COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.11.2005
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2005/0223 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the submission of data on landings of fishery products in Member States

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The current community legislation based on Council Regulation (EEC) No 1382/91 on the submission of data on the landings of fishery products in Member States requires the Member States to submit to the Commission monthly data on the quantity and value of landings of fishery products in their ports. An analysis of the methods of collecting and compiling the data by the national authorities and of the uses made of such data by the Commission's services have revealed that improvements can be made which would reduce the workload on the Member States and improve the usefulness of the data.

- **General context**

The community legislation on fishery statistics was designed to provide a total national coverage of harmonised monthly data on the landings of fishery products to supplement the data submissions on a more limited range of products in selected ports under Council Regulation (EC) No 104/2000 on the common organisation of the market in fishery and aquaculture products.

- **Existing provisions in the area of the proposal**

The proposal is designed to improve and replace the existing community legislation and Council Regulation (EEC) No 1382/91 should therefore be repealed.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The national fishery statisticians were presented with, and discussed, a working paper containing the technical elements of the current proposal.

Summary of responses and how they have been taken into account

Subject to minor editorial changes, the working paper was unanimously approved by the national fishery statisticians.

- **Collection and use of expertise**

Scientific/expertise domains concerned

The national representatives in the meeting of Eurostat's Working Group "Fishery Statistics" were experts with knowledge of the existing legislation and with expertise in

the national systems of collecting and compiling fishery statistics.

Methodology used

Open discussion between the experts in the meetings of the Working Group "Fishery Statistics"

Main organisations/experts consulted

The experts were from the national fishery ministries and/or the national statistical institutes.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

Since the current proposal is a simplification of the existing legislation no risks were identified.

Means used to make the expert advice publicly available

The results of the experts' discussions were included in the minutes of the meeting of the Working Group "Fishery Statistics".

- **Impact assessment**

Since the current proposal is a simplification of the existing legislation an impact assessment was considered unnecessary.

As the proposal is a modification and simplification of existing legislation no information campaign of financial incentives is considered appropriate.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The objective of this Regulation shall be to provide for the submission by the Member States of harmonised data on the quantity and value of landings on their territories to permit analyses of the market for fishery products and more general economic analyses of the situation in fisheries. The Regulation differs from the existing legislation in three main respects. Firstly, the submissions are to be of annual data as opposed to monthly data. Monthly data submitted up to six months after the reference month were found to be of limited use for the day-to-day management of the market while annual data are useful for medium- to long-term analyses of the market and reduce the workload of the national authorities in the submission of the data. Secondly, the submissions are to be required by the flag (or nationality) of the vessels responsible for the landings. This requirement, as opposed to the current submissions by the broad groups of EU vessels, of EFTA vessels and of other vessels, will permit more detailed analyses of the data and yet not significantly increase the workload on the national authorities who already collect the data in this detail. Lastly, in circumstances where the structural characteristics of the fisheries sector would result in difficulties for the national

authorities incommensurate with the importance of the sector, the Regulation permits a more flexible approach to the use of sampling techniques for the estimation of the total landings. Subject to a justification for their use and an analysis of the quality of the resultant data in a methodological report, the national authorities will be able to employ an appropriate level of sampling techniques for the collection of the data.

- **Legal basis**

Article 285 provides the legal basis for Community statistics. The Council, acting in accordance with the codecision procedure, shall adopt measures for the production of statistics where necessary for the performance of the activities of the Community. This Article sets out requirements relating to the production of Community statistics and requires conformity to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

Action by the Member States alone will be insufficient to ensure the availability of comparable statistics required for the development and monitoring of fair and effective Community policies on the common organisation of the markets in fishery and aquaculture products. The increasing importance of this sector means that reliable and comparable statistics are needed by the Member States. Action by the Member States alone, without coordination and harmonisation at Union level, will be an inefficient and ineffective approach to meeting this need. In accordance with the principle of subsidiarity as set out in Article 5 of the EC Treaty, the objective of the proposed action, namely the systematic submission of data on the landing of fishery products for the production of harmonised Community statistics, cannot be sufficiently achieved by the Member States acting individually and can therefore be better achieved by the Community.

Experience has shown that Member States collect data on the quantities and values of landings but use a variety of concepts and definitions which result in the non-comparability of the data at the EU level and thus seriously reduce their usefulness in the management of the market for fishery products.

Community action will better achieve the objectives of the proposal for the following reason(s).

The Regulation provides for the coordination and harmonisation of data at the EU level and the submission by the national authorities of reports on the methodology used in the collection and compilation of the data. These reports shall be subject to a review of the content and quality of the submitted data by the Working Group "Fishery Statistics" of the Standing Committee on Agricultural Statistics. Subject to the acceptance of these methodological reports, the national authorities shall be permitted to use such techniques in the collection of the data as are appropriate to the structure of fisheries on

their territory.

Although the Commission is best able to organise the collection of Community statistics, the Member States are competent in the organisation and operation of the national statistical systems. Council Regulation (EC) 322/97 of 17 February 1997 on Community statistics provides that Community statistics shall be governed by inter alia the principles of impartiality and statistical confidentiality. Impartiality implies the availability of statistics, with a minimum delay, to all users. It is conditioned by the obligation that data used by the national authorities and the Commission for the production of Community statistics be considered confidential when they allow statistical units to be identified, either directly or indirectly, thereby disclosing individual information. The national authorities are required to submit methodological reports which are reviewed by the Working Group "Fishery Statistics" to assess the quality of the national systems for the collection and compilation of the data.

The analysis of the Community market for fishery products has to be undertaken at the EU level using harmonised and comparable national data.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

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

It is recognised that there are wide variations in the structures of the fisheries in the Member States and consequently that there are differences in the tasks of the national authorities in collecting and compiling the data on the volume and value of landings of fishery products. Accordingly the national authorities may employ such techniques for the collection of data that are appropriate to the structure of the fisheries and are commensurate with the importance of the sector. In accordance with the principle of proportionality this Regulation confines itself to the minimum required to achieve this objective and does not go beyond what is necessary for that purpose.

The financial and administrative burden on the national authorities will be no greater than that of the existing legislation. Indeed the requirement for annual rather than monthly data submissions and the possibility of an increased use of sampling techniques should reduce this burden.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

Selection of the appropriate category for an act of the EP/Council depends on the legislative goal. Given the information needs at European level, the trend for Community statistics has been to use Regulations rather than Directives for basic acts. Regulation is preferable because it lays down the same law throughout the Community, leaving the Member States with no power to apply them incompletely or selectively; it is directly applicable, which means that it needs not be transposed into national law. In contrast, directives, which aim at harmonisation of national laws, are binding on

Member States as regards their objectives, but leave the national authorities the choice of form and methods used to obtain the objectives agreed upon at the Community level; they must be transposed into national law. The use of a Regulation is in line with other statistical legal acts which have been adopted since 1997.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5) ADDITIONAL INFORMATION

- **Simulation, pilot phase and transitory period**

There was or there will be a transitory period for the proposal.

- **Simplification**

The proposal provides for simplification of legislation.

The current community legislation requires the Member States to submit to the Commission monthly data on the quantity and value of landings of fishery products in their ports. An analysis of the methods of collecting and compiling the data by the national authorities and of the uses made of such data by the Commission's services have revealed that improvements can be made which would reduce the workload on the Member States and improve the usefulness of the data. The Regulation differs from the existing legislation. Firstly, the submissions are to be of annual data as opposed to monthly data. Secondly, the submissions are to be required by the flag (or nationality) of the vessels responsible for the landings. This requirement, as opposed to the current submissions by the broad groups of EU vessels, of EFTA vessels and of other vessels, will permit more detailed analyses of the data and yet not significantly increase the workload on the national authorities who already collect the data in this detail. Lastly, the proposed Regulation permits a more flexible approach to the use of sampling techniques for the estimation of the total landings.

The proposal is included in the Commission's Work and Legislative Programme under the reference 2004/ESTAT/010.

- **Repeal of existing legislation**

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

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

2005/0223 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the submission of data on landings of fishery products in Member States

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission[1],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[2],

Whereas:

(1) Council Regulation (EEC) No 1382/91 of 21 May 1991 on the submission of data on the landings of fishery products in Member States[3] requires Member States to submit data on the quantities and average prices of fishery products landed on their territory.

(2) Experience has shown that analyses of the market for fishery products and other economic analyses would not be adversely affected if data were submitted under Community legislation at yearly rather than monthly intervals.

(3) Analyses would be enhanced if data were broken down by the flag state of vessels carrying out landings.

(4) Regulation (EEC) No 1382/91 imposes a limit on sampling permitted when collecting and compiling data that places an excessive burden on certain national authorities. In order to improve the system and to make it simpler, Regulation (EEC) No 1382/91 should be replaced by this Regulation.

(5) Since the objective of the planned action, namely the establishment of a common legal framework for the systematic production of Community statistics of data on landings of fishery products in Member States, cannot be sufficiently achieved at national level and can be better achieved at Community level, the Community may adopt measures

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1 OJ C [..] , [..], p. [..].
2 OJ C [..] , [..], p. [..].
3 OJ L 133, 28.5.1991, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1

in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

(6) Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics[4] provides a reference framework for statistics in the field of fisheries. In particular it requires conformity with standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

(7) It is important to ensure the uniform application of this Regulation and, in order to do so, to make provision for a Community procedure to help determine the implementing arrangements within an appropriate timescale and to make the necessary technical adaptations.

(8) 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[5],

HAVE ADOPTED THIS REGULATION:

Article 1
Definitions

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

(1) "Community vessels" means vessels flying the flag of, or registered in, a Community Member State.

(2) "EFTA vessels" means vessels flying the flag of, or registered in, an EFTA country;

(3) "Unit value" means:

(a) the value at first sale in national currency per tonne, or

(b) for products not immediately sold, the average price per tonne in national currency, estimated using an appropriate method.

Article 2
Obligations of the Member States

1. Each year each Member State shall submit to the Commission statistics of the fishery products landed on its territory by Community and EFTA vessels ("the statistical data").

2. For the purposes of this Regulation, the following fishery products are deemed to be landed on the territory of the reporting Member State:

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4 OJ L 52, 22.2.1997, p.1. Regulation as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1).

5 OJ L 184, 17.7.1999, p. 23

(a) products landed by fishing vessels or other parts of the fishing fleet in national ports;

(b) products landed by vessels of the reporting Member State in non-Community ports and covered by the T2M form annexed to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

Article 3
Compilation of statistics

1. The statistical data shall cover total landings on national territory

2. Sampling techniques may be employed in those circumstances where, owing to the structural characteristics of a particular sector of the fisheries of a Member State, comprehensive data collection would result in difficulties for the national authorities incommensurate with the importance of that sector.

Article 4
Data

The statistical data shall relate to the total quantities and unit values of the products landed in the reference calendar year.

The variables for which statistical data need to be submitted, their definitions and the relevant nomenclatures are given in Annexes II, III and IV.

Article 5
Submission of statistical data

The Member States shall submit the statistical data to the Commission on an annual basis in accordance with the format specified in Annex I and using the codes set out in Annexes II, III and IV.

The statistical data shall be submitted within six months of the end of the reference year.

Article 6
Methodology

1. Within 12 months of the entry into force of this Regulation, each Member State shall submit a detailed methodological report to the Commission describing how the data have been collected and the statistics compiled. That report shall include details of any sampling techniques and an evaluation of the quality of the resulting estimates.

2. The Commission shall examine the reports and present its conclusions to the relevant working group of the Standing Committee for Agricultural Statistics.

3. The Member States shall inform the Commission of any change in the information provided for under paragraph 1 within three months of its introduction. They shall also forward details of any substantial changes in the collection methods used to the Commission.

Article 7
Transitional period

Transitional periods for the implementation of this Regulation lasting not more than three years from the date of its entry into force may be granted to Member States in accordance with the procedure laid down in Article 9(2).

Article 8
Derogations

1. In cases where the inclusion in the statistics of a particular sector of the fisheries industry of a Member State would cause difficulties to the national authorities incommensurate with the importance of that sector, a derogation may be granted in accordance with the procedure laid down in Article 9(2), permitting that Member State to exclude data covering that sector from the national data submitted.

2. Member States shall support any requests for derogations by sending the Commission a report on problems encountered in applying this Regulation to total landings on its territory.

Article 9
Committee procedure

1. The Commission shall be assisted by the Standing Committee for Agricultural Statistics established by Article 1 of Council Decision 72/279/EEC[6].

2. Where reference is made to this paragraph, the management procedure laid down in Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

   The period laid down in Article 4(3) of that Decision shall be three months.

3. The Committee shall adopt its rules of procedure.

Article 10
Repeal

Regulation (EEC) No 1382/91 is hereby repealed.

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6 OJ L 179, 7.8.1972, p. 1.

Article 11

Entry into force

This Regulation shall enter into force on the twentieth 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 European Parliament	*For the Council*
The President	*The President*

ANNEX I

Format of data submitted

Data file format

The data are to be submitted in a file in which each record includes the fields indicated below. These fields are to be separated by a comma (“,”).

Field	Note	Annex
Reference year	4 digits (e.g. 2003)	
Reporting country	Alpha-3 code	Annex II
Species or species group	International alpha-3 code*	-
Flag State	Alpha-3	Annex II
Presentation		Annex III
Intended use		Annex IV
Quantity	Tonnes landed (rounded to one decimal place)	
Unit value	National currency per tonne	

* The full list of international alpha-3 species codes is to be found in FAO’s ASFIS file (http://www.fao.org/fi/statist/fisoft/asfis/asfis.asp)

Quantities of less than 50 kg landed weight are to be recorded as “0.0”

The technical adaptation of the contents of this Annex shall be laid down in accordance with the procedure laid down in Article 9(2).

ANNEX II

List of country codes

Country	Code
Austria	AUT
Belgium	BEL
Cyprus	CYP
Czech Republic	CZE
Germany	DEU
Denmark	DNK
Spain	ESP
Estonia	EST
Finland	FIN
France	FRA
United Kingdom	GBR
Greece	GRC
Hungary	HUN
Ireland	IRL
Italy	ITA
Lithuania	LTU
Latvia	LVA
Luxembourg	LUX
Malta	MLT
Netherlands	NLD
Poland	POL
Portugal	PRT
Slovak Republic	SVK

Slovenia	SVN
Sweden	SWE
Iceland	ISL
Norway	NOR
Other	OTH

The technical adaptation of the contents of this Annex shall be laid down in accordance with the procedure laid down in Article 9(2).

ANNEX III
List of presentation codes

Part A
List

Presentation	Code
Fresh (not specified)	10
Fresh (whole)	11
Fresh (gutted)	12
Fresh (tails)	13
Fresh (fillets)	14
Fresh (gutted and headed)	16
Fresh (skinned and dried)	17
Fresh (live)	18
Fresh (other)	19
Frozen (not specified)	20
Frozen (whole)	21
Frozen (gutted)	22
Frozen (tails)	23
Frozen (fillets)	24
Frozen (not filleted)	25
Frozen (gutted and headed)	26
Frozen (cleaned)	27
Frozen (not cleaned)	28
Frozen (other)	29
Salted (not specified)	30
Salted (whole)	31
Salted (gutted)	32

Salted (fillets)	34
Salted (gutted and headed)	36
Salted (other)	39
Smoked	40
Cooked	50
Cooked (frozen and packaged)	60
Dried (not specified)	70
Dried (whole)	71
Dried (gutted)	72
Dried (fillets)	74
Dried (gutted and headed)	76
Dried (other)	79
Whole (not specified)	91
Claws	80
Eggs	85
Presentation unknown	99

Part B
Notes

1. Fillets: This term refers to strips of flesh cut parallel to the backbone of the fish and consisting of the right or left side of the fish, provided that the head, viscera, fins (dorsal, anal, caudal, ventral, pectoral) and bones (vertebrae or large backbone, ventral or costal, bronchial or stirrup bones, etc.) have been removed and the two sides are not connected, for example by the back or stomach.

2. Whole fish: Refers to ungutted fish.

3. Cleaned: Refers to squid where the arms, head and internal organs have been removed from the body.

4. Frozen fish: Fish that have been subjected to freezing in a manner to preserve the inherent quality of the fish by reducing the average temperature to -18 ° C or lower and which are then kept at a temperature of -18 ° C or lower.

5. Fresh fish: Fish that have not been preserved, cured, frozen or otherwise treated other than chilled. They are generally presented whole or gutted.

6. Salted fish: Fish often in gutted and headed form, preserved in salt or brine.

The technical adaptation of the contents of this Annex shall be laid down in accordance with the procedure laid down in Article 9(2).

ANNEX IV

List of codes for intended use of products

Part A
List

Part B

Destination	Code
Human consumption	1
Industrial uses	2
Withdrawn from the market	3
Bait	4
Animal feed	5
Waste	6
Intended use unknown	9

Notes

1. Human consumption: Included here are all products which are sold at first sale for human consumption or which are landed under contract or other agreement for human consumption. Excluded are quantities intended for human consumption but which, at the time of first sale, are withdrawn from the market for human consumption owing to market conditions, hygiene regulations or similar causes reasons.

2. Industrial uses: Included here are all products specifically landed for reduction to meal and oil for consumption by animals, and quantities which, although originally intended for human consumption, are not sold for that purpose at first sale.

The technical adaptation of the contents of this Annex shall be laid down in accordance with the procedure laid down in Article 9(2).