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COVER NOTE

from: Mr Vítor CALDEIRA, President of the Court of Auditors
date of receipt: 31 October 2012
to: Mrs Erato KOZAKOU-MARCOULLIS, President of the Council of the
European Union

Subject: Report on the annual accounts of the European Fisheries Control Agency for
the financial year 2011 together with the Agency's replies

Madam,

I enclose in all the official languages of the European Union a copy of the Court of Auditors' report on the annual accounts of the European Fisheries Control Agency for the financial year 2011.

This report is accompanied by the Agency's replies and will shortly be published in the Official Journal of the European Union.

(Complimentary close).

(s.) Vítor CALDEIRA

Encl.: Report on the annual accounts of the European Fisheries Control Agency for the financial year 2011 together with the Agency's replies.

ЕВРОПЕЙСКА СМЕТНА ПАЛАТА
TRIBUNAL DE CUENTAS EUROPEO
EVROPSKÝ ÚČETNÍ DVŮR
DEN EUROPÆISKE REVISIONSRET
EUROPÄISCHER RECHNUNGSHOF
EUROOPA KONTROLLIKODA
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ
EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
CÚIRT INIÚCHÓIRÍ NA HEORPA



CORTE DEI CONTI EUROPEA
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Report on the annual accounts
of the European Fisheries Control Agency
for the financial year 2011

together with the Agency's replies

INTRODUCTION

1. The European Fisheries Control Agency (hereinafter "the Agency"), which is located in Vigo, was established by Council Regulation (EC) No 768/2005 of 26 April 2005¹. The Agency's main task is to organise the operational coordination of fisheries control and inspection activities by the Member States in order to ensure an effective and uniform application of the rules of the Common Fisheries Policy².

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts³ of the Agency, which comprise the "financial statements"⁴ and the "reports on the

¹ OJ L 128, 21.5.2005, p. 1.

² The ***Annex*** summarises the Agency's competences and activities. It is presented for information purposes.

³ These accounts are accompanied by a report on the budgetary and financial management during the year which gives further information on budget implementation and management.

⁴ The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

implementation of the budget”⁵ for the financial year ended 31 December 2011, and the legality and regularity of the transactions underlying those accounts.

The Management’s responsibility

4. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Agency, under his own responsibility and within the limits of the authorised appropriations⁶. The Director is responsible for putting in place⁷ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts⁸ that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Auditor’s responsibility

5. The Court’s responsibility is to provide, on the basis of its audit, the European Parliament and the Council⁹ with a statement of assurance as to the reliability of the annual accounts of the Agency and the legality and regularity of the transactions underlying them.

6. The Court conducted its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International

⁵ The budget implementation reports comprise the budget outturn account and its annex.

⁶ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

⁷ Article 38 of Regulation (EC, Euratom) No 2343/2002.

⁸ The rules concerning the presentation of the accounts and accounting by the Agencies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002 as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23) and are integrated as such in the Financial Regulation of the Agency.

⁹ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002.

Standards of Supreme Audit Institutions. These standards require that the Court plans and performs the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free of material misstatement and the transactions underlying them are legal and regular.

7. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the transactions underlying them. The procedures are selected based on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirement of the legal framework of the European Union, whether due to fraud or error. In assessing those risks, the auditor considers internal controls relevant to the preparation and fair presentation of the accounts and supervisory and control systems implemented to ensure legality and regularity of underlying transactions, in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and reasonableness of accounting estimates made, as well as evaluating the overall presentation of the accounts.

8. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

Opinion on the reliability of the accounts

9. In the Court's opinion, the Agency's Annual Accounts¹⁰ present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with

¹⁰ The Final Annual Accounts were drawn up on 29/06/2012 and received by the Court on 05/07/2012. The Final Annual Accounts, consolidated with those of the Commission, are published in the Official Journal of the European Union by 15 November of the following year. These can be found on the following website <http://eca.europa.eu> or <http://cfca.europa.eu/>.

the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer¹¹.

Opinion on the legality and the regularity of the transactions underlying the accounts

10. In the Court's opinion, the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

11. The comments which follow do not call the Court's opinions into question.

COMMENTS ON KEY CONTROLS OF THE AGENCY'S SUPERVISORY AND CONTROL SYSTEMS

12. The Court identified a need to improve procurement procedures. The Agency did not adequately document the estimation of contract values in the procurement files. Some selection criteria for tenderers need to be more specific to further improve the transparency of procedures.

13. The Agency does not yet have adequate procedures in place to record and account for costs related to the generation of internal intangible assets.

OTHER COMMENTS

14. In the course of the appointment procedure of the executive Director, a member of the Administrative Board contravened the regulations governing appointments to key posts by announcing the candidate the Commission intended to vote for.

¹¹ The accounting rules adopted by the Commission's accounting officer are derived from International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, in their absence, International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

15. The Court identified a need to further improve staff selection procedures. Vacancy notices did not provide information on complaint and appeal procedures. Meetings of the Selection Board were insufficiently documented and in one recruitment case the Appointing Authority did not follow the order of the Selection Board's list without providing a reason.

This Report was adopted by Chamber IV, headed by Mr. Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 5 September 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

European Fisheries Control Agency¹² (Vigo)**Competences and activities**

Areas of Union competence deriving from the Treaty <i>(Art. 43 TFEU)</i>	<p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 40(1) and the other provisions necessary for the pursuit of the objectives of the common fisheries policy.</p>
Competences of the Agency <i>(Council Regulation (EC) No 768/2005 of 26 April 2005 amended by Regulation (EC) No 1224/2009)</i>	<p>Objectives</p> <ul style="list-style-type: none"> – The Regulation establishes a European Fisheries Control Agency (EFCA), the objective of which is to organise operational coordination of fisheries control and inspection activities by the Member States and to help them cooperate so as to comply with the rules of the Common Fisheries Policy in order to ensure its effective and uniform application. <p>Tasks / Mission</p> <ul style="list-style-type: none"> – to coordinate control and inspection by Member States relating to the control and inspection obligations of the EU; – to coordinate the deployment of the national means of control and inspection pooled by the Member States concerned in accordance with this Regulation; – to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties; – in the field of its competences, to assist Member States to fulfil their tasks and obligations under the rules of the Common Fisheries Policy; – to assist Member States and the Commission in harmonising the application of the Common Fisheries Policy throughout the EU; – to contribute to the work of Member States and the Commission on research into and development of control and inspection techniques; – to contribute to the coordination of inspector training and the exchange of experience between Member States; – to coordinate the operations to combat illegal, unreported and unregulated fishing in conformity with EU rules; – to assist in the uniform implementation of the control system of the common fisheries policy, including in particular: <ul style="list-style-type: none"> 1) Organisation of operational coordination of control activities by Member States for the implementation of specific control and inspection programmes, control programmes related to illegal, unreported and unregulated (IUU) fishing and international control and inspection programmes; 2) Inspections as necessary to fulfill the Agency's tasks. <p>Please note that, among other competences, after the amendment of the Agency's establishing Regulation by Council Regulation (EC) No 1224/2009:</p> <ul style="list-style-type: none"> 1) Officials of the Agency may be assigned in international waters as Union inspectors; 2) The Agency may acquire, rent or charter the equipment as necessary for the implementation of the joint deployment plans; 3) And the Agency shall, upon a notification by the Commission or on its own initiative, set up an Emergency Unit, where a serious risk to the common fisheries policy is identified.

¹² Please note that the name of the Agency has changed from "Community Fisheries Control Agency" to "European Fisheries Control Agency" as of the 01/01/2012.

Governance	<p>Administrative Board</p> <p><i>Composition</i> Comprises one representative from each Member State and six representatives of the Commission.</p> <p><i>Duties</i> To adopt the budget, work programme and annual report. To adopt the final budget and the establishment Plan. To give an opinion on the final accounts.</p> <p>Executive Director Appointed by the Administrative Board from a list of at least two candidates proposed by the Commission.</p> <p>External Audit Court of Auditors</p> <p>Internal control The Commission's internal audit service.</p> <p>Discharge Authority Parliament acting on a recommendation from the Council.</p>
Resources made available to the Agency in 2011 (2010)	<p>Final Budget</p> <p><i>Total Budget 2011 : 12,85 (11,01) million euro</i></p> <ul style="list-style-type: none"> - Title I – 6,04(6,03) million euro - Title II – 1,23 (0,96) million euro - Title III – 5,57 (4,01 including assigned revenue of 2,60) million euro <p>Staff as at 31 December 2011</p> <p>53 (53) Temporary Agents foreseen in the establishment plan, of which occupied: 52 (52) + 5 (5) Contract Agents foreseen of which occupied 4 (2) Total staff foreseen: 58 (58), of which occupied 56 (54)</p>
Products and services 2011 (2010)	<p>Operational Coordination</p> <ul style="list-style-type: none"> - Implementation of JDP (Joint Deployment Plan) Cod fishery in the North Sea, Skagerrak, Kattegat and the Eastern Channel and Western Waters (West of Scotland and the Irish Sea); - JDP cod fishery in the Baltic Sea; - JDP Bluefin tuna fishery in the Mediterranean Sea and Eastern Atlantic; - Implementation of JDP in Northwest Atlantic Fisheries organisation area and North East Atlantic Fisheries Organisation area; - JDP pelagic species in Western waters of the European Union; - Support activities to fight Illegal unreported and unregulated fisheries; - Consolidation of the JDPs through promoting a regional approach; - Formation of Member State inspectors participating in JDPs and fight against IUU fishing. <p>Capacity Building</p> <ul style="list-style-type: none"> - Mapping study on information systems supporting fisheries controls in the European Union; - Drafting of an indicative structure and content of Core Curriculum for training; - Development of the web-based collaboration platform for training; - Assistance to the Member States' national training programmes; - Operation, maintenance, enhancement and development of ICT monitoring capabilities: Vessel Monitoring System (VMS), Electronic Reporting System (ERS), Fishnet; - Maintenance of the Agency's coordination room for the JDPs; - Provision of contractual services to charter an EFCA Fisheries Patrol Vessel. <p><i>(see Annual Work Program 2011 of the Agency for details.)</i></p>

Source: Information supplied by the Agency.

THE AGENCY'S REPLY

12. The Agency has established a set of internal procedures to ensure a firm basis for contract value estimation and documents this process. However, the Agency takes note of the Court's observation and will improve the documentation in the procurement files. The Agency has also taken on board the Court's observation on selection criteria.

13. The Agency points out that internal cost to be recorded and accounted for, is quite limited. However, the Agency is currently reviewing its administrative and operational activities and will take the comments of the Court on board during this process.

14. The acting of Members of the Administrative Board is not under the control of the agency, thus the Executive Director is not responsible for the proceedings.

15. The Agency will add this information to its vacancy notices, and will adapt the standard template of the minutes to the suggestions of the Court. It is the Agency's understanding that all candidates on the list put forward by the Selection Board are eligible to be hired. In the specific case cited, there were two candidates with significantly higher marks than the others. Given the minimal difference between the marks of the two candidates, the Appointing authority chose one of the two candidates who was finally deemed to be the most appropriate one.