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REPORT FROM THE COMMISSION TO THE COUNCIL

on the implementation of the Polish National Action Plan in the framework of Council Regulation (EC) 338/2008 of 14 April 2008 providing for the adaptation of cod fishing quotas to be allocated to Poland in the Baltic Sea (Subdivisions 25-32, EC waters) from 2008 to 2011

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1. INTRODUCTION

Under Article 3(2) of Council Regulation (EC) No 338/2008 of 14 April 2008 providing for the adaptation of cod fishing quotas to be allocated to Poland in the Baltic Sea (Subdivisions 25-32, EC Waters) from 2008 to 2011, the Commission is to evaluate and report to the Council on the implementation of the Polish National Action Plans on control and fleet restructuring on an annual basis. The first report was presented to the Council on 18 November 2008. The National Action Plan on control is designed to overcome current control and enforcement difficulties and address comprehensively the underlying causes of illegal fishing and breaches of EU law for the cod fishery in the Baltic Sea. The content of the Plan was discussed and agreed by the Polish authorities and Commission staff at a meeting in Warsaw on 18 March 2008 on the Polish fisheries control system in the context of financial aid for fisheries control. The National Action Plan on control is outlined in the agreed record of that meeting.

The National Action Plan on the Baltic fleet restructuring, which also covers the period 2008 to 2011, was designed to identify measures needing to be taken in order to ensure sustainable exploitation of the cod quotas granted to Poland from both a conservation and an economic point of view as part of the Operational Programme co-financed by the European Fisheries Fund for the period 2007-2013. Following the negotiations between the Commission and the Polish authorities, the National Baltic Fleet Restructuring Plan was adopted by Poland in April 2008 and the Fishing Effort Adjustment Plan (FEAP) was adopted by Poland in January 2009.

As provided for in Article 3(1) of Council Regulation (EC) 338/2008, both plans have been adopted and are being implemented by Poland. In line with the plans, Poland has sent implementation reports to the Commission. This information, together with information collected by the Commission's inspectors, supports the evaluation presented in this report. The report is divided into two parts: the Action Plan on control and the Action Plan on fleet restructuring.

2. NATIONAL ACTION PLAN ON CONTROL

The National Action Plan on control establishes a schedule for improving the Polish fisheries control system gradually over a two-year period. In the framework of the Plan, Poland is to submit to the Commission a progress report on each point of the Plan half yearly. In 2009 Poland submitted an inspection report on 2 April and the third progress report on 14 July.

2.1. Legal framework

In 2008 the legislature began the process of adopting new national rules that address the weaknesses in the control and enforcement system as stated in the Action Plan by drafting the new Fisheries Act and Fisheries Market Act. However, these acts have not been adopted to date. The new law on the organisation of the fisheries market is currently before the Constitutional Court, and the draft of the new law on fisheries is currently pending consideration by the Parliament.

2.2. Single authority

In 2008 the Ministry of Agriculture and Rural Development created a post and designated the Deputy Director for Fisheries Control to act as the single authority and to coordinate monitoring, control and surveillance (MCS) at national and international level. The post was filled and is operational.

The Single authority is responsible, among other tasks, for drafting the annual national control programme that establishes the strategy and sets priorities and targets. The Single authority chairs the monthly meetings of the Inspectors' Coordination Council.

2.3. Enforcement and inspection

Together with some positive structural improvements made in Poland in 2008 to overcome control and enforcement difficulties, the Commission report for the year 2008 still lists some outstanding difficulties.

Further improvements have been observed in 2009:

- The new fisheries patrol vessel is fully operational.
- The requirement to inspect 100 % of cod landings instead of the 20 % benchmark was introduced.
- The inspection manual has been issued to all Polish fisheries inspectors.
- Inspectorates have been equipped with mobile scales.

Although the 100 % inspection benchmark has been established for cod landings, the inspection priority and strategy is not based on comprehensive risk analysis. Concentration of the inspection resources may limit control and inspections in areas other than cod landings. Consequently, other fisheries and post-landing actors such as buyers, sellers and processors are not subject to an effective control system. This may have been one of the factors that influenced the overfishing of the Western Baltic herring quota for 2009 by 17.4 %.

The Polish authorities have informed the Commission that by November 2009 regional inspectorates will be equipped with mobile workstations for access to the VMS.

However, only limited progress has been observed in development of the Fisheries Information System. Under the memorandum of understanding, an electronic system for online access to VMS data, effort reports, catch reports, prior notifications and entry/exit messages had to be introduced and made accessible for inspectors in ports and at sea by the second quarter of 2009. By end-2009 the Commission was informed that only access to VMS data had been made available.

2.4. Administrative control

The main obstacle to progress in this field is stagnation in development of the legal framework, and in the implementation of the Fisheries Information System. The consequences are the following:

- Online access to and exchange of information on inspection activities among local, regional and central levels is not available.
- A specific data analysis team with responsibilities for real-time monitoring and risk analysis of fishing vessels has not been established.
- Post-landing actors such as buyers, sellers and processors are not subject to an effective control system pending the adoption of the new Fisheries Market Act.

3. NATIONAL BALTIC FLEET RESTRUCTURING PLAN

The National Baltic Fleet Restructuring Plan was adopted by Poland in April 2008. As a follow-up to this action plan and in line with Article 22 of Council Regulation (EC) 1198/2006 on the European Fisheries Fund, the Fishing Effort Adjustment Plan (FEAP) was adopted by Poland in January 2009 following negotiations with the European Commission. The FEAP updates the description of the elements contained in the Action Plan and establishes more ambitious targets for capacity reduction in the cod fishing fleet as well as adding new items, such as the introduction of property rights and the accompanying control measures.

3.1. Evolution of the Polish fishing fleet

The table below shows an overall reduction in capacity expressed in number of vessels, GT and KW between 1 March 2008 and 1 December 2009 in the Baltic Sea fishing fleet.

Table 1: The Polish fishing fleet during the period 01.03.2008–01.12.2009¹

Vessels LOA* by	Number of vessels			Capacity in kW			Capacity in GT		
	On 01.04.2008	On 01.12.2009	Difference in No	On 01.04.2008	On 01.12.2009	Difference in kW	On 01.04.2008	On 01.12.2009	Difference in GT
< 8 m	258	257	-1	5 985	5 689	-296	592	574	-18
8 to 12 m	265	251	-14	19 044	18 144	-900	1 398	1 303	-96
12 m to 15 m	74	85	+11	6 366	6 505	+139	895	999	+104
15 m to 18.5 m	54	53	-1	14 864	12 777	-2 087	1 224	1 260	+36
18.5 m to 25.5 m	131	111	-20	15 750	13 509	-2 241	5 707	4 859	-848
25.5 m to 40 m	80	65	-15	24 333	19 876	-4 457	11 325	9 327	-1 998
> 40 m**	3	4	+1	10 105	18 415	+8 310	8 737	21 276	+12 539
Total	865	826	-39	96 446	94 914	-1 532	29 878	39 597	+9 719

¹ According to the Community Fishing Fleet Register. The dates chosen for comparison correspond to the dates of the Polish snapshots.

Total without long-distance fleet	862	822	-40	86341	76499	-9843	21141	18321	-2820
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* LOA: length overall.

** Vessels above 40 m are considered as long-distance fleet.

The European Union's Fisheries Fleet Register does not, however, make it possible to establish whether those vessels that permanently ceased their fishing activity were involved in the cod fishery. Consequently, the level of fishing effort reduction on the cod stocks cannot be evaluated without assessing the fishing effort used by these vessels because Poland has never submitted data on effort utilisation.

It should also be noted that figures in the table are the result of both exit and entry of vessels into the Polish Baltic Sea fishing fleet. In total 81 vessels with a capacity of 557 GT and 2788 kW entered the fleet. Entries were mainly due to a change in the vessel's activity but 4 vessels were imported and 26 vessels were newly built. The entries mainly concerned small vessels with an average length of 8 metres, which are not covered by the cod plan.

As far as exits from the Polish Baltic Sea fleet are concerned, there were no exports of vessels during this period. In total 106 Baltic Sea vessels with a capacity of 3512 GT and 12 133 kW left the Polish fishing fleet, 37 vessels with an average LOA of 21 m resumed their fishing activity and 69 vessels changed their activity.

It should be noted that Poland did not submit data for the annual report from the Commission to the European Parliament and the Council on Member States' efforts during 2009 and data provided for 2008 do not allow any conclusions to be drawn about balancing available fishing opportunities with the fleet capacity.

3.2. Reduction of the number of special cod fishing permits

As a result of the reduction in the number of special cod fishing permits, two thirds of the fleet had to stop fishing cod in 2009. Only one third of the Polish Baltic fishing fleet (147 vessels) received a special cod fishing permit in 2009. This system provided for economically proportionate use of the cod quota throughout the year² and contributes to the increase in the compliance culture.

Reduction of the number of vessels holding special fishing permits for cod fishery could be considered as immediate action to restrict access to the cod fishery as required by Regulation (EC) 338/2008.

It is not possible to draw any conclusion on the actual fishing effort reduction since the data on effort utilisation have not been submitted either to the STECF for assessment in 2009 or to the FEONT database over the years.

3.3. Public aid for permanent cessation of fishing activities

The National Plan on fleet restructuring assumes the scrapping by 2011 of around 2500 GT and 9000 kW of the vessels targeting cod (12-24 segment and 24-40 segment).

² The uptake of the Eastern Baltic cod quota by Poland was 97.3 % in 2009.

The objective of the Fishing Effort Adjustment Plan adopted by Poland is to reduce the size of the Polish cod fisheries fleet by 6000 GT and 20000 kW by end-2011.

Considerable progress can be noted in permanent cessation of fishing activities in Poland with the assistance of the EFF according to the table below:

Table 2: EFF aid granted for scrapping of vessels in Poland in 2009³

Vessels undergoing scrapping with EFF support (No of grant decisions)			
Vessel length	Number of vessels	kW	GT
0-8 m	2	44	4
8-9.99 m	5	275	27
10-11.99 m	2	114	20
12-14.99 m	3	342	67
15-18.49 m	22	2723	824
18.5-20.49 m			
20.5-25.49 m	13	3470	1255
25.5 m and more	19	8421	3178
Total	66	15388	5375

3.4. Modernisation measures (transfer to pelagic sector)

The Restructuring Plan provides for modernisation of fishing vessels over 24 m in length, as well as their transfer to the pelagic sector by the end of 2011 (51 vessels according to the FEAP). A total of 40 applications for EFF co-financing for modernisation of vessels were received by the beginning of November 2009; 20 contracts were signed by the end of January 2010 for modernisation of vessels with EFF support.

This segment of the fleet represents a significant share of the cod fishing fleet in terms of capacity expressed in kW and GT. Permanent transfer of these vessels to pelagic fishery has to be balanced with the fishing opportunities, the state of the pelagic stocks and the expected developments in the management system for these stocks.

³ According to information provided by the Polish Fisheries Department at the meeting of the Monitoring Committee for the EFF Operational Programme held in Warsaw on 27 January 2010.

3.5. Public aid for temporary cessation of fishing activities

In line with the National Baltic Fleet Restructuring Plan and in order to mitigate the adverse socio-economic effects of reducing the number of special cod fishing permits, it was decided that part of the fishing fleet that did not receive the cod fishing permit for 2009 (but had it in 2008) would be granted compensation for temporary cessation of fishing activities. Such compensation is to be granted to a decreasing number of fishing vessels banned from cod fishing until the end of 2011 at the latest. In total 258 grant decisions were adopted in November 2009.

The reduction in the number of cod fishing permits coupled with increased control of landings has resulted in a more proportionate use of cod quota throughout the year and in an increased compliance culture among Polish fishermen.

However, the fleet restructuring process is far from being complete despite the fact that EFF assistance has been used as planned. Out of the (approximately) 450 vessels comprising the Polish fleet, more than half have been forced to stay out of fishing over the period 2009 to 2011 thanks to temporary cessation aid. As a consequence we can expect that after this period about 200 vessels will be ready to re-enter cod fisheries.

4. CONCLUSION AND RECOMMENDATIONS

Over a period of two years Poland has made definite progress in improving the efficiency of fisheries management in the Baltic Sea, in particular in relation to implementing the planned EFF measures to support temporary and permanent cessation.

The reduction in the number of cod fishing permits coupled with increased control of landings has resulted in a more proportionate use of cod quota throughout the year and in an increased compliance culture among Polish fishermen.

Despite the initial delays in launching the permanent decommissioning scheme co-financed by the European Fisheries Fund, the process of permanent cessation of fishing activities with EFF support is now well on track and the results achieved so far are generally in line with the targets. This process should be stepped up to adjust the size of the cod fleet in line with the fishing opportunities.

Nevertheless, the full benefits of restructuring the national system in the context of control and fleet management provided for in the National Action Plan and the National Baltic Fleet Restructuring Plan require all necessary measures to be taken in due time. The reforms implemented cover only part of the National Action Plan and the improvements observed cannot yet guarantee the full reliability of the control system. Furthermore, the structural imbalance of the Polish fleet has not been corrected to the necessary extent and due to lack of data its impact on cod fisheries cannot be evaluated.

It is essential for Poland to adopt all the necessary measures in line with the predetermined schedule. Special attention has to be paid to the following issues:

- The legal framework has to be adopted in order to fully transpose the EU legislation.
- Fishing effort data have to be duly transmitted to the Commission.

- A compliance culture has to be developed through an economically viable fishery addressing the problem of overcapacity and where illegal fishing is no longer profitable and tolerable. The system of deterrence should be reviewed and ensure that sanctions are proportional to the nature of the offence so as to deprive offenders of the benefit thereof.
- Appropriate measures still need to be taken to ensure an effective and efficient control and enforcement system, and in particular:
 - The inspection system and procedures must ensure appropriate follow-up of inspections.
 - All fishing sectors, including the post-landing sector, should be subject to inspection and control and resources should be allocated accordingly.
 - The Fisheries Information System has to be modernised in order to meet the requirements of EU legislation.
 - A specific data analysis team should be established with responsibilities for real-time monitoring and risk analysis of fishing vessels.

The Commission invites Poland to identify and proceed immediately with implementation of appropriate corrective measures so as to comply with the memorandum of understanding. The list of corrective measures should be submitted in writing to the Commission by 1 November 2010.

At the same time the Commission reserves the right to exercise its powers as guardian of the EU Treaties.