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REPORT FROM THE COMMISSION TO THE COUNCIL

**on the implementation of the Polish National Action Plan under Regulation No 338/2008
providing for the adaptation of cod fishing quotas to be allocated to Poland in the Baltic
Sea (Subdivisions 25-32, EC waters) 2008-2011**

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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 required to evaluate and report to the Council annually on the implementation of the Polish National Action Plans on control and fleet restructuring. This is the final report on the three-year period.

The National Action Plan on control is designed to overcome difficulties that have been identified regarding inspections and enforcement and to address the underlying causes of illegal fishing and breaches of EU law for cod fisheries in the Baltic Sea comprehensively. The content of the Plan was discussed and agreed by the Polish authorities and the Commission services at a meeting in Warsaw on 18 March 2008. The National Action Plan on control is outlined in the Agreed Record of that meeting.

The National Action Plan on Baltic Fleet Restructuring, which also covers the period 2008 to 2011, was designed to identify what measures needed to be taken to ensure sustainable exploitation of the cod quotas granted to Poland from the conservation and economic points of view as part of the Operational Programme co-financed by the European Fisheries Fund. The Restructuring Plan was agreed between the Commission and the Polish authorities on 26 March 2008. The National Baltic Fleet Restructuring Plan was adopted in April 2008, and Poland adopted the Fishing Effort Adjustment Plan (FEAP) in January 2009.

As provided for in Article 3(1) of Council Regulation (EC) 338/2008, Poland has adopted and implemented both plans. As required, Poland has sent implementation reports to the Commission. This information, together with information the Commission inspection services have collected, supports the evaluation set out in this report. The report is divided into two parts: control and 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. Apart from one deadline specified in the Action Plan, Poland was to have addressed all issues by October 2009. Poland was required to send the Commission a progress report on each point of the Plan every six months.

2.1. Strengthening the legal framework

In 2008, Poland set its legislative procedure in motion so as to adopt new national rules to address the weaknesses in the control and enforcement system identified in the Action Plan. The Fisheries Marketing Act has been adopted and has entered into force, but the draft Fisheries Act has yet to be adopted. From 1 January 2012, a new ministerial decree strengthens cooperation between local and regional sea fisheries inspectors and the agricultural and food quality inspectors relating to fisheries products at all stages of production, processing and distribution, from catching or harvesting to the retail stage. Poland is currently drafting a new Fisheries Act that must comply with Council Regulation (EC) No 1224/2009 and Commission Implementing Regulation (EU) No 404/2011.

2.2. Establishment and operation of a single authority

A single authority to coordinate monitoring, control and surveillance (MCS) was set up in 2008 and is the sole responsibility of the Deputy Director for Fisheries Control in the Ministry of Agriculture and Rural Development.

Since the end of 2011, the inspection benchmarks and the inspection targets are established by the single authority based on comprehensive risk analysis. A new common computerised system for monitoring the results of inspections has been available since early 2011, but is not connected or cross-checked with the catch registration database.

Commission inspection services still noted discrepancies between the practices and working methods of different regional inspection offices, which can only be partially explained by regional differences in the fisheries.

2.3. Improvements in the field of inspections

Poland has been gradually addressing the issues with a view to overcoming control and enforcement difficulties. Although the deadline laid down in the memorandum of understanding was missed and only limited improvements were observed between 2008 and 2009, there were significant steps in 2010 and 2011 towards solving the outstanding issues:

- Inspectors in the port offices and mobile teams received shock- and waterproof laptops in 2010 with online access to VMS and prior notifications. In 2011, inspectors received online access to the new catch registration system and electronic logbook data.
- Since 2011, inspectors have received prior notifications by SMS.
- Since October 2011, the 100% inspection benchmark has been abolished for cod landings, and a new risk-based inspection planning system has been applied. The strategy is worked out by the Ministry (the single authority) in cooperation with the regional inspectorates. The fisheries monitoring centre (FMC) prepares the comprehensive risk analysis and provides the basis for inspection planning.
- The new risk-based strategy makes it possible to allocate inspection resources to areas other than cod landings. Other fisheries, such as salmon, and other segments, such as post-landing activities, are now inspected more frequently.

Although the inspectors' technical equipment is very good, as of the beginning of 2012, it was being used only to a limited extent. Inspectors from different regional inspectorates do not interact, and there is no established system for the exchange of best practices. As a first step, a monthly coordination meeting with regional sea fisheries inspectors has been set up.

2.4. Improvements in administrative control

In the first years of implementing the National Control Action Plan, no significant progress was made and Poland failed to meet the deadlines. Nonetheless, in 2010 and 2011, most problems that required attention were solved:

- The new inspection database (OSIRIS) makes it possible to record all inspections and infringements for all vessels in Poland. The database can be used for extended queries. The inspection and infringement history for individual vessels, harbours or species can be

retrieved; and any infringements by vessels from other countries are communicated to the Flag state. The missing link in the database is the possibility of following up prosecutions for infringements.

- There is a risk analysis team in the FMC team that provides inspectors with a list of high-risk vessels, based on historical data. However, the system cannot provide real-time monitoring and hence define possible targets for inspection.
- The Fisheries Market Act has been adopted and provides a higher level of control for high-risk species. But the national legislation providing for penalties for breaching the Market Act has still not been adopted. This makes it difficult to assess how effectively the Fisheries Market Act is being enforced.
- Nonetheless, the new condition that vessels with infringements may not receive additional quota at the end of the year has proved a significant deterrent.

3. NATIONAL BALTIC FLEET RESTRUCTURING PLAN

The National Baltic Fleet Restructuring Plan was adopted by Poland in April 2008 and contains the following main measures:

- reduction in the cod fishing fleet,
- adjustment of fishing capacity to stocks,
- distribution of national quotas,
- modernisation of fishing vessels (transfer to the pelagic sector),
- aid for the temporary cessation of fishing activities.

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, Poland adopted the Fishing Effort Adjustment Plan (FEAP) in January 2009, following negotiations with the European Commission. The content of these plans were also considered as national action plans for fleet restructuring under the terms of Article 3 of Regulation (EC) No. 338/2008 for the period of its implementation.

3.1. Trends in the Polish fishing fleet

According to the Community Fishing Fleet Register (the Fleet Register) the capacity of the Polish Baltic Sea fishing fleet was considerably reduced over the period 1.4.2008 to 31.12.2011. The biggest reduction was in the fleet segment with an overall vessel length between 24m and 40m. This is a polyvalent fleet segment, which is also involved in cod fishing.

Table 1: Polish fishing fleet from 1.4.2008 – 31.12.2011

Number of vessels*		Capacity in kW		Capacity in GT
Vessels by LOA	On 01.04.2008	On 31.12.2011	Difference in No	On

01.04.2008	On 31.12.2011		Difference in kW		On 01.04.2008		On 31.12.2011	
< 8 m	258	246	-12	5983.39	5552.87	-430.52	592.18	568.64
8 to 12 m	337	345	8	18957.7	18336.69	-621.01	2286.54	2441.23
12 m to 24 m	185	150	-35	30391.4	25552.13	-4839.27	6929.15	5870.9
24 m to 40 m	80	45	-35	30921.3	17493.2	-13428.1	11327	6615
Total	860	786	-74	86253.79	66934.89	-19318.9	21134.87	15495.77

* Vessels above 40m are considered as belonging to the long-distance fleet and are not included in this table.

Figures in the table include both exits and entries into the Polish Baltic Sea fleet, with and without public support. They cover all Baltic Sea fleet segments, including vessels that are not involved in direct cod fishery.

3.2. Reduction in the number of special cod fishing permits

To manage the reduced cod quota, for the period 2009-2011, Poland introduced a new system for allocating quotas to individual vessels. This was based on the national quota and individual economic fishing quotas in specific segments of the cod fishing fleet. The individual economic fishing quotas were set not allowing vessels holding special fishing permits to generate excessive profit, though they would remain economically viable.

Under this system, the number of vessels holding a special cod fishing permit was significantly reduced over a period of three years to around a third (between 147 and 158 vessels depending on the year) of the number of vessels in 2008 (456 vessels).

The temporary reduction in the number of vessels holding special fishing permits for cod was intended to balance out the quota deductions applied in 2008-2011 for earlier overfishing of cod.

It was assumed that the system described above would reduce the number of vessels holding special cod fishing permits in 2012 to no more than 233.

Nevertheless, in 2012, after the cod quota deductions had expired, Poland increased the number of vessels holding special cod fishing permits to 443, almost as many as in 2008. Thus, Poland failed to prevent part of the fleet returning to directed cod fishery. Furthermore, the annual quotas for individual vessels are reduced significantly compared to previous years under the payback scheme, which casts doubt on the economic viability of the cod-dependent fleet segments.

Table 1: Special permits for cod and cod quotas in Poland in 2008-2012

	2008	2009-2011	2012
Number of vessels with special permit for cod	456	147-158	433
Quota for Baltic cod (tonnes)	12146	11866-15440	21871
Average quota per vessel (tonnes)	26.64	80.70 – 97.80	50.51

3.3. Permanent cessation of fishing activities

Poland has set the target of reducing the capacity of the cod fishing fleet by approximately 50%. This should be achieved through the permanent decommissioning of cod fishing vessels, the transfer of part of the multi-purpose fleet segment to direct pelagic fishery only, and the introduction of the Individual Transfer Quota (ITQ) system. The permanent decommissioning objective was a reduction of 6000 GT and 20000 kW by the end of 2011.

According to information available to the Commission, a total of 69 vessels, representing 4961.29 GT and 14524.58 kW, were removed from the Fishing Fleet Register as a result of permanent decommissioning. This total also includes not cod-dependent vessels that could potentially catch cod. The permanent decommissioning scheme continues in 2012 on the basis of contracts signed by the end of 2011.

3.4. Modernisation measures (transfer to pelagic sector)

Poland foresaw envisaged modernisation of 51 of the biggest fishing vessels with a total capacity of 7832 GT and 21714 kW during 2009-2011 and the permanent transfer of those vessels from direct cod fishing to directed sprat and herring fishing only. But low levels of public support and poor financial conditions in the sector were among the reasons why owners were not interested in modernisation or permanently transferring from directed cod to pelagic fishery only. Nevertheless, many pelagic vessels were decommissioned during 2009-2011. The indicators and targets set out in the FEAP for modernisation and capacity removal from the direct cod fishery were not achieved.

3.5. Introduction of Individual Transferable Quotas (ITQ)

Poland planned to introduce the ITQ system for the management of the cod fishing fleet from 2012. This was seen as an important advance in efficiency that would contribute to further adjustment of the fishing fleet's capacity to the fishing opportunities. Though the Polish authorities conducted a broad political debate and consultations with the sector, it proved impossible to implement the ITQ in the face of strong resistance from stakeholders.

4. CONCLUSION AND RECOMMENDATIONS

Over recent years, Baltic Sea cod stocks have significantly improved, resulting in increased quota allocations to the Member States concerned. In addition, Poland has paid back in full the cod quotas that had earlier been overfished through a four-year-long quota deduction scheme.

Most of the requirements set out in the National Action Plan on control had been implemented by the end of 2011. The national monitoring and control system and the

reliability of the catch and effort reporting system improved over the period 2008-2011, resulting in a system that can ensure effective control and inspection as envisaged in the agreed record on the Polish fisheries control system. Some minor elements still need to be addressed, and the national authorities might need to make some adjustments to be able to use the new MCS system to its full potential. It is therefore very important to continue making improvements to the system.

It is essential for Poland to adopt all necessary measures, with special regard to the new national Fisheries Act. As for all other Member States, the Commission services will continue to monitor the state of play closely, and, where appropriate, follow up any failure in the implementation of the measures required.

The Commission notes that the permanent decommissioning scheme and the system of temporary cessation of cod fishing activities of some vessels have not enabled Poland to achieve its target of reducing capacity by 50%. This is the case in spite of the significant costs of such schemes, which have proven to be largely ineffective and inefficient across the EU.

Against this background, considering the dynamic changes taking place in the Baltic Sea fish stocks and fleets, Poland should continue to assess the performance of the fleet regularly to determine whether a balance has been achieved between fishing capacity and available resources.

Where necessary, measures should be introduced to address any obvious imbalance in a particular fleet segment or fishery. Public resources should be used to facilitate the transition to more sustainable, selective and low-impact fishing.