



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

**establishing a Community Fisheries Control Agency and amending Regulation (EC)
No 2847/93 establishing a control system applicable to the Common Fisheries Policy**

(presented by the Commission)

{SEC(2004) 448}

EXPLANATORY MEMORANDUM

1. SUMMARY

The Green Paper¹ on the reform of the Common Fisheries Policy (CFP) sets out, *inter alia*, problems in the area of control and enforcement of the rules of the CFP by Member States as well as possible solutions including the establishment of a Joint Inspection Structure (JIS). The Commission's action plan for the reform of the CFP and its implementation was presented in the Communication on the reform of the CFP (the "roadmap")² in which the Commission announced an Action Plan on cooperation in enforcement as well as, following a feasibility study, a proposal establishing a JIS at Community level.

The Communication "towards uniform and effective implementation of the CFP"³ gives effect to these initiatives listed in the Roadmap. The concept of a Community Fisheries Control Agency (CFCA) was set out in this Communication for the purpose of the feasibility study. The Council and the European Parliament both supported this concept and the study.

Representatives of Member States, meeting at Head of State or Government level, on 13 December 2003, in Brussels, welcomed the Commission's intention to submit, before the end of March 2004, a proposal on the establishment of a Community Fisheries Control Agency: they agreed on the urgency to establish such Agency and that such Agency shall have its seat in Spain.

By means of the present regulation the Commission proposes the establishment of the CFCA (The Agency). Its core task will be operational coordination of inspection and surveillance by Member States. It is expected that the Agency will create a solid partnership with and between Member States and the Commission and that it will contribute to a Community culture of control and enforcement in the fisheries sector.

2. INTRODUCTION

2.1. Motives of the Commission

The application of the rules of the CFP by Member States requires a sound operational control and inspection structure on the level of the Community, sufficient means of control and inspection and an appropriate strategy for the co-ordinated deployment of these means.

The objectives to be achieved are:

- the effective implementation of the CFP; and
- uniform inspection and enforcement throughout the Community.

¹ COM (2001) 135 of 20.03.2001

² COM (2002) 181 of 28.5.2002

³ COM (2003) 130 of 21.3.2003

Achieving these objectives is essential if the support of the fishing industry is to be gained for the CFP.

The experience with the current control and inspection arrangements as organised by each Member State has shown that these new objectives can only be achieved by reinforcing the national control and inspection structures through the creation of an organisation structure at Community level.

Currently, control and inspection activities of the competent authorities in Member States are not coordinated in a systematic manner. Efforts of Member States are not matched by other Member States which may have other priorities and practices. Therefore, gaps and weaknesses in control and enforcement occur at the level of the Community. The fishing industry complains about fragmented and uneven control and enforcement which is sometimes even experienced as discriminatory by fishermen.

Most Member States have assigned, within the context of their legal and administrative systems, the responsibility for control and enforcement of the CFP to several established authorities at both national and regional levels (such as fisheries inspectorates, coastguards, navy, customs, police, etc.). Many of these authorities have duties not only in fisheries but also in other domains which make it difficult to coordinate fisheries control.

It has been observed, notably in Member States where several authorities are involved in control and enforcement of the rules of the CFP, that coordination between these authorities, even where based on clear rules, does not offer in all cases sufficient flexibility to respond in a timely manner to the operational challenges of fisheries control and enforcement.

The Community's performance on the international level is seen by third parties as complex when it comes to cooperation in matters pertaining to control and enforcement of applicable rules as Member States are responsible. Member States apply the rules of the CFP in accordance with their own traditions and practices. Third Parties experience cooperation with the Community in such areas as complex, in particular by the multiplicity of partners and traditions. Problems in these areas may have repercussions for the Community as a whole.

Against this background, and notably in order to ensure effective control and inspection in accordance with the Community's international obligations, the Commission assumed over the past decade operational tasks in the area of inspection and surveillance in international waters. Pursuant to the Community's international obligations under the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, since 1990, the Commission has chartered a surveillance vessel in order to fulfil these tasks in the North Atlantic including, since 2000, some tasks in the North East Atlantic under the NEAFC. Moreover since 1995, the Commission has operated an observer scheme for observers on board Community fishing vessels operating in the NAFO Regulatory Area.

The Commission will cease to undertake these tasks for which Member States are now responsible in accordance with Articles 23, 24, 25 and 28 of Regulation (EC) No 2371/2002. The involvement of the Commission in operational matters pertaining to control and inspection is not compatible with its task of controlling and evaluating the application of the rules of the CFP by Member States in accordance with Article 27 of Regulation (EC) No. 2371/2002. The Commission will concentrate on its core tasks under the Treaty and the CFP and should not be involved in control and inspection activities carried out by Member States and should not deal with operational matters such as inspection and surveillance and operation of observer schemes.

The carrying out of these operational tasks by the Commission has been appreciated by third countries, the Member States concerned and the fishing industry. The undertaking of these activities by the Commission at sea must be followed up by inspections of landings by Member States of vessels returning from the international waters. However, the quality of those inspections is not always guaranteed and, therefore, compliance with applicable rules cannot always be ensured.

2.2. Operational coordination

The Commission proposes that:

- coherent control and inspection programmes to be adopted by the Commission (MCS⁴ Programmes);
- national means of control and inspection are pooled by Member States for joint deployment organised by a Community body in accordance with such control and inspection Programmes.

The Agency will assist Member States in complying with their obligations under Community law pursuant to agreements concluded between the Community and third Parties. It should coordinate control and inspection activities by Member States to fulfil notably the international obligations of the Community in a clear, transparent and uniform manner.

The establishment of the Agency will not change the responsibility of Member States for control and enforcement within the scope of the CFP. Moreover, the proposed structure will not amend the provisions of Chapter V of Regulation (EC) No 2371/2002 nor go beyond the provisions of Art. 28 of the said Regulation.

Joint deployment of national means of control and inspection, in line with an appropriate Community strategy, will be the core task. The Agency will ensure operational co-ordination of control and inspection by Member States in the genuine interest of the Community as a whole.

Operational coordination will include:

⁴ MCS is the international used term (FAO) for monitoring, inspection and surveillance of fishing activities by authorities. These terms include inspection and surveillance but also satellite tracking of fishing vessels by Vessel Monitoring Systems (VMS) and observer schemes. The MCS Programme will serve as the Community reference framework in the form of common priorities and procedures as well as bench marks

- planning the deployment of means of control and inspection pooled by Member States;
- organising the deployment of means of control and inspection by Member States.

Planning the deployment of means of control and inspection will include forming multinational teams for inspection at sea and ashore in the interest of the Community. Organising deployment will include issuing instructions concerning the geographical areas, the stocks, fisheries and the fleets to be surveyed and inspected in a given period.

In practice, an efficient working relationship between the Agency and national authorities must be developed. In the interest of the Community, the Agency should assume leadership in the deployment of means of control and inspection in close co-operation with the competent national authorities concerned.

The Agency will ensure that control and inspection activities by national authorities are fully co-ordinated. Joint deployment should optimise the use of national means.

The Agency will have at its disposal as tool for organising joint deployment of control and inspection means, a Community Fishing Vessel Monitoring Centre providing on-line, real time access to information on positions of fishing vessels flying the flag of the Member States concerned. The Agency will dispose of all information whilst Member States have only the information regarding their vessels and their waters.

The strength of the proposed structure lies in the clear reference framework adopted by the Commission (priorities, benchmarks etc), whilst the Agency organises the achievement of these objectives on the basis of national means of control and inspection. The Member States, on their part, must pool their means and remain responsible for their basic obligations in the field on control and inspection.

2.3. Tasks

As a specialised technical Community body, the Agency will carry out in addition to operational coordination other tasks in the area of control and inspection within the scope of the CFP.

The Agency will carry out tasks relating to the obligations of the Community under regional fisheries organisations and bilateral fisheries agreements. It will assist notably Member States in complying with their obligations in the area of control and inspection and it may carry out tasks on behalf of Member States.

To this end, the Agency may provide contractual services to Member States at their request and on their expense. These services may include the chartering and operation of surveillance vessels and the contracting of observers for Joint use of the Member States concerned.

Furthermore, the Agency will assist Member States in the following areas:

- training of inspectors,

- joint procurement of goods for control and inspection (gauges, logbooks) and the coordination of the implementation of joint pilot projects for testing new control and inspection technologies,
- development of joint operational control and inspection procedures,
- elaboration of criteria for provision and exchange of means of control and inspection.

3. CHOICE OF COMMUNITY STRUCTURE

The creation of a specialised technical body at Community level, to serve as a permanent platform for cooperation between Member States, is an appropriate solution to achieve the above objectives. This body should take the form of an Agency.

In the case of the proposed CFCA⁵, the Community legislator may centralise the execution of specific tasks of a technical nature in an Agency in so far as these tasks do not interfere with the functions of Community institutions as laid down in the Treaty and secondary Community legislation. Against this background, the tasks of the CFCA are defined in the area of operational coordination and cooperation between Member States. These tasks do not interfere with the functions of the Commission under the Treaty and the CFP.

Control and enforcement of the rules of the CFP is primarily a matter for public authorities by Member States. The Agency shall be a public body of the Community having legal personality. The presence of representatives of the Member States and the fishing industry together with representatives of the Commission in the Administrative Board of the Agency will enhance the quality of decision making. The Director will be in charge of the operation of the Agency. In order to guarantee the effectiveness of operational coordination by this Agency, the Administrative Board will not be involved in the day-to-day work of the staff concerning planning and organisation of deployment of national means of control and inspection by Member States.

In connection with multi-annual recovery or management plans referred to in Articles 5 and 6 of Regulation (EC) No 2371/2002, Regional Advisory Councils may be concerned by control and enforcement of these rules. In accordance with Article 31(5) of Regulation (EC) No 2371/2002, Regional Advisory Councils may submit recommendations or suggestions to the Commission on the basis of which the latter may act in accordance with Art. 9(1) of the proposed regulation.

As a Community body, the Agency is bound by all Community requirements applicable to it. The proposed regulation is drawn up in accordance with the Financial Regulation applicable to the general budget of the European Communities⁶ and its implementing rules⁷, where possible the new staff rules for Community

⁵ The CFCA corresponds to a so-called “regulatory agency” as distinct from an Executive Agency which carries out Commission tasks under full control of the Commission.

⁶ Council Regulation (EC, Euratom) No 1605/2002, OJ L 248, 16.09.2002

⁷ Commission Regulation (EC, Euratom) No 2342/2002, OJ L 357, 31.12.2002

personal entering into force on 1st May 2004 as well as a number of other regulations. The proposal should reflect best practice and experience acquired to date regarding the establishment and functioning of Community agencies.

4. CFP

4.1. Common Fisheries Policy

In the framework of the reform of the Common Fisheries Policy (CFP), Chapter V of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the CFP,⁸ provides for a new legal framework for a Community control and enforcement system. This Chapter consolidates the basic principles and requirements of previous regulations.

The Community control and enforcement system is designed to ensure that access to and exploitation of fish stocks is controlled throughout the whole fisheries chain and that compliance with the rules of the CFP, including structural and market policies, is enforced. The responsibilities of the Member States and the Commission are clarified, as well as the conditions for engaging in fishing and associated activities. Furthermore, the system lays down the control and enforcement instruments and the conditions for co-operation and co-ordination between Member States with third Parties.

As regards control and inspection of fishing activities beyond Community waters, the Community has entered into international obligations pursuant to joint international control and enforcement schemes and bilateral Fisheries Agreements. These obligations have been incorporated into Community law in specific regulations such as Regulation (EC) N° 2791/1999 laying down certain control measures applicable in the area covered by the Convention on Future multilateral cooperation in the North-east Atlantic Fisheries⁹. In accordance with Article 11 of that Regulation the obligations of the Community in the field of inspection and surveillance are complied with by the Member States concerned. Similar provisions exist in the framework of other international agreements or will be proposed by the Commission.

4.2. Responsibilities of Member States

The basic responsibilities of the Member States in the area of control and enforcement of the rules of the CFP are laid down in Articles 23, 24, 25 and 28 of Regulation (EC) N° 2371/2002. Member States are required to ensure effective control, inspection and enforcement of the rules of the Common Fisheries Policy. To this end, Member States must adopt the measures, allocate the financial and human resources and set up the administrative and technical structure necessary for this purpose. Moreover, Member States are required to cooperate with each other and with third countries to ensure compliance with the rules of the Common Fisheries Policy and ensure that the control and inspection activities are coordinated.

⁸ OJ L 358, 31.12.2002, p. 59

⁹ OJ L 337, 30.12.1999, p. 1

4.3. Responsibilities of the Commission

The responsibilities of the Commission in the area of control and enforcement of the rules of the CFP are laid down in particular in Articles 26 and 27 of Regulation (EC) N° 2371/2002 as well as in the Treaty. Under the CFP, the Commission shall evaluate and control the application of the rules of the CFP by the Member States and facilitate coordination and cooperation between them. For the purpose of evaluating and controlling the application of the rules of the CFP by Member States, the Commission may, of its own accord and by its own means, initiate and carry out audits, inquiries, verifications and inspections concerning the application of the rules of the CFP by the Member States.

As regards international agreements, the Commission negotiates, on behalf of the Community, with third parties which may include joint international control and enforcement schemes. Also in this context certain tasks have been allocated to the Commission in accordance with Community law in particular in order to facilitate coordination on the level of the Community.

In accordance with Article 34c of Regulation (EC) No. 2847/93, the Commission must determine which fisheries should be subject to specific monitoring programmes and the conditions governing such programmes. Member States must adopt the necessary measures including human resources and material resources, to facilitate the implementation of these programmes. This article needs to be adapted to the structure proposed by the present regulation.

In accordance with Article 11 (2) of Regulation (EC) No 2791/1999, the Commission may draw up joint operational surveillance and inspection programmes for the purpose of fulfilling its obligations under the NEAFC¹⁰ scheme. Similar provisions will be proposed for NAFO¹¹ and other similar international agreements.

5. THE FUNCTIONING OF THE CFCA

The Agency will need a budget allocation that is large enough to enable it to hire its personnel, as described above, to fulfil its tasks and to ensure its smooth and efficient functioning. For the first year (2006) this annual budget can be estimated at approximately € 4.9 millions increasing to approximately € 5.0 million when the Agency is fully operational. (Approximately the same amount is saved on the Budget for the Commission relating to “international control” (110703) once the Commission has withdrawn from providing an inspection vessel and observers in NAFO).

The Agency’s budget will be mainly financed by a contribution from the Community. Other sources of income would include charges to Member States for specific services provided to them on a contractual basis. The Agency could also charge for some fees for its publications as well as for the provision of training and other services. It is likely, however, that such charges and fees would remain a minor part of the total income of the Agency.

¹⁰ North East Atlantic Fisheries Commission

¹¹ Northwest Atlantic Fisheries Organisation

The Agency will have an advantage in providing the independent high quality technical expertise, know how and managerial capacity necessary for the implementation of parts of the CFP.

The inclusion of Member States on the Administrative Board will allow them to be involved in the performance of activities that relate, and give effect, to Member State competences. The inclusion of fishing industry representatives on the Administrative Board will improve the relations with the fishing industry and increase the quality of decision making thus enhancing the acceptability within the industry of the activities of the Agency.

The full optimisation of the operational functioning of the Agency is subject to a study contracted by the Commission. The report of this study will be available in the autumn of 2004.

6. CHOICE OF THE LEGAL BASIS

The legal basis of the proposed Regulation is Article 37 which is consistent with the objective of the proposal and with all legislation adopted so far in connection with the Common Fisheries Policy.

7. SUBSIDIARITY AND PROPORTIONALITY

The establishment of an Agency is necessary to serve as a permanent independent platform to ensure operational cooperation and coordination between Member States. Operational coordination will be activated in all cases where it is opportune for the achievement of Community objectives.

Other solutions based on voluntary cooperation between Member States or ad hoc Community programmes without a permanent Community body would not achieve the objectives whilst operational coordination is not compatible with the functions of the Commission under the Treaty and the CFP.

Its independence from the Commission in its capacity as “controller of the controllers” will permit it to establish a sound relationship with the national competent authorities in Member States regarding the organisation of control and inspection by Member States.

The Agency will support Member States in complying with their obligations under the CFP in the area of cooperation and coordination of control and inspection by organising a rational deployment by Member States of pooled means of control and inspection in accordance with Community objectives, benchmarks, priorities and uniform inspection procedures adopted by the Commission

The establishment of the Agency will also improve the relations between the Community and outside partners by centralising contact points and promoting uniform traditions and practices.

The above mechanism is needed to balance interests of individual Member States against the collective interest of ensuring proper control and enforcement of the rules of the CFP in areas where their fishing fleets jointly exploit fish stocks subject to

conservation and control measures adopted by the Community. Moreover, this mechanism will allow the optimisation of the cost/benefit ratio of deployment strategies for national means of inspection and surveillance.

8. COMMENTARY ON ARTICLES

Objective (Article 1)

This Article deals with the objective of the Regulation, which is to establish the Agency so as to provide for the organisation of the operational coordination of fisheries control and inspection activities by the Member States and to assist them to cooperate as required by the CFP.

Scope of operational coordination (Article 2)

This Article makes clear the scope of the responsibilities of the Agency regarding operational coordination of fisheries control and inspection activities, ranging from international waters and the waters of third countries, through Community waters on to the territory of Member States up to the point of first sale.

Definitions (Article 3)

This Article sets out some basic definitions of key terms used in the Regulation.

Mission (Article 4)

The mission of the Agency is defined in this Article and lies in the field of operational coordination both in connection with the obligations of the Community concerning inspection and surveillance of fishing activities in international waters and in Community waters, and the provision of assistance to Member States in the area of control and enforcement.

The mission of the Agency must ensure proper implementation of notably Article 28 of Regulation (EC) No 2371/2002.

Tasks relating to the control and inspection obligations of the Community (Article 5)

This Article is concerned with the tasks of the Agency that seek to give effect to the obligations of the Community regarding control and inspection. Such obligations are undertaken by the Community on the basis of international agreements concluded through Regional Fisheries Organisations and also those agreements concluded with third countries. The Member States are in turn bound to fulfil and give effect to those obligations. The tasks of the Agency are therefore to assist the Community and the Member States in this process, principally through the operational coordination of the control and inspection activities of the Member States. Consequently the Article confers the necessary powers on the Agency within tightly bound parameters.

Organisation of operational coordination (Article 6)

This Article is concerned with the operational coordination of inspection and control by Member States within Community Waters. A key element of this Article is the

reference to the Community Fisheries Monitoring Centre which will use satellite tracking technology to provide a real-time picture of fishing activities and inspection and control opportunities.

Provision of contractual services to Member States (Article 7)

This Article will permit the Agency to provide, on a contractual basis, services to Member States regarding inspection and control. Such services might include the chartering and operation of an inspection vessel to enable Member States to fulfil their obligations within Community waters or beyond as well as the provision of observers for existing observer schemes such as those relating to the NAFO.

Assistance to Member States (Article 8)

This Article will permit the Agency to provide assistance to the Member States with regard to duties pertaining to inspection and control.

Control and inspection obligations of the Community (Article 9)

This Article identifies one of the triggers for the Agency to undertake operational coordination, namely the undertaking by the Community of control and inspections obligations pursuant to an agreement relating to a regional fisheries organisation or an agreement with a third country. Such obligations would, of course, relate to fisheries activities beyond Community waters.

Implementation of specific control and inspection programmes (Article 10)

The other trigger for Agency activity is the adoption by the Commission of a specific monitoring control and inspection programme pursuant to Article 34c of Regulation (EEC) No 2847/93 (as amended by this Regulation).

Content of joint deployment plans (Article 11)

Operational coordination is to take place on the basis of joint deployment plans which must comply with the provisions specified in this Article. Key points to note are that such plans are addressed to specific Member States, those having an interest in a given fishery, and their obligation to pool means of inspection and control as regards the implementation of such plans is dependent on their relative 'interest' in the fishery, as defined in paragraph 2.

Procedure for the adoption of joint deployment plans (Article 12)

The procedure whereby joint deployment plans are to be developed and adopted is set out in this Article. Evidently, the content of such plans must take account of the obligations of Member States arising from existing joint deployment plans as well as applicable control and inspection programmes.

Implementation of joint deployment plans (Article 13)

This Article imposes the basic duty on Member States with regard to the implementation of joint deployment plans.

Assessment of joint deployment plans (Article 14)

The annual assessment by the Agency of each joint deployment plan, and the transmission of such assessments to the Commission, is a necessary element of evaluation.

Notification of means of control and inspection (Article 15)

The notification of available means of control and inspection to the Agency provides a key element of the basic information that the Agency will require in order to draw up joint deployment plans.

Fisheries that are not subject to control and inspection programmes (Article 16)

Where Member States have agreed between them to coordinate their monitoring, control, inspection and surveillance activities in certain areas or fisheries, the Agency may provide assistance if so requested.

Information network (Article 17)

This article provides for the connection of the Agency to Community and international networks for exchange of information in accordance with Community legislation.

Detailed rules (Article 18)

This Article permits the making of detailed rules by the Commission regarding operational coordination.

Legal status and principal office (Article 19)

This Article deals with the legal status of the Agency and its location.

Staff (Article 20)

This Article contains the general rules concerning the staff of the Agency. The Agency will recruit temporary staff (of which some on secondment from the Commission) and contractual agents through Community procedures (European Personal Selection Office).

Privileges and immunities (Article 21)

This Article deals with the privileges and immunities conferred on the Agency and its staff.

Liability (Article 22)

This Article stipulates the liability of the Agency.

Languages (Article 23)

This Article is concerned with the languages of the Agency.

Creation and powers of the Administrative Board (Article 24)

This Article deals with the Administrative Board of the Agency. The Work Programme will be an important instrument for the management of the Agency. The Agency should match its priorities and in particular Community priorities in several areas with its human resources. The internal organisation and the allocation of staff to tasks should be done in transparent manner and ensure in particular balance between areas concerned.

Composition of the Administrative Board (Article 25)

This Article describes the composition of the Administrative Board of the Agency. As regards the Member States, only those which have fishing vessels that engage in marine fisheries are entitled to appoint a representative. Since the Agency coordinates activities carried out by inspection craft operated by national competent authorities which may have duties beyond the fisheries field it is important that all Member States concerned are represented in the Board. The Commission is entitled to appoint 4 representatives as well as nominates 4 representatives of the fishing industry.

Chairmanship of the Administrative Board (Article 26)

This Article deals with the chairmanship of the Administrative Board of the Agency. Given that the Agency will have responsibilities regarding regional fisheries organisations and third countries it is appropriate that the Chairperson should be elected from among the Commission representatives on the Administrative Board. More specifically, the Chairperson should represent the interests of the Community as a whole rather than a national interest.

Meetings (Article 27)

This Article contains provisions on the meetings of the Administrative Board of the Agency.

Voting (Article 28)

This Article contains provisions on voting in the Administrative Board of the Agency. Representatives of the Member States shall hold each one vote whilst the Commission members hold jointly 10 votes.

Declaration of interests (Article 29)

This Article applies to the industry representatives on the Administrative Board.

Duties and powers of the Executive Director (Article 30)

This Article describes the functions and powers of the Executive Director of the Agency.

Appointment of the Executive Director (Article 31)

This Article addresses the appointment of the Executive Director of the Agency. The Commission will make a short list of suitable candidates from which the Administrative Board of the Agency appoints the Director.

Transparency and communication (Article 32)

This Article deals with the transparency of the Agency and the rules applicable to its communication.

Confidentiality (Article 33)

This Article imposes a duty of confidentiality on the members of the Administrative Board, the Executive Director and the staff of the Agency. Confidentiality will apply to information concerning fishing activities of individual vessels (VMS).

Commission access to information (Article 34)

This Article requires the Agency to fully cooperate with the Commission regarding the provision of information that it holds.

Budget (Article 35)

This Article deals with the budget of the Agency and is consistent with the existing legislation (see footnotes 6 and 7).

Implementation and control of the budget (Article 36)

This Article is concerned with the implementation and control of the budget of the Agency and is based on the new financial regulation.

Combating fraud (Article 37)

This Article provides for combating fraud.

Financial provisions (Article 38)

This Article deals with the adoption and content of the Agency's financial rules.

Evaluation (Agency 39)

This Article contains an evaluation clause according to which the Agency shall submit itself to an independent external evaluation within five years from the date on which it takes up its responsibilities, and every five years thereafter.

Start of the Agency's activities (Article 40)

This Article requires the commencement of the operation of the Agency within twelve months of the entry into force of the Regulation.

Amendment (Article 41)

This Article amends Article 34c of Regulation (EEC) N° 2847/93.

Entry into force (Article 42)

This Article addresses the issue of the date of entry into force of the Regulation.

Proposal for a

COUNCIL REGULATION

establishing a Community Fisheries Control Agency and amending Regulation (EC) No 2847/93 establishing a control system applicable to 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 Commission¹²,

Having regard to the opinion of the European Parliament¹³,

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 Policy¹⁴, requires Member States to ensure effective control, inspection and enforcement of the rules of the Common Fisheries Policy (the 'CFP') and to cooperate with each other and with third countries to this end.
- (2) To fulfil these obligations it is necessary for the Member States to coordinate their control and inspection activities in Community waters and international waters with regard to the activities of Community fishing vessels taking into account, in particular, the obligations of the Community in with the framework of regional fisheries organisations and under agreements with third countries.
- (3) Such cooperation, through the operational coordination of control and inspection activities, should contribute to the sustainable exploitation of living aquatic resources as well as ensuring a level playing field for the fishing industry involved in this exploitation thus reducing the distortion in competition.
- (4) Without prejudice to the responsibilities of Member States that arise from Regulation (EC) No 2371/2002, there is need for a technical and administrative Community body to organise cooperation and coordination between Member States regarding fisheries control and inspection within Community waters and international waters.
- (5) To this end, it is appropriate within the Community's existing institutional structure, and taking account of the repartition of competences between the Commission and the Member States, to establish a Community Fisheries Control Agency ("the Agency").

¹² OJ C ..., ..., p. ...

¹³ OJ C ..., ..., p. ...

¹⁴ OJ L 358, 31.12.2002, p 59.

- (6) For the achievement of the purposes for which the Agency is established, its tasks need to be defined.
- (7) In particular, it is necessary for the Agency, at the request of the Commission to be able to assist the Community and the Member States in their relations with the third countries and/or regional international fisheries organisations and to cooperate with their competent authorities within the framework of the international obligations of the Community.
- (8) Coordination by the Agency of operational cooperation between Member States should be undertaken on the basis of joint deployment plans, which organise the use of the available means of control and inspection of the Member States concerned so as to give effect to control and inspection programmes adopted by the Commission. Fisheries control and inspection activities undertaken by the Member States should be carried out in accordance with common criteria, priorities, benchmarks and procedures regarding control and inspection activities on the basis of such programmes.
- (9) For this purpose, the Agency should dispose of on-line information on fishing activities through the setting up of a Community Fisheries Monitoring Centre which is connected to the Member States FMCs.
- (10) For the implementation of joint deployment plans, the Member States concerned should pool their means of control and inspection. To this end they should commit and make such means available and deploy them in accordance with the applicable plan. The Agency should assess whether the available means of control and inspection suffice and where appropriate inform the Member States concerned and the Commission that the means are not sufficient to perform the tasks required under the control and inspection programme.
- (11) The Agency should review periodically the effectiveness of joint deployment plans.
- (12) The Agency may, where so requested, arrange the contractual provision of means of control and inspection to be used for joint deployment by the Member States concerned.
- (13) For the purpose of fulfilling the Agency's tasks, the Commission, the Member States and the Agency should exchange relevant information on control and inspection through an information network.
- (14) The status and structure of the Agency should correspond to the objective character of the results it is intended to produce and allow it to carry out its functions in close cooperation with the Member States and with the Commission. Consequently, the Agency should be granted legal, financial and administrative autonomy while at the same time maintaining close links with the Community institutions and the Member States. To that end, it is necessary and appropriate that the Agency should be a Community body having legal personality and exercising the implementing powers, which are conferred on it by this Regulation.
- (15) For the contractual liability of the Agency, which is governed by the law applicable to the contracts concluded by the Agency, the Court of Justice should have jurisdiction pursuant to any arbitration clause contained in the contract. The Court of Justice

should also have jurisdiction in disputes relating to compensation for any damage arising from the non-contractual liability of the Agency.

- (16) The Commission and the Member States should be represented within an Administrative Board that would be entrusted with ensuring the correct and effective functioning of the Agency.
- (17) Given that the Agency has to fulfil Community obligations and, at the request of the Commission to cooperate with third countries and regional international fisheries organisations within the framework of the international obligations of the Community, it is appropriate that the Chairman of the Administrative Board should be elected from among the Commission representatives.
- (18) Voting arrangements in the Administrative Board should take into account the interests of the Member States and the Commission in the effective operation of the Agency. It is appropriate to provide for the inclusion on the Administrative Board of a limited number of non-voting representatives of the fishing industry.
- (19) It is necessary to provide for the appointment of the Executive Director of the Agency as well as the rules governing the exercise of his functions.
- (20) In order to promote the transparent functioning of the Agency, Regulation (EC) No 1049/2001 of the European Parliament and the Council regarding public access to European Parliament, Council and Commission documents¹⁵ should apply without restriction to the Agency.
- (21) In the interest of the of the protection of the privacy of individuals, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹⁶ should apply to this Regulation.
- (22) In order to guarantee the functional autonomy and independence of the Agency, it should be granted an autonomous budget whose revenue comes from a contribution from the Community as well as from payments for contractual services rendered by the Agency. The Community budgetary procedure should be applicable as far as the Community contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (23) In order to combat fraud, corruption, and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 of the European Parliament and the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)¹⁷ should apply without restriction to the Agency, which should acceded to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF).

¹⁵ OJ L 145, 31.5.2001, p43.

¹⁶ OJ L 8, 12.1.2001, p. 1.

¹⁷ OJ L 136, 31.5.1999, p 15.

- (24) In order to facilitate operational coordination by the Agency through the establishment of joint deployment plans, Article 34(c) of Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy¹⁸ should be amended,
- (25) 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 Commission¹⁹.

HAS ADOPTED THIS REGULATION:

¹⁸ OJ L 261, 20.10.1993, p. 1.

¹⁹ OJ L 184, 17.7.1999.

CHAPTER I

Objective, scope and definitions

Article 1

Objective

This Regulation establishes a Community Fisheries Control Agency (“the Agency”), the objective of which is to organise operational coordination of fisheries control and inspection activities by the Member States and to assist them to cooperate so as to comply with the rules of the Common Fisheries Policy.

Article 2

Scope of operational coordination

Operational coordination by the Agency shall cover inspection and control of fishing activities, up to the first point of sale of fishery products, which are carried out

- (a) on the territory of Member States,
- (b) in Community waters or
- (c) outside Community waters by Community fishing vessels.

Article 3

Definitions

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

- (a) "control and inspection" means any measures taken by Member States in accordance with Articles 23, 24 and 28 of Regulation (EC) No. 2371/2002²⁰ to control and inspect fishing activities within the scope of the Common Fisheries Policy including surveillance and monitoring activities such as satellite based vessel monitoring systems and observer schemes;
- (b) "means of control and inspection" means surveillance vessels, aircraft, vehicles and other material resources as well as inspectors, observers and other human resources used by Member States for control and inspection;
- (c) "control and inspection obligations of the Community" means any obligations of the Community relating to control and inspection that arise from the membership of the Community in a regional fisheries organisation or from a fisheries agreement concluded between the Community and a third country;

²⁰ OJ L 358, 31.12.2002, p. 59.

- (d) "joint deployment plan" means a plan setting out operational arrangements for the deployment of available means of control and inspection;
- (e) "international control and inspection programme" means a programme that sets objectives, common priorities and procedures for control and inspection activities established by the Commission to implement control and inspection obligations of the Community;
- (f) "specific control and inspection programme" means a programme that sets objectives, common priorities and procedures for control and inspection activities established in accordance with Article 34 c of Regulation (EC) No 2847/93;
- (g) "fishery" means the fishing activities exploiting certain stocks as defined by the Council in particular pursuant to Articles 5 and 6 of Regulation (EC) N° 2371/2002²¹;
- (h) "Community inspectors" means the inspectors included on the list referred to in Article 28(4) of Regulation (EC) 2371/2002.

CHAPTER II

Mission and Tasks of the Agency

Article 4

Mission

The mission of the Agency shall be:

- (a) to coordinate control and inspection by Member States relating to the control and inspection obligations of the Community;
- (b) to coordinate the deployment of the national means of control and inspection pooled by the Member States concerned in accordance with this Regulation;
- (c) to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties;
- (d) in the field of its competences, to assist Member States to fulfil their tasks and obligations under the rules of the Common Fisheries Policy.

Article 5

Tasks relating to the control and inspection obligations of the Community

1. The Agency shall, at the request of the Commission:

²¹ OJ L 358, 31.12.2002, p.59.

- (a) assist the Community and Member States in their relations with third countries and regional international fisheries organisations of which the Community is a member;
 - (b) cooperate with the competent authorities of regional international fisheries organisations regarding the control and inspection obligations of the Community in the framework of working arrangements concluded with such bodies.
2. The Agency may, at the request of the Commission, cooperate with the competent authorities of third countries in matters relating to control and inspection in the framework of agreements concluded between the Community and such countries.
3. The Agency may, within its field of competence, carry out on behalf of Member States tasks under international fisheries agreements to which the Community is a party.

Article 6

Organisation of operational coordination

The Agency shall:

- (a) establish joint deployment plans and organise operational coordination of control and inspection by Member States in accordance with Chapter III;
- (b) establish a Community Fisheries Monitoring Centre for the organisation of operational coordination of joint control and inspection activities.

Article 7

Provision of contractual services to Member States

The Agency may provide contractual services to Member States, at their request, relating to control and inspection in connection with their obligations concerning fisheries in Community and/or international waters, including the chartering, operating and staffing of control and inspection platforms and the provision of observers for joint operations by the Member States concerned.

Article 8

Assistance to Member States

To enable Member States to better fulfil their obligations under the rules of the Common Fisheries Policy, the Agency shall:

- (a) establish and develop a core curriculum for the training of the instructors of the fisheries inspectors of the Member States and may provide additional training courses and seminars to those inspectors;

- (b) at the request of Member States, undertake the joint procurement of goods and services relating to control and inspection activities by Member States as well as to prepare for and coordinate the implementation by Member States of joint pilot projects;
- (c) elaborate joint operational procedures in relation to joint control and inspection activities undertaken by two or more Member States;
- (d) elaborate criteria for the exchange of means of control and inspection between Member States and between Member States and third countries and for the provision of such means by the Member States.

CHAPTER III

Operational Coordination

Article 9

Control and inspection obligations of the Community

The Agency shall, at the request of the Commission, coordinate control and inspection activities by Member States on the basis of international control and inspection programmes by establishing joint deployment plans.

Article 10

Implementation of specific control and inspection programmes

The Agency shall implement the specific control and inspection programmes established in accordance with Article 34c of Regulation (EEC) No. 2847/93 through joint deployment plans.

Article 11

Content of joint deployment plans

1. Each joint deployment plan shall:
 - (a) give effect to the criteria, benchmarks, priorities and common inspection procedures determined by the Commission in control and inspection programmes;
 - (b) identify the means of control and inspection to be pooled by the Member States concerned based on their interest in the relevant fishery which are required to implement the control and inspection programme to which the plan relates;
 - (c) seek to match and organise deployment of the available national means of control and inspection, communicated pursuant to Article 14, with means identified under point (b);

- (d) organise the use of the human and material resources, with regard to the periods and zones in which these have to be deployed, including the operation of teams of Community inspectors from more than one Member State;
 - (e) take account of the existing obligations of the Member States concerned in respect of other joint deployment plans.
2. The interest in a fishery of a Member State, pursuant to paragraph 1(b), shall be assessed in particular by reference to:
- (a) the quantity of fish landed on its territory as a proportion of the total landings from the fishery that is subject to the joint deployment plan;
 - (b) the relative number of Community fishing vessels flying its flag (engine power and gross tonnage) that are actively involved in the fishery that is subject to the joint deployment plan in relation to the total number of vessels that are actively involved in that fishery;
 - (c) the relative size of its quota allocation or, in the absence of a quota, its catch in a given reference period in respect of that fishery;
 - (d) the relative extent of the waters subject to its sovereignty or jurisdiction, if any, that are covered by the joint deployment plan.

Article 12

Procedure for the adoption of joint deployment plans

1. The Agency shall establish a draft joint deployment plan in concert with the Member States concerned by the relevant control and inspection programme.
2. If, in the course of preparing a joint deployment plan, it is apparent to the Agency that there are insufficient means of control and inspection available to fulfil the requirements of the relevant control and inspection programme, the Agency shall promptly notify the Member States concerned and the Commission.
3. The Agency shall adopt the joint deployment plan fulfilling the requirements of the relevant control and inspection programme, no later than three months following the entry into force of a control and inspection programme.
4. Each joint deployment plan shall be subject to an annual review by the Agency in consultation with the Member States concerned to take account of any new control and inspection programmes to which the Member States concerned are subject and any priorities determined by the Commission in the control and inspection programmes.

Article 13

Implementation of joint deployment plans

1. Member States shall undertake joint control and inspection activities on the basis of joint deployment plans. To this end, the Member States concerned shall adopt the necessary measures particularly as regards the human and material resources required taking into account the periods and zones in which these are to be deployed.
2. Each Member State concerned shall:
 - (a) commit and make available those means of control and inspection that are identified in the joint deployment plan as being necessary for the execution of that plan;
 - (b) appoint a single national point of contact/coordinator, who shall be conferred with sufficient authority to be able to respond in a timely manner to requests for information and instructions from the Agency that relate to the implementation of the joint deployment plan, and notify this to the Agency;
 - (c) deploy its pooled means of control and inspection in accordance with the joint deployment plan and the instructions of the Agency;
 - (d) in respect of the activities of teams of inspectors from more than one Member State, authorise Community Inspectors assigned to that joint deployment plan, from another Member State to assist in the undertaking of control and inspection activities on their territory and on fishing vessels within the waters under their sovereignty, which are necessary to ensure compliance with the rules of the Common Fisheries Policy;
 - (e) provide the Agency on-line access to information necessary for the implementation of the joint deployment plan through the Community Fisheries Monitoring Centre;
 - (f) cooperate with the Agency regarding the implementation of the joint deployment plan.
 - (g) ensure that any means of control and inspection, assigned to a Community joint deployment plan carry out their activities in accordance with the rules of the Common Fisheries Policy.
3. Each Member State shall ensure that the activities carried out by its means of control and inspection under a joint deployment plan comply with the rules governing the Common Fisheries Policy.

Article 14

Assessment of joint deployment plans

The Agency shall undertake an annual assessment of the effectiveness of each joint deployment plan, as well as an analysis, on the basis of available evidence, of the existence of a risk that fishing activities are not compliant with applicable conservation and control measures. Such assessments shall be promptly communicated to the Commission.

Article 15

Notification of means of control and inspection

Each Member State shall each year before 31 August notify the Agency of the means of control and inspection, that it intends to commit for the purpose of control and inspection for the following year.

Article 16

Fisheries that are not subject to control and inspection programmes

Two or more Member States may request the Agency to coordinate the deployment of their means of control and inspection in relation to a fishery or an area that is not subject to a control and inspection programme. Such coordination shall take place in accordance with control and inspection criteria and priorities agreed between the Member States concerned.

Article 17

Information network

1. The Commission, the Agency and the competent authorities of Member States shall exchange relevant information available to them regarding control and inspection activities within Community and international waters.
2. Each national competent authority shall take, in accordance with the relevant Community legislation, measures to ensure appropriate confidentiality of the information received by them under this Article in accordance with Article 33(5) and Article 37 of Regulation No (EEC) 2847/93.

Article 18

Detailed rules

Detailed rules, for the implementation of this Chapter may be adopted in accordance with the procedure laid down Article 30(2) of Regulation No (EC) 2371/2002.

These rules may cover in particular the procedures for the preparation and adoption of draft joint deployment plans.

CHAPTER IV

Internal Structure and Functioning

Article 19

Legal status and principal office

1. The Agency shall be a body of the Community. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.
3. The Agency shall be represented by its Executive Director.
4. The seat of the Agency shall be at [.....], Spain.

Article 20

Staff

1. The Staff Regulations of officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for the purposes of the application of those Staff Regulations and conditions of employment shall apply to the staff of the Agency. The Administrative Board, in agreement with the Commission, shall adopt necessary detailed rules of application.
2. Without prejudice to Article 31, the powers conferred on the appointing authority by the Staff Regulations and the Conditions of employment of other servants shall be exercised by the Agency in respect of its own staff.
3. The Agency's staff shall consist of officials assigned or seconded by the Commission or Member States on a temporary basis and of other servants recruited by the Agency as necessary to carry out its tasks.

Article 21

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency and its staff.

Article 22

Liability

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties. The Court of Justice of the European Communities shall have jurisdiction in any dispute relating to compensation for such damage.
4. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of employment applicable to them.

Article 23

Languages

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community²² shall apply to the Agency.
2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the bodies of the European Union.

Article 24

Creation and powers of the Administrative Board

1. The Agency shall have an Administrative Board.
2. The Administrative Board shall:
 - (a) appoint the Executive Director pursuant to Article 31;

²² OJ L 17, 6.10.1958, p 385/58.

- (b) adopt, by 30 April each year, the general report of the Agency for the previous year and forward it to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States. The report shall be made public;
 - (c) adopt by 31 October each year, and taking into account the opinion of the Commission and the Member States, the work programme of the Agency for the coming year and forward it to the European Parliament, the Council, the Commission and the Member States;
- The work programme, which shall give priority to the duties of the Agency relating to control and surveillance programmes, shall be adopted without prejudice to the annual Community budgetary procedure. In case the Commission expresses, within 30 days from the date of adoption of the work programme, its disagreement with that programme, the Administrative Board shall re-examine the programme and adopt it, possibly amended, within a period of two months, in a second reading;
- (d) adopt the final budget of the Agency before the beginning of the financial year, adjusting it, where necessary, according to the Community contribution and any other revenue of the Agency;
 - (e) perform its duties in relation to the Agency's budget in accordance with Articles 35, 36 and 38;
 - (f) exercise disciplinary authority over the Executive Director;
 - (g) establish its rules of procedure which may provide for the establishment of sub-committees of the Administrative Board as necessary;
 - (h) adopt procedures necessary for the performance by the Agency of its tasks.

Article 25

Composition of the Administrative Board

1. The Administrative Board shall be composed of one representative from each Member State whose vessels are engaged in fishing activities relating to marine living resources and four representatives of the Commission as well as of four representatives of the fishing industry nominated by the Commission without the right to vote.

Board members shall be appointed on the basis of their degree of relevant experience and expertise in the field of fisheries control and inspection.
2. Each Member State and the Commission shall appoint their members of the Administrative Board as well as an alternate who will represent the member in his/her absence.
3. The duration of office shall be five years. The term of office may be renewed once.

Article 26

Chairmanship of the Administrative Board

1. The Administrative Board shall elect a Chairperson from among the Commission representatives. The Administrative Board shall elect a Deputy Chairperson from among its members. The Deputy Chairperson shall automatically take the place of the Chairperson if he/she is prevented from attending to his/her duties.
2. The terms of office of the Chairperson and Deputy Chairperson shall be three years and shall expire when they cease to be members of the Administrative Board. The terms of office shall be renewable once.

Article 27

Meetings

1. The meetings of the Administrative Board shall be convened by its Chairperson. The agenda shall be determined by the Chairperson, taking into account the proposals of members of the Administrative Board and the Executive Director of the Agency.
2. The Executive Director shall take part in the deliberations.
3. The Administrative Board shall hold an ordinary meeting once a year. In addition it shall meet on the initiative of the Chairperson or at the request of the Commission or of one-third of the Member States represented on the Administrative Board.
4. When there is a matter of confidentiality or conflict of interest, the Administrative Board may decide to examine specific items of its agenda without the presence of the members nominated by the Commission as representatives of the fishing industry. Detailed rules for the application of this provision may be laid down in the rules of procedure.
5. The Administrative Board may invite any person whose opinion may be of interest to attend its meetings as an observer.
6. The members of the Administrative Board may, subject to the provisions of its rules of procedure, be assisted by advisers or experts.
7. The secretariat for the Administrative Board shall be provided by the Agency.

Article 28

Voting

1. The Administrative Board shall take its decisions by an absolute majority of votes.
2. Each member who is appointed by a Member State shall have one vote. The members appointed by the Commission shall jointly have ten votes. The Executive Director of the Agency shall not vote.

In the absence of a member, his/her alternate shall be entitled to exercise his/her right to vote.

3. The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.

Article 29

Declaration of Interests

1. The members of the Administrative Board who are nominated by the Commission as representatives of the fishing industry shall make a declaration of commitment and a declaration of interests indicating either the absence of any interests which might be prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be made annually in writing.
2. The members of the Administrative Board who are nominated by the Commission as representatives of the fishing industry shall declare at each meeting any interests which might be considered prejudicial to their independence in relation to the items on the agenda.

Article 30

Duties and powers of the Executive Director

1. The Agency shall be managed by its Executive Director. Without prejudice to the respective competencies of the Commission and the Administrative Board, the Executive Director shall neither seek nor take instructions from any government or any other body.
2. The Executive Director shall, in the performance of his/her tasks, give effect to the principles of the Common Fisheries Policy.
3. The Executive Director shall have the following duties and powers:
 - (a) he/she shall prepare the draft work programme and submit it to the Administrative Board after consultation with the Commission and the Member States. He/she shall take the necessary steps for the implementation of the work programme within the limits specified by this Regulation, its implementing rules and any applicable law;
 - (b) he/she shall take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the organisation and functioning of the Agency in accordance with the provisions of this Regulation;
 - (c) he/she shall take all necessary steps including the adoption of decisions concerning the responsibilities of the Agency under Chapters II and III including chartering and operation of means of control and inspection and the operation of an information network;

- (d) he/she shall respond to requests from the Commission and to requests for assistance from a Member State pursuant to Articles 7, 8 and 16;
 - (e) he/she shall organise an effective monitoring system in order to be able to compare the Agency's achievements with its operational objectives. On this basis the Executive Director shall prepare a draft general report each year and submit it to the Administrative Board. He/she shall establish regular evaluation procedures that meet recognised professional standards;
 - (f) he/she shall exercise in respect of the staff the powers laid down in Article 20 (2);
 - (g) he/she shall draw up estimates of the Agency's revenue and expenditure in accordance with Article 35 and shall implement the budget in accordance with Article 36.
4. The Executive Director shall be responsible for his/her activities to the Administrative Board.

Article 31

Appointment of the Executive Director

1. The Executive Director shall be appointed by the Administrative Board, on the grounds of merit and documented relevant experience in the field of fisheries policy, from a list of three candidates proposed by the Commission after a selection procedure, following publication of the post in the Official Journal of the European Union, and elsewhere, of a call for expressions of interest.
2. The Administrative Board shall take its decision by a two thirds majority of members.
3. Power to dismiss the Executive Director shall lie with the Administrative Board on the proposal of the Commission.
4. The term of office of the Executive Director shall be five years. This term of office may be extended once.

Article 32

Transparency and communication

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding access to European Parliament, Council and Commission documents shall apply to documents held by the Agency.
2. The Administrative Board shall, within six months of the date of its first meeting, adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.
3. The Agency may communicate on its own initiative in the fields within its mission. It shall ensure in particular that the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.

4. The Administrative Board shall lay down the necessary internal rules for the application of paragraph 3.
5. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or form the subject of an action before the Court of Justice, under Articles 195 and 230 of the EC Treaty.
6. The information collected in accordance with this Regulation by the Commission and the Agency shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Article 33

Confidentiality

1. Members of the Administrative Board, the Executive Director and members of the staff of the Agency, even after their duties have ceased, shall be subject to the requirements of confidentiality pursuant to Article 287 of the Treaty.
2. The Administrative Board shall lay down internal rules regarding the practical arrangements for implementing the confidentiality requirements referred to in paragraph 1.

Article 34

Commission access to information

The Commission shall have full access to all information collected by the Agency. The Agency shall furnish any information and an evaluation of that information to the Commission at its request and in the form specified by it.

CHAPTER V

Financial Provisions

Article 35

Budget

1. The Agency's revenues shall consist of:
 - (a) a contribution from the Community entered in the general budget of the European Union (Commission section);
 - (b) charges for services provided by the Agency to Member States in accordance with Article 7;

- (c) charges for publications, training and/or any other services provided by the Agency;
2. The Agency's expenditure shall cover staff and administrative, infrastructure and operational expenses.
 3. The Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year and shall forward it to the Administrative Board, together with a draft establishment plan.
 4. Revenue and expenditure shall be in balance.
 5. Each year the Administrative Board, on the basis of a draft statement of estimates of revenue and expenditure, shall produce a statement of estimates of revenue and expenditure for the Agency for the following financial year.
 6. This statement of estimates, which shall include a draft establishment plan, together with the provisional work programme, shall by 31 March at the latest be forwarded by the Administrative Board to the Commission.
 7. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (the 'budgetary authority') together with the preliminary draft general budget of the European Union.
 8. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.
 9. The budgetary authority shall authorise the appropriations for the subsidy to the Agency. The budgetary authority shall adopt the establishment plan for the Agency.
 10. The budget shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
 11. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.
 12. Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Administrative Board within a period of six weeks from the date of notification of the project.

Article 36

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Agency.
2. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities²³ (the "Financial Regulation").
3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for that financial year shall also be forwarded to the European Parliament and the Council.
4. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 129 of the Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his/her own responsibility and forward them to the Administrative Board for an opinion.
5. The Administrative Board shall deliver an opinion on the Agency's final accounts.
6. By 1 July of the following year at the latest, the Executive Director shall send the final accounts, together with the opinion of the Administrative Board, to the European Parliament, the Council, the Commission and the Court of Auditors.
7. The final accounts shall be published.
8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/she shall also send this reply to the Administrative Board.
9. The Executive Director shall submit to the European Parliament, at the request of the latter, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of the Financial Regulation.
10. The European Parliament, upon a recommendation from the Council, shall, before 30 April of the second following year, give a discharge to the Executive Director of the Agency in respect of the implementation of the budget for the year in question.

²³ OJ L 248, 16.09.2002, p. 1

Article 37

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 shall apply without restriction to the Agency.
2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by OLAF and shall issue, without delay, the appropriate provisions to all of its staff.
3. The decisions concerning funding and the implementing agreements and instruments relating to them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks of the recipients of the Agency's funding and the agents responsible for allocating it.

Article 38

Financial provisions

The Administrative Board, having received the agreement of the Commission and the opinion of the Court of Auditors shall adopt the Agency's financial rules. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of the Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities²⁴ unless specifically required for the Agency's operation and with the Commission's prior consent.

CHAPTER VI

Final Provisions

Article 39

Evaluation

1. Within [five] years from the date of the Agency having taken up its responsibilities, and every five years thereafter, the Administrative Board shall commission an independent external evaluation of the implementation of this Regulation. The Commission shall make available to the Agency any information the Agency considers relevant to the evaluation.
2. Each evaluation shall assess the impact of this Regulation, the utility, relevance and effectiveness of the Agency and its working practices and the extent to which it contributes to the achievement of a high level of compliance with rules made under the Common Fisheries Policy. The Administrative Board shall issue specific terms of

²⁴ OJ L 357, 31.12.2002, p. 72.

reference in agreement with the Commission, following consultations with the parties involved.

3. The Administrative Board shall receive the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission. Both the evaluation findings and recommendations shall be forwarded by the Commission to the European Parliament and the Council and shall be made public.

Article 40

Start of the Agency's activities

The Agency shall be operational within twelve months of the date of entry into force of this Regulation.

Article 41

Amendment

Article 34c of Regulation (EEC) N° 2847/93 is replaced by the following:

'Article 34c

1. The Commission, in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy(*), and in concert with the Member States concerned, shall determine which fisheries involving two or more Member States shall be subject to specific control and inspection programmes and the conditions governing such programmes.

The specific control and inspection programme shall determine the fisheries involving two or more Member States subject to the programme and the conditions governing such fisheries.

Each specific control and inspection programme shall state its objectives, common priorities and procedures as well as benchmarks for control and inspection activities, the expected results of the measures specified and the strategy required to ensure that control and inspection activities are as uniform, effective and economical as possible. Each programme shall identify the Member States concerned.

Specific control and inspection programmes may not last longer than three years or any period laid down for this purpose in a recovery plan adopted pursuant to Article 5 of Regulation (EC) No 2371/2002 or a management plan adopted pursuant to Article 6 of that Regulation.

Specific control and inspection programmes shall be implemented by the Member States concerned on the basis of joint deployment plans established under Regulation (EC) No XXXX/2004 establishing a Community Fisheries Control Agency and amending Regulation (EC) No 2847/93 establishing a control system applicable to the Common Fisheries Policy.

2. The Commission shall control and evaluate the performance of each specific control and inspection programme and shall report to the European Parliament and the Council in accordance with Article 27 (4) of Regulation (EC) No 2371/2002.

(* OJ L 358, 21.12.2002, p.59.’

Article 42

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 Council
The President*

ANNEX

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): FISHERIES

Activit(y/ies):

1107 – Fisheries Conservation, Control and Enforcement

TITLE OF ACTION:

ESTABLISHMENT OF A COMMUNITY FISHERIES CONTROL AGENCY (CFCA)

1. BUDGET LINE(S) + HEADING(S)

New budget line to be created

110704 Community Fisheries Control Agency

2. OVERALL FIGURES

2.1. Total allocation for action: 4,9 € million for commitment in 2006

2.2. Period of application:

As from 2005

2.3. Overall multiannual estimate of expenditure:

(a) 11070401 Community Fisheries Control Agency – Subsidy under Titles 1 and 2

Subsidy of administrative expenditure from the Community budget. This appropriation is intended to cover the costs of the CFCA's staff and administrative expenditure. (see 6.2 (a))

€ million (to three decimal places)

	Year 2005	2006	2007	2008	2009	2010 and subs. Years	Total
Commitments	p.m.	3,8	4,8	4,8			
Payments	p.m.	3,8	4,8	4,8			

(b) 11070402 Community Fisheries Control Agency – Subsidy under Title 3

Subsidy of operational expenditure from the Community budget. This appropriation is intended to cover operational expenditure, which includes installation of computer equipment, meetings and missions.

€ million (to three decimal places)

	Year 2005	2006	2007	2008	2009	2010 and subs. Years	Total
Commitments	p.m.	1,1	0,2	0,2			
Payments	p.m.	1,1	0,2	0,2			

TOTAL a+b							
Commitments	p.m.	4,9	5,2	5,2			
Payments	p.m.	4,9	5,2	5,2			

2.4. Compatibility with financial programming and financial perspective

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.

2.5. Financial impact on revenue²⁵

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

OR

Proposal has financial impact – the effect on revenue is as follows:

The effect will be neutral as the income will match the expenditure for which the contribution is received

(NB All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.)

²⁵ For further information, see separate explanatory note.

(€ million to one decimal place)

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

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

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non-comp	Diff	YES	NO	NO	No 3

4. LEGAL BASIS

Article 37 of the Treaty

DESCRIPTION AND GROUNDS

5.1. Need for Community intervention²⁶

5.1.1. Objectives pursued

The objective of the proposal is to promote uniform and effective application of the rules of the Common Fisheries Policy by Member States through the establishment of a Community Fisheries Control Agency (CFCA) and the framework necessary for operational co-ordination. The CFCA will serve as an independent permanent platform for cooperation between Member States in the area of control and enforcement in accordance with Article 28 of Regulation (EC) N° 2371/2002²⁷. The CFCA will organise operational coordination of inspection and surveillance activities by the competent authorities in the Member States.

5.1.2. Measures taken in connection with ex ante evaluation

The possibility of setting up a Joint Inspection Structure is the result of the Green Paper on the future of the Common Fisheries Policy (COM(2001) 135 final of

²⁶ For further information, see separate explanatory note.

²⁷ Article 28 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (O.J. L 358 of 31.12.2003

20.03.2001) and the Communications from the Commission on the “reform of the Common Fisheries Policy” (“Roadmap”) (COM(2002) 181 final of 28.05.2002) and “towards a uniform and effective implementation of the Common Fisheries Policy” (COM(2003) 130 final of 21.03.2003).

In the latter Communication it was stated that a feasibility study would be undertaken by the Commission prior to the proposal for the establishment of the CFCA being put forward. Further to the conclusions of the representatives of the Member States, meeting at Head of State or Government level on 13 December 2003 it is necessary to make the proposal without the benefit of the feasibility study. The study must still take place in order to determine the optimal organisation for the operational functions and structure of the CFCA. Therefore the Commission reserves the right to modify the financial statement in the light of the conclusions of the study.

Notwithstanding the above, an impact assessment, covering also specific *ex ante* evaluation requirements of the Financial Regulation and its implementing rules has been undertaken and is attached to the proposal. The aforementioned feasibility study will be used to specify the concrete results that are expected and identify appropriate indicators needed to measure them as well as to review the cost-effectiveness aspects of the proposal.

5.1.3. Measures taken following ex post evaluation

The measures are explained in detail in the impact assessment and *ex ante* evaluation attached to the proposal. In particular, the evaluations of the NAFO Observer Scheme (FISH/2002/03) and of the scheme for financial contribution to control expenditure incurred by Member States (FISH 2002/10 and 2002/12) can be mentioned in this regard.

5.2. Action envisaged and budget intervention arrangements

5.2. General co-ordination and communications

The organisation of operational co-ordination will necessitate the establishment of a Fisheries Monitoring Centre (FMC) to implement an integrated monitoring, inspection and surveillance communication system. Some of the tasks that would be performed by such an FMC are presently undertaken by the Commission.

5.2.2 Operational co-ordination

A major task of the CFCA will be to facilitate co-operation and co-ordination between Member States regarding inspection and surveillance through the creation of a Joint Inspection Framework. This is essentially a new task although it will encompass some duties currently performed by the Commission.

The target populations of the Joint Inspection Framework are the Member States and the fishermen. The specific objective of setting up a Joint Inspection Framework is uniform and effective implementation of conservation measures through the organisation of joint deployment of pooled national means of inspection and surveillance;

The Joint Inspection Framework will consist of joint inspection and surveillance activities to be undertaken on the basis of joint deployment plans that give effect to

specific monitoring programmes, the purpose of which is to implement effectively the recovery plans for certain stocks adopted by the Council. A specific monitoring, control and surveillance (MCS) programme will be introduced by the Commission on request of two or more Member States or on its own initiative. The joint deployment plans drawn up by the CFCA will apply to fisheries in which fleets from several Member States participate.

The Joint Inspection Framework will cover certain co-ordination tasks performed by the Commission such as NAFO²⁸/NEAFC²⁹ on the international level. However, as these duties have not been considered as priority tasks they have been insufficiently covered by the Commission's services. These tasks will be better and more efficiently performed by the CFCA, which will also be able to address future requirements for co-ordination in international waters (ICCAT³⁰, IOTC³¹ etc) or specific MCS programmes for stocks in Community waters that are under threat. The output of the Joint Inspection Framework will be the co-ordination and organisation of operational activities undertaken by the national competent authorities.

5.2.3 *Other co-ordination support tasks*

The CFCA will also undertake support tasks to further the co-operation and co-ordination between Member States in the field of inspection and surveillance. Such tasks will include:

- (1) Training of national instructors
- (2) Joint procurement in relation to monitoring, control and surveillance activities. Development of operational procedures; technical input and advice, and co-ordination of pilot projects (VMS³², electronic logbooks, etc.)

Furthermore, the CFCA may provide contractual services to Member States relating to inspection and surveillance, including the provision of observers.

The Commission currently carries out some of these tasks (technical input, vessel chartering). Transferring them to the CFCA will imply a transfer of posts, as appropriate.

5.3. **Methods of implementation**

The objectives and mission of the CFCA as an independent body in support of co-operation between Member States and its capacity to assemble quickly the necessary expertise in its fields of competence, make it the appropriate Community body for performing the core tasks and the associated tasks resulting from the proposed Regulation.

The CFCA will perform the direct management of the envisaged actions using regular or outside staff. The detailed activity in the fields mentioned above will be set

²⁸ Northwest Atlantic Fisheries Organisation

²⁹ North East Atlantic Fisheries Commission

³⁰ International Commission for the Conservation of Atlantic Tuna

³¹ Indian Ocean Tuna Commission

³² Vessel Monitoring System

out in the Work Programme of the CFCA to be established every year by its board in close co-operation with the Commission.

6. FINANCIAL IMPACT

6.1. Total financial impact - (over the entire programming period)

The cost of this intervention by the Agency is calculated by adding up the individual costs on an annual basis, starting in 2006, when the Agency will become operational.

The expenditure is based on a total staff of 38 in the first year rising to 49 in the second year. The costs are higher in the first year mainly as a result of expenditure on setting up the FMC.

The transfer of the task undertaken by the Commission for chartering an inspection vessel for patrols in NAFO and NEAFC will result in a saving of 2,5 MIO €. The transfer of responsibility to Member States for placing observers on board vessels operating in the NAFO Regulatory Area foreseen for 2004 will already result in a saving of 3,0 MIO €.

These amounts will not be transferred to the budget of the CFCA as the tasks in question will become the responsibility of Member States. However, they show that the overall exercise foreseen in the CFP reform of re-defining responsibilities, of which the JIF and CFCA play an integral part, will not result in an increase in the Community budget.

In addition 3 posts will be withdrawn from the Commission in respect of tasks that are currently performed by the Commission but will in the future be undertaken by the CFCA (see 6.2 (a)). As a consequence there will be a reduction in the administrative costs of the Commission.

6.1.1. Financial intervention

Commitments (in € million to three decimal places)

Breakdown	2005	2006	2007	2008	2009	2010 and subs. Years	Total
	p.m.	1,1	0,2	0,2			
TOTAL	p.m.						

6.1.2. *Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)*

	2005	2006	2007	2008	2009	2010 and subs. years	Total
1) Technical and administrative assistance							
a) Technical assistance offices							
b) Other technical and administrative assistance: - intra muros: - extra muros: <i>of which for construction and maintenance of computerised management systems</i>							
Subtotal 1							
2) Support expenditure							
a) Studies							
b) Meetings of experts							
c) Information and publications							
Subtotal 2							
TOTAL							

6.2. Calculation of costs by measure envisaged (over the entire programming period)³³

(a) Human Resources

The number of staff is estimated at 49. This estimate is based on the experience acquired with regard to the work carried out to date in the field of inspection and surveillance of fisheries and by comparison with other bodies (such as the European Aviation Safety Agency and the European Maritime Safety Agency).

The staff will consist of 9 Commission officials on secondment. 6 of these will perform core managerial and administrative tasks and 3 (1 A and 2 B's on posts transferred from the Commission will perform tasks that in the future will be undertaken by the CFCA.

Contractual agents will be recruited to fill the remaining posts (40). In recruiting such agents it will be necessary to obtain staff to perform managerial and

³³ For further information, see separate explanatory note.

administrative tasks as well as experts who have proven experience in the sector and are abreast of the latest technical developments.

The total annual expenditure for human resources will amount to around 3,8 MIO € in year 1, rising to 4,1 MIO € in subsequent years. This estimate is based on an average Commission staff cost per year of € 0,108 MIO for transferred/detached officials and € 0,096 MIO for contractual staff. These costs include buildings and related administrative expenditure (postal charges, telecommunications, IT, etc.) and cover two meetings per year of the Administrative Board of 25 members (€ 40,000 per year).

A breakdown of the staff by areas of activity and category is provided in the following table:

ESTIMATE OF HUMAN RESOURCES - BREAKDOWN BY AREAS OF ACTIVITY AND CATEGORY

2006

	TOTAL	A	B	C	D
A. Administration	14	4	4	4	2
- Management (this item includes the Director and 2 secretaries)	5	1		2*	2*
- Human, legal and financial resources	5	2**	2*	1*	
- Informatics	4	1	2*	1*	
B. Operational Co-ordination:	24	9	10	5	
1. <u>General co-ordination and communications</u> (this item includes the Head of Unit and 1 secretary)	2	1		1*	
- FMC (Fisheries Monitoring Centre)	3	1		2*	

2. <u>Joint deployment</u> (this item includes the Head of Unit and 1 secretary):	2	1		1*	
- NAFO/NEAFC	3	1*	2		
- ICCAT/IOTC					
d/Hake in Areas 2 & 3	7	2**	5*		
Other stocks subject to recovery measures					
3. <u>Co-ordination support</u> (this item includes the Head of Unit and 1 secretary):	2	1*		1*	
- Training of trainers	2	1	1*		
- Procurement and development of operational procedures; technical input and advice, co-ordination of pilot projects (VMS, electronic logbooks, etc.)	3	1*	2*		
TOTAL (A + B)	38	13	14	9	2

* *Post filled by contractual agents*

** *includes 1 post filled by contractual agent*

2007 AND SUBSEQUENT YEARS

	TOTAL	A	B	C	D
A. Administration	14	4	4	4	2
- Management (this item includes the Director and 2 secretaries)	5	1		2	2
- Human, legal and financial resources	5	2	2	1	
- Informatics	4	1	2	1	
B. Operational Co-ordination:	35	12	18	5	
1. <u>General co-ordination and communications</u> (this item includes the Head of Unit and 1 secretary)	2	1		1	
- FMC (Fisheries Monitoring Centre)	3	1		2	
2. <u>Joint deployment</u> (this item includes the Head of Unit and 1 secretary):	2	1		1	
- NAFO/NEAFC	3	1	2		
- ICCAT/IOTC	3	1	2		
d/Hake in Areas 2 & 3	7	2	5		
Other stocks subject to recovery measures	8	2	6		
3. <u>Co-ordination support</u> (this item includes the Head of Unit and 1 secretary):	2	1		1	
- Training of trainers	2	1	1		
- Procurement and development of operational procedures; technical input and advice, co-ordination of pilot projects (VMS, electronic logbooks, etc.)	3	1	2		
TOTAL (A + B)	49	16	22	9	2

(b) Equipment Costs

The principal cost in terms of equipment will be computer hardware necessary for the establishment of the FMC. It is estimated that this hardware, together with costs related to its installation, programming etc. will amount to € 1 MIO in the first year.

(c) Operational costs

- Publication: For publication of the Agency's reports, a sum of € 20,000 is planned from the second year on.

- Translation: To cut costs and time taken for translation, the Agency's in-house work and documents for the Commission will be available in just one of the working languages. However, documents to and from Member States will have to be translated. The cost of such translations will have to be adjusted in the light of experience. A sum of € 40,000 is planned from the second year (€ 20,000 for the first year).

- Meetings: It is estimated that around 6 meetings of experts from Member States (10 persons) to assist in the development and follow-up of deployment plans. A sum of € 60,000 is planned for the first year, rising to € 120,000 in subsequent years.

- Missions: Some of the tasks performed by the Agency will necessitate visits to the Member States or to the Commission. In addition it is necessary to provide for missions outside the Community to attend meetings of Regional Fisheries Management Organisations for example (NAFO, ICCAT etc.). The cost of such missions is estimated at € 30,000 in the first year, rising to € 40,000 in subsequent years.

It is estimated that the operational costs would amount to 110,000 € in the first year, rising to € 220,000 in subsequent years.

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
		Number of post for officials on secondments	Number of contractual agent posts		
Officials or contractual agents	A	7	9	16	.
	B	2	20	22	
	C		9	9	
Other human resources			2	2	<i>D posts</i>
Total		9	40	49	

There will be a saving for the administrative budget of the Commission in respect of transferred posts and detached officials of around € 0,9 MIO.

7.2. Overall financial impact of human resources

(a) 2006

Type of human resources	Amount (€)	Method of calculation *
Officials	972.000	9 x € 0,108 MIO/year
Contractual agents	2.784.000	29 x € 0,096 MIO/year
Other human resources (specify budget line)		
Total (MIO €)	3,756	

(a) 2007 and subsequent years

Type of human resources	Amount (€)	Method of calculation *
Officials	972.000	9 x € 0,108 MIO/year
Contractual agents	3.840.000	40 x € 0,096 MIO/year
Other human resources (specify budget line)		
Total (MIO €)	4,812	

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions		
A07030 – Meetings	40.000	2 x 20.000 Administrative board
A07031 – Compulsory committees ¹		
A07032 – Non-compulsory committees ¹		
A07040 – Conferences		
A0705 – Studies and consultations		
Other expenditure (specify)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total	40.000	

The amounts are total expenditure for twelve months.

¹ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)
II.	Duration of action
III.	Total cost of action (I x II)

8. FOLLOW-UP AND EVALUATION

The CFCA, in line with its founding regulation will have to produce every year a general report on its activities for the previous year which will be forwarded to the Member States, the European Parliament, the Council and the Commission. This report will present all specific actions undertaken by the CFCA and will provide elements for the evaluation of the actions undertaken under the proposed revision of the Agency Regulation.

With regard to the implementation of the Joint Inspection Framework as well as the other operational functions of the CFCA a study is being carried out in order to develop an optimal role for the CFCA.

An independent external evaluation of the implementation of the proposed regulation is to be carried out within three years from the date of the CFCA having taken up its responsibilities. After this initial evaluation of the start-up phase the activities of the CFCA will be evaluated at least every five years.

9. ANTI-FRAUD MEASURES

In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 shall apply without restriction to the Agency, which shall also accede to the Inter-Institutional Agreement of 25 May 1999 concerning internal investigations by OLAF and shall issue, without delay, the appropriate provisions to its staff.