COMMISSION OF THE EUROPEAN COMMUNITIES

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2006/0286 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the submission by Member States of statistics on aquaculture

(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 (EC) No 788/96 on the submission by Member States of statistics on aquaculture production requires the Member States to submit to the Commission annual data on the volume of aquaculture production. However, since the legislation was adopted aquaculture has grown greatly (currently contributing 27% by value to the total EU fishery production) and the rational development and management of aquaculture under the Common Fisheries Policy requires a broader range of data on this sector.

- General context

The purpose of the Community legislation on aquaculture statistics is required to review and assess the situation of the market for aquaculture products.

The current proposal has been developed in parallel with the proposal from the Directorate-General for Fisheries and Maritime Affairs (DG FISH) for a revised framework Data Collection Regulation (DCR). The Commission will continue to ensure that concepts and definitions used in the current proposal on aquaculture statistics covering largely structural characteristics of the sector are compatible with those in the future implementing DCR legislation which will concentrate on economic aspects of the sector.

- Existing provisions in the area of the proposal

The proposal is designed to improve and replace the existing Community legislation. Council Regulation (EC) No 788/96 on the submission by Member States of statistics on aquaculture production should therefore be repealed.

- Consistency with the other policies and objectives of the Union

The adoption of this Regulation will help in getting better data for implementing the strategy of the Commission for a sustainable development of the European aquaculture (COM/2002/0511).

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 document setting out the technical content of this proposal. This document had been developed in close collaboration with the Directorate-General for Fisheries to make sure it covered the data needed for aquaculture in order to develop and administer the Common Fisheries Policy.

Summary of responses and how they have been taken into account

After several revisions to take into account the advice and comments from the discussions, the national fishery experts reached broad agreement on the technical content of the proposal.

- Collection and use of expertise

Scientific/expertise domains concerned

The national representatives at the meeting of Eurostat's Working Group on Fishery Statistics were experts with knowledge of the existing legislation and of the national systems for collecting and compiling fishery statistics in general and, in many cases, of aquaculture in particular.

Methodology used

Open discussion between the national experts both bilaterally and at meetings of the Working Group on 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

No mention was made of any potentially serious risks with irreversible consequences.

Although the current proposal extends 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 on Fishery Statistics.

- Impact assessment

Although this proposal involves additional work for the Member States the extra administrative burden for the sector and the Member States has been limited by:

– permitting the use of sampling techniques where a full census would be burdensome,

– providing for derogations where the provision of data in particular sectors would create difficulties for the national authorities

– limiting the transmission of data to once every three years where annual changes are insignificant.

3) Legal elements of the proposal

- Summary of the proposed action

The objective of the proposal is to provide for Member States to:

– submit data annually on the volume and value of the production from aquaculture with a breakdown by species, environment (freshwater or saltwater) and technology (e.g. in ponds or cages):

– submit data every third year on the input to capture-based aquaculture, i.e. the volume and value of fishery products taken from the wild and placed in aquaculture units for on-rearing to a marketable state:

– submit data every third year on production from hatcheries with a breakdown showing the products are to be used for on-growing in aquaculture units or released to the wild for example for restocking of waters.

– submit data every third year on the structure of aquaculture holdings giving information on the technology used and the size of the holdings.

- Legal basis

Article 285 of the EC Treaty provides the legal basis for Community statistics. The Council, acting in accordance with the codecision procedure, may adopt measures for the production of statistics where necessary for the performance of the activities of the Community. The same Article sets out requirements relating to the production of Community statistics, stipulating that they must conform 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 reasons:

Action by the Member States alone will be insufficient to ensure the supply of comparable statistics required to develop and monitor fair and effective Community policies on the common organisation of the markets in fishery and aquaculture products. The growing importance of aquaculture 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, would 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 proposal, namely systematic submission of data on production from aquaculture with a view to producing harmonised Community statistics, cannot be sufficiently achieved by the Member States acting individually and can therefore be achieved better by the Community.

Experience has shown that in recent years the Member States have become increasingly aware of the need for data on aquaculture but use a variety of concepts and definitions with the result that the data are not comparable at EU level. This seriously reduces their usefulness for management of aquaculture at the Community level.

Community action will better achieve the objectives of the proposal for the following reasons:

The proposed Regulation provides for coordination and harmonisation of data at EU level and for the national authorities to submit reports on the methods used to collect and compile them. The content and quality of the data submitted in these reports will be reviewed by the Working Group on Fishery Statistics of the Standing Committee on Agricultural Statistics. Subject to acceptance of these reports, the national authorities will be permitted to use such data collection techniques as are appropriate to the structure of the aquaculture sector on their territory.

Although the Commission is in the best position to organise collection of Community statistics, the Member States are responsible for organising and operating the national statistical systems. Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics provides that Community statistics must be governed inter alia by the principles of impartiality and statistical confidentiality. Impartiality implies the availability of statistics with a minimum delay to all users. It is subject to the obligation that data used by the national authorities and the Commission for production of Community statistics must be considered confidential if 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 on Fishery Statistics to assess the quality of the national systems for collecting and compiling the data.

The analysis of aquaculture in the Community has to be undertaken at 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 reasons:

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

Although the financial and administrative burden on the national authorities will be greater than under the current legislation, appropriate use by the national authorities of the sampling procedures allowed under this proposal should limit this added burden.

- Choice of instruments

Proposed instrument: Regulation.

Other means would not be adequate for the following reasons:

Selection of the appropriate category of EP/Council act depends on the goal of the legislation. Given the information needs at European level, the trend for Community statistics has been to use Regulations rather than Directives for basic acts. A Regulation is preferable because it lays down the same law throughout the Community, leaving the Member States with no

power to apply it incompletely or selectively; it is directly applicable, which means that there is no need to transpose it into national law. By contrast, Directives aim at harmonising national laws. They impose binding objectives on Member States but leave the national authorities the choice of how to attain the objectives agreed upon at the Community level; they must be transposed into national law. 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

A transitional period will be proposed.

- Simplification

The proposal does not simplify the existing legislation but extends it.

However, the proposal does permit use of sampling procedures to limit the additional workload on the national authorities and also provides for granting derogations from those parts of the data collection process causing particular problems for the national authorities.

The proposal also has the same scope and is largely compatible with the FISHSTAT AQ aquaculture questionnaire of the Food and Agriculture Organisation of the United Nations, a questionnaire which a number of EU Member States already complete.

The proposal is included in the Commission's Work and Legislative Programme under the reference number 2006/ESTAT/012.

- Repeal of existing legislation

Adoption of the proposal will lead to the repeal of existing legislation.

- European Economic Area

The proposal is of EEA relevance and should therefore extend to the European Economic Area.

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on the submission by Member States of statistics on aquaculture

(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 (EC) No 788/96 of 22 April 1996 on the submission by Member States of statistics on aquaculture production[3] requires the Member States to submit annual data on the volume of production.

(2) The increased contribution by aquaculture to the Community's total fisheries production requires a wider range of data for a rational development and management of this sector within the Common Fisheries Policy.

(3) Information on both the volume and value of the production is required to review and assess the market for aquaculture products.

(4) Information on the structure of the sector and on the technologies employed is required to ensure an environmentally sound industry.

(5) Regulation (EC) No 788/96 should therefore be repealed.

(6) Since the objective of the planned action to be taken, namely the establishment of a common legal framework for systematic production of Community statistics on the aquaculture sector cannot be sufficiently achieved at national level and can be achieved better at Community level, the Community may adopt measures 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 the same Article, this Regulation does not go beyond what is necessary to achieve that objective.

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1 OJ C [ ], [ ], p.[ ]

2 OJ C [ ], [ ], p.[ ]

3 OJ L 108, 1.5.1996, 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.

(7) 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 principles of impartiality, reliability, relevance, cost-effectiveness, statistical confidentiality and transparency.

(8) Since 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].

(9) In particular, powers should be conferred on the Commission to adapt the Annexes to this Regulation. These measures of general scope designed to amend non-essential elements or supplement this Regulation by the addition of new non-essential elements should be adopted in accordance with the regulatory procedure with scrutiny laid down to in Article 5a of Council Decision 1999/468/EC.

(10) The Commission shall be assisted by the Standing Committee for Agricultural Statistics established by Article 1 of Council Decision 72/279/EEC of 31 July 1972 setting up a Standing Committee for Agricultural Statistics[6],

HAVE ADOPTED THIS REGULATION:

Article 1

Obligations of the Member States

Member States shall submit to the Commission yearly statistics on all the aquaculture activities conducted on their territory, in inland or seawater.

Article 2

Definitions

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

1. 'aquaculture': the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment; the organisms remain the property of a natural or legal person throughout the rearing or culture stage, up to and including harvesting;[7]

2. "Capture-based aquaculture" means the practice of collecting "seed" material, from early life stages to adults, from the wild and subsequent on-growing to marketable size using aquaculture techniques.

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4 OJ L 52, 22.2.1997, p.1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p.1).

5 OJ L 184, 17.7.1999, p.23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

6 OJ L 179, 7.8.1972, p.1.

7 OJ L 223, 15.8.2006, p.1. Regulation (EC) No 1198/2006

3. "Production" means the output of primary products from the aquaculture sector. It may involve the use of intensive or extensive techniques and it includes output for industrial purposes.

4. "Volume" means:

   (a) for fish, crustaceans and molluscs and other aquatic organisms (except plants), the live weight equivalent of the product (in tonnes). For molluscs it shall include the weight of the shell.

   (b) for aquatic plants, the fresh weight of the product (in tonnes).

5. "Unit value" means the total value of production (excluding invoiced value-added tax) at first sale, expressed in the national currency in use in the relevant country, divided by the total volume of production.

Article 3

Compilation of statistics

1. Member State may use sample surveys or other relevant sources to produce data covering at least 90% of the production by volume: data covering the remaining part of the production may be estimated.

2. Use of sources other than surveys shall be subject to provision of an ex-post assessment of the statistical quality of the other sources.

3. A Member State having a total annual production of less than 500 tonnes may submit summary data estimating the total production.

Article 4

Data

The statistics shall relate to the reference calendar year and shall indicate:

– the production (volume and unit value) of aquaculture for each species by environment (freshwater and saltwater) and by technology;

– the input (volume and unit value) to capture-based aquaculture;

– the production of hatcheries supplying material (e.g. eggs or young fish) for release to a controlled environment or to the wild.

– information on the structure of the aquaculture sector.

Article 5

Submission of statistical data

The Member States shall submit the statistics referred to in Annexes I, II and III to the Commission within nine months of the end of the reference calendar year. The first reference year shall be 2007.

Starting with the data for the year 2007 and at intervals of three years thereafter, the statistics on structures referred to in Annex IV shall be submitted within nine months of the end of the reference calendar year.

The variables for which statistics shall be submitted and the format in which they shall be submitted are indicated in Annexes I, II, III and IV.

The definitions to be applied to the variables are indicated in Annex V

Article 6

Methodological report

1. At the first submission of the data, Member States shall submit to the Commission a detailed methodological report describing how the data were collected and compiled. This report shall include details of any sampling techniques, and of sources used other than surveys and an evaluation of the quality of the resultant estimates. A proposed format for the methodological report is indicated in Annex VI.

2. The Commission shall examine the reports and present its conclusions to the relevant working group of the Standing Committee for Agricultural Statistics established by Council Decision 72/279/EEC (hereinafter referred to as "Standing Committee for Agricultural Statistics ").

3. Member States shall inform the Commission of any change in the information provided for under paragraph 1 within three months of its introduction.

Article 7

Transitional period

Transitional periods for 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 10(2)

Article 8

Derogations

1. In cases where inclusion in the statistics of a particular sector of aquaculture activities would cause difficulties to the national authorities not commensurate with the importance of that sector, a derogation may be granted in accordance with the

procedure laid down in Article 10(2), permitting that Member State to exclude data covering that sector from the national data submitted or to employ sampling techniques to collect data for that sector.

2. Member States shall support any requests for derogations, which must be made prior to the deadline for the first submission of the data, by sending the Commission a report on problems encountered in applying this Regulation. Should a change in the situation for collecting the data create unforeseen difficulties for the national authorities, a duly justified request for a derogation may be submitted by the Member States after the deadline for the first submission of the data.

Article 9

Update of the Annexes

Technical changes shall be made to the Annexes in accordance with the procedure laid down in Article 10(3).

Article 10

Committee procedure

1. The Commission shall be assisted by the Standing Committee for Agricultural Statistics.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof. The period laid down in Article 4(3) of that Decision shall be set at three months.

3. Where reference is made to this paragraph the regulatory procedure with scrutiny laid down to in Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

Article 11

Report

Within three years of the date of entry into force of this Regulation and every three years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the statistics compiled pursuant to this Regulation and, in particular, on their relevance and quality.

The report shall also analyse the cost-effectiveness of the system used for collecting and processing the statistics and shall put forward best practices to lessen the workload for Member States and enhance the usefulness and quality of the data.

Article 12

Repeal

Regulation (EC) No. 788/96 is hereby repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 13

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

Production from aquaculture

Country: Year:

Species cultured			FAO major area	Freshwater culture		Saltwater culture		Total	
3-alpha code	National name	Scientific name		Volume (metric tonnes)	Unit value (national currency)	Volume (metric tonnes)	Unit value (national currency)	Volume (metric tonnes)	Unit value (national currency)
FISH (live weight)									
Ponds									
Tanks									
Enclosures and pens									
Cages									
Raceways									
Recirculation systems									
Other methods									

Species cultured			FAO major area	Freshwater culture		Saltwater culture		Total	
3-alpha code	National name	Scientific name		Volume (metric tonnes)	Unit value (national currency)	Volume (metric tonnes)	Unit value (national currency)	Volume (metric tonnes)	Unit value (national currency)
CRUSTACEANS (live weight)									
Ponds									
Tanks									
Enclosures and pens									
Other methods									
MOLLUSCS (live weight)									
On bottom									
Off bottom									
Other methods									
SEAWEED (wet weight)									
OTHER AQUATIC ORGANISMS (live weight)									

ANNEX II

Supply of material to capture-based aquaculture

Country: Year:

Species			Unit (specify)[a)]	Value (national currency)
3-alpha code	National name	Scientific name		

[a)] Number or tonnes

ANNEX III

Output of hatcheries

Country: Year:

Species			Stage in life cycle		Number (millions)				
3-alpha code	National name	Scientific name	Eggs[a)]	Young fish[a)]	Transferred to a controlled environment (for on-growing)	Released to the wild[b)]	Intended for processing (e.g. caviar)	Destination unknown	Total

[a)] Enter "X" in the appropriate column
[b)] Voluntary

ANNEX IV

Data on the structure of the aquaculture sector

Country: Year:

Method of culture	FAO major area	Freshwater culture[a)]		Saltwater culture[a)]		Total[a)]	
		m^3 in 000	Hectares	m^3 in 000	Hectares	m^3 in 000	Hectares
FISH							
Ponds							
Tanks							
Enclosures and pens							
Cages							
Raceways							
Recirculation systems							
Other methods							

[a)] Enter the size of the facilities in the appropriate column ("m^3 in 000" or "Hectares")

Method of culture	FAO major area	Freshwater culture[a)]		Saltwater culture[a)]		Total[a)]	
		m^3 in 000	Hectares	m^3 in 000	Hectares	m^3 in 000	Hectares
CRUSTACEANS							
Ponds							
Tanks							
Enclosures and pens							
Other methods							
MOLLUSCS							
On bottom							
Off bottom							
Other methods							
SEAWEEDS							
OTHER AQUATIC ORGANISMS							

[a)] Enter the size of the facilities in the appropriate column ("m^3 in 000" or "Hectares")

ANNEX V

Definitions to be used in submission of aquaculture data.

Freshwater culture means cultivation of aquatic organisms where the end-product is reared in freshwater.

Saltwater culture or mariculture means cultivation of aquatic organisms where the end-product is reared in brackish or marine water

Freshwater means the water of rivers, streams, lakes, ponds and tanks and other enclosures where the water has a constantly negligible salinity.

Saltwater means water where the salinity is appreciable. This may be water where the salinity is constantly high (e.g. sea water) or where the salinity is appreciable but not at a constantly high level: the salinity may be subject to periodic variation due to the influx of fresh or sea waters.

Species means the species of fish, crustaceans, molluscs and aquatic plants and other aquatic organisms identified using the international alpha-3 code. A full list of these codes can be found in the FAO's ASFIS file (http://www.fao.org/fi/statist/fisoft/asfis/asfis.asp)

FAO major areas means.

Code	Area
05	Inland waters (Europe)
27	Northeast Atlantic
37	Mediterranean and Black Seas

Ponds means relatively shallow and usually small bodies of still water or water with a low refreshment rate, most frequently artificially formed, but can also apply to natural pools, tarns, meres or small lakes.

Tanks: means fish- or water-holding structures, usually above ground, typically with a high water turnover rate and highly controlled environment.

Hatcheries means places for the artificial breeding, hatching and rearing through the early life stages of animals, finfish, molluscs and crustaceans in particular. Generally, in fish-farming, hatcheries and nurseries are closely associated. On the contrary, in shellfish-farming, specific nurseries are common, where larvae produced in hatcheries are grown until ready for stocking in fattening (on-growing) areas.

Farming means some form of intervention in the rearing process to enhance production, such as regular stocking, feeding and protection from predators and involves individual or corporate ownership of the stock being cultivated**.**

Enclosures and pens means areas of water confined by nets, mesh and other barriers allowing uncontrolled water interchange and distinguished by the fact that enclosures occupy

the full water column between substrate and surface; pens and enclosures generally enclose a relatively large volume of water.

Cages means open or covered enclosed structures constructed with net, mesh or any porous material allowing natural water interchange. These structures may be floating, suspended or fixed to the substrate but still permitting water interchange from below.

Raceways means artificial units constructed above or below ground level capable of high rates of water interchange.

Recirculation systems means systems where the water is re-used after some form of treatment (e.g. filtering).

Transferred to a controlled environment means the intentional release for further aquaculture practices.

Released to the wild means the intentional release for the restocking of rivers, lakes and other waters other than for aquaculture purposes. This includes releases of fish and other aquatic organisms for "ranching". These releases may then be available for capture by fishing operations.

Ranching means the release of, usually, juvenile finfish, crustaceans or molluscs from culture facilities for growth to market size or to maturity in the natural environment. The species used are usually migratory (e.g. salmon) and return close to the point of release where they enter the local fishery or else are non-migratory and remain for at least a substantial portion of the life-cycle in restricted areas where they enter the local fishery.

Unit value means the total value (excluding invoiced value-added tax) of the production (in national currency) divided by the total volume of the production (in tonnes of live weight equivalent). In cases where no data for the total production are available, the unit value may be estimated from a representative sample of the production.

ANNEX VI

Format for the methodological reports of the national systems for aquaculture statistics.

1. Organisation of the national system for aquaculture statistics.

   - Authorities responsible for collecting and processing the data and their respective responsibilities.
   - National legislation on the collection of aquaculture data.
   - Unit responsible for transmitting data to the Commission.

2. Method of collecting, processing and compiling the aquaculture data.

   - Indicate the source of each type of data.
   - Describe the methods used to collect the data (e.g. postal questionnaires, personal interviews, censuses or sampling, and frequency of surveys) for each part of the aquaculture sector.
   - Describe how the data are processed and compiled and how long this takes.

3. Reliability and representativeness of the data.

   - If sampling techniques are used for some elements of the data, describe the methods used, and estimate the level of use and reliability of such methods.
   - Indicate any shortcomings of the national systems, ways of over-coming them and, where appropriate, the timetable for such corrective actions.