

21 November 2013

Screening report

Montenegro

Chapter 13 – Fisheries

Date of screening meetings:

Explanatory meeting: 14-15 March 2013

Bilateral meeting: 5-6 June 2013

I. Chapter content

The *acquis* in this chapter consists of Regulations which do not require transposition into national legislation and requires the introduction of measures to prepare the administration and the operators for the implementation of the Common Fisheries Policy (CFP) rules. The scope, the objectives and the principles of the CFP are laid down in a framework regulation (Council Regulation (EC) No 2371/2002). The co-legislators have reached an agreement for a new CFP, which should enter into force as of 1 January 2014.

The CFP provides rules for the conservation of living aquatic resources, the limitation of the environmental impact of fisheries and the conditions of access to waters and resources. It also comprises a structural policy and specific rules for the management of the fleet capacity, the control of fishing activity and enforcement of its rules. The CFP is based on sound scientific advice and provides a framework for the collection, management and use of fisheries data. Specific management measures for the sustainable exploitation of fisheries in the Mediterranean Sea are laid down in Regulation (EC) No 1967/2006 (Mediterranean Regulation).

With regard to **resource and fleet management**, the *acquis* contains specific rules for the adjustment of fishing capacity in order to seek a balance between fleets and stocks as well as for the measurement of tonnage. Member States are requested to collect and update data related to the fishing capacity in a specific fishing fleet register. **Inspection and control** are mainly the responsibility of Member States who need to ensure the administrative capacity for effective implementation, while the legal framework has been established at EU level. The *acquis* establishes i.a. detailed rules for the registration and reporting of catches and the operation of a satellite-based vessel monitoring system.

Two framework legislative acts govern the financial instruments of the European Union for implementing the CFP. The first, Regulation (EC) No 861/2006, concerns support measures to strengthen control activity, the promotion of stakeholder participation, the establishment of international agreements, data collection and scientific advice. The other, Regulation (EC) No 1198/2006 and its implementing Regulation (EC) No 498/2007 define the scope, areas of intervention and the operational rules of the European Fisheries Fund (EFF). In order to benefit from the EFF, EU Member States are required to adopt a strategic document and an Operational programme (OP). Member States should also have the necessary administrative management and control capacity in place in order to ensure a sound and efficient implementation of the OP.

The **market policy** *acquis* is defined by Council Regulation (EC) No 104/2000 and is based on the application of common marketing standards, producer organisations, market intervention mechanisms, information to consumers and certain arrangements with third countries.

In addition to general **state aid** rules, the *acquis* contains specific state aid rules applicable to the fisheries and aquaculture sector.

Given its exclusive competence in the field of conservation of marine biological resources, the EU is party to a number of **international agreements** and organisations. In some cases, existing fisheries agreements and conventions with third countries or international organisations need to be adapted or denounced prior to accession.

II. Country alignment and implementation capacity

This part summarises the information provided by Montenegro and the discussion at the screening meeting.

Montenegro indicates that it can accept the *acquis* regarding fisheries. Montenegro indicates that it does not expect any difficulties in implementing the *acquis* by accession.

The Montenegrin fisheries sector accounts for about 0,5 % of GDP and employs around 400 people (full and part time), excluding mariculture and the fish processing sector. In 2011, 174 tons of pelagic fish and 344 tons of demersal fish were caught in Montenegro. The fisheries sector is mainly small scale without industrial fishing and is carried out along the 298 km long coast and in the lake of Skandar. Montenegro's fleet consists of: 2 fishing vessels over 24m Length Over All (LOA), 17 fishing vessels up to 24m LOA, 4 fishing vessels longer than 12m LOA, and 90 fishing vessels up to 10m LOA, bringing the total number of vessels to 113. Aquaculture takes place in 26 rainbow trout farms (freshwater aquaculture) and in 17 mariculture farms (mussels, oysters, sea bass and sea bream).

The main legal provisions governing the fisheries sector are the Law on Marine Fisheries and Mariculture (OG MNE 56/09) that lays down the objectives and the principles for sustainable management of living marine resources and marine environment and the Law on Freshwater Fisheries (OG MNE 11/07).

The Ministry of Agriculture and Rural Development (MARD) is responsible for the management of fisheries. It is in charge of preparing and implementing fisheries legislation as well as managing funds in support of the sector. The Unit for Fisheries has four employees. The scientific institution, the Institute of Marine Biology in Kotor (IMBK), monitors marine fisheries. Its tasks include among others: research and assessment of fish stocks; sustainable exploitation of fish and marine organisms as well as monitoring of water quality and biomonitoring. Montenegro stated that their legislation foresees the establishment of a National Marine Fishery and Mariculture Council, but it has not yet been established. The Administration for Inspection Affairs is in charge of inspections and has three inspectors for marine fisheries and five agricultural inspectors for freshwater fisheries.

A Fisheries and Aquaculture Development Strategy has been adopted by the government for the period 2006-2016. The strategy lays down long-term directions, priorities and objectives of the fisheries development, with the aim of sustainable development. A National Fisheries Development Programme for 2009-2013 complements the strategy in detail and uses a project approach similar to that of the European Fisheries Fund with the goal of developing an integrated approach to ensure sustainable use of fishery resources.

II.a. Resource and fleet management

Resource management

Montenegro does not have separate catch limitations in place for specific species, but based on the scientific investigations conducted to IMBK there are limitations (catch quotas) for groups of species (demersal, small pelagic, coastal species) . The Law on Marine Fisheries and Mariculture as well as different rulebooks lay down rules for the management of the

living marine resources. Based on the scientific research by the IMBK, MARD sets management measures and defines the maximum number of fishing permits that can be granted for commercial fishing. There are rules on minimum landing sizes, on the use of different types of fishing gear, protected species, juvenile fish and the possibility to introduce protected areas.

Montenegro does not have an official data collection programme in line with EU requirements. Montenegro is a partner of the Food and Agriculture Organisation (FAO) sub-regional project AdriaMed and has been participating in the MEDITS and MEDIAS programmes. Stock assessments have been made with the help of EU funds for six species in Montenegrin waters and joint stock assessments have been made through participation in the MEDITS programme for another two species.

According to Montenegro, the institutions involved in scientific data collection in Montenegro are the following:

- *The Statistical Office of Montenegro (MONSTAT)* responsible for collection, processing and dissemination of statistical data, including data on fisheries statistics collected by Department for Agricultural statistics through 4 statistical surveys.
- *The Ministry of Agriculture and Rural Development (MARD)*: collects data through logbooks and monthly reports on i.a. landing per vessel, number of fishing days.
- *The Institute of Marine Biology Kotor (IMBK)*: conducts scientific surveys on the sea for biomass estimation of demersal and pelagic resources and collects biological data for some commercially important species.

Montenegrin law distinguishes between fishing for commercial, sport-recreational or scientific purposes. Commercial fishing is classified into large-scale and small-scale commercial fishing, based on the size of the vessel as well as the type, size and number of the fishing gear used. Permits for commercial fishing are issued by MARD, based on recommendations from the IMBK, against a fee and provided that the boat is in the vessels' registry. A licence is needed for sport-recreational fisheries. These are issued to individuals by sport-recreational clubs that are members of the Sport Fishing Association. The number of licences is decided by MARD. In municipalities where sport-recreational clubs do not exist, they are issued by the administrative authority in charge of sport and recreation. Sport-recreational fishermen are not allowed to sell the fish they catch.

Foreign fishing vessels may only fish in Montenegrin waters if they have a permit issued in accordance with a ratified international agreement or in line with an approved scientific research project of national interest.

Fleet management

Montenegro does not limit its fishing capacity and an increase in the number of fishing vessels and of engine capacity is presently allowed.

The existing legal rules for tonnage and measurement of merchant ships and boats do not include a specific method to be used for tonnage measurement or measurement of engine power for fishing vessels. Montenegro is planning to introduce legislation on rules for tonnage measurements and the verification of engine power of fishing vessels. Montenegro plans to stop allowing increases in the overall fishing capacity.

Montenegro stated that it does not have a fishing fleet register fully in line with the *acquis*, but that a register containing basic data has been set up by MARD. The system requires that marine fishing vessels and vessels used in Mariculture production should be registered with information regarding vessels identification, technical data, owner, administrative data and vessel licence. Only those vessels that receive a fishing permit are registered in this registry.

II.b. Inspection and control

Montenegro stated that the following bodies have responsibilities for the control and monitoring of fisheries activities in Montenegro:

- The Ministry of Agriculture and Rural Development – Unit for Fisheries
- The Administration for Inspection Affairs – Marine Fisheries Inspectorate as well as the Veterinary Inspectorate
- The Ministry of Interior – Border Marine Police
- The Institute of Marine Biology Kotor

For marine fisheries, there are three inspectors who belong to the Administration for Inspection Affairs. As they do not have their own vessels, they cooperate with the Border Marine Police when performing inspections. Montenegro stated that they do not have a strategy for inspections and control of the fisheries sector. In 2012, 1090 controls were carried out and 11 cases of misdemeanour were reported. Inspection controls are performed at sea, in the harbour, at markets and in restaurants. There is currently no system of traceability in place.

All fishing vessels over 10 metres Length Over All (LOA) are equipped with a Vessel Monitoring System (VMS). Montenegro has developed a system of satellite monitoring of vessels over 10 metres. The Fisheries Monitoring Centre located in MARD receives data every two hours from a Blue Box device installed on the vessels. The data transmitted includes the name of the vessel, its coordinates, speed, course, date and time of the latest signal.

All fishing vessels over 10 meters LOA are obliged to keep a logbook and submit a copy, together with the declaration of landing, to a fisheries inspector within 48 hours of landing. Vessels under 10 metres are subject to monthly reporting. The first landing has to be made in a port, harbour or a place meeting the prescribed technical conditions for inspection of fishing vessels.

Montenegro has so far not had any cases of landing and transshipment from foreign fishing vessels. Montenegro stated that they have not yet introduced a definition in their legislation of illegal, unreported and unregulated fishing (IUU) along the lines of Regulation EC No 1005/2008.

II.c. Structural actions

Montenegro stated that it does not have structural measures comparable to those in the EU. Based on the Law on Agriculture and Rural Development and the Law on Marine Fisheries and Mariculture the following programmes are in place to support the fisheries sector:

- A programme for improving the fishing fleet and mariculture sector. In 2012, EUR 100.000 was allocated to this programme.
- A programme for sustainable management and preservation of resources of fish and other marine organisms. In 2012, EUR 31.000 were allocated to this programme.
- A programme to support freshwater fishery development. In 2012, EUR 40.000 were allocated to this programme.

According to the National Programme of Fisheries Development (2009-2013) the project approach of the European Fisheries Fund (EFF) is used. The Ministry of Agriculture and Rural Development is in charge of the implementation of the programmes.

II.d. Market policy

Montenegro indicated that they do not have a market organisation in line with the *acquis*. There are marketing standards and labelling provisions as regards the size, freshness and origin of the catch. According to the Law on Marine Fisheries and Mariculture a bylaw with the method for providing information to consumers is foreseen.

Montenegro does not have producer organisations corresponding to those defined in the *acquis*. Fishermen and fish farmers are organised in five different associations of professional fishermen and the one association of shellfish farmers. The associations are non-governmental organisations.

The Paying Agency in Agriculture is responsible for the Agricultural Market Information System (AMIS) that provides information on prices and price trends. AMIS was extended to the fisheries sector during 2010/2011.

II.e. State aid

State aid to the fisheries sector is not covered by the Law on Control of State Aid and specific rules for the sector have not yet been adopted.

Montenegro provides state aid to the fisheries sector in the form of subsidised diesel fuel for fishermen. This is laid down in the Law on Excises and is granted by the Tax Administration under the Ministry of Finance, based on a proposal by the Ministry of Agriculture and Rural Development. The scheme was allocated EUR 110.000 in 2011.

II.f. International agreements

As regards multilateral agreements, Montenegro has been party to the UN Convention on the Law of the Sea (UNCLOS) since October 2006, but not to the UN Convention relating to the Conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Montenegro is not party to the FAO Port State Measures Agreement or the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

Concerning regional fisheries organisations, Montenegro has been a full member of the General Fisheries Commission for the Mediterranean (GFCM) since January 2008. Montenegro is not a member of the International Commission for the Conservation of Atlantic Tuna (ICCAT) but is considering applying for membership.

Montenegro has no bilateral fisheries agreements.

III. Assessment of the degree of alignment and implementing capacity

Montenegro is at an early stage of preparation for EU membership in this area. The fisheries sector in Montenegro is very small and the existing capacity of the fisheries administration for dealing with management and inspection is particularly limited. Montenegro does not have restrictions in place as regards the right of establishment and the free movement of capital in the fisheries sector.

Upon Montenegro's accession to the EU, the application and enforcement of the *acquis* on fisheries will need to be ensured. There is a substantial amount of work to be undertaken as regards the transposition of legislation and the establishment of the necessary administrative and control capacities required by the *acquis*.

Montenegro needs to adopt a comprehensive strategy for the fisheries sector describing its initiatives and long-term policies for aligning with the *acquis*. Montenegro needs to demonstrate its programming plans for its policy-related, legislative and institutional preparations.

III.a. Resource and fleet management

Resource management

Montenegro will have to align with the new CFP rules and the Mediterranean Regulation. This will include, among other things, the drafting of national management plans in line with the provisions of the Mediterranean Regulation, as well as the preparation of the implementation of the discard ban.

There is a need for more reliable, systematic and improved collection of data in line with the EU data collection framework as regards the fishing fleet, catches, landings, social and economic data on the fishing sector, aquaculture and processing, biological state of the fish stocks in Montenegrin waters and effects of the fishing sector on the marine environment in order to allow a comprehensive resource assessment programme and to prepare for the EU CFP. The administrative capacities of the institutions in charge of data collection need to be strengthened.

Fleet management

Alignment to the EU fleet policy will require introduction of a capacity ceiling, calculation of capacity parameters and preparation of a fleet register in line with EU law.

III.b. Inspection and control

Most of the EU requirements on control and on illegal, unreported and unregulated fishing (IUU) will have to be incorporated into Montenegro's legal system – such as traceability, data certification and catch certificates. The country will have to ensure proper registration and cross-checking of catches, landings and sales notes. It will also have to start recording all catches electronically and to submit this information electronically to the competent authorities (“electronic logbook”).

As regards administrative capacity, the Marine Fisheries Inspectorate will need to be

strengthened, both as regards human resources and equipment.

III.c Structural actions

Montenegro does not have a structural policy for the fisheries sector in line with the *acquis*. Montenegro will need to set up the management and control structures required, including preparing a strategic document and an operational programme, as well as having authorities for managing, certifying and auditing.

Some of the structural measures currently applied by Montenegro do not seem to be compatible with the *acquis*, such as the programme for improving the fishing fleet and mariculture sector that could potentially lead to an increase in fishing capacity. Measures not covered under the EU's structural policy will have to be notified as state aid to the Commission upon accession (see point III.e).

III.d. Market policy

Montenegro needs to prepare for the participation in the EU's Common Market Organisation (CMO). The legislation in this area needs to be harmonised with the *acquis* and the administrative capacity should be strengthened. For an effective participation in the CMO, producer organisations like those existing in the EU should be set up. The collection and monitoring of market information should be improved.

III.e. State aid

Montenegro grants a relatively small amount of state aid to the fisheries sector. It needs to be assessed whether the aid in the form of subsidised diesel fuel for fishermen could comply with the ceiling for *de minimis* aid under Regulation (EC) No 875/2007.

Montenegro will need to implement a state aid control system in the fisheries sector that is compatible with EU rules. Some of the structural actions promoted by Montenegro could indeed fall within the notion of state aid and would therefore need to be notified to the Commission.

III.f. International agreements

Montenegro will need to ratify the UN Convention relating to the Conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks upon accession. No action is required with regard to the FAO Port State Measures Agreement or the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas as only the EU is party to it.

As a candidate country, Montenegro should align its position in international regional fisheries organisations such as the CFCM with that of the EU.