










Basic information	
1999/0050(CNS) CNS - Consultation procedure Regulation	Procedure completed
Common Fisheries Policy: behaviours seriously infringing the rules Repealed by 2007/0223(CNS) Subject 3.15 Fisheries policy	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	PECH Fisheries		TEVERSON Robin (ELDR)	17/02/1999
Council of the European Union	Council configuration		Meetings	Date
	Environment		2194	1999-06-24
	Fisheries		2170	1999-03-30

Key events			
Date	Event	Reference	Summary
19/02/1999	Legislative proposal published	COM(1999)0070 	Summary
12/03/1999	Committee referral announced in Parliament		
30/03/1999	Debate in Council		
20/04/1999	Vote in committee		Summary
20/04/1999	Committee report tabled for plenary, 1st reading/single reading	A4-0192/1999	
24/06/1999	Act adopted by Council after consultation of Parliament		
24/06/1999	End of procedure in Parliament		
02/07/1999	Final act published in Official Journal		

Technical information	
Procedure reference	1999/0050(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation

Legislative instrument	Regulation
Amendments and repeals	Repealed by 2007/0223(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 037
Stage reached in procedure	Procedure completed
Committee dossier	PECH/4/10827

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0192/1999 OJ C 279 01.10.1999, p. 0005	20/04/1999	
Text adopted by Parliament, 1st reading/single reading		T4-0363/1999 OJ C 279 01.10.1999, p. 0022-0068	04/05/1999	Summary
European Commission				
Document type		Reference	Date	Summary
Legislative proposal		COM(1999)0070  OJ C 105 15.04.1999, p. 0003	19/02/1999	Summary
Follow-up document		COM(2001)0650 	12/11/2001	
Follow-up document		COM(2002)0687 	05/12/2002	Summary
Follow-up document		COM(2003)0782 	15/12/2003	Summary
Follow-up document		COM(2005)0207 	30/05/2005	Summary
Follow-up document		COM(2006)0387 	14/07/2006	Summary
Follow-up document		COM(2007)0448 	25/07/2007	Summary
Follow-up document		COM(2008)0670 	04/11/2008	Summary

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 04/11/2008 - Follow-up document

In accordance with Council Regulation (EC) n° 1447/1999, this communication, based on reports from the Member States, concerns the cases of behaviours which seriously infringed the rules of the CFP and for which a file was opened in 2006.

This is the seventh Communication on this matter.

The report states that the total number of cases reported by Member States is **10 362** spread over the whole list of breaches included in the list of Council Regulation (EC) N° 1447/1999. The number is less than 1 % lower than in 2005 which has to be read in conjunction with the decrease in the overall number of active EU vessels with 10 %: therefore there is no real improvement in level of compliance with CFP rules. In absolute terms, Member States have detected only 81 breaches fewer than in 2005. In order to facilitate the comparison and observing the trend, it should be noted that the number of serious infringements detected in previous years was 7 298 in 2000, 8 139 in 2001, 6 756 in 2002, 9 502 in 2003; 9 660 in 2004 and 10 443 in 2005.

The main points can be summarized as follows:

- the procedures (of administrative or of a criminal nature) launched for sanctioning infringements of the CFP rules are generally lengthy, varying in different Member States from 1 to 2 months up to 1-2 years. 8 to 12/18 months seems to be the time required on average until termination of the whole procedure. Criminal procedures are the longest ones (mainly criminal procedures are applied in Finland and Sweden for instance) in some Member States they go for up to 10 years with the appeals stages. Administrative procedures are shorter, taking around 1 to 2 months in general;
- notably many procedures for breaches detected the previous year are still pending;
- in general, the species most affected by serious infringements were those species for which recovery plans or restrictive national measures are in place and those with high commercial value i.e. demersal species, cod, sole, salmon, sardine, and anchovy;
- it appears that most infringements are detected by Member States in ICES zones such as the Eastern Mediterranean zone, the North Sea, the Baltic Sea, Skagerrak and Kattegatt areas, Andalucía and Galicia, ICES 30 zone, Northern Greece- FAO zones 34.3.1 and 34.2.2;
- the majority of breaches were discovered during inspections at sea.

In conclusion, the Commission notes the **significant disparities of the sanctions** imposed by the different Member States for the same type of serious infringements and underlines the fact that the overall **penalties imposed are not a sufficient deterrent**, as they provide no real incentive to comply. The result is the inability of the inspection systems to detect and to prevent infringements. The Commission notes that the national systems are divergent due to the lack of general standards for inspections that therefore do not ensure adequate inspection pressure nor optimise inspection activities.

Two main conclusions can be drawn in this regard: first, there still are serious deficiencies in the control of and in the enforcement of sanctions against serious infringements, compromising the effectiveness of the Common Fisheries Policy. Secondly, there is a lack of uniformity resulting in inequitable implementation at EC level.

The Commission intends to **launch an ambitious reform of the EU policy for fisheries control**. The initiative should address in the most comprehensive, global and integrated way all the shortcomings identified. In the context of the Control reform it will be necessary to introduce harmonised administrative sanctions at EC level, to introduce a clearer definition of serious infringements and to introduce a clearer definition of enforcement measures.

The reform will aim at guaranteeing equality and fair competition, thus avoiding the migration of offenders to Member States where infringements are punished less severely, as well as at establishing a culture of compliance among operators. Furthermore it will develop a new harmonised approach to inspections and control, strengthen the effectiveness of cross checking systems of data, enhance the capacity of the Commission to ensure compliance with EC rules of CFP, encourage the use of modern technologies and finally foster a culture of compliance. The adoption of this Commission proposal is envisaged for October 2008.

With regard to the **Member States**, the Commission emphasises that they will remain the primary responsible for ensuring the implementation of CFP rules after the Control Reform and once again calls upon them to give the appropriate consideration to the obligation to ensure compliance with CFP rules with all possible means. It urges them, in particular, to **increase the cooperation** between them in the detection and follow up of infringements.

The Commission states that without a computerized database comprising a set of information relating, for example, to the law breaker, the vessel or the enterprise, the legal provisions, the species and fisheries areas, the economic context, the administrative costs, the main and ancillary sanction inflicted, it will be impossible to properly assess behaviours, administrative performance and efficacy of legislation in force.

The lack of **cross checking of data** is also an urgent problem needed to be addressed. In this regard an example of good practice already in place in several Member States can be considered- there have been systems set up for the automatic treatment of inspection reports, giving very good results. The advantages of these systems include the unification of procedures, centralization of data, user- friendliness saving training costs, multilingual support for all formulas, flexibility in response to changing regulations and tighter security through form-based identification.

The Commission has already suggested a format to be used by national administrations to that end. It is ready to assist the Member States, also financially through existing budget lines, to introduce new tools. Therefore, while a comprehensive reform of the control framework is being prepared, the Commission urges Member States to cooperate and to apply their legislation and administrative organisation accordingly.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 05/12/2002 - Follow-up document

The European Commission has presented a report on the behaviour which seriously infringed the rules of the common fisheries policy in 2001. In the interests of transparency, the Council stipulated also that Member States must report to the Commission annually on each procedure initiated in respect of operators who may have committed a 'serious infringement'. This communication contains statistical data covering the reports from the Member States on the procedures initiated in 2001. The main findings of the statistical data are the following: - in total, the Member States reported 8 139 cases, a rise of around 12% on the number for 2000, following adjustment of the figures; - regarding the most frequently recurring infringements, as in 2000, almost half the reported cases concerned unlawful fishing either without the necessary authorisation or in prohibited areas. By order of importance there were significant rises on 2000 in the number of breaches of the control rules applicable following landing and the rules on entries in the control documents, failure to observe the rules on minimum sizes and the use of unauthorised gear; - regarding the amounts of fines, there were significant differences for the same type of breach; - in the large majority of cases an administrative procedure was launched. In Belgium, Ireland, Sweden and the United Kingdom criminal proceedings were launched systematically where an infringement was discovered as administrative procedures are less commonly used in those countries; - regarding licence withdrawals, only Denmark and Greece, and to a lesser extent France and Italy imposed this type of penalty; - in 2001, 75% of infringement procedures were successfully concluded. Given the number of vessels (91 462) and the number of infringements for which fines were imposed (6 115), this means that procedures were launched in respect of 6.7% of vessels. The percentage is actually somewhat smaller since some procedures included in the total were initiated against on-shore operators; - the average fine of EUR 1 338 in the 4 969 cases where a fine was imposed does not seem to be a sufficient and effective deterrent. In 1 667 cases the seizure of catches and gear was ordered and in some cases this penalty, which may have a very considerable financial impact, was additional to a fine. The general impression nevertheless remains that the Member States' systems of deterrents are still inadequate; The Commission calls upon the Member States, therefore, to make greater efforts to follow up breaches of the CFP rules, if necessary by amending their array of legal instruments. Depending on the circumstances, it may be appropriate to introduce new legislative measures, increase the level of fines or raise awareness of the need for rational exploitation of marine resources in the authorities responsible for imposing penalties, which in most cases are not fisheries specialists. In the context of the reform of the CFP, the Commission is proposing that the Council determine the level of penalties to be imposed for serious infringements. The possibility of withdrawing authorisation to fish is also included as a particularly effective remedy.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 25/07/2007 - Follow-up document

The present Communication refers to the cases of behaviours which seriously infringed the rules of the CFP and for which a file has been opened by a national authority in 2005. This is the sixth Communication on this matter.

The total number of cases reported by Member States is 10 443 spread over the whole list of breaches included in the list of Council Regulation (EC) N° 1447/1999. The number is 8.11% higher than in 2004: the trend towards an increase on the number of detected breaches is thus confirmed, although one should also consider the enlargement of the European Union.

Precisely, the Member States have detected 783 breaches more than in 2004, but the fleet has increased by 5697 units since the 2004 Accession. With a view to easing the comparison, it should be noted that the number of serious infringements detected in previous years was 7 298 in 2000, 8 139 in 2001, 6 756 in 2002, 9 502 in 2003 and 9 660 in 2004.

It should also be noted that some Member States reported in 2005 a significant, and unexplained, increase or drop in the number of cases detected when compared with 2004 figures. This may be at least partly due to the fact that, as already underlined in the previous Communications, the number of infringements recorded may or may not include breaches of rules other than the CFP rules and/or related to activities carried out in internal waters or while fishing for recreational purposes, following national guidelines.

74% of the infringements have been detected by Spain, Italy and Portugal. These countries are also among those with a larger number of vessels. Unauthorised fishing concerns 23% of cases, while storing, processing, placing for sale and transporting fishery products not meeting the marketing standards in force comes second (17%). Fishing without holding a licence rises to third position (15%). These percentages are similar to those for 2004 and in fact most infringements detected since 2000 relate to these three types of behaviour, while very few cases (less than 10%) concern other types of serious breaches to the rules of the CFP. The number of cases of tampering with the Vessel Monitoring System (VMS) almost doubled in 2005 in comparison with previous years. It seems nevertheless still low when the observations made by the Commission's inspectors are considered.

In 2005, 8 665 procedures ended with a sanction. There are still striking and inexplicable differences for the same type of infringement across EU and the average fine imposed across EU in the proceedings that ended with a penalty in 2005 amounts to EUR 1 548: this figure is less than half the

average fine imposed in 2003 (EUR 4 664) and less than the average fine imposed in 2004 (EUR 2 272). There has also been a significant decrease in the number of licences withdrawn, which is also shown in the annexed tables (only 335 compared with 1 226 in 2004). Only Denmark and Greece used this penalty in more than 10% of the infringements sanctioned. Spain and France have reported 1 and 8 withdrawals respectively.

Finally, attention is drawn to the consideration that the amount paid by the fisheries industry as a consequence of monetary penalties imposed in 2005 (EUR 10.8 million) remains rather insignificant since it represents only a 0.17% of the value of landings in 2004.

The Commission presented on 31 May 2006 to the Group of Experts on Fisheries Control suggestions on a new typology of infringements to be scrutinised as well as on how the Communication outline could be amended.

The Commission proposed in particular:

- to narrow the scope of the Communication by monitoring exclusively the infringements of those CFP rules deemed to be the most important amongst the "serious" ones. Infringements of national rules or committed by non-professional fishermen will not be recorded anymore;
- to better describe each type of infringement; and
- to broaden the content of the reports from Member States which will in particular include information on the socio-economic situation of the lawbreakers and on the effective impact of the sanctions imposed.

The Commission will continue discussing the matter with Member States prior to a formal proposal for a revision of the legal framework, in particular within the context of the recasting of Community legislation relating to control in the fisheries area and to the fight against illegal fishing practices. Meanwhile, the Commission has to insist that it is necessary that Member States provide the Commission with information which goes beyond the statistical data in order to improve the quality of the next Communication and to make it become a more useful instrument of transparency.

As regards the Member States' responsibilities, the Commission shall again call upon them to give appropriate consideration to the obligation to ensure compliance with CFP rules with all possible means. The Commission has to state that Member States do not fulfil all their obligations arising from the CFP rules. One example will suffice: the Member States are currently not properly equipped with the suitable means which would allow them to collect, process and assess data related to "serious infringements" of the CFP rules, as they should do. Member States have not set up databases for encoding relevant aspects relating to each single case. The Commission would like to insist on this point. Without a computerized database comprising information pertaining, to the law breaker, the vessel or the enterprise, the legal provisions, the species and fisheries areas, the economic context, the administrative costs, the main and ancillary sanction inflicted; it will not be possible to properly assess behaviours, administrative performance and efficacy of legislation in force. Only through processing these data and those contained in the databases already foreseen by Community law (such as Fleet register, statistics, VMS records), it would be possible to assess Member States' performance, compare them and eventually adjust administrative procedures and legislative texts, so that CFP rules would be effectively enforced.

The Commission has already suggested a format to be used by national administration to that purpose. It is ready to assist the Member States, also financially through existing budget lines, to set up new tools.

The Commission urges Member States to adapt their legislation and administrative organisation accordingly.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 24/06/1999 - Final act

PURPOSE : to establish a list of types of behaviour which seriously infringe the rules of the common fisheries policy and to improve the transparency of the common fisheries policy. **COMMUNITY MEASURE** : Council Regulation 1447/1999/EC. **CONTENT** : in applying Regulation 2847/93/EEC which establishes a control system applicable to the common fisheries policy, the Regulation establishes a list of behaviours which seriously infringe the rules of the common fisheries policy. The main problems encountered relate to : - cooperation with the authorities responsible for monitoring (for example: obstructing the work of the fisheries inspectors in the exercise of their duties, falsification, concealing, destroying or tampering with evidence which could be used in the course of inquiries or judicial proceedings); - cooperation with observers (for example: obstructing the work of observers); - the necessary conditions to be met when fishing (for example: fishing without holding a fishing licence or with a falsified document); - the exercise of fishing operations (for example: using or keeping on board prohibited fishing gear or devices affecting the selectiveness of gear, using prohibited fishing methods, unauthorised fishing in a given zone and/ or during a specific period, non-compliance to the rules on minimum sizes, and non-compliance with the rules and procedures relating to the trans-shipment and fisheries operations involving joint action by two or more vessels); - resources of monitoring (for example: tampering with the satellite-based vessel monitoring system, falsifying or failing to record data in logbooks, failure to comply with Community rules on remote transmission of movements of fishing vessels and the data of fishery products held on board); - compliance in connection with landing and marketing of fishery products (for example: no respect for Community rules on control and enforcement, and stocking, processing, placing for sale and transporting fishery products not meeting the marketing standards in force and, in particular, those concerning minimum sizes. In order to improve the transparency of the common fishery policy, the Member States must supply the Commission, at regular intervals, with information on cases of behaviours of this nature, as well as on the measures taken in this regard by the Member States. **ENTRY INTO FORCE** : 09/07/1999.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 30/05/2005 - Follow-up document

Council Regulation 1447/1999/EC introduced a list of types of behaviour which seriously infringe the rules of the Common Fisheries Policy. The breaches included in the list are linked to the most important obligations imposed by the Community rules on stock conservation, monitoring and the marketing of fisheries products. Similar lists have been established by Regional Fisheries Organisations. Because of their seriousness, such behaviours should attract "proportional, effective and dissuasive" penalties imposed by national authorities.

Member States are obliged to report yearly to the Commission on the initiatives taken with regard to the breaches which have been detected. This information should allow a comparison between Member States as regards initiatives taken against the operators in the fishing industry who have been found guilty of a "serious infringement", i.e. those which hindered the most the sound management of resources. The legislator's goal is to progressively achieve a level playing field among the fishermen.

This report makes the following key points:

-Member States reported a total number of 9 502 cases of serious infringements covering all types of breaches included in the list. The number of breaches detected is higher than in previous years.

88% of infringements have been detected by 5 Member States, i.e. Greece, France, Spain, Italy and Portugal, the last three being by far those which reported most cases. These countries are also those with a larger number of vessels.

-Unauthorized fishing concerns 22% of cases, fishing without holding a licence ranges second (17%), While storing, processing, placing for sale and transporting fishery products not meeting the marketing standards in force rises to third position (12%), almost three times the score in 2002: therefore, it seems that Member States gave particular attention to this infringement. Other types of behaviours frequently reported are using prohibited fishing methods and falsifying data records (10% each). Very few cases concerning other types of serious breaches to the rules of the CFP, for instance tampering with the Vessel monitoring system, have been reported.

-84% of infringement procedures were concluded with the application of a penalty. In Greece and Germany 100% of infringements were sanctioned. In Spain and the United Kingdom more than 90% of them were also sanctioned. However, only 24% of infringements were sanctioned in Sweden (last year only 5% of behaviours were sanctioned in this country). It can not be excluded, as a consequence of incorrect encoding, that these statistics include to a certain extent proceedings which were initiated during previous years but not finalised until 2003.

-When comparing fines imposed on fishermen, there are still striking differences between Member States for the same type of infringement. The report gives examples and notes that Regulation 1447/99 does not indicate any ranking between the 19 types of breaches as regards to their gravity. Moreover, some of the fines reported could include the value of the seizures and others not, meaning that comparisons between fines in different Member States are biased. Indeed the value of the catches on board should be taken into consideration by the authority when imposing a penalty. The Commission considers that this rule, which is applied only in some Member States, should be of general application across the Community.

-The average fine imposed in the proceedings that ended with a penalty amounts to EUR 4 664 which is much higher than previous years (it was only EUR 1 757 in 2002). Furthermore, in 4 720 cases the seizure of catches or gears was ordered. Belgium, Greece, Spain and Italy were the Member States which reported to have applied this measure in a significant number of cases. On the other hand, Germany and Finland reported no seizure of catches or gears.

-The Commission is of the opinion that an administrative sanction like the suspension of an authorisation to carry out a professional activity may be a very effective tool to increase compliance with CFP rules due to the fact that it could be quickly applied. It is therefore regrettable that the majority of Member States do not use this tool more often.

The Commission emphasises in this report that Member States do not provide the Commission's services with detailed information. It is difficult to have a clear picture of the situation since there are indications that the data submitted to the Commission in the context of serious infringements are inaccurate. In some cases it appears that the number of infringements reported may include recreational fishing and other fishing activities that are not covered by the Common Fisheries Policy. As for the average fines, there are cases where the reported levels probably include confiscation values which should have been reported separately. There are also indications that there are instances where the outcome of a case goes unreported because the finalisation of the case does not occur in the same year as the detection of the infringement. Furthermore, the accuracy of data collected varies greatly even within the same Member State. For instance, this could be the case when the responsibilities are highly decentralised. Since it cannot be excluded that Member States do not always use the right codes for the infringements and given the fact that they do not always correctly fill in the form, all the figures are subject to caution.

Despite the difficulty in drawing clear conclusions, the Commission wishes to underline that, Member States have not yet taken every useful initiative to tackle behaviours which are contrary to the CFP rules. For instance, the small number of detected breaches for tampering with VMS raises the question whether national rules are in place. Furthermore, it can be said that the amount of the sanctions applied across the Community do not seem to have a deterrent effect. Although statistics show that more than 10% of the vessels has been sanctioned, the amount paid by the fisheries industry as a consequence of sanctions imposed in 2003 (EUR 28,7 millions) is roughly equal to thousandths of the 2002 landing value.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 04/05/1999 - Text adopted by Parliament, 1st reading/single reading

Under consultation procedure, the European Parliament adopted the report by Robin Teverson (ELDR,UK), which approves the Commission proposal for a Council regulation establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy (CFP), subject to amendments in the following areas: - providing that the information to be submitted to the Member States, the European Parliament and the Advisory Committee on Fisheries regarding action taken by the administrative and/or judicial authorities against those who seriously infringe the rules of the CFP should be made available on an annual basis and at the latest before 30/06 of the year following the collection of the data; - providing that, in

accordance with the procedure laid down in Article 37 of the Treaty and before 30/06/2000, the Council shall draw up a list of the penalties which infringements of the CFP listed in the proposed regulation attract in the different Member States and shall adopt follow-up action, in particular with a view to arriving at comparable penalties for comparable infringements throughout the Community; - adding to the list of infringements (under failure to comply in connection with the marketing of fishery products) the illegal landing of fishing and the sale and transport of fishery products illegally caught or landed.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 14/07/2006 - Follow-up document

This Commission report, the fifth to be prepared by the Commission on CFP infringements, refers only to cases where CFP provisions have been seriously breached and for which a file was opened in 2004.

The report finds that the total number of cases reported to the Member States stands at 9 660, which is slightly higher than in 2003. This is probably due to that fact that the number of Member States with sea-fisheries interests has increased by seven. In fact, the number of serious infringements detected by the new Member States in 2004 represents 2.7% of the total. (258 cases were reported in Cyprus, Estonia, Latvia and Poland).

76% of infringements have been detected by Spain, Italy and Portugal – but these countries are also the ones with the largest number of vessels. Unauthorised fishing accounts for 22% of cases, while storing, processing, placing for sale and transporting fishery products not meeting the marketing standards in force accounts for 19% of all infringements. Fishing without holding a licence accounts for 14% of all infringements. These figures are similar to those recorded for 2003. The Commission notes that only 60 cases of all infringements, throughout the Community, concerned tampering with the Vessel Monitoring System.

The fines applied by the Member States, range from EUR 48 to EUR 13 099. This means that the average fine imposed across the EU in the proceedings that ended with a penalty in 2004 stood at EUR 2 272 – less than half the average fine imposed in 2003. The Commission warns that this down trend is not a positive development. In other developments the report notes that the procedures used (both administrative and criminal) for sanctioning CFP infringements are lengthy - eight to twelve months being the norm. In spite of frequent Commission requests, the Member States are still not forwarding details on the species most affected by serious infringements.

In its conclusions, the Commission remarks that the situation, compared to the previous year, has not improved. Although statistics show that 10% of all vessels have received sanctions the amount paid in fines is minimal compared to the commercial advantages of fishing illegally. Current practice runs the risk that the fishing industry may put penalties imposed for infringement down to ordinary running cost and they see no real incentive to be compliant. The Commission is concerned that the penalties imposed on offenders do not act as a real deterrent.

The Commission, therefore, calls on the Member States to amend their legislation accordingly. As a general rule, the value of the catches on board should be taken into consideration when imposing penalties. Although the Member States are free to adopt procedures that they deem to be the most appropriate, the Commission restates its view that an administrative sanction is a very effective incentive for compliance. The report notes that whilst some Member States are making use of this possibility, the vast majority of Member States are not yet using this option.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 19/02/1999 - Legislative proposal

PURPOSE: to establish a list of types of behaviour which seriously infringe the rules of the Common Fisheries Policy. CONTENT: Council regulation 2847/93/EEC establishing a control system applicable to the Common Fisheries Policy, as last amended by regulation 2846/98/EC, provides for a list to be drawn up of the types of behaviour which seriously infringe the rules of the Common Fisheries Policy and for the Commission to be provided with the relevant information with a view to ensuring greater transparency regarding action taken in respect of such behaviour. The main compliance failures set out in the list are as follows: - obstructing Commission and national fisheries inspectors and observers in their duties; - falsifying or destroying evidence which could be used in enquiries or judicial proceedings; - fishing without a licence or under a falsified licence; - falsifying, deleting or concealing the name, registration or markings of a fishing vessel - using prohibited fishing gear or fishing methods; - unauthorised fishing in a given zone and/or during a specific period; - failure to comply with the rules on holding or preserving fishery products on board a vessel; - failure to comply with the rules and procedures on transshipment and fishing operations involving joint action by two or more vessels; - tampering with the satellite-tracking system for determining the position of fishing vessels; - deliberate failure to comply with the rules on remote transmission of the movements of fishing vessels and the data on fishery products held on board; - failure by the master of a fishing vessel of a third country or his representative to comply with the rules on the procedure for landing or transshipping catches; - landing, putting on sale and transporting fishery products which do not meet the marketing standards in force and those relating to minimum sizes.

Common Fisheries Policy: behaviours seriously infringing the rules

1999/0050(CNS) - 15/12/2003 - Follow-up document

This document comprises of the communication from the Commission on the reports from Member States on behaviours which seriously infringed the rules of the Common Fisheries Policy in 2002. The report states that as for the previous Communications on the breaches which seriously infringe the rules of the CFP, it must be noted that information gathered is of no easy interpretation since it exclusively consists of sets of figures. When the Member States do not provide the Commission's services with more detailed information which can shed some light on the figures, it is hard to correctly assess the situation. Moreover, there are indications that the data submitted to the Commission in the context of serious infringements are flawed. In some cases it appears that the number of infringements reported may include recreational fishery and other fishing activities that are not

covered by the Common Fisheries Policy. As for the average fines, there are cases where the reported levels probably include confiscation values, which should have been reported separately. There are also indications that there are instances where the outcome of a case goes unreported because the finalisation of the case does not intervene in the same year as the detection of the infringement. Moreover the accuracy of data collected varies greatly even within the same Member State. For instance, this could be the case when the responsibilities are highly decentralised or when responsibilities are split between different authorities with different organisational structures. There also seems to be a general problem with feedback regarding the outcome of cases, especially from the judiciary, which can lead to reduced reliability of the statistics. Furthermore, since the Member States do not always use the right codes to the infringement or do not fill correctly the form provided for in Annex I of the Regulation 2740/99/EC, the set of data transmitted cannot be fully exploited. The Commission therefore insists on the need to adhere to the requirements. Bearing in mind all these shortcomings, the Commission underlines, as a general remark, that the level of sanctions as it appears from the tables annexed to the present Communication, is not yet satisfactory since sanctions do not seem to have a dissuasive effect. The decrease of the number of proceedings opened for breaches of CFP rules in comparison with previous years is also a matter of concern and justification shall be sought. The Council restated last December, when adopting Regulation 2371/2002, its commitment to act against those responsible of serious infringements by imposing sanctions proportionate to the seriousness of such infringements hence effectively discouraging to continue to breach the rules. The present report shows that more has to be done in order to put the political will into acts. In order to comply with the Community rules, each Member State must ensure that its penalties shall be deterrent. Furthermore, Member States must apply or extend the application of other measures like the seizure of catches and gears and the withdrawal of the fishing authorisations. The Commission also recommends initiatives aimed at enhancing awareness of judges and public prosecutors on the need to effectively pursue illegal fishing in order to obtain compliance with the rules designed for the exploitation of marine resources. To this end, the Commission is ready to assist the Member States in adopting measures designed to achieve these objectives. Finally, as it is laid down in Article 25(4) of the Regulation 2371/2002, the Commission will propose in due time to the Council a catalogue of sanctions relating to serious infringements of CFP rules. The catalogue is designed to promote compliance with these rules through dovetailed sanctions which shall be applied with similar severity throughout the Community.