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COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	5 November 2013
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the European Fisheries Control Agency for the financial year 2012 together with the Agency's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Fisheries Control Agency for the financial year 2012.

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

Encl.: Report on the annual accounts of the European Fisheries Control Agency for the financial year 2012 together with the Agency's replies.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.

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



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EUROPEISKA REVISIONSRÄTTEN

Report on the annual accounts
of the European Fisheries Control Agency
for the financial year 2012

together with the Agency's replies

INTRODUCTION

1. The European Fisheries Control Agency (hereinafter “the Agency”, aka “EFCA”), which is located in Vigo, was established by Council Regulation (EC) No 768/2005¹. 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 (TFEU), the Court has audited:

(a) the annual accounts of the Agency, which comprise the financial statements³ and the reports on the implementation of the budget⁴ for the financial year ended 31 December 2012, and

¹ OJ L 128, 21.5.2005, p. 1.

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

³ These 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.

- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002⁵, the management is responsible for the preparation and fair presentation of the annual accounts of the Agency and the legality and regularity of the underlying transactions:

- (a) The management's responsibilities in respect of the Agency's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer⁶; making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Agency after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, *inter alia*, that he has reasonable assurance that they present a true and fair view of the financial position of the Agency in all material respects.

⁴ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

- (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council⁷ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular.

6. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are

⁷ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts.

7. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

Opinion on the reliability of the accounts

8. In the Court's opinion, the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

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

9. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2012 are legal and regular in all material respects.

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

COMMENTS ON BUDGETARY MANAGEMENT

11. The level of committed appropriations for the different titles varied between 94 % and 99 % of total appropriations, indicating that legal commitments were signed in a timely manner. However, the level of committed appropriations carried over to 2013 was high for title II (administrative expenditure) at 35 % and title III (operating expenditure) at 46 %. For title II, this was caused, to a large extent, by events beyond the Agency's control, such as the late invoicing

of the 2012 office rental costs by the Spanish authorities. Also, in order to meet the increased operational needs that it was faced with in the last quarter of 2012, the Agency ordered a high volume of goods and services for which delivery was still pending by the year end. For title III, an important reason for the high level of carry-overs was the considerable workload faced by the agency as a result of the large number of IT projects that were either launched or ongoing during 2012. This workload had an impact on the timeliness of procurement procedures in the case of two IT projects launched in 2012. Furthermore, expenses related to training and missions undertaken by staff and experts in the last quarter of 2012 were only due for reimbursement at the beginning of 2013.

OTHER COMMENTS

12. In response to the Court's 2011 report, the Agency took corrective action in June 2012 to improve the transparency of recruitment procedures. In 2012, the only weaknesses identified related to three audited recruitment procedures that were initiated prior to the Court's 2011 report: the vacancy notices did not provide information to the candidates on complaint and appeal procedures; candidates were given a global score instead of one score for each of the selection criteria; there was no evidence that the questions for interviews and written tests had been set before the date of the examinations.

FOLLOW-UP OF PREVIOUS YEAR'S COMMENTS

13. An overview of the corrective actions taken in response to the Court's previous year's comments is provided in **Annex I**.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 10 September 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

Follow-up of previous year's comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
2011	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.	Completed
2011	The Agency does not yet have adequate procedures in place to record and account for costs related to the generation of internal intangible assets.	Completed
2011	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.	N/A
2011	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.	Ongoing

European Fisheries Control Agency¹ (Vigo)**Competences and activities**

Areas of Union competence deriving from the Treaty <i>(Article 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, 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"> (i) 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; (ii) 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> <ol 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.
Governance	<p>Administrative Board</p> <p><i>Composition</i></p> <p>Comprises one representative from each Member State and six representatives of the Commission.</p>

	<p><i>Duties</i></p> <p>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</p> <p>Appointed by the Administrative Board from a list of at least two candidates proposed by the Commission.</p> <p>External audit</p> <p>European Court of Auditors.</p> <p>Internal control</p> <p>European Commission's Internal Audit Service (IAS).</p> <p>Discharge authority</p> <p>European Parliament acting on a recommendation from the Council.</p>
Resources made available to the Agency in 2012 (2011)	<p>Final Budget</p> <p><i>Total Budget 2012: 9,22 (12,85) million euro</i></p> <ul style="list-style-type: none"> – Title I – 6,22 (6,04) million euro – Title II – 1,28 (1,23) million euro – Title III – 1,71 (5,57) million euro <p>Staff as at 31 December 2012</p> <p>54 (53) temporary staff foreseen in the establishment plan, of which occupied: 50 (52)</p> <p>+ 5 (5) contract staff foreseen of which occupied 5 (4)</p> <p>Total staff foreseen: 59 (58), of which occupied 55 (56)</p>
Products and services 2012 (2011)	<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 and salmon fisheries 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 to national control programmes in the Black Sea. – Consolidation of the JDPs through promoting a regional approach. <p>Capacity Building</p> <ul style="list-style-type: none"> – Mapping study on information systems supporting fisheries controls in the European Union. – Development and maintenance of the Core Curricula. – Development of the web-based collaboration platform for training. – Assistance to the Member States' national training programmes. – Training of trainers and training of Union inspectors before their first deployment. – Operation, maintenance, enhancement and development of ICT monitoring capabilities: Vessel Monitoring System (VMS), Electronic Reporting System (ERS), Fishnet. – Support activities to fight Illegal unreported and unregulated fisheries. – Provision of contractual services to charter an EFCA Fisheries Patrol Vessel. – Advanced training for Union inspectors (officials involved in fight against IUU) (exchange of best practice, refresher courses, etc.), and training for third countries' inspectors at European Commission's request. <p><i>(see Annual Work Program 2012 of the Agency for details.)</i></p>

Source: Information supplied by the Agency.

¹ Please note that the name of the Agency has changed from “Community Fisheries Control Agency” to “European Fisheries Control Agency” as of the 1 January 2012.