission the impact of the intensive use of modern technologies could reduce the administrative burdens substantially.⁶
- (9) According to the Commission the proposed reform would substantially simplify the legal environment of the control system. Currently, the basis for the control policy and the roles of the Commission and the Member States are defined in the Control Regulation and Chapter V of Council Regulation (EC) No 2371/2002 (the 'Basic Regulation'). In addition, control provisions are contained in 27 separate regulations. Only 4 out of 20 implementation regulations originally foreseen were adopted. The new Control Regulation would merge the currently separated regulations into one regulation, and thus concentrate all control provisions into a consolidated document, to be followed by a unique set of implementing rules.
- (10) The Commission's proposal contains further important elements to reduce administrative burdens for fishermen. The use of modern technology such as the electronic logbook and other devices will save time for fishermen in complying with the new legislation, as many of the requested data will be already available on the screen (identification, position etc.) or can be clicked on a screen. Currently, paper logbooks are used, and transshipments, landings, sales and transports are also recorded in paper format. The proposal extends the application of the Electronic Reporting System (ERS), which comprises the electronic logbook and the landing declaration, to vessels between 10 and 15 m length as from 1 January 2012 (a separate Regulation already imposes this system for all vessels above 15 m as of 1 July 2011). Due to a new electronic management of fishing licences and special

⁵ Cf. CoR/EESC website (will be updated after publication)

⁶ Cf. http://ec.europa.eu/fisheries/cfp/control_enforcement/reform_control_en.htm. The impact assessment was based on preliminary data provided by the Consortium. The intensive use of modern technology was estimated to reduce administrative burdens by up to 50 %.

fishing permits vessel masters will not be required anymore to keep these documents on board, since they can be checked electronically.

- (11) Moreover, the proposal clears the way for improving the cost-benefit ratio of enforcement measures. The use of modern technologies and a better alignment of control methods between Member States will allow more efficient controls taking aspects of risk analysis into consideration.
- (12) Furthermore, the Commission is working on implementing its 2005-2008 Action Plan for Simplifying the Common Fisheries Policy⁷. In this context a reform proposal introducing electronic reporting was adopted by the Council in 2006; implementing measures were adopted in 2008. The new system will be compulsory as regards sales data as from 2009 and regarding catch data from 2010 onwards. A reform of the system of fishing authorizations was also introduced and the rules for the European Fishery Fund were simplified.
- (13) The Commission regularly organises meetings with Member States experts and with stakeholder representatives, in order to discuss simplification and administrative burden reduction, to obtain input for future activities as well as serving as a platform for the exchange of experiences and best practices.
- (14) In the context of the Action Programme for Reducing Administrative Burdens, the Commission hired a Consortium⁸ to help mapping and measuring information obligations in the 13 priority areas.
- (15) According to the figures presented by the Consortium the total administrative costs for the act in scope within the priority area amount to almost €80 m. Of these costs, 92.7 % or €73.9 m. have been classified as administrative burdens.

III. Reduction recommendations / stakeholders' suggestions

- (16) The HLG has taken into consideration some reduction recommendations collected by the Consortium concerning the act in scope of the Action Programme (cf. below 1.) as well as suggestions submitted by stakeholders (cf. below 2.) including the Advisory Committee for Fisheries and Aquaculture (ACFA)⁹.

1. Recommendations collected by the Consortium

- (17) One recommendation suggests the use of electronic logbooks and landing declarations. With the electronic logbook the operator only has to record the

⁷ Cf. COM(2005)647; http://ec.europa.eu/fisheries/cfp/simplification_en.htm

⁸ Capgemini, Deloitte, Rambøll management; assigned by the Commission to measure administrative burden based on certain EU legislation and to identify measures to reduce this burden.

⁹ Cf. Advisory Committee for Fisheries and Aquaculture (ACFA): ACFA's Members comments regarding the Commission's proposal for a Council Regulation establishing a community control system for ensuring compliance with the rules of the CFP, http://ec.europa.eu/fisheries/cfp/governance/acfa/opinions_en.htm

species and the amounts of fish caught, while standard data requirements such as identification of the vessel and the master are provided automatically. At landing, the catch data from the electronic logbook is automatically copied into the electronic landing declaration and updated by the actual live weight of the fish caught. It should be noted that this recommendation has already been partly implemented. The administrative burden for the respective information obligation (potential audit requiring fishermen to keep an operations logbook, Art. 6 (1)-(3), 19 (e), and submission of a landing declaration, Art. 8 (1) of the Control Regulation) of €47 m. could be reduced by up to €33 m. (70 %).

- (18) Another recommendation regarding the logbook concerns better information for the users on how to complete the logbook, since businesses encounter frequent difficulties with understanding the required forms. Greek and Irish authorities have issued guidelines on how to fill in the forms. The administrative burden for the information obligation ‘potential audit requiring fishermen to keep an operations logbook’ (Art. 6 (1)-(3), 19 (e) of the Control Regulation) of €37 m. could be reduced by up to €3 m. (8 %).
- (19) Furthermore, the Consortium recommends focusing more on onshore controls instead of more costly offshore controls. Offshore controls will not be totally abolished, but remain an integral part of the control system; nevertheless, the balance between onshore and offshore controls could be organised in a more effective way. The administrative burdens involved with cooperation with inspections (Art. 4 (2) of the Control Regulation) of €2.8 m. could be reduced by more than €0.5 m. (19 %).
- (20) In addition, the Consortium recommends introducing a standard method for fishing inspections across the EU (Art. 4 (2) of the Control Regulation). This would entail the use of control technologies (Vessel Monitoring System – VMS – and Electronic Reporting Systems – ERS) to their fullest extent, effective procedures for information sharing and clear inspection guidelines. The administrative burdens of €3.1 m. could be reduced by almost €0.4 m. (13 %).
- (21) The Consortium recommends a fully automated auction process for the submission of a sales note for first marketing of fishery products (Art. 9 (1) of the Control Regulation). It has to be noted, that this recommendation has already been partially implemented.¹⁰ The administrative burdens of €10.7 m. could be reduced by up to €1.9 m. (18 %).
- (22) The Consortium also recommends a risk-based approach for the information obligation “submission of a landing declaration”, in particular with respect to electronically equipped vessels. Vessels that have modern technology including weighing machines in combination with the electronic logbook installed on board could be released from waiting for the live weight data of the catch when drawing up the landing declaration, provided they have a good track record and use appropriate technologies. The landing declaration is automatically generated based on the logbook. The administrative burdens for the respective information

¹⁰ Cf. Council Regulation (EC) No 1966/2006 of 21 December 2006 on electronic recording and reporting of fishing activities and on means of remote sensing

obligation (Art. 8 (1) of the Control Regulation) of €9.5 m. could be reduced by €0.5 m. (5 %).

- (23) Taken together, these suggestions could reduce administrative burden for the reformed regulation by up to €39.3 m. (49 %).

2. Stakeholders' suggestions

- (24) Some stakeholders suggest more control being based on risk analyses. According to some of them the documentation of relevant and effective controls based on risk analysis should be left to Member States to a higher degree instead of fixing very specific benchmarks and minimum standards for the number of inspections. Others favour a risk-based approach only provided that this is based on standards established at EU level.
- (25) Furthermore, stakeholders suggest a harmonisation of messages for fisherman fishing in different areas, e.g. fishing effort messages and prior notification in Regulation (EC) No 423/2004 (Art. 9, 11) on the recovery of cod stocks (e.g. in the Kattegat) and Regulation (EC) No 1098/2007 (Art. 13, 17) establishing a multiannual plan for cod stocks in the Baltic Sea. For instance, a fisherman fishing both in the Kattegat and the Baltic Sea must send different notifications depending on where he fishes. According to stakeholders it would also ease administrative burdens, if the same rules about margin of tolerance applied in all situations (harmonisation of rules about margin of tolerance). The Commission points out that the aims and targets of the recovery measures for the Baltic Sea on the one hand and the areas governed by Regulation (EC) No 423/2004 (now replaced by No 1342/2008) on the other hand are in many aspects very different due to the type of fisheries and fleets involved (size of vessels, distance from nearest ports etc). According to the Commission the notification messages are harmonised as far as possible.
- (26) Some stakeholders further suggest integrating all control measures from different regulations (e.g. multiannual management and recovery plans) in the new Control Regulation.
- (27) Stakeholders acknowledge that the CFP can only work if there are effective inspections and meaningful penalties. The NGOs in particular therefore welcome the Commission's proposal, as it includes major improvements on existing measures as well as additional tools to enhance compliance with the CFP by both the Member States and various actors in the fisheries sector along the chain of production.¹¹ Stakeholders from the fishing industry on the other hand also suspect additional administrative burdens by certain elements of the proposed reform of the Control Regulation, namely the new "penalty point system" and register for offenders, the inclusion of recreational fishing (anglers) in the allocation of catch quotas / catch reporting systems / monitoring (Art. 47), new reporting obligations on discards and the reduction of the permissible estimation error from 8 % to 5 %. The Commission on the other hand argues that the proposed penalty point system will ensure better discipline to respect the rules, and contribute to the

¹¹ Cf. NGOs' comments in the ACFA document mentioned in footnote 9.

establishment of an EU level playing field and the prevention of discrimination. Since recreational fishing was a growing activity in many Member States, certain rules seem warranted according to the Commission. The new reporting obligations on discards are part of the EU's long term policy to reduce and possibly eradicate discards. Since the new control regime will be based on automated and comprehensive cross-checks of available data, the data should be as precise as possible which entails a reduced margin of tolerance.

- (28) With respect to the proposed Control Regulation, stakeholders also call for a transition period giving Member States and operators time to adjust to the new measures or suggest a process of testing the new system through case studies ahead of the adoption in order to avoid problems later on. The Commission points out that the Control Regulation forms part of a new control system encompassing the IUU fishing Regulation¹² and the Regulation on fishing authorisations¹³ - all expected to enter into force at the same time (1 January 2010). Transition periods are foreseen until 2 January 2012. Furthermore, the proposal contains a number of exemptions and delays for the entry into force of specific provisions, notably for the new technologies, in order to ensure the smooth implementation of the new system as well as to avoid disproportionate burdens on operators. In addition, financial assistance will be available by the Community amounting up to 95 % which will drastically reduce investment costs.
- (29) Some stakeholders criticise the need to have both a fishing licence and a fishing authorisation (Art. 6, 7 of the proposed regulation) and ask for clearer definitions. The Commission is prepared to further clarify the scope of both the fishing licence and the fishing authorisations in response to this suggestion.
- (30) Some stakeholders from the fishing industry call for an exemption of boats catching more than 90 % of species which are not subject to TACs (total allowable catches) and quotas (e.g. common shrimps) as well as vessels with an overall length of less than 24 m which are away from port for less than 24 hours from the obligation to use an electronic logbook and other electronic instruments as well as from other obligations and prohibitions (cf. Art. 9-11, 15). The Commission recalls that the objective of the CFP is to ensure an exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions. As such, it covers all living aquatic resources, and not just those subject to catch limitations. Bearing in mind the sustainable conservation of the marine ecosystem, and the interconnections between regulated and non regulated species, it is important in the Commission's view to maintain a level of monitoring for all aquatic resources. The Commission is strongly opposed to the proposed further exemption for vessels shorter than 24 m which are away from port less than 24 hours, as this would mean falling short of the existing (already deficient) EC legislation.

¹² Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

¹³ Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters

- (31) Besides, some stakeholders are sceptical on certain timeframes foreseen *inter alia* for prior notifications concerning the use of port and landing facilities, landing declarations, sales notes and transport documents (Art. 17, 21, 54, 58 of the proposal). According to the Commission a prior notification of four hours is needed for proper planning of control activities. The requested data are necessary to enable a comprehensive cross-check of these data and their coherence with data coming from the landing, processing and marketing of these catches. In view of the Commission problems for small vessels can be solved on the basis of Art. 17 (4) of the proposed Control Regulation which provides that the Commission may exempt certain categories of fishing vessels taking into account *inter alia* the type of fishery products, the distance between the fishing grounds and ports where the vessels are registered.
- (32) Some stakeholders from the fish processors and traders sector voice concerns about the extension of requirements beyond normal retail into canteens, catering, hospitals, restaurants etc. The Commission points out that traceability should not pose inappropriate problems for larger catches and that some producers have already introduced similar systems on a voluntary basis. An integrated approach to control from the net to the plate is an essential prerequisite for a comprehensive traceability system, which will at the same time provide assurance to the consumer that the purchased product was harvested in a sustainable manner.
- (33) Some stakeholders call for a legally binding set of inspection standards as well as for harmonised sanction systems and levels. In addition, they ask for clear guidelines that would have to be followed by EU inspectors for the conduct of inspections (cf. Art. 65 (5) of the proposed regulation). They also point out the need to ensure coherence of the revised control system with the IUU fishing Regulation and the Regulation on fishing authorisations, *inter alia* to avoid duplication of procedures for certification and traceability systems. The Commission has announced that it intends to develop a harmonised set of rules with regard to inspection and control standards. At the moment a variety of inspection rules in different Member States exists which has led to frequent allegations of discriminations by fishermen. The current reform proposal lays down important principles which need to be complemented by implementing rules.

IV. Advice of the HLG

- (34) The HLG welcomes the simplifications elements and reductions of administrative burdens already enacted or proposed by the Commission (cf. II.).
- (35) The HLG advises the Commission to act on certain suggestions concerning Regulation (EEC) No 2847/93 (III.1. paragraphs 17 – 22). With respect to the suggested risk-based approach for electronically equipped vessels (paragraph 22) the HLG points out that this suggestion is based on the prerequisite of an effective control system. Thus, the HLG calls upon the Commission to study the feasibility of this suggestion after the implementation of the new control regulation and the establishment of an effective control system.
- (36) In addition, the HLG advises the Commission to consider the potential for simplifications for small scale fisheries which never leave their quota area.

- (37) Concerning stakeholders' suggestions (III.2.), the HLG welcomes that some suggestions have been taken up by the Commission in its proposal for a reform of the Control Regulation, e.g. the suggestion to integrate all control measures from different regulations in one legislative instrument (i.e. the new control regulation).
- (38) With respect to the other recommendations by stakeholders, the HLG supports the proposal to base more controls on risk analysis, in order to target controls better and increase efficiency while on the other hand protecting and conserving living aquatic resources and ensuring a sustainable exploitation. A standardised inspection method could help to ensure consistency, since fishermen often complain about discriminatory inspections when fishing in another Member State; thus the group does not support the suggestion to leave documentation of relevant and effective controls exclusively to the Member States.
- (39) With respect to the suggested harmonisation of messages for fishermen fishing in different areas (paragraph 25), the HLG acknowledges the differences in recovery measures for different areas, but asks the Commission to study the feasibility of further harmonisation. Likewise, the feasibility of a further harmonisation of the rules about margins of tolerance should be studied.
- (40) Regarding the proposals on the reform of the Control Regulation in paragraph 27, the HLG asks the Commission and the Member States to strive for reducing administrative burden wherever possible. Particular attention should be paid to small scale fishery, e.g. with regard to the reduction of the margin of tolerance which poses particular problems to smaller operators. The HLG points out that the penalty point system as such does not concern administrative burdens for fisherman, but possibly for public authorities. If the introduction of a penalty point system is considered necessary, it should be limited to serious infringements in order to minimise administrative costs. If there is a need to include the monitoring of recreational fishing in the control system, this should be limited to stocks that are under pressure. In addition, it has to be ensured that this will not cause disproportionate administrative burdens. Concerning new reporting obligations on discards, the HLG acknowledges the need to collect data in this respect in line with rules for regulated species, but asks the Commission to ensure a lean implementation taking due account of electronic reporting.
- (41) With respect to the suggested transition periods and the testing of the system (paragraph 28), the HLG refers to the importance of issuing good guidance as already mentioned in paragraph 18. It is essential to thoroughly communicate and explain changes to the fishermen.
- (42) Concerning the suggestions in paragraph 29 the HLG asks the Commission for further clarification on the scope of both the fishing licence and the fishing authorisations.
- (43) With respect to the exemptions suggested in paragraph 30, the HLG points out that exemptions from VMS exist for vessels between 10 and 15 m operating exclusively within the 12 miles limit and never staying more than 24 hours at sea. On the other hand the HLG acknowledges that the exemption for vessels shorter than 24 m which are away from port less than 24 hours could endanger the objective of the control regulation. Thus, it does not support this suggestion. Nevertheless, the HLG is of the view that the Commission should study further the

suggested exemption of boats catching more than 90 % of species which are not subject to TACs.

- (44) Concerning prior notifications (paragraph 31), the HLG calls upon the Commission to exempt small vessels as far as possible taking into account the purpose of the legislation.
- (45) With respect to traceability (paragraph 32), the HLG acknowledges the importance of guarantees for the quality and origin of fisheries products in a globalised market as well as consumer protection and asks the Commission to limit the administrative burdens involved to the level necessary to reach these objectives. Particular attention should be paid to small scale fishery in this field as well, since the projected measures pose certain problems to small fishing vessels and the small quantities they land.
- (46) Concerning inspection standards (paragraph 33), the HLG supports the Commission's intention to develop a harmonised set of rules, since fishermen would profit, if they knew in advance what they can expect from inspections in all Member States. The Group calls upon the Commission to provide clear rules and reduce administrative burdens as far as possible.
- (47) The HLG calls upon the Commission and the Member States to cooperate closely in order to ensure a lean and efficient implementation of the new rules of the Control Regulation once it has been adopted.
- (48) The HLG is of the opinion that the Member States should likewise try to further simplify and advises the Commission to distribute best practice among the Member States.
- (49) In summary, the HLG supports quantified reduction recommendations amounting up to € 39.3 m. (49 %) for Regulation (EEC) No 2847/93 as well as other reduction recommendations as specified above.

Brussels, 28 May 2009