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2007/0070 (CNS)

Proposal for a

## **COUNCIL REGULATION**

**concerning the establishment of a Community framework for the collection,  
management and use of data in the fisheries sector and support for scientific advice  
regarding the Common Fisheries Policy.**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

### **1) CONTEXT OF THE PROPOSALS**

#### **☒ Grounds for and objectives of the proposals**

The goal of the Commission's proposal for a new Council Regulation on data collection in the fisheries sector is to develop long-term, well-integrated regional sampling programmes covering biological, economic, environmental and social data. The revised data collection regulation is intended to meet new demands generated by the need to move towards fisheries management (i.e. fleet- and area-based management, rather than fish stock-based) and towards the ecosystem approach to fisheries management. A significant innovation in the proposal is the inclusion of collection of environmental data with the primary purpose of monitoring the impact of fishing activity on the marine ecosystem.

The new data collection system will cover all the process, from the collection of the data in ports or at sea to its use by the end-users (mainly the scientific community and advisory bodies).

Quality control and validation of the data collected is of particular importance. The Commission considers that the Community financial contribution should be made conditional on quality control and compliance with agreed quality standards. Consequently, the Commission has introduced a financial penalty related to non-compliance and poor quality of national programmes.

The improvement of access to data and its use has been also considered of high importance including access to additional sets of data such as Vessel Monitoring Satellite (VMS) data. New rules have been defined to this end, as well as rules on the use of data to protect the interests of the data providers.

The simplification of the procedures are an important goal as National programmes will henceforward be established for a 3-year period; however the possibility should be given to the Member States to include amendments when necessary (to take account of increased international coordination, for example). Multi-annual planning periods will reduce the administrative burden for all parties concerned.

#### **☒ General context**

The systematic collection of reliable basic data on fisheries is a cornerstone of fish stock assessment and scientific advice, and consequently of critical importance for the implementation of the common fisheries policy (CFP).

The Commission has carried out a review of the current system of the data collection framework following several years of its implementation. A number of shortcomings were identified which need to be addressed urgently in order to provide the scientific community and fisheries managers with the data they need to take more effective management decisions.

## € Existing provisions in the area of the proposal

Council Regulation 1543/2000 establishing the current Community framework for the collection and management of the data needed to conduct the CFP. This Regulation created a first framework designed to consolidate and strengthen data collection activities in the Member States.

## € Consistency with other policies and objectives of the Union

The proposal relates closely to the environmental aspects of fishing activities. It provides the basic input necessary in order to apply the ecosystem approach in fisheries management.

The proposal also takes into consideration the need to simplify the current legislation.

Moreover, the Green Paper "Towards a future maritime policy for the Union: An European vision for the oceans and the seas" acknowledges the crucial importance for implementing an EU Marine Strategy of collecting and managing reliable data and information on marine activities, as well as their impact on the resource base. It also addresses existing problems of harmonisation and reliability of the data collected as well as gaps in monitoring within EU regions. An improved framework for the collection and management of data will represent a step in this direction.

## 2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

### € Consultation of interested parties

#### Consultation methods, main sectors targeted and general profile of respondents

First dialogue meeting with national data collection correspondents and directors of fisheries research institutes and representatives of the scientific advisory bodies (ICES, STECF) in Brussels, February 24th. The basic ideas of the proposed changes to the current system were presented and thoroughly discussed.

Second dialogue meeting with national data collection correspondents and directors of fisheries research institutes (Brussels, July 14th). A draft of Commission's proposal was presented and discussed.

#### Summary of responses and how they have been taken into account

Member States representatives and scientists generally were in favour of the proposal. Points of concern included penalties for non-compliance, rules for access to data and definition of surveys.

Remarks and comments were considered and most were incorporated into the proposal.

### € Collection and use of expertise

There was no need for external expertise.

## ☒ **Impact assessment**

This proposal concerns the adaptation of existing Community legislation in order to make it less burdensome and more effective.

For these reasons an impact assessment was not considered necessary.

## **3) LEGAL ELEMENTS OF THE PROPOSAL**

### ☒ **Summary of the proposed action**

To substantially revise the current legal framework for the collection of basic fisheries data and use for scientific advice.

### ☒ **Legal basis**

Article 37 of the Treaty.

### ☒ **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiary principle therefore does not apply.

### ☒ **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

Common sets of data at EU regional level and common standards for data collection are needed in order to manage a common fisheries resource.

Nevertheless the regulation is designed to reduce both the administrative burden of the systems and its cost to the Member States, in particular through:

- multi-annual programmes (no more yearly approval procedures)
- a requirement for regional co-ordination between Member States in order to improve cost-effectiveness.

### ☒ **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reasons:

The need to keep in place and improve an existing framework for harmonised data collection.

#### **4) BUDGETARY IMPLICATION**

Member States may apply for Community financial assistance for the collection, management, transmission and use of data for the scientific advice. The average annual budget for data collection and scientific advice is 58 M€ for the period 2007-2013. See attached financial statement.

#### **5) ADDITIONAL INFORMATION**

##### **€ Simplification**

The proposal provides for simplification of administrative procedures for public authorities (EU or national).

- national programmes will be established for 3-year periods instead of annual submissions
- simplify EU national programmes with only one core, mandatory programme (no more extended optional programme)
- regional co-ordination for certain data to be collected.

##### **€ Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

Proposal for a

## **COUNCIL REGULATION**

**concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy.**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Whereas:

- (1) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy<sup>3</sup> provides for regular assessments by the Scientific, Technical and Economic Committee for Fisheries (hereinafter referred to as “the STECF”) of the management of living aquatic resources, including biological, economic, environmental, social and technical considerations.
- (2) The United Nations Food and Agriculture Organisation's Code of Conduct for Responsible Fisheries and the Agreement relating to the Conservation and Management of Straddling Fish Stocks both emphasise the need to develop research and data collection with a view to improving scientific knowledge of the sector.
- (3) In line with the objectives of the Common Fisheries Policy on the conservation, management and exploitation of living aquatic resources in non- Community waters, the Community must take part in the efforts undertaken to conserve fisheries resources, notably in accordance with the provisions adopted in Fisheries Partnership Agreements or by Regional Fisheries Organisations (hereinafter referred to as “ the RFOs”).

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<sup>1</sup> OJ C [...], p. [...].

<sup>2</sup> OJ C [...], p. [...].

<sup>3</sup> OJ L 358, 31.12.2002, p. 59.

- (4) On 23. January 2003, the Council adopted the conclusions concerning the Commission's Communication to the Council and the European Parliament setting out a 'Community Action Plan to integrate environmental protection requirements into the CFP'<sup>4</sup> with guiding principles, management measures and a work programme, to move towards an ecosystem approach to fisheries management.
- (5) On 13 October 2003, the Council adopted conclusions concerning the Commission's Communication to the Council and the European Parliament on the improvement of scientific and technical advice for Community fisheries management<sup>5</sup>, describing the Community's needs for scientific advice, setting out the mechanisms for providing advice, identifying the areas where system needs to be strengthened and suggesting possible solutions over the short to medium and long term.
- (6) Council Regulation (EC) No 1543/2000 of 29 June 2000 establishing a Community framework for the collection and management of the data needed to conduct the common fisheries policy<sup>6</sup> needs to be reviewed in order to take due consideration of a fleet based approach towards fisheries management, the need to develop an ecosystem approach, the need for improved quality, completeness and broader access to fisheries data, more efficient support for provision of scientific advice and the promotion of cooperation among Member States.
- (7) The current Regulations in the area of fisheries data collection and management, in particular Council Regulations (EEC) No °2847/1993<sup>7</sup> of 12 October 1993 establishing a control system applicable to the common fisheries policy, (EC) No 779/1997<sup>8</sup> of 24 April 1997 introducing arrangements for the management of fishing effort in the Baltic Sea, (EC) No 104/2000<sup>9</sup> of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products, (EC) No 2347/2002<sup>10</sup> of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks, (EC) No 1954/2003<sup>11</sup> of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EC) No 2847/93 and repealing Regulations (EC) No 685/95 and (EC) No 2027/95, (EC) No 812/2004<sup>12</sup> of 26 April 2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98, and Commission Regulation (EC) No 26/2004<sup>13</sup> of 30 December 2003 on the Community fishing fleet register; include provisions on the collection and management of data relating to fishing vessels, their activities and catches and on price monitoring, incidental catches of cetaceans and conditions applicable to deep sea fishing, which should be taken into account in this Regulation if a comprehensive and coherent system of data collection is to be established.

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<sup>4</sup> COM(2002)186

<sup>5</sup> C(2003)625

<sup>6</sup> OJ L176, 15.7.2000, p. 1.

<sup>7</sup> OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).

<sup>8</sup> OJ L 113, 30.4.1997, p. 1.

<sup>9</sup> OJ L 17, 21.1.2000, p. 22. Regulation as amended by the 2003 Act of Accession.

<sup>10</sup> OJ L 351, 28.12.2002, p. 6. Regulation as last amended by Regulation (EC) No, 768/2005 (OJ L 128, 21.5.2005, p. 1).

<sup>11</sup> OJ L 289, 7.11.2003, p. 1

<sup>12</sup> OJ L 150, 30.4.2004, p. 12.

<sup>13</sup> OJ L 5, 9.1.2004, p. 25.

- (8) The data collected for the purposes of scientific evaluation should include biological data covering catches, including discards, survey information on fish stocks and the environmental impact that may be caused by fishing and aquaculture activities, information on fleets and their activities. It should also include data explaining price formation and other data which may facilitate an assessment of the economic situation of fishing enterprises and the processing industry, and of employment trends in these sectors.
- (9) The obligations concerning access to the data covered by this Regulation are without prejudice to Member States' obligations under Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC<sup>14</sup> with regard to the environmental information as defined in Article 2(1) of that Directive.
- (10) Community programmes to collect and manage fisheries data should be implemented under the direct responsibility of the Member States. Accordingly Member States should draw up national programmes in line with the Community programme.
- (11) In order to protect and conserve living aquatic resources and their sustainable exploitation, an ecosystem based approach to fisheries management should be progressively implemented. The assessment of the interaction between fisheries and the environment needs to be further considered, in particular the environmental effects of fishing and aquaculture and its repercussions on the ecosystem.
- (12) Priorities should be established at Community level, as should the procedures for data collection and processing within the Community, in order to ensure that the entire system is consistent and to optimise its cost-effectiveness by creating a stable multi-annual framework.
- (13) The Member States should cooperate among themselves, as well as with third countries, and coordinate their national programmes with respect to the collection of data regarding the same marine region and regions covering relevant inland waters.
- (14) The data referred to in this Regulation should be put into computerised databases so that they are accessible to authorised end-users and can be exchanged. It is in the interest of the scientific community that data which does not allow for personal identification is available to any party who has an interest in the analysis of such data.
- (15) The implementation of national programmes to collect and manage fisheries data requires significant expenditure. The benefit of such programmes can only be fully realised at Community level. There should therefore be provision for a Community financial contribution to the Member States' costs, in accordance Council Regulation 861/2006 of 22 May 2006 establishing Community financial measures for the implementation of the Common Fisheries Policy in the area of the Law of the Sea<sup>15</sup>

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<sup>14</sup> OJ L 41, 14.2.2003, p. 26.

<sup>15</sup> OJ L 160, 14.6.2006, p. 1.

- (16) In case the Commission finds that the expenditure concerned is linked to irregularities, financial corrections will be made in accordance with Article 28 of Regulation 861/2006.
- (17) Managing fisheries resources require the processing of detailed data in order to address specific issues. In that context, the request for data should consider the appropriate level of aggregation in each particular case.
- (18) Although no central data base is to be created by the Commission, the Commission should have access to the Member States' databases.
- (19) In order to improve the reliability of scientific advice needed to conduct the Commission Fisheries Policy (hereinafter referred to as 'the CFP'), the Member States and the Commission need to coordinate and cooperate in the relevant international scientific bodies.
- (20) Priority should be given to ensuring the attendance of the relevant scientific experts in the expert groups conducting the scientific evaluation needed to conduct the CFP.
- (21) The scientific community should be consulted and those working in the fishing industry and other interest groups should be informed on the implementation of the data collection provisions. The appropriate bodies in which to gather the opinions required are the STECF, established by Commission Decision 2005/629<sup>16</sup>, the Advisory Committee on Fisheries and Aquaculture, set up by Commission Decision 1999/478/EC<sup>17</sup>, and the Regional Advisory Councils set up by Council Decision 2004/585/EC<sup>18</sup>.
- (22) The management committee should ensure close cooperation between the Member States and the Commission in order to facilitate the correct implementation of this Regulation. The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>19</sup>.
- (23) Based on the past experience and new needs it is appropriate to repeal Council Regulation 1543/2000 and replace it by this Regulation.

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<sup>16</sup> OJ L 225, 31.8.2005, p. 18.

<sup>17</sup> OJ L 187, 20.7.1999, p. 70. Decision as amended by Decision 2004/864/EC (OJ L 370, 17.12.2004, p. 91).

<sup>18</sup> OJ L 256, 3.8.2004, p. 17.

<sup>19</sup> OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS REGULATION:

## **Chapter I**

### **General provisions**

#### *Article 1* *Subject-matter*

1. This Regulation establishes rules on:
  - (a) the collection and management, in the framework of multiannual programmes, of biological, environmental, economic and social data concerning the fisheries sector;
  - (b) the use, in the framework of the Common Fisheries Policy (hereinafter referred to as ‘the CFP’), of data concerning the fisheries sector.
2. This Regulation also lays down provisions for the improvement of the scientific advice needed for the implementation of the CFP.

#### *Article 2* *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (a) “fisheries sector” means activities related to commercial fisheries, recreational fisheries, aquaculture and industries processing fisheries products
- (b) “recreational fisheries” means fishing activities exploiting living aquatic resources for recreation or sport;
- (c) “marine regions” means the geographical areas set out in Annex I to Council Decision 2004/585/EC and the areas established by the regional fisheries organisations;
- (d) “primary data” means data associated with individual vessels, natural or legal persons or individual samples;
- (e) “detailed data” means data based on primary data in a form which does not allow natural persons or legal entities to be identified;
- (f) “aggregated data” means the output resulting from summarising the primary or detailed data for specific analytic purposes;
- (g) “end-users” means natural or legal persons or organisations with an interest in the scientific analysis of data concerning the fisheries sector;
- (h) “fleet-based sampling” means biological, economic and social data collection surveys based on agreed regional fleet segments;
- (i) “Community fishing vessel” means a vessel as defined in Article 3(d) of Regulation (EC) No 2371/2002.

## **Chapter II**

### **Collection and management of data in the framework of multi-annual programmes**

#### **SECTION 1**

##### **COMMUNITY PROGRAMME AND NATIONAL PROGRAMMES**

###### *Article 3*

###### *Community Programme*

1. The Commission shall define a multi-annual Community programme for the collection of biological, environmental, economic and social data concerning
  - (a) commercial fisheries carried out by Community fishing vessels within and outside Community waters;
  - (b) recreational fisheries carried out within Community waters;
  - (c) aquaculture activities carried out within the territories of the Member States and Community waters;
  - (d) industries processing fisheries products.
2. The Community programmes shall be drawn for three-year periods. The first period shall cover the period from 2008 to 2010 inclusive.

###### *Article 4*

###### *National Programmes*

1. Without prejudice to their current data collection obligations under Community law, Member States shall collect primary data from the biological, environmental, economic and social domains within the framework of a multi-annual national programme (hereinafter referred to as ‘the national programme’) drawn up in accordance with the Community programme.
2. The national programme shall include, in particular, the following matters as provided for in Chapter 2:
  - (a) national sampling programmes;
  - (b) a scheme for observers-at-sea, where necessary;
  - (c) a scheme for surveys-at-sea.
3. Member States shall include in their national programmes the procedures and methods to be used in collecting and analysing data and in estimating their accuracy and precision.

4. Member States shall submit their national programmes for approval by the Commission. They shall submit them by electronic means to the address prescribed by the Commission.
5. In order to take into account any agreements made at regional level, Member States may submit amendments to their national programmes during the programme period. Those amendments shall be sent to the Commission at least two months prior to the year of implementation.
6. The first national programme shall include the activities for the years 2008 to 2010.

*Article 5*  
*Coordination and cooperation*

1. Member States shall coordinate their national programmes with other Member States in the same marine region and make every effort to coordinate their actions with third countries having sovereignty or jurisdiction over waters in the same marine region.
2. Member States shall, as far as possible, build upon existing data collection programmes and activities in order to develop long-term integrated regional sampling programmes.
3. Member States shall cooperate with each other and third countries in the manner prescribed in paragraphs 1 and 2, wherever Community Regulations provide for the management of species occurring in inland waters.

*Article 6*  
*Evaluation and approval of national programmes*

1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall evaluate
  - (a) the conformity with this Regulation of the national programmes and any amendments thereto, and
  - (b) the scientific relevance of the data to be collected.
2. If the evaluation by STECF indicates that a national programme does not comply with this Regulation or is not scientifically relevant, the Commission shall immediately inform the Member State concerned and propose amendments to that programme. Subsequently, the Member State concerned shall submit a revised national programme to the Commission.
3. The Commission shall approve the national programmes on the basis of the evaluation by the STECF and the evaluation of costs carried out by its services.

*Article 7*  
*Community financial assistance*

1. Community financial assistance for national programmes shall be implemented in accordance with the rules laid down in Regulation (EC) No 861/2006.
2. The basic data referred to Article 9 of Regulation (EC) No 861/2006 shall cover only those parts of Member States' national programmes that implement the Community programme.
3. Community financial assistance for national programmes shall only be granted if the rules set out in this Regulation are fully respected.
4. The Commission may, after having afforded the Member States concerned an opportunity of being heard, reduce Community financial assistance by up to 25% of the total annual cost of the national programme in the following circumstances:
  - (a) where the national programmes are not submitted to the Commission by the prescribed deadline;
  - (b) where the national programme is incomplete;
  - (c) where an official request for data has been made by an end-user and the data are not delivered on time to the end-user concerned.
5. The Commission shall suspend and/or recover Community financial assistance if the evaluation by the STECF, as provided for in Article 6, shows that the data does not meet quality standards compared to regional and international requirements.
6. The reduction of the Community financial assistance shall be proportionate to the degree of non-compliance and applied gradually over time.

**SECTION 2**  
**REQUIREMENTS FOR THE DATA COLLECTION PROCESS**

*Article 8*  
*Sampling programmes*

1. Member States shall establish multi-annual national sampling programmes.
2. National sampling programmes shall include, in particular:
  - (a) a sampling design for biological data following fleet-based sampling including, where appropriate, recreational fisheries;
  - (b) a sampling design for ecosystem data that permits the degree of species interactions and the impact of the fisheries sector on the environment to be estimated and contributes to monitoring of the state of the marine environment;

- (c) a sampling design for economic and social data that permits the economic situation of the fisheries sector to be assessed and enables its performance over time to be analysed and impact assessments of measures undertaken, or proposed, to be carried out.
- 3. The protocols and the methods used for the establishment of national sampling programmes shall be, as far as possible:
  - (a) stable over time;
  - (b) standardised within regions;
  - (c) in accordance with the quality standards established by international scientific bodies and the relevant regional fisheries organisation.
- 4. Accuracy and precision for the data collected shall be systematically estimated.

*Article 9*  
*Access to the sampling action sites*

Member States shall ensure that, in order to carry out their duties, samplers have access to:

- (a) all landings, including as appropriate, transshipments and transfers to aquaculture;
- (b) business premises for the collection of economic data.

*Article 10*  
*Observers-at-sea*

- 1. Where necessary for the purposes of the collection of the data under the national programmes, Member States shall design and implement observer-at-sea schemes.
- 2. The tasks of the observers-at-sea shall be determined by the Member States.
- 3. The masters of Community fishing vessels shall accept on board the observers-at-sea designated by the body in charge of the national programme and cooperate with them in order to allow them to discharge their duties while on board Community fishing vessels.
- 4. The masters of Community fishing vessels may refuse to accept on board the observers-at-sea only on the basis of an obvious lack of space on the vessel or for safety reasons. In such cases, data shall be collected through a self-sampling programme, carried out by the crew of the Community fishing vessel, and designed and controlled by the body in charge of the national programme.

*Article 11*  
*Surveys at sea*

1. Member States shall carry out scientific surveys at sea to evaluate the abundance and distribution of stocks, independently of the data provided by commercial fisheries, and to assess the impact of the fishing activity on the environment.
2. The list of scientific surveys at sea eligible for the Community financial assistance shall be adopted in accordance with the procedure referred to in Article 26(2).

**Chapter III**  
**Data management process**

*Article 12*  
*Data storage*

Member States shall:

- (a) ensure that primary data collected under national programmes are safely stored in computerised databases and take all necessary measures to ensure that they are treated as confidential ;
- (b) take all necessary technical measures to protect such data against any accidental or illicit destruction, accidental loss, deterioration, distribution or unauthorised consultation.

*Article 13*  
*Data quality control and validation*

1. Member States shall be responsible for the quality and completeness of the primary data collected under national programmes, and the detailed and aggregated data derived there from which are transmitted to end-users.
2. Member States shall ensure that:
  - (a) primary data collected under national programmes are properly checked for errors by appropriate quality control procedures;
  - (b) detailed and aggregated data derived from primary data collected under national programmes are validated before their transmission to end-users;
  - (c) the quality assurance procedures applied to the primary, detailed and aggregated data referred to in (a) and (b) are developed in accordance with the procedures adopted by the international scientific bodies, regional fisheries organisations and the STECF.

## **Chapter IV**

### **Use of data collected in the framework of the CFP**

#### *Article 14* *Data covered*

Without prejudice to the obligations under Directive 2003/4/EC with regard to the access to environmental information this Chapter shall apply to all data collected:

- (a) under Regulations (EEC) No 2847/1993, (EC) No 779/1997, (EC) No 104/2000, (EC) No 2347/2002 (EC) No 1954/2003 (EC) No 812/2004;
- (b) under the framework of this Regulation:
  - (i) data on vessels' activity based on information from satellite monitoring and other monitoring systems with the required format;
  - (ii) data allowing the reliable estimation of the total volume of catches per stock by commercial vessel segment, geographical area and time period, including discards and, where appropriate, data regarding catches in recreational fisheries;
  - (iii) all biological data requested to monitor the status of exploited stocks;
  - (iv) ecosystem data needed to evaluate the impact of fishing activities and aquaculture on the environment;
  - (v) data to evaluate the degree of species interactions;
  - (vi) the economic and social data from the fleet sector and the processing industries.

#### *Article 15* *Access to and transmission of primary data*

1. Member States shall ensure that the primary data incorporated into the national computerised databases are directly accessible by electronic means by the Commission for the purpose of verifying that the data exist.
2. Without prejudice to the obligations established by other Community rules, Member States shall conclude agreements with the Commission relating to computer access in order to guarantee direct access to their databases.
3. Member States shall ensure that the primary data collected under the surveys at sea schemes are transmitted to international scientific organisations and appropriate scientific bodies within regional fisheries organisations in accordance with the international obligations of the Community and the Member States.

*Article 16*  
*Processing of data*

1. Member States shall process the primary data into data sets of detailed or aggregated data in accordance with:
  - (a) relevant international standards;
  - (b) protocols agreed at region level, wherever they exist.
2. The Member State shall provide to the end-user and the Commission, whenever necessary, a description of the methods applied to process the requested data and their statistical properties.

*Article 17*  
*Detailed and aggregated data transmission*

Member States shall make detailed and aggregated data available to end-users to support scientific analysis:

- (a) as a basis for advice to fisheries management;
- (b) in the interest of public debate and stakeholder participation in policy development;
- (c) for publication in research journals or for educational purposes.

*Article 18*  
*Submission of detailed and aggregated data*

Member States shall ensure that relevant detailed and aggregated data is provided immediately to relevant international scientific organisations and appropriate scientific bodies within regional fisheries organisations in accordance with the international obligations of the Community and the Member States.

*Article 19*  
*Data transmission procedure*

1. Member States shall transmit detailed and aggregated data in a secure electronic format.
2. Where detailed and aggregated data are requested for publication in research journals or for educational purposes, Member States may, in order to protect the professional interests of the data collectors, withhold data transmission to the end-users for a period of two years following the date of collection of the data. Member States shall inform the end-users and the Commission of any such decisions. In duly justified cases the Commission may authorise that period to be extended.

3. Member States may refuse to transmit the relevant detailed and aggregated data only:
  - (a) if there is a risk of natural persons and/or legal entities being identified in which case the Member State may propose alternative means to meet the needs of the end-user which ensure anonymity;
  - (b) in the cases referred to in Article 21(2)
4. In cases where the data requested by end-users other than relevant international scientific organisations and appropriate scientific bodies within regional fisheries organisations are different from those already provided to international scientific organisations and appropriate scientific bodies within regional fisheries organisations, Member States may charge those end-users the actual costs of extraction and, if required, aggregation of the data before their transmission.

*Article 20*  
*Review of refusal to provide data*

1. If a Member State refuses to provide data under Article 19(3)(a), the end-user may request the Commission to review the refusal. If the Commission finds that the refusal is not duly justified, it may require the Member State to supply the data to the end-user within a prescribed period.
2. If the Member State fails to provide such data within a period no longer than two months, Article 7(4)(c) shall apply.

*Article 21*  
*Obligations for end-users*

1. The end-users of data shall:
  - (a) use the data only for the purpose stated in their request in accordance with Article 17;
  - (b) duly acknowledge the data sources;
  - (c) be responsible for correct and appropriate use of the data;
  - (d) inform the Commission and the Member States concerned of any suspected problems with the data;
  - (e) provide the Member States concerned and the Commission with references to the results of the use of the data.
2. Where an end-user fails to comply with any of the requirements set out in paragraph 1, the Commission may require the Member State concerned to limit or refuse access to the data to that end-user.
3. Member State shall inform the Commission of any non-compliance by end-users before limiting or refusing access to the data.

## **Chapter V**

### **Support for scientific advice**

#### *Article 22*

##### *Participation in meetings of international bodies*

Member States shall ensure that their national experts participate in relevant meetings of international bodies and regional fisheries organisations.

#### *Article 23*

##### *Coordination and cooperation*

1. Member States and the Commission shall co-ordinate their efforts and co-operate in order to further improve the reliability of scientific advice, the quality of the work programmes and the working methods of international scientific bodies and scientific bodies belonging to regional fisheries organisations.
2. Such coordination and cooperation shall take place without prejudice to open scientific debate and shall aim to promote impartial scientific advice.

## **Chapter VI**

### **Final Provisions**

#### *Article 24*

##### *Implementing measures*

The measures necessary for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 26(2).

#### *Article 25*

##### *Monitoring*

The Commission, in association with the STECF, shall monitor the progress of the national programmes in the Committee for Fisheries and Aquaculture established by Article 30 of Regulation (EC) No 2371/2002 (hereinafter referred to as ‘the Committee’).

#### *Article 26*

##### *Committee*

1. The Commission shall be assisted by the Committee established by Article 30 of Regulation (EC) 2371/2002.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

3. The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.
4. The Committee shall adopt its rules of procedure.

*Article 27*

*Repeal*

1. Council Regulation (EC) 1543/2000 is hereby repealed with effect from 1st January, 2008. However, the repealed provisions shall remain applicable for national programmes approved before 31st. December, 2007.
2. Reference to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

*Article 28*

*Entry into force*

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*

*The President*

**Annex**

**Correlation table**

<i>Regulation (EC) N°1543/2000</i>	<i>Proposed Regulation</i>
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3, 4, 5
Article 4	Article 14
Article 5	Article 3, 24
Article 6	Article 4, 7
Article 7	Article 12, 17
Article 8	Article 24, 25
Article 9	Article 26
Article 10	Article 25
Article 11	Article 28

## LEGISLATIVE FINANCIAL STATEMENT

### 1. NAME OF THE PROPOSAL:

**Proposal for a Council Regulation concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy.**

### 2. ABM / ABB FRAMEWORK

11 07: Conservation, Management and exploitation of living aquatic resources

### 3. BUDGET LINES

#### 3.1 Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines)) including headings:

11 01 04 03: Support for the management of fish resources (collection of basic data and improvement of scientific advice) — Expenditure on administrative management

11 07 01: Support for the management of fishery resources (collection of basic data)

11 07 02: Support for the management of fish resources (improvement of scientific advice)

#### 3.2 Duration of the action and of the financial impact:

2009 - 2013

#### 3.3 Budgetary characteristics (add rows if necessary):

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
11010403	Non-comp	Non-diff. <sup>20</sup>	NO	NO	NO	No 2
110701	Non-comp	Diff. <sup>21</sup>	NO	NO	NO	No 2
110702	Non-comp	Diff.2	NO	NO	NO	No 2

<sup>20</sup> Non-differentiated appropriations hereafter referred to as NDA.

<sup>21</sup> Differentiated appropriations

#### 4. SUMMARY OF RESOURCES

##### 4.1 Financial Resources

##### 4.2 Summary of commitment appropriations (CA) and payment appropriations (PA)

*EUR million (to 3 decimal places)*

Expenditure type	Section no.		2009	2010	2011	2012	2013	Total
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#### **Operational expenditure<sup>22</sup>**

Commitment Appropriations (CA)	8.1	a	54,415	59,365	59,365	61,839	64,315	299,299
Payment Appropriations (PA)		b	52,745	57,226	59,365	60,777	63,252	293,365

#### **Administrative expenditure within the reference amount<sup>23</sup>**

Technical & administrative assistance (NDA)	8.2.4	c	0,100	0,250	0,100	0,100	0,100	0,650
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#### **TOTAL REFERENCE AMOUNT**

Commitment Appropriations		a+c	54,515	59,615	59,465	61,939	64,415	299,949
Payment Appropriations		b+c	52,845	57,476	59,465	60,877	63,352	294,015

#### **Administrative expenditure not included in the reference amount<sup>24</sup>**

Human resources and associated expenditure (NDA)	8.2.5	d	1,018	1,018	1,018	1,018	1,018	5,090
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	0,150	0,150	0,150	0,150	0,150	0,750

<sup>22</sup> Expenditure that does not fall under Chapter 11 01 of the Title 11 concerned.

<sup>23</sup> Expenditure within Article 11 01 04 of Title 11.

<sup>24</sup> Expenditure within Chapter 11 01 other than Articles 11 01 04 or 11 01 05.

### Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c +d+ e	55,683	60,783	60,633	63,107	65,583	305,789
TOTAL PA including cost of Human Resources		b+c +d+ e	54,013	58,644	60,633	62,045	64,520	299,855

*For estimating payments appropriations the following assumptions have been used:*

*PA Data collection = 50% of CA year n + 50% of CA of the year n-1*

*PA Studies = 80% of CA year n + 20 % CA year n-1*

*PA Scientific advice = 80% of CA year n + 20% CA year n-1*

### Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

*EUR million (to 3 decimal places)*

Co-financing body		2009	2010	2011	2012	2013	Total
Members states financed 50% of their national programmes	f	41,535	45,364	45,364	47,254	49,146	228,663
TOTAL CA including co-financing	a+c +d+ e+f	97,218	106,147	105,997	110,361	114,729	534,452

#### 4.1.2 Compatibility with Financial Programming

- ☒ Proposal is compatible with existing financial programming.
- ☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.
- ☐ Proposal may require application of the provisions of the Interinstitutional Agreement<sup>25</sup> (i.e. flexibility instrument or revision of the financial perspective).

#### 4.1.3 Financial impact on Revenue

- ☒ Proposal has no financial implications on revenue
- ☐ Proposal has financial impact – the effect on revenue is as follows:

<sup>25</sup>

See points 19 and 24 of the Interinstitutional agreement.

		Prior to action [Year n-1]	Situation following action					
Budget line	Revenue		[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5] <sub>26</sub>
	a) Revenue in absolute terms							
	b) Change in revenue	÷						

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

- 4.2 Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

	2009	2010	2011	2012	2013
Annual requirements					
Total number of human resources	8,7	8,7	8,7	8,7	8,7

## 5. CHARACTERISTICS AND OBJECTIVES

### 5.1 Need to be met in the short or long term

The goal of the Commission's proposal for a new Council Regulation on data collection in the fisheries sector is to develop long-term, well-integrated regional sampling programmes covering biological, economic, environmental and social data. The revised data collection regulation is intended to meet new demands generated by the need to move towards fisheries management (i.e. fleet- and area-based management, rather than fish stock-based) and towards the ecosystem approach to fisheries management. A significant innovation in the proposal is the inclusion of collection of environmental data with the primary purpose of monitoring the impact of fishing activity on the marine ecosystem.

The new data collection system will cover all the process, from the collection of the data in ports or at sea to its use by the end-users (mainly the scientific community and advisory bodies).

Quality control and validation of the data collected is of particular importance. The Commission considers that the Community financial contribution should be made conditional on quality control and compliance with agreed quality standards. Consequently, the Commission has introduced a financial penalty related to non-compliance and poor quality of national programmes.

<sup>26</sup> Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

The improvement of access to data and its use has been also considered of high importance including access to additional sets of data such as Vessel Monitoring Satellite (VMS) data. New rules have been defined to this end, as well as rules on the use of data to protect the interests of the data providers.

The simplification of the procedures are an important goal as National programmes will henceforward be established for a 3-year period; however the possibility should be given to the Member States to include amendments when necessary (to take account of increased international coordination, for example). Multi-annual planning periods will reduce the administrative burden for all parties concerned.

5.2 Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

This new proposal on data collection and scientific advices is an integral part of the common fisheries policy, and is thus included in Heading 2 of the new financial perspective. It is indispensable for implementing an effective policy for the sustainable management of fishery resources under the exclusive authority of the Community. It is one of the results of the decisions adopted by the Council under the CFP reform of December 2002.

5.3 Objectives, expected results and related indicators of the proposal in the context of the ABM framework

DG FISH did not envisage changes to the objectives, principles and decision-making rules governing this area which will be supported by a Community financial intervention. These are laid down in the framework of the financial perspectives. The reflection of possible policy options was already made within the reform of the CFP in 2002.

However the existing financial intervention need to be extended in order to ensure the sustainable management of the fisheries resources as aimed in the CFP reform.

5.3.1. In the area of data-collection the increase of the budget is driven by the need to extend the current programmes with environmental data on the impact of fisheries on the marine ecosystem. With the forthcoming enlargement it will be necessary to apply the CFP in a whole new area, namely the Black Sea. This will require additional effort and support from the Community (an increase of 4M€ by 2013 has been foreseen).

In addition, it is important to increase the collection of environmental and economic data so that the socio-economic impact of management decisions can be taken more fully into account (gradual increase to cover this expenditure has been foreseen up to 10 M€ in 2013)

The move towards an increased integration of environmental concerns and the application of an ecosystem approach will necessitate the collection of new data, such as sampling programmes to estimate by-catches and discards. The latter will demand an increase of very costly sampling programmes with on-board observers (a gradual increase till 5M€ has been foreseen)

#### Objective:

Ensure the implementation and improvement of the legal framework related to the collection of fisheries basic data in order to promote a sound scientific basis for the implementation of the CFP and secure a long-term monitoring of the impact of management actions on fish stocks and marine environment as well as the performance of the fishing sector.

#### Indicators:

- ∄ Improvement of the quantity and the quality of fish stock assessments concerning the impact of fisheries on the marine environment and socio-economic issues
- ∄ Development of regional coordinated programmes for collection of data, making use of Regional Advisory Committees
- ∄ Level of respect of the financial and administrative rules and regulations, including deadlines for commitments and payments.

#### Expected results:

- ∄ To reach better approaches to fisheries management (fleet- and area- based management, rather than fish stock-based)
- ∄ To support the move towards the ecosystem approach to fisheries management
- ∄ To promote implementation of a more regional dimension to fisheries management
- ∄ To increase quality and validation of the data used in the fisheries management
- ∄ To improve access to and exchange of data
- ∄ To promote simplification of the data collection framework

- 5.3.2 In the area of the scientific advice; the reform of the CFP has put a greater emphasis on a mixed fisheries approach instead of a stock by stock approach. This has created substantial additional demands for fisheries advice.

This measure will only be fully implemented from 2007 onwards with the reinforcement of the Scientific, Technical and Economic Committee for Fisheries, consultation of independent experts on specific issues, contracts with national research institutes.

#### Objectives

- ∄ Specific studies within the spheres of activity laid down in Council Decision 439/2000
- ∄ On the basis of consultations with MS and stakeholders, to agree with ICES and STECF on a new advisory cycle with earlier advice

## Indicators

- ∄ Improvement the quality of scientific advice concerning the impact of the fisheries on the marine environment and socio-economic issues
- ∄ Advice for an increased number of stocks
- ∄ Level of respect of the financial and administrative rules and regulations, including deadlines for commitments and payments.

## Expected results

- ∄ To improve scientific support for impact assessment of proposals improved by a better knowledge of the environmental, economic and social aspects of fisheries
- ∄ To support the move towards the ecosystem approach to fisheries management

### 5.4 Method of Implementation (indicative)

Show below the method(s)<sup>27</sup> chosen for the implementation of the action.

- ☒ Centralised Management
- ☒ Directly by the Commission
- ☐ Indirectly by delegation to:
  - Executive Agencies
  - Bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
  - National public-sector bodies/bodies with public-service mission
- ☐ Shared or decentralised management
  - ☐ With Member states
  - ☐ With Third countries
- ☐ Joint management with international organisations (please specify)

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<sup>27</sup> If more than one method is indicated please provide additional details in the "Relevant comments" section of this point

## **6. MONITORING AND EVALUATION**

### **6.1 Monitoring system**

The actions financed under this Regulation will be monitored regularly. The Commission shall ensure the regular, independent and external evaluation of the actions financed.

### **6.2 Evaluation**

#### **6.2.1 Impact assessment**

Regulation 861/2006 (covering the period 2007-2013) was accompanied with an impact assessment based on the in depth analysis done in the framework of the CFP reform. The purpose of that regulation was to provide the legal basis for the continuation of Community financing to support the objectives of the Common Fisheries Policy (hereafter the CFP) beyond 31.12.2006, in the areas of conservation, data collection and scientific advice. It also aims at providing a transparent, clear and simplified framework for the execution of Community financial interventions.

#### **6.3.1 Terms and frequency of future evaluation**

The Commission will submit to the European Parliament and the Council

- ∄ An interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the actions financed under this Regulation no later than 31 March;
- ∄ A Communication on the continuation of the actions financed under this Regulation no later than 30 August 2012;
- ∄ An ex-post evaluation report no later than 31 December 2014.

## **7. ANTI-FRAUD MEASURES**

The Commission shall ensure that, when actions financed under the present Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of the amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulations (EC, Euratom) No 2988/95 and (EC, Euratom) No 2185/96, and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council.

For the Community actions financed under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operation, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, by an unjustified item of expenditure.

The Commission shall reduce, suspend or recover the amount of financial assistance granted for an action if it finds irregularities, including non-compliance with the provisions of this Regulation or the individual decision or the contract or agreement granting the financial support in question, or if it transpires that, without Commission approval having been sought, the action has been subjected to change which conflicts with the nature or implementing conditions of the actions financed.

Moreover, without prejudice to checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, officials of the Commission and of the Court of Auditors, or their representatives, may carry out on-the-spot checks on actions financed by this Regulation at any time up to three years after the final payment made by the Commission. For this purpose, all documents related have to be kept available by the beneficiaries during that period.

The Commission may also require the Member State concerned to carry out on-the-spot checks. Officials of the Commission and of the Court Auditors, or their representatives, may take part in such checks. Any amount unduly paid shall be repaid to the Commission. Interest shall be added to any sums not repaid in due time under the conditions laid down in the Financial Regulation.

## 8. DETAILS OF RESOURCES

### 8.1 Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

[illegible]

## 8.2 Administrative Expenditure

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.

### 8.2.1 Number and type of human resources

Types of post		2009	2010	2011	2012	2013
Officials or temporary staff <sup>28</sup> (11 01 01)	A*/AD	3,7	3,7	3,7	3,7	3,7
	B*, C*/AST	5	5	5	5	5
Staff financed <sup>29</sup> by art. 11 01 02						
Other staff <sup>30</sup> financed by art. XX 01 04/05						
TOTAL		8,7	8,7	8,7	8,7	8,7

### 8.2.2 Description of tasks deriving from the action

- € To implement the regulation on the collection of basic data needed in support of the CFP. To negotiate and follow up the scientific aspects of national programmes in the field of data collection and biological studies, participation in the preparation of legislation on data collection, to organise and participate in the evaluation of proposals received in response to relevant calls for proposals and calls for tenders, participation in the orientation of fisheries and aquaculture research in the EU
- € To prepare, to negotiate and to follow up administrative and financial aspects of studies and National Programmes for data collection; to control on the spot the financial aspects of these contracts
- € IT support and secretariat
- € Operational verification of the files
- € Authorisation of the payments

<sup>28</sup> Cost of which is NOT covered by the reference amount  
<sup>29</sup> Cost of which is NOT covered by the reference amount  
<sup>30</sup> Cost of which is included within the reference amount

### 8.2.3 Sources of human resources (statutory)

- ☒ Posts currently allocated to the management of the programme to be replaced or extended
- ☐ Posts pre-allocated within the APS/PDB exercise for year n
- ☐ Posts to be requested in the next APS/PDB procedure
- ☐ Posts to be redeployed using existing resources within the managing service (internal redeployment)
- ☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

### 8.2.4 Other Administrative expenditure included in reference amount (110104030 – Expenditure on administrative management)

EUR

Budget line	2009	2010	2011	2012	2013	TOTAL
11 010403						
1 Technical and administrative assistance (including related staff costs)						
Evaluation of the national programmes by external consultant	100.000	100.000	100.000	100.000	100.000	500.000
Evaluation of the Community programme		150.000				
Total Technical and administrative assistance	100.000	250.000	100.000	100.000	100.000	650.000

### 8.2.5 Financial cost of human resources and associated costs not included in the reference amount

EUR

Type of human resources	2009	2010	2011	2012	2013	TOTAL
Officials and temporary staff (11 01 01)	1.017.900	1.017.900	1.017.900	1.017.900	1.017.900	5.089.500
Staff financed by Art 11 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)	1.017.900	1.017.900	1.017.900	1.017.900	1.017.900	5.089.500

Calculation– Officials and Temporary agents

Reference should be made to Point 8.2.1, if applicable

Calcul = 117.000 € per post

Calculation– Staff financed under art. XX 01 02

Reference should be made to Point 8.2.1, if applicable

	2009	2010	2011	2012	2013	TOTAL
Missions 11.010211	100.000	100.000	100.000	100.000	100.000	500.000
Meetings & Conferences	50.000	50.000	50.000	50.000	50.000	250.000
Committees <sup>31</sup>						
Studies & consultations						
Information systems						
2 Total Other Management Expenditure (11 01 02 11)	150.000	150.000	150.000	150.000	150.000	750.000
3 Other expenditure of an administrative nature (specify including reference to budget line)						
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	150.000	150.000	150.000	150.000	150.000	750.000

Calculation - Other administrative expenditure not included in reference amount

<sup>31</sup> Specify the type of committee and the group to which it belongs.