

The central Government's actions for sustainable fisheries

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The central Government's actions for sustainable fisheries

Riksrevisionen (the Swedish National Audit Office, SNAO) has audited the central Government's actions for sustainable fisheries. The findings of the audit are presented in this performance-audit report.

Representatives of the Ministry of Agriculture, The Swedish Board of Fisheries and the Swedish Coast Guard have been given the opportunity to read a draft version of the final report in order to examine its content from a factual point of view and to provide any other comments.

The report is submitted to the Government in accordance with Section 9 of the Act on the Audit of Public Operations (SFS 2002:1022), and it is submitted at the same time to the Board of Directors of the SNAO.

The report includes conclusions and recommendations which relate to the Government and The Swedish Board of Fisheries.

Eva Lindström, Auditor General, has had the right of decision in this matter. *Lena Björck*, Senior Auditor, has been in charge of presenting material. *Hans Folkesson*, Deputy Director, *Adam Sandebring*, Senior Auditor and *Fredrik Engström*, Audit Director, have participated in the final handling of the matter.

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Summary

The overcapacity of the fishing fleet is an important reason why several fish stocks are overfished today. This means that fishing must be reduced to more sustainable levels to give fish stocks a chance to recover.

Sweden's fisheries policy is part of the EU Common Fisheries Policy (CFP). The objectives of fisheries policy and the legislation governing it have changed in recent decades. While the objectives in the past used to be geared mainly towards development of the industry, they are nowadays designed to ensure a long-term sustainable development: economically, socially and environmentally. The objectives of this legislation are to ensure the viability of the fisheries sector, so that fishermen can earn a living; to promote employment in small-scale coastal fisheries; and to stop overfishing that threatens fish stocks.

The overall orientation of the CFP also entails a requirement for the EU Member States to apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine eco-systems.

Riksrevisionen (the Swedish National Audit Office, SNAO) has examined whether the action taken by the Swedish central-government sector has been effective in promoting the intentions of the legislation governing fisheries policy and whether the Government and the various government agencies have fulfilled their obligations in the field of fisheries policy as laid down in that legislation.

The SNAO's general conclusion is that, overall, the action taken has been ineffective. In fact, Sweden is moving away from the objectives in several material respects even though the problems concerned have been known for a long time, many policy instruments are being used and public spending for this purpose is high. The Government and the government agencies have also failed to ensure full compliance with legislation.

Compliance with the economic objective of a viable fisheries sector is deteriorating. A large proportion of commercial fishermen are experiencing a reduction in profitability, and the level of net profit for the fisheries sector as a whole has fallen strongly in recent years. Compliance with the social objective of promoting employment in small-scale coastal fisheries is also deteriorating. The number of days spent at sea in the coastal-fisheries sector has fallen from just under 78,000 in 2002 to just under 62,000 in 2007. And the objectives relating to an environmentally sustainable development are also not being met. According to reports on the environmental objectives set by the Riksdag

(parliament), the situation of several fish stocks is critical; in certain cases the situation has grown worse. What is more, the relative size of stocks of different species has changed considerably, which may have an impact on the maritime eco-system as a whole.

The SNAO's audit is part of a joint Baltic audit. The supreme audit institutions of Denmark, Germany, Poland, Lithuania, Latvia, Estonia, Russia and Finland are conducting parallel audits of the state of marine life in the Baltic Sea. The Danish national audit office (*Rigsrevisionen*) will compile a joint Baltic report to be published in February 2009.

Interventions of fisheries policy

Swedish saltwater fisheries: The value added of the Swedish saltwater-fisheries sector in 2006 was SEK 340 million. In that year there were 1,267 active fishing vessels representing total on-board employment of 1,601 fishermen ('fisheries' in this report refers to saltwater fisheries unless otherwise indicated).

To exercise direction and influence over the fisheries sector so as to promote the objectives and as required by legislation, the Swedish central-government sector has a number of policy instruments at its disposal. These are mainly conservation, structural and control measures. The use of most of these instruments has been delegated by the Government to the Swedish Board of Fisheries, which is the authority responsible for the conservation and exploitation of fisheries resources, but policy instruments at the disposal of other government agencies and ministries also have a decisive influence on the fisheries sector.

The SNAO's audit shows that the actions taken have not been used effectively to achieve the objectives. Moreover, society's direct and indirect spending on the various policy instruments exceeds the value added of the fisheries sector. The main spending items are:

- Spending on conservation measures is virtually impossible to account for in a simple way, according to the Board of Fisheries;
- Spending on various types of direct and indirect support for commercial saltwater fisheries amounts to:
 - structural assistance: SEK 5.1 million (net payments made in 2007);
 - unemployment benefit for commercial fishermen, *inter alia*, when fishing activities are suspended: SEK 26.9 million (2007);
 - vessel grants for fishing companies when fishing activities are suspended: SEK 13.5 million (2007);
 - exemption from fuel taxes: SEK 222.4 million (2006);

- Costs of fisheries control (total for both commercial and recreational fishing in both freshwater and saltwater):
 - SEK 44.7 million for the Board of Fisheries (2007);
 - SEK 101.5 million for the Swedish Coast Guard (2007).

Unclear prioritisation of objectives and instruments

The Government has failed to establish a clear prioritisation of various contradictory objectives. This has contributed to the lack of effectiveness of the action taken by the central-government sector. Despite this unclear prioritisation of the objectives, however, the Government has vested the Board of Fisheries with far-reaching authority, including an extensive right to issue agency regulations and access to a wide variety of policy instruments. What is more, new policy instruments have been added as the objectives have been modified. The Board, in its turn, has failed to decide a clear prioritisation as regards the results to be achieved by each of the policy instruments at its disposal.

No overall analysis of Sweden's national discretion

The extent of Sweden's national discretion within the legal framework of the CFP has not been analysed and clarified. The Government and the Board of Fisheries have failed to subject the objectives and intentions of the legislation to an overall legal analysis in order to establish Sweden's obligations and opportunities to use various policy instruments.

Because of the absence of such a legal analysis, there is no overview as regards what aspects can be decided by the Government or the Board of Fisheries at the national level and what aspects can be influenced only through negotiations at the EU level. In addition, this absence also leads to a lack of transparency for fishermen, who have no way of knowing which of the rules are a direct result of Community law and which ones have been decided by the Riksdag, the Government or the Board of Fisheries.

The use of certain policy instruments is governed by Community law and by international conventions. One example is the size of Sweden's catch quotas. Other instruments may be decided wholly or in part by Sweden. Examples include structural assistance as well as the issuance of various permits and licences. Yet other policy instruments are outside the field of fisheries policy as such but still exert a decisive influence over conditions for commercial fisheries and affect the extent to which the direct instruments can be used in a cost-effective way. Above all, this includes the exemption from taxes on energy, carbon dioxide and sulphur which has been granted to the fisheries sector.

In public debate, various interventions of fisheries policy are often presented as already decided by the EU. However, the legal analysis performed by the SNAO shows that there is considerable national discretion within the legal framework of the CFP. As regards structural assistance, the extent of national discretion has in fact increased progressively.

More effective use can be made of national discretion

There is considerable national discretion within the legal framework of the CFP, which the Government and the Board of Fisheries have failed to use effectively in order to attain the objectives.

Sweden may introduce its own – stricter – rules for Swedish commercial fishermen, but this opportunity has rarely been used. One example of a policy instrument that could have been used more effectively to achieve the objective of an environmentally sustainable development relates to minimum fish and mesh sizes. Most of Sweden's rules in this area correspond exactly to those of the EU.

Further, the Board of Fisheries could make more active and more extensive use of its power to issue agency regulations and permits. For example, vessel permits could be used more actively to change the structure of the fishing fleet and reduce its overcapacity. The Board could also allocate Sweden's quotas at the level of individual vessels to a larger extent, so as to promote employment in coastal fisheries and thus help achieve that social objective. In addition, a larger share of structural assistance could be used to scrap fishing vessels in order to reduce the overcapacity of the fishing fleet, which would help achieve the economic objective of viability. A reduction of the capacity of the fishing fleet would also help reduce overfishing and thus contribute to the achievement of the objective of an environmentally sustainable fisheries sector, since threatened fish stocks would then have greater opportunities to recover.

Some rules are entirely national in nature. One example is Sweden's rules on individual licences for fishermen. This means that Sweden could take the size of quotas into account when renewing licenses rather than doing so only for new licenses, as it does at present. When these rules were introduced in 1993, the Government explicitly abstained from proposing a possibility to take fish stocks into account in the renewal of individual licences for fishermen.

There are also national policy instruments outside fisheries policy that have a large impact on the fisheries sector. Swedish fishing companies are exempt from taxes on energy, carbon dioxide and sulphur. This tax exemption counteracts the objectives of an economically, socially and environmentally sustainable development. The amount involved is just over SEK 200 million per year. Since 2004, the decision whether to grant such a tax exemption to the fisheries sector

has been left to national discretion. The Government, however, has failed to inform the Riksdag of this.

Material shortcomings in analysis and reporting

There are important deficiencies as regards analysis and reporting to produce the information required to monitor compliance with the objectives. This makes it more difficult to determine priorities to ensure that policy instruments are used cost-effectively and lead to the desired impact in relation to the objectives. Several of the major shortcomings in the annual reports of the Board of Fisheries relate to areas where the Government has failed to lay down explicit reporting requirements in its annual appropriation directions for the Board. The Government has consequently also failed to report relevant information to the Riksdag.

Even though the Board of Fisheries is the authority responsible for fisheries policy, its reporting does not provide an overall view of the action taken by the central-government sector in the fisheries field. For example, there is no complete presentation of the direct and indirect financial support given to the fisheries sector.

There are shortcomings in the evaluation and reporting by the Board of Fisheries of the costs and effects of various interventions. For instance, the Board finds it difficult to specify the costs of conservation measures. What is more, the Board does not measure the direct effects of all policy instruments.

A number of factors make comparison and overall analysis of the development of the fisheries sector more difficult. For example, some reports include fishing vessels having made no catches, and the Board of Fisheries presents data on the fishing fleet using two – mutually non-comparable – breakdowns into vessel segments.

Reducing overcapacity to achieve a balance between the capacity of the fishing fleet and its fishing effort in relation to the available quota is an important objective of the CFP. However, it is not clear from the annual reports of the Board of Fisheries how this capacity has developed over time in relation to the available quota.

In its annual reports, the Board of Fisheries states that the capacity of the fishing fleet has decreased in recent years. It is not clear from its annual reports, however, that the number of active fishing vessels actually increased slightly between 2002 and 2006.

Financial support counteracts achievement of objectives

Several policy instruments counteract each other. The Board of Fisheries has failed to perform an overall analysis of the ways in which the various policy instruments affect each other in relation to the achievement of the objectives.

Use of the scrapping premium as a cost-effective instrument to achieve a balance between the capacity of the fishing fleet and the quota is made more difficult by various types of direct and indirect financial support for the fisheries sector. The higher the level of these various types of direct and indirect financial support for fisheries, the higher the scrapping premium will have to be in order to constitute a financially beneficial option.

The exemption from taxes on energy, carbon dioxide and sulphur also makes it significantly less expensive for the fisheries sector to increase its fishing effort than it would otherwise be. In fact, a reduction of the fishing effort would instead be desirable in several fleet segments so as to achieve the fisheries-policy objective of environmentally sustainable fisheries.

The objective of supporting small-scale coastal fisheries is also counteracted by the tax exemption. Large-scale trawling benefits the most from this exemption since it uses the most fuel. For the largest fishing vessels, the average annual value of the exemption is more than SEK 1 million per vessel.

Other policy instruments may also counteract each other. The failure to address the overcapacity of the fishing fleet to a sufficient degree results in higher pressure on other instruments. Poor profitability as a result of overcapacity may increase incentives for commercial fishermen to try to circumvent various rules, which may in turn increase the need for controls. When the Board of Fisheries renews individual licences for fishermen without taking the status of fish stocks or the development of the quotas into account, this leads to increased demand for compensation when fishing activities are suspended.

Shortcomings in fisheries control

The Swedish control system has a number of gaps and shortcomings that make it possible to evade controls. For example, fishermen may postpone drawing up their documentation until they know that a boarding or landing inspection will be carried out. The facts that most species of fish may be landed in any Swedish port, that there is a fairly small number of landing inspectors and that few inspections are carried out at weekends also create opportunities to escape controls. Some types of inspections, such as trade and transport inspections, are rarely made by the Board of Fisheries.

There are also weak links in the chain intended to ensure that infringements of the rules for commercial fishing lead to the imposition of sanctions. For example, the Board of Fisheries lacks the authority to impound fish, gear and fishing vessels. The Coast Guard has no officials qualified to lead investigations

into suspected crimes against fisheries legislation (even though it does for environmental crimes). And matters of suspected fisheries crime handed over to the Police for investigation are often given such low priority that they fall under the statute of limitation before reaching a court of law. When prosecutions are made and convictions handed down, the punishment is often very mild compared with the value of the illegal catches.

The risk analysis on which controls are to be based has so far been poorly developed. There are also shortcomings in the coordination of the control activities of the Coast Guard and the Board of Fisheries. Given the incomplete monitoring of the impacts and costs of various types of inspections, there has been no basis for decisions about the allocation of resources among different types of inspections.

Recurrent shortcomings in compliance with legislation

On several counts, Sweden has been criticised by the European Commission for failing to meet the requirements of the CFP. The main reason for this criticism is that the Swedish control system does not comply with Community rules in several important respects. The matter is still pending before the Commission. The Commission has also criticised Sweden for failing to comply with CFP rules on fishing permits.

There are also serious deficiencies in the management of structural assistance by the Board of Fisheries. The share of incorrect payments is significantly above the threshold of 2 per cent accepted by the Commission. The internal-audit function for the EU Structural Funds has severely criticised, on several occasions, the way in which the Board of Fisheries handles structural assistance.

Recommendations for the Government

- Exercise direction over fisheries management by laying down clear priorities as regards performance in relation to the economic, social and environmental objectives of fisheries policy. Ensure that overall compliance with the objectives is not reduced as a result of various policy instruments counteracting each other;
- Consider whether the exemption from tax on energy, carbon dioxide and sulphur granted to the fisheries sector can be reduced or abolished. Propose necessary legislative amendments to the Riksdag;

- Use the policy instruments in a coordinated and cost-effective way to bring about reductions in vessel segments with overcapacity. Consider whether the special compensation and grants paid when fishing activities are suspended can be reduced or abolished, and whether the scrapping premium should be increased. Use individual fishing licences to adapt the number of fishermen to the quotas available. Propose necessary legislative amendments to the Riksdag. Ensure that overcapacity is reduced at the lowest possible cost;
- Ensure that Sweden's national discretion is effectively exploited to achieve the objectives. Investigate the legal situation to establish what Sweden's opportunities and obligations in fisheries policy are. The Government and the government agencies need such information as a basis for strategic direction, negotiations, legislation and regulation;
- Insist that the Board of Fisheries should perform regular analysis and regularly report basic information necessary to assess whether various policy instruments increase compliance with objectives in a cost-effective way;
- Ensure that the Board of Fisheries and the Coast Guard coordinate their procedures and IT systems so that controls become effective. Investigate whether there are any legal obstacles to cooperation between these two agencies;
- Address any weak links in the chain of controls, investigations and sanctions to ensure that most infringements of the rules will be detected and investigated and that legal action will be taken. Follow up and ensure that administrative and penal sanctions create desirable financial incentives and sufficient deterrent effects. Propose necessary legislative amendments to the Riksdag.

Once the legal situation has been clarified and basic information has been compiled about the impact of the action taken by the central-government sector and about trends relative to the objectives, it will also be possible to provide the Riksdag with the information which it has requested on a number of occasions.

Recommendations for the Board of Fisheries

- Make more effective use of Sweden's national discretion to enhance compliance with the objectives. Make active use of the policy instruments to achieve, in a cost-effective way, the present overall objectives laid down in legislation;
- Consider, in particular, whether the scrapping premiums can be increased or differentiated to reduce the vessel segments in which there is overcapacity;

- Analyse the costs and impacts of different types of policy instruments, especially various types of inspections;
- Continue developing and implementing the projects addressing shortcomings in the control system, to ensure that it will effectively deter and detect infringements;
- Improve annual reporting as regards general overview, basic information and the presentation of the costs of various policy instruments and their impact on compliance with the objectives;
- Remedy the shortcomings identified in the administration and eligibility control of expenditures of structural assistance.

1 Background and audit scope

Several fish stocks are overfished today.¹ Despite major efforts over the past thirty years, the state of the environment in the Baltic Sea, the Kattegat and the Skagerrak remains poor. Several species of fish, such as cod and eel, and several stocks are still in a very precarious situation. The fundamental reason for overfishing is the excessive size and efficiency of the fishing fleet.² This means that fishing must be reduced to more long-term sustainable levels to give fish stocks a chance to recover.

Swedish saltwater fisheries: The value added of the Swedish saltwater fisheries sector in 2006 was SEK 340 million. In that year there were 1,267 active fishing vessels representing total on-board employment of 1,601 fishermen ('fisheries' in this report refers to saltwater fisheries unless otherwise indicated).

Sweden's fisheries policy is part of the EU Common Fisheries Policy (CFP). The objectives of fisheries policy and the legislation governing it have changed in recent decades. While the objectives in the past used to be geared mainly towards development of the industry, they have increasingly been designed to ensure a long-term sustainable development in the economic, social and environmental fields. One aim of these objectives is to ensure that fishermen can earn a living. At the same time they should promote employment in small-scale coastal fisheries and stop overfishing that threatens fish stocks.

The overall orientation of the CFP also entails a requirement for the EU Member States to apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine eco-systems.³

¹ According to the International Council for the Exploration of the Sea (ICES), *Baltic Sea Advice*, 2008.

² The important role of overcapacity, at the European level, in this context is clear from, e.g., the report *Reflections on the common fisheries policy* (Sissenwine and Symes, 2007) submitted to the European Commission. The Swedish Environmental Objectives Council's 2008 evaluation of the national environmental objectives, *Sweden's environmental objectives: No time to lose*, concludes (on page 154 in the Swedish version) that the overcapacity of the Swedish fishing fleet is an important reason for overfishing. This Council monitors and evaluates compliance with the national environmental-quality objectives. It was established by the Government to coordinate the work of different government agencies and ensure the efficient use of their resources.

³ Article 2 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

In the short term, there are conflicts among the economic, social and ecological objectives for fisheries. For example, fishing with large trawlers may be the most efficient method from a business perspective. From a social perspective, however, large-scale and efficient trawling may threaten employment in small-scale coastal fisheries. And from an ecological perspective, intensive trawling may severely deplete fish stocks.

Representatives of the European Commission, the Swedish Government, the Swedish Board of Fisheries and the national fisheries sector all agreed at a hearing in April 2008 that the present actions are not sufficient for the achievement of any one of the objectives set for the CFP.⁴

1.1 Reasons for the audit

Fisheries policy is largely drawn up jointly by all EU Member States. As a result of this common management, certain problems in relation to fisheries cannot be directly influenced by individual countries. For example, the catch quotas negotiated at the EU level are often higher than what is biologically sustainable. There may also be shortcomings in other countries' compliance with agreements.

However, even though fisheries policy is jointly established to a large extent, the EU Member States enjoy some national discretion to control and influence their national fisheries sectors and thus the fish stocks exploited. For example, the Swedish central government can influence the structure and activities of the Swedish fishing fleet by deciding which vessels will be given a fishing permit, what they may catch and where and when they may fish. The Swedish central government can also influence the economic viability of the fishing fleet through decisions on the focus and extent of the financial support accorded to it. Further, national decisions govern the design of the Swedish control system.

The Committee on Environment and Agriculture of the Riksdag (parliament) has stated that it is crucial and urgent for fisheries control to improve. According to the Committee, work on fisheries policy must be based on scientific assessments of stocks and fishing opportunities, the precautionary approach must be applied and environmental aspects must be taken into account.⁵

The Riksdag wishes to improve structural assistance. It finds that the objective for the restructuring of the fishing fleet has been unclear. The

⁴ Hearing on the Community fisheries policy organised by the Ministry of Agriculture at Rosenbad, Stockholm, on 9 April 2008.

⁵ Committee Report 2001/02:MJU23, pp. 13 and 25–27, Riksdag Written Communication 2001/02:321.

actions of fisheries policy have not yet been sufficient to bring fishing capacity into line with fishing opportunities. According to the Riksdag, the structure of the fishing fleet should be such that the fish resource is secured at the same time as the fisheries sector is offered reasonable conditions to operate in the framework of a sustainable development.⁶ The Riksdag has also called for better monitoring and reporting. In its most recent reports on annual budget bills it has emphasised that the Government's presentation renders it difficult to make an overall assessment of the outcome of central-government actions.⁷

The European Commission has also, on several occasions, criticised Sweden for shortcomings in fisheries management.⁸

1.1.1 *Part of a joint Baltic audit*

The present audit by *Riksrevisionen* (the Swedish National Audit Office, SNAO) of the actions taken by the Swedish central government in the field of fisheries policy is part of a joint Baltic audit. The supreme audit institutions of Denmark, Germany, Poland, Lithuania, Latvia, Estonia, Russia and Finland are all conducting parallel audits relating to the state of marine life in the Baltic Sea.

In its capacity as a participant in the coordinated audit, the SNAO has reported some information about the Swedish central-government sector's actions in the field of fisheries policy to a secretariat at the Danish national audit office (*Rigsrevisionen*), which will compile a joint Baltic report.

1.2 **Audit questions**

The audit is based on the following two audit questions:

- Has the action of the central government been effective in promoting the intentions of fisheries policy?

⁶ Committee Report 2007/08:MJU2, p. 39, Riksdag Written Communication 2007/08:93.

⁷ Committee Report 2006/07:MJU2, p. 34 ff., Riksdag Written Communications 2006/07:67 and 68; and Committee Report 2007/08:MJU2, p. 42 ff., Riksdag Written Communication 2007/08:93.

⁸ Letter of formal notice 2004/2270, C(2006)385, European Commission, 1 February 2006; *Evaluation Report of Catch Registration in Baltic Sea Member States 2005–2006*, European Commission, Directorate General for Fisheries and Maritime Affairs, Control and Enforcement, Fisheries Inspection, January 2007; *Mission Report SE-2007-01-A*; *Mission Report SE-2007-02-A*; *Mission Report SE-2007-03-A*, European Commission, Directorate General for Fisheries and Maritime Affairs.

- Have the Government and the government agencies fulfilled their obligations under the legislation⁹ governing fisheries policy?

The audit defines effectiveness to mean that operations should be conducted in such a way that the objectives are met to the largest extent possible given the resources available.

There is a close link between the question of whether the central government's action in the field of fisheries policy is effective and that of whether the central government fulfils its obligations under the legislation. Indeed, effective work on the part of the central government to meet the overall objectives of fisheries policy is crucial to the achievement of a long-term sustainable exploitation of the fish resource. Compliance with the requirements laid down in legislation is a first step towards achieving these objectives, but it is not enough to guarantee the effectiveness of the action.

1.3 Delimitations

The SNAO's focus in this audit was not to examine whether all obligations under the very extensive and detailed legislation concerned have been fulfilled. Instead, the audit has focused on the achievement of the overall objectives under this legislation and on the effectiveness of management.

The SNAO's audit relates mainly to the action taken by the Government, the Board of Fisheries and the Coast Guard in the context of fisheries policy.¹⁰ The main period covered is 2002–2007. The SNAO has not examined the negotiations at the EU level conducted by the Government and the Board of Fisheries. As regards the Board of Fisheries, the 'Knowledge Building' operational branch has not been included in the audit. The main focus of the audit is on saltwater fisheries. Freshwater fisheries and aquaculture (fish farming) are not included.

Several other government agencies carry out tasks in the framework of fisheries policy, above all the county administrative boards but also the National Food Administration, the Maritime Administration and Swedish Customs. These government agencies are included in the audit only as regards collaboration between them and the Board of Fisheries and the Coast Guard.

⁹ 'Legislation' is used here in a broad sense encompassing both Community legal acts and national legislative instruments: Acts adopted by the Riksdag, Ordinances adopted by the Government and Regulations adopted by government agencies, where appropriate as clarified by preparatory materials (bills, committee reports, etc.).

¹⁰ 'Fisheries policy' refers both to the EU Common Fisheries Policy (CFP) and to Sweden's national fisheries policy.

1.4 Assessment criteria

1.4.1 *Common Fisheries Policy*

The Common Fisheries Policy (CFP) should ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions. For this purpose, the Member States of the Community should apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine eco-systems. The Member States should aim at a progressive implementation of an eco-system-based approach to fisheries management. They should also aim to contribute to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking into account the interests of consumers.¹¹

1.4.2 *National fisheries policy*

In its most recent reports on annual budget bills, the Riksdag has laid down the following objective for the Policy Area of 'Food policy', which includes fisheries policy:¹² the objective of food policy is ecologically, economically and socially sustainable food production reflecting the demand of consumers.¹³

For coastal and freshwater fisheries, recreational fishing and aquaculture, the Riksdag has decided the following supplementary objective:

*The ecologically sustainable management of fish resources, in the framework of the environmental-quality objectives decided by the Riksdag, will contribute to the recreation and conservation of biological diversity and to the development of viable, ecologically sustainable and thus environmentally sound fishing activities. Coastal and freshwater fisheries, aquaculture and recreational fishing will contribute to the economically and socially sustainable development of the countryside. The fisheries sector, environmental organisations and other stakeholders will be given greater influence and a stronger position in the management of fish resources. Finally, account will be taken of consumers' demands for safe food, a nutritionally correct diet and sustainable production.*¹⁴

¹¹ Article 2(1) of Council Regulation (EC) No 2371/2002.

¹² See, e.g., Committee Report 2004/05:MJU2, p. 37, Riksdag Written Communication 2004/05:128–129; and Committee Report 2006/07:MJU2, p. 34, Riksdag Written Communication 2006/07:67–68.

¹³ The Government proposes, in Government Bill 2008/09:1, Expenditure Area 23, that the Riksdag should approve the abrogation of the objectives for, *inter alia*, food policy. The Government's objectives for this expenditure area would instead be expressed through the common vision of 'Using without using up'. This vision has been divided into three strategic 'orientation objectives' which would determine the structure of the Government's reporting and monitoring.

¹⁴ Committee Report 2003/04:MJU13, p. 13, Riksdag Written Communication 2003/04:186, *Kust- och insjöfiske samt vattenbruk* ['Coastal and freshwater fisheries and aquaculture'].

1.4.3 *Effectiveness*

Section 1 of the Budget Act (SFS 1996:1059) stipulates that a high level of effectiveness should be aimed for in the operations of the central-government sector. This means that central-government operations should be conducted in such a way that the objectives decided by the Riksdag are attained to the largest extent possible given the resources available.¹⁵

1.4.4 *Annual Reports*

The annual report, the interim report and the budget documentation of a government agency must refer to all operations for which the agency is responsible, regardless of financing and organisation.¹⁶

1.5 **Method**

To answer the audit questions and examine whether the *conservation measures*, *structural measures* and *control system* of the Swedish central government comply with the intentions of the EU and the Riksdag, three analyses have been performed:

1. Legal analysis;
2. Analysis of economic data;
3. Analysis of the control system.

These analyses also aim to make it clear how responsibility is divided among the ministries and government agencies involved. A further aim of the legal analysis was to assess whether there is any national discretion within the legal framework of the CFP and, if so, whether that discretion is extensive enough to affect Sweden's possibility to attain the objectives of fisheries policy. The part of the analysis that relates to Community law, in particular to national discretion, has been scrutinised for purposes of quality assurance by Mr Ulf Bernitz, Professor of European Law at Stockholm University. The analysis of economic data has been similarly scrutinised by external economic experts. The financial-audit function of the SNAO has also participated in assessments.

The analyses are based on documents relating to the direction and monitoring of operations, financial reports, statistics, interviews and participant observation. Information to answer the audit questions has been obtained above all from the Board of Fisheries, the Coast Guard, the Ministry

¹⁵ Act on the Central Government Budget (SFS 1996:1059), Government Bill 1995/96:220, Section 5.1.

¹⁶ Chapter 1, Section 4, of the Ordinance concerning Annual Reports and Budget Documentation (SFS 2000:605).

of Agriculture and the European Commission's Directorate-General for Maritime Affairs and Fisheries.

1.6 Structure of the report

Chapter 2, *Areas of action and division of responsibility*, contains an overall presentation of the three areas of action of fisheries policy: conservation measures, structural measures and fisheries control. It also identifies the ministries and government agencies that have principal responsibility for the various parts of fisheries policy.

Chapter 3, *The central government's actions in the field of fisheries policy*, deals with a number of fundamental issues relating to the actions taken by the Swedish central government in the field of fisheries policy. It also discusses Sweden's national discretion within the legal framework of the CFP and presents the general shortcomings identified in reporting from government agencies and the Government.

Chapters 4–6 deal with the actions taken by the central government in the three areas of action of fisheries policy. Chapter 4 is entitled *Conservation measures*, Chapter 5 is entitled *Structural measures* and Chapter 6 is entitled *Swedish fisheries control*. They all have the same structure. A short description of the area is followed by a presentation of the requirements applicable to it. For each area of action, examples are given of possibilities for the Swedish central government to make use of national discretion under Community law. This is followed by a presentation of the findings made in each area. Each chapter concludes with a summary of these findings.

The audit questions concern both the effectiveness of the action taken by the central government and their compliance with legislation. Given that the findings made in the various areas of action often relate both to issues of effectiveness and to issues of compliance, the structure of the report is not strictly based on the audit questions. Answers to the two audit questions, based on the observations presented in Chapters 3–6, are instead given in Chapter 7, *Conclusions and recommendations*.

2 Areas of action and division of responsibilities

Management of the Swedish fisheries sector takes place through three types of measures: conservation measures, structural measures and control measures. The Board of Fisheries is the authority responsible for the conservation and exploitation of fish resources, but other government agencies – above all the Coast Guard – also participate in management.

2.1 Areas of action in fisheries policy

2.1.1 *Conservation measures are to prevent overexploitation*

The aim of conservation measures is to prevent overexploitation of fish stocks. These measures include adopting recovery plans, management plans and various types of limitations on catches, fixing the number and type of vessels authorised to fish, limiting the fishing effort, establishing various types of incentives (including economic ones) to promote more selective or low-impact fishing, and conducting pilot projects on alternative types of fishing-management techniques.

A number of technical provisions also constitute conservation measures, such as rules for the function, number and size of fishing gear, catch methods and the composition of catches. Fishing activities can also be restricted or prohibited in certain zones or during certain periods. Further, limitations on fishing can refer to the minimum size of fish that may be retained on board or landed, as well as to other specific measures to reduce the impact of fishing activities on marine eco-systems.

2.1.2 *Structural measures and other types of support for the fisheries sector*

The principal aim of structural measures is to support the restructuring and development of the fisheries sector. During the 2000–2006 programming period, structural measures in support of the fisheries sector and aquaculture have been administered through the Financial Instrument for Fisheries Guidance (FIFG).¹⁷ One important objective of the FIFG is to achieve a balance between the capacity of the fishing fleet and the fishing

¹⁷ A new programming period started in 2007 and will last until 2013.

effort. The FIG should also be an instrument of the EU's general structural policy in the framework of the Structural Funds.

Besides structural assistance, the central government may also use other policy instruments of an economic nature to influence the fisheries sector. The financially most important type of indirect support for the fisheries sector is its exemption from taxes on energy, carbon dioxide and sulphur. Another type of support is the fact that special rules for receiving unemployment benefit apply to this sector.

2.1.3 *Controls to ensure that the fisheries sector complies with the rules*

The purpose of the control system is to ensure that the rules of fisheries policy are complied with. It is mainly based on the following types of reports to be submitted to the Board of Fisheries¹⁸:

- During each fishing trip, fishermen must enter information in their logbook about the quantities of fish caught at sea, the species caught and the date and location of these catches, and they must draw up a declaration of the catch landed;
- Coastal fishermen using smaller vessels keep a coastal-fishing journal instead of a logbook;
- The first buyer of the catch must submit a sales note to the fish-auction centre or draw up a special takeover declaration;
- Transporters of fish must draw up special transport documents.

The Board of Fisheries will use these reports to monitor the utilisation of quotas¹⁹ and for control purposes. The information contained in the various reports must be cross-checked for discrepancies. The Board must also plan and carry out in-port landing inspections of fish catches, trade inspections, transport inspections²⁰ and quality inspections. The Coast Guard must carry out inspections at sea to check whether fishing vessels are using the right gear, fishing at the right time and in the right zone, etc.

2.2 **Government agencies responsible for fisheries policy**

Fisheries policy is part of Expenditure Area 23 'Agriculture, forestry, fisheries and related sectors', which is part of the Policy Area of 'Food policy'.

¹⁸ This description disregards landings in other Member States.

¹⁹ This refers to the Board's work to ensure that Swedish fishermen do not exceed the quotas allocated to Sweden in the framework of the CFP.

²⁰ Even though transport inspections outside port areas are to be carried out by the Police, the Board of Fisheries is responsible for all fisheries control in Sweden, including transport inspections.

Responsibility for this expenditure area rests with the Ministry of Agriculture. The Board of Fisheries is the authority responsible for the conservation and exploitation of fish resources, and it also bears sectoral responsibility for environmental issues.

A number of agencies have explicitly specified areas of responsibility in fisheries policy. These agencies report to four ministries:

Table 1. Ministries and agencies responsible for fisheries policy

Ministries	Agencies
Ministry of Agriculture	Board of Fisheries National Food Administration
Ministry of Defence	Coast Guard
Ministry of Enterprise, Energy and Communications	Swedish Maritime Administration
Ministry of Finance	Swedish Customs County administrative boards

To exercise direction and influence over the fisheries sector so as to promote the objectives and as required by legislation, the Swedish central government has a number of policy instruments at its disposal. The use of most of these instruments has been delegated by the Government to the Board of Fisheries, but other agencies and ministries also have policy instruments at their disposal. Below is a brief presentation of some important policy instruments in this field.

Table 2. Some policy instruments of fisheries management

	Policy instrument	Decided by
Government (Ministry of Finance) / Riksdag	Tax rules for the fisheries sector	Sweden
Government (Ministry of Employment) / Riksdag	Rules for unemployment benefit	Sweden
Coast Guard	Inspections at sea	EU/Sweden
Board of Fisheries	Power to issue agency regulations	EU/Sweden
<i>Resource Management Dept.</i>	Licences and permits	EU/Sweden
	Structural assistance	EU/Sweden
	Management and recovery plans	EU/Sweden
	Rules for the design of fishing gear	EU/Sweden
<i>Dept. of Fisheries Control</i>	Inspections	EU/Sweden
	Limitations to the fishing effort	Sweden

2.2.1 Board of Fisheries

The Board of Fisheries bears principal responsibility for the conservation and exploitation of Sweden's fish resources. It has three operational branches: Knowledge Building, Natural Resource Management and Fisheries Control. Its head office is located in Gothenburg. In 2007 it had about 300 employees in twelve locations and a framework appropriation of SEK 129.1 million. The table below shows the distribution of man-years among the operational branches.

Table 3. Man-years per operational branch

Operational branch	2005	2006	2007
Knowledge Building	187	187	192
Natural Resource Management	61	63	73
Fisheries Control	30	30	46
Total	278	280	311

Source: Annual report for 2007 of the Board of Fisheries.

2.2.2 Coast Guard

The Coast Guard is responsible for monitoring fishing activities at sea. Its operations are divided into four geographical regions: North, East, South and West. Central management is located in Karlskrona.

Table 4: Costs of fisheries control performed by the Coast Guard (SEK million)

	2005	2006	2007
Fisheries control	98.5	112.9	101.5

Source: Annual report for 2007 of the Coast Guard.

The Fisheries Skills Centre (FKC) is technically part of the Coast Guard but consists of staff from the Board of Fisheries and the Coast Guard working together at a joint office. The Centre is a national collaborative resource whose main tasks are to monitor, investigate and supervise fishing activities, to strengthen cooperation between the agencies, to develop their respective in-house skills and to enhance the efficiency and effectiveness of risk-analysis-based control activities. The Centre also serves as a point of contact in relation to the respective mother agency, the fisheries sector, other agencies involved in fisheries control and foreign control agencies. It receives pre-notifications from the fisheries sector and provides information on a range of issues.

2.2.3 *Other agencies with responsibilities in the field of fisheries policy*

The county administrative boards are responsible at the regional level for several activities related to fishing. They decide on grants for the fisheries sector and fishery conservation, and they issue permits for fish farms and the release of fish. They also appoint fishing inspectors to monitor compliance with fishing rules along the coasts and in lakes. In addition, the county administrative boards have a duty to provide information to commercial and recreational fishermen about fishing activities in their respective counties.

The National Food Administration is responsible for hygiene inspections in relation to the handling of fish on board fishing vessels and in relation to the landing, import and transport of fish. It also has a duty to ensure that Community rules on consumer information about fishery and aquaculture products are complied with.

The Maritime Administration is responsible for tonnage measurement and for keeping the national register of shipping. Information from the Administration forms the basis of the register of fishing vessels kept by the Board of Fisheries.

Swedish Customs, besides its duties in relation to the import of fish and fish products to Sweden, is also responsible for inspecting transport documents in connection with the import of fish.

3 The central government's actions in the field of fisheries policy

This chapter deals with a number of fundamental issues, not specific to any one operational field, in relation to the the actions taken by the Government and the government agencies in the area of fisheries policy.

Fisheries policy is partly decided jointly by the EU Member States and partly designed at the national level by each Member State. This means that government agencies in this field must comply with decisions and legislation adopted both at the EU level and by the Swedish central government.²¹ At the EU level, the European Commission through its Directorate-General for Maritime Affairs and Fisheries is responsible for fisheries management; at the Swedish Government Offices, this responsibility is vested in the Ministry of Agriculture. Both the EU and the Swedish central government impose requirements on Swedish fisheries management. These requirements are mainly laid down in the following documents:

Table 5. Documents imposing requirements on fisheries management

Author	Operational area	Document(s)
EU	Resource management	Community Regulations
EU	Controls	Community Regulations
EU	Structural assistance	Community Regulations
EU	Data collection	Community Regulations
Riksdag	All	Fisheries Act (SFS 1993:787) Act on Community Regulations relating to the Common Fisheries Policy (SFS 1994:1709)
Government	All	General instructions for government agencies
Government	All	Annual appropriation directions for government agencies
Government	All	Ordinances

²¹ Cf. Chapter 3.1 of SOU [Swedish Government Official Reports] 2005:27, *Den svenska fiskerikontrollen – en utvärdering* ['Swedish fisheries control: an evaluation'].

3.1 Requirements and opportunities

3.1.1 *The EU lays down the basic rules but does not decide everything*

The basis for the regulation of fisheries is established through joint EU decisions. In some matters Sweden has to abide by Community rules, but in others there is an amount of national discretion.

The EU Member States must take all appropriate measures to ensure fulfilment of the obligations arising out of the EC Treaty or resulting from action taken by the EU institutions. They must also facilitate the achievement of the Community's tasks and abstain from any measure which could jeopardise the attainment of the objectives of the Treaty.²² Main responsibility for monitoring Member States' compliance with the EC Treaty, in the fisheries area as well as in other areas, rests with the European Commission. The European Court of Justice is the ultimate interpreter of Community law.²³

The main principle governing the division of competence as regards the CFP between the EU and its Member States is, since 1979, that the EU alone has the power to adopt measures relating to the conservation of the resources of the sea.²⁴ This principle applies both to conservation measures and to structural and control measures, but in practice there is an amount of national discretion (see below). The foundation on which the CFP is built consists mainly of just over forty Community Regulations. These Regulations are binding in their entirety and directly applicable in the Member States, and they take precedence over any contradictory national provisions. The Member States are not allowed to rephrase the Community Regulations as national legislative texts. However, they have a duty to lay down necessary administrative and procedural provisions as required in the various Regulations to facilitate their application.²⁵

²² Article 10 of the EC Treaty.

²³ If the Commission considers that a Member State has failed to comply with Community law, it first informally contacts the Member State concerned to investigate the circumstances and reach an agreement. If no agreement can be reached, the Commission sends a letter of formal notice to the Member State, which is followed by a 'reasoned opinion' unless the Member State submits a satisfactory reply or accepts the Commission's position. At this point the Commission may bring infringement proceedings before the Court of Justice. If the Member State fails to abide by a judgment in the Commission's favour, the Commission may bring a new action against the Member State, requesting that the Court should order the Member State to pay a lump sum or a recurrent fine. Such a judgment may prove very costly to a Member State. In a case of infringement of the CFP, for example, the Court ordered France to pay a lump sum of EUR 20 million and a recurrent fine of about EUR 58 million per six-month period (Bernitz and Kjellgren, *Europarättens grunder* ['Fundamentals of European Law'], p. 131 f.; cf. Articles 226 and 228(2) of the EC Treaty). An ongoing procedure in the framework of the Common Agricultural Policy (CAP) may lead to Sweden being ordered to pay a penalty of about SEK 200 million for failing to comply with a judgment relating to failure to fulfil obligations in relation to the cross-compliance requirements of the single-payment scheme (SPS). As regards that procedure, however, no decision has yet been made at the first stage, i.e. as to whether Sweden has in fact failed to comply with its obligations.

²⁴ Judgment of the European Court of Justice in Case 804/79, *Commission v United Kingdom of Great Britain and Northern Ireland* (paragraphs 17, 18, 28 and 29, *inter alia*).

²⁵ Cf. Bernitz and Kjellgren, *Europarättens grunder* ['Fundamentals of European Law'], p. 29.

Matters which are not covered by the Community legal acts, or for which Member States are explicitly vested with the power to make decisions, are subject to the national discretion of the Member States. In addition, the Member States may establish certain specific rules for their national fishermen.²⁶ Such rules may be as stringent as, or more stringent than, those of the CFP. Further, some Community Regulations allow Member States to establish national exemptions from the rules of the CFP.²⁷

The EU and the Member States have varying normative powers within the areas of conservation measures, structural measures and control measures. There is no clear boundary between national legislation and Community law. For conservation, structural and control measures taken together, however, the Member States enjoy considerable national discretion. The EU has abstained from laying down rules for several areas, including freshwater fisheries, and the issuance of permits to the fisheries sector is usually regulated by the Member States. In such cases, Member States alone determine how extensive their national rules should be.²⁸ As regards structural measures, the Member States have a great deal of national discretion.

In 2004, the Riksdag adopted the Government's proposed objectives and orientation for coastal and freshwater fisheries and aquaculture. In its proposal, the Government had stressed, among other things, that the EU's 2003 reform of the CFP had entailed a partial increase in the national discretion of Member States. According to the Government, this applied in particular to the development of the fishing fleet. The Government also expressed the opinion that Sweden's fisheries policy could develop in the framework of the Community rules and through increased use of Member States' possibility to establish national rules.²⁹

Since 2004, the EU has let Member States decide whether their national fisheries sector will remain exempt from taxes on energy and carbon dioxide or whether this exemption will be abolished.³⁰ The Government has not informed the Riksdag of this possibility to choose.

²⁶ A general principle of Community law allows Member States to establish more stringent rules for their national economic operators. This principle has been recognised by the Court on several occasions; the case usually cited in this context is Case C 98/86, *Mathot*.

²⁷ One example is Article 10(2) of Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97.

²⁸ Attachment of an e-mail message from the Board of Fisheries, 28 August 2008, pp. 2 and 9.

²⁹ Committee Report 2003/04:MJU13, Riksdag Written Communication 2003/04:186; and Government Bill 2003/04:51, *Kust- och insjöfiske samt vattenbruk* ['Coastal and freshwater fisheries and aquaculture'], Section 3.2.

³⁰ E-mail message from the Legal Division of the Swedish Tax Agency, 30 May 2008. See, further, Section 5.4. Fisheries for which national discretion has increased are open-sea fisheries not relating to international transport as well as freshwater fisheries. E-mail message from the Ministry of Finance, 15 September 2008.

The powers to issue agency regulations vested in the Board of Fisheries are extensive compared with those of other government agencies.³¹ These powers are exercised by means of agency regulations published in the Code of Statutes of the Board. The number of rules included in agency regulations amounts to several hundred.³²

In October 2007, the Government appointed a committee of inquiry whose task is to propose modifications to fisheries legislation.³³

3.1.2 *The Government and the Board of Fisheries have failed to investigate the extent of national discretion*

Neither the Government nor the Board of Fisheries has performed an integrated legal analysis of the extent of national discretion within the legal framework of the CFP. The Board has also failed to compile information as to whether the various possibilities for exemptions under Community rules have or have not been utilised by itself or by the Government. According to the Board, the Government has vested it with the powers it needs to perform its tasks. The Board stresses that a very important part of its duties involves active work at the EU level. When exercising the powers granted by the Government, the Board must take the provisions of the CFP into account; it does so on an ongoing basis, also taking various modifications to these provisions into consideration.³⁴

³¹ Interview at the Board of Fisheries, 19 March 2008.

³² The Swedish Fisheries Act (SFS 1993:787) covers the right to fish as well as fishing activities in Sweden's territorial waters and exclusive economic zone; Swedish open-sea fishing activities outside the exclusive economic zone are also covered in cases where this is explicitly stated. The Act regulates both fishing activities as such as and subsequent activities until the landing of the fish and the fisherman's reporting of his catch. Powers to issue agency regulations relating to fishing activities as such are laid down in Sections 19–24. The Act on Community Regulations relating to the Common Fisheries Policy (SFS 1994:1709), among other things, grants powers to issue agency regulations relating to market and structural issues (cf. Government Bill 1995/96:8, Section 5). It also grants, in Section 3, powers to issue agency regulations in relation to fishing activities not considered commercial under the Fisheries Act. The detailed regulation of commercial fisheries is largely the remit of the Government and the Board of Fisheries, by virtue of a number of provisions granting powers to issue regulations contained in the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716). That Ordinance includes most of the provisions decided, and powers to issue agency regulations granted, by the Government in the field of fisheries.

³³ Terms of Reference 2007:125, *En ny fiskelagstiftning* ['New fisheries legislation']. The proposals should aim to create conditions that will enable the sustainable use of fish resources while promoting commercial operations and recreational fishing as well as biological diversity. The committee's report must be submitted by 31 March 2009.

³⁴ Attachment of e-mail message from the Board of Fisheries, 28 August 2008, pp. 1 and 9; and e-mail message from the Board of Fisheries, 16 September 2008.

3.1.3 *Hard to gain an overview over the actions of the central government*

No document provides an overall view of all activities of fisheries management. To gain an overview, it is necessary to read several national reports as well as several EU reports; see the table below.

Table 6. Reporting of fisheries policy

Addressee	Report
Ministry of Agriculture	Annual report of the Board of Fisheries
	Annual duty to report on action taken in the framework of the CFP
Ministry of Defence	Annual report of the Coast Guard
Ministry of the Environment	Reports on the environmental objectives
EU	Annual report to the European Commission of the Monitoring Committee
EU	Meetings and reports of the Management Committee

3.1.4 *Certain fundamental information is lacking in annual reports*

Certain fundamental information is not provided in the annual reports of the Board of Fisheries. One example is information about the objective of adapting the capacity of the fishing fleet and the fishing effort to fishing quotas.³⁵ The Board does not report on the development of capacity in relation to the quotas allocated. In other words, it cannot be ascertained from the annual report – or from any other report – whether Sweden is moving closer or farther away from achieving this objective. The reports focus on individual actions, with no explicit links to the overall objectives of economically, socially and ecologically sustainable fisheries.³⁶

There are also shortcomings in the information included in the annual reports about the costs of the actions taken to achieve various objectives. For example, it is not clear from the reports how large resources have been devoted to the development of new gear – a type of action that the Board claims is strategically important in attaining the national environmental-quality objectives. Further, the reports do not provide an overall view of the direct and indirect financial support given to the fisheries sector. The

³⁵ The capacity of the fishing fleet is measured in total engine power (kW) or total gross tonnage (GT). The fishing effort is measured as the number of fishing efforts (such as net hauls) multiplied by engine power. The development of capacity and fishing effort relative to the fishing quota is crucial to the description of compliance with the objectives.

³⁶ This observation is based on the annual reports for 2002–2007 of the Board of Fisheries.

Government has failed to request reports on these issues in its appropriation directions for the Board.³⁷

The SNAO has recommended, in a financial-audit report, that the Board of Fisheries should further develop its work on indicators to make it easier for readers of its annual reports to assess the impacts and compliance levels described there.³⁸

The annual reports lack an analysis of the costs and impacts of individual actions. However, the Board of Fisheries started a project in 2007, with help from the National Financial Management Authority, to break down the overall objectives into concrete achievements and to monitor the impacts and costs of these achievements.³⁹

3.1.5 *The Riksdag has requested better reporting from the Government*

The Riksdag has called for better monitoring and reporting in the field of fisheries management on the part of the Government. In its most recent reports on annual budget bills it has emphasised that the Government's presentation renders it difficult to make an overall assessment of the outcome of central-government actions. According to the Riksdag, this is true above all of the ecological and economic dimensions of food policy. As regards the social dimension, the Riksdag considers it difficult to assess the results of central-government actions on the basis of the Government's presentation.⁴⁰

3.2 Summary of findings

- The Board of Fisheries and the Government have failed to perform an overall legal analysis of requirements and opportunities in fisheries policy, meaning that the extent of national discretion has not been established;

³⁷ According to the Government's appropriation directions for the Board of Fisheries for 2007, the following objectives apply to the Operational Area of Fisheries: ecologically sustainable exploitation of the fish resource; economically and socially sustainable development and growth of the countryside; and attainment of the environmental-quality objectives of 'Flourishing Lakes and Streams', 'A Balanced Marine Environment, Flourishing Coastal Areas and Archipelagos', and 'A Magnificent Mountain Landscape' as laid down in Government Bill 2004/05:150. The Government requests that the Board should report on the extent to which these objectives have been attained, provide an outline description of the action taken to attain each objective, and analyse performance.

³⁸ Riksrevisionen [SNAO], *Revisionsrapport 32-2007-0653* ['Audit Report 32-2007-0653'], 23 April 2008. This report was submitted to top management of the Board of Fisheries, and a copy was submitted to the Ministry of Agriculture.

³⁹ Interview with the Head of the Executive Staff and the Head of the Financial Department of the Board of Fisheries, 12 June 2008.

⁴⁰ Committee Report 2006/07:MJU2, p. 35, Riksdag Written Communication 2006/07:67 and 68; and Committee Report 2007/08:MJU2 p. 40 ff., Riksdag Written Communication 2007/08:93.

- There is considerable national discretion within the legal framework of the CFP;
- The Government has failed to inform the Riksdag that, since 2004, EU Member States may decide whether to maintain or abolish the fisheries sector's exemption from energy and carbon-dioxide taxes. As a result, the Riksdag has not been given the information it needed to be able to decide whether the fisheries sector should continue to be exempt from such taxes;
- Certain fundamental information is not provided in the annual reports of the Board of Fisheries. For example, it is not clear how fishing capacity has developed in relation to the fishing quotas allocated. There are also shortcomings in the Board's evaluation of the costs and impacts of actions. One example relates to the resources devoted to the development of new gear. The Board has stated that the development of fishing gear is strategically important in attaining the national environmental-quality objectives;
- The reports do not provide an overall view of the direct and indirect financial support given to the fisheries sector;
- The Riksdag has called for better information from the Government about the results of central-government action in the field of fisheries policy.

4 Conservation measures

The aim of conservation measures is to prevent the overexploitation of fish stocks. Conservation measures include:⁴¹

- adopting recovery plans;
- adopting management plans;
- limiting catches;
- fixing the number and type of fishing vessels authorised to fish;
- limiting fishing effort;
- establishing incentives (including economic ones) to promote more selective or low-impact fishing;
- conducting pilot projects on alternative types of fishing-management techniques;
- adopting technical measures in relation to, *inter alia*:
 - the structure, number and size of fishing gear, methods of catch and the composition of catches,
 - zones or periods in which fishing activities are prohibited or restricted,
 - the minimum size of fish that may be retained on board or landed, and
 - specific measures to reduce the impact of fishing activities on marine eco-systems and 'non-target' species.

4.1 Requirements and opportunities

In some matters Sweden has to abide by the Community rules of the CFP, but in other matters there is an amount of national discretion.

The Community Regulations of the CFP impose explicit requirements on the Member States. When explicit possibilities to derogate from Community rules are laid down, Member States may choose whether to make use of them.⁴² Matters which have been conferred on the Member States or which are not regulated by the EU are subject to the national discretion of the Member States. In addition, the Member States may establish certain specific rules for their national fishermen. Such rules may be as stringent as, or more stringent than, those of the EU.

⁴¹ Article 4(2) of Council Regulation (EC) No 2371/2002.

⁴² One example is Article 10(2) of Council Regulation (EC) No 1098/2007.

4.1.1 *National discretion appears to be limited ...*

There is limited explicit scope for national conservation measures in the legal framework of the CFP. Since 1979, according to the European Court of Justice, the EU alone has the power to adopt measures relating to the conservation of the resources of the sea. The Court has also found that the fishermen of the Member States have an equal right to fish resources.⁴³ This fundamental principle is also clear from the 2002 reform of the CFP. EU fishing vessels are to have equal access to all Community waters. The Council may restrict access, for instance through recovery and management plans.⁴⁴

4.1.2 *... but in practice it is considerable*

In practice, there is considerable national discretion. The overall scope granted by the EU to its Member States for national conservation measures consists mainly of the following elements:

- Member States may take emergency measures, which may last for no more than three months. Such measures may be taken if there is evidence of a serious and unforeseen threat to the conservation of living aquatic resources or to the marine eco-system resulting from fishing activities in the waters of a Member State;⁴⁵
- Within 12 nautical miles of its coast, a Member State may take measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of marine eco-systems. Such measures must apply equally to fishermen from all Member States, they must be compatible with the objectives of the CFP, and they must not be less stringent than existing Community legislation;⁴⁶
- Member States have a general right to take measures in their own waters that apply only to their national fishing vessels. These measures also have to be compatible with the objectives of the CFP and must not be less stringent than existing Community legislation.⁴⁷

⁴³ Judgment of the European Court of Justice in Case 804/79, *Commission v United Kingdom of Great Britain and Northern Ireland* (paragraphs 17, 18, 28 and 29, *inter alia*).

⁴⁴ Article 17 of Council Regulation (EC) No 2371/2002.

⁴⁵ Article 8 of Council Regulation (EC) No 2371/2002.

⁴⁶ A further prerequisite is that the EU must not have adopted measures addressing conservation and management specifically for the area concerned. In practice, Sweden's 12-mile zone is reduced through special agreements with Finland and Denmark; these agreements are part of the CFP. In the Baltic Sea and the Skagerrak, Sweden has national discretion within 4 nautical miles of its coast, and in the Kattegat, within 3 nautical miles of its coast. See Articles 9 and 17(2) and Annex I(10) of Council Regulation (EC) No 2371/2002.

⁴⁷ Article 10 of Council Regulation (EC) No 2371/2002. The measures concerned are those that apply solely to fishing vessels flying the flag of the Member State taking the measures.

- Member States also have an extended right to take national measures applying only to fishing vessels registered in the Member State concerned. This extended right, which was introduced in 1998, applies to conditions or arrangements for technical measures to protect juveniles of marine organisms. Such technical measures may either supplement those of the CFP or go beyond its minimum requirements.⁴⁸ A similar right to take national measures was introduced in 2006 specifically for fisheries in the Baltic Sea, the Sound and the Belts. The technical measures that Member States are authorised to take may either supplement those of the CFP or go beyond its minimum requirements.⁴⁹
- Total allowable catches and quotas for each Member State are determined annually through joint decisions in the Council of Ministers. However, each Member State decides itself how to allocate its fishing quotas within its national fisheries sector and also monitors the utilisation of quotas itself. Member States may exchange among themselves all or part of the quotas that have been allocated to them.⁵⁰

The Swedish Board of Fisheries generally follows the rules of the CFP as regards both minimum fish sizes and minimum mesh sizes of fishing gear. For certain fisheries and zones it has established national rules which are more stringent⁵¹. However, the Board is of the opinion that, when it comes to measures that will apply to maritime zones where fishermen from several Member States may fish, work at the EU level is preferable⁵² to unilateral Swedish measures.⁵³

Annex 1 describes the extent of national discretion for several Swedish conservation measures, including the issuance of permits and licences as well as the establishment of minimum fish sizes. It also describes in greater detail how the Board of Fisheries makes use of the opportunities offered by the CFP to take measures applicable only to Swedish fishing vessels.

⁴⁸ Article 46 of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms. Such measures may relate to rules for towed and fixed gear, to conditions for use (e.g. zones), to minimum sizes of marine organisms and to geographical restrictions for specific species.

⁴⁹ Article 26 of Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98. Such measures may relate to the structure (e.g. mesh sizes) and use of gear, to prohibited gear and methods, to the calculation of percentages for target species, to immersion time, to restrictions on permitted fishing zones, to restrictions on 'unsorted landings' and to minimum landing sizes (minimum fish sizes). Compared with Article 46 of Council Regulation (EC) No 850/98 and Article 10 of the Basic Regulation, Article 26 of Council Regulation (EC) No 2187/2005 has wider scope as regards the aim of the measures concerned: measures may be taken not only 'for the conservation and management of stocks' but also 'to reduce the effect of fishing on the marine eco-system'.

⁵⁰ Article 20(3) and 20(5) of Council Regulation (EC) No 2371/2002.

⁵¹ E-mail message from the Board of Fisheries, 11 April 2008, p. 2.

⁵² Attachment of e-mail message from the Board of Fisheries, 28 August 2008, p. 2.

⁵³ Interview at the Board of Fisheries, 14 April 2008.

4.1.3 *Conservation measures should be used more actively*

The Riksdag Committee on Agriculture stated in 1997 that both Swedish fisheries and EU fisheries should be carried out in a sustainable manner.⁵⁴ The Committee on Environment and Agriculture has also stated on several occasions that Sweden should continue its work to ensure that the precautionary approach is applied and that fishing quotas and management measures are based on the scientific advice provided by the International Council for the Exploration of the Sea (ICES).⁵⁵ The Committee considers that restrictions on the conduct of fisheries based on species and geographical areas should be more actively used as instruments of fisheries management.⁵⁶

As regards coastal and freshwater fisheries and aquaculture, the Riksdag has stated that the ecologically sustainable management of fish resources in the framework of the national environmental-quality objectives will contribute to the recreation and conservation of biological diversity. It will also contribute to the development of viable, ecologically sustainable and thus environmentally sound fishing activities.⁵⁷

4.2 Impact and reporting of conservation measures

4.2.1 *The fishing effort has not fallen in line with the quotas*

Besides reducing the capacity of the fishing fleet, the Board of Fisheries can also control the balance between the fishing effort (the product of the capacity and activity of fishing vessels) and the quotas available by reducing the fishing effort, for instance by suspending certain fisheries.

The fishing effort, which is an important component in assessing whether Sweden is approaching the objective of balance between fishing effort and fishing quotas, varies somewhat over time but shows no clear trend.⁵⁸ The quotas available have fallen in recent years, meaning that Sweden has moved away from the objective of achieving a balance between fishing effort and quotas allocated.

The level of the fishing effort is not indicated in the annual reports of the Board of Fisheries, and nor is the balance between the fishing effort and

⁵⁴ Committee Report 1997/98:JoU9, pp. 17–20, Riksdag Written Communication 1997/98:116, relating to Government Bill 1997/98:2, *Ett hållbart fiske och jordbruk* ['Sustainable fisheries and agriculture].

⁵⁵ E.g. Committee Report 2005/06:MJU27, Riksdag Written Communications 2005/06:48 and 2005/06:49.

⁵⁶ Committee Report 2003/04:MJU13, p. 21, Riksdag Written Communication 2003/04:186.

⁵⁷ Committee Report 2003/04:MJU13, pp. 5 and 13, Riksdag Written Communication 2003/04:186.

⁵⁸ The SNAO's analysis of data from the Board of Fisheries.

fishing opportunities (which can be expressed as the quota available). The Government has failed to request, in its appropriation directions, that the Board should report on the development of the fishing effort.

4.2.2 *The Board of Fisheries has difficulty distinguishing conservation measures and calculating their costs*

It is clear from the SNAO's audit that the Board of Fisheries finds it difficult to report on conservation measures and to assess their costs and cost-effectiveness.⁵⁹ According to the Board, it is virtually impossible to present conservation measures in a simple way and even more difficult to calculate the costs of these measures. The Board states that it has a duty to promote both conservation and exploitation. These two duties often overlap, as is clear, in the Board's opinion, from its appropriation directions.⁶⁰ The Board considers that the reporting of costs is more explicit for the conservation measures included in its work on the national environmental objectives, for which the Government has requested special reports on costs for 2004–2006.⁶¹

4.2.3 *The Board of Fisheries has been instructed to establish non-fishing zones*

The Board of Fisheries established a non-fishing zone around the island of Gotska Sandön in 2007. It has also been instructed by the Government to establish a further three non-fishing zones in the Baltic Sea and three in the Kattegat/Skagerrak by 2010.⁶²

4.3 Individual licences for fishermen and permits

4.3.1 *Individual licences could be adapted to the quotas allocated*

To carry out commercial fishing in public waters, a fisherman needs an individual licence. The number of individual licences for fishermen has fallen from 2,227 in 2002 to 1,865 in 2007; see the table below.

⁵⁹ The SNAO requested, during the course of the audit, that the Board of Fisheries should account for its conservation measures during the 2002–2007 period and the costs of these measures.

⁶⁰ According to the appropriation directions for 2007 for the Board of Fisheries, the objective for the Operational Area of 'Fisheries' is 'the ecologically sustainable exploitation of the fish resource'.

⁶¹ E-mail message from the Board of Fisheries, 24 July 2008.

⁶² Assignment given to the Board of Fisheries on 20 December 2005. By virtue of a Riksdag decision, fishing will be prohibited in these zones throughout the year as regards all species and methods.

Table 7. Individual licences for fishermen, freshwater and saltwater fisheries

Year	2002	2003	2004	2005	2006	2007
Number of licences	2,227	2,066	1,913	1,902	1,880	1,865

Source: E-mail message from the Board of Fisheries, 26 August 2008.

The basic requirements to obtain an individual licence are that fishing activities must be of significant importance for the applicant's ability to earn a living and that the fishing activities concerned must have a significant link with the Swedish fisheries sector.⁶³ According to the Board of Fisheries' agency regulations, the maximum period of validity of an individual licence is five years, after which the licence must be renewed.⁶⁴

The EU has no rules on individual licences for fishermen.⁶⁵ This means that the possibility to influence fisheries through the issuance of licences is subject to national discretion.⁶⁶ The aim of introducing the requirement for an individual licence for fishermen was to secure a balance between the number of commercial fishermen and the fish resources available.⁶⁷

Sweden could thus introduce rules to the effect that individual licences for fishermen are to be reviewed, say, when quotas are reduced. Such rules could help achieve a balance between the fishing effort and the fishing quotas in that they would make it possible to reduce the number of licensed fishermen when quotas become smaller. The availability of fish is to be taken into consideration in the examination of initial applications.⁶⁸ However, when the rules on individual licences for fishermen were introduced in 1993, the Government explicitly abstained from including a possibility to take the status of fish stocks into account in the renewal of licences.⁶⁹ As a result, when the

⁶³ See Section 30 of the Fisheries Act (SFS 1993:787). Rules specifying the condition of a link with the fisheries sector are to be laid down by the Government or the Board of Fisheries.

⁶⁴ Chapter 2, Section 1(9), of FIFS 2004:25.

⁶⁵ Cf. Riksdag Report 2007/08:RFR3, p. 122 ff., and Government Bill 1992/93:232, p. 54 f.

⁶⁶ Sections 6 and 30 of the Fisheries Act (SFS 1993:787).

⁶⁷ According to the Government, there was a risk that Sweden's then-imminent accession to the European Community (EC) would entail a risk that fishermen from other countries in the European Economic Area (EEA) would establish themselves in Sweden to gain access to Swedish fishing quotas, which were large compared with those of the EC. The Government also concluded that there was no room for increasing the capacity of the Swedish fisheries sector, either from a biological standpoint or from a commercial one. See Government Bill 1992/93:232, p. 54.

⁶⁸ Section 30(2) of the Fisheries Act (SFS 1993:787).

⁶⁹ See Government Bill 1992/93:232, p. 55. The Board of Fisheries, and several other parties consulted, had proposed that it should be possible to revoke a licence if conditions such as the availability of fish were to change. The Minister responsible considered that such a possibility should not be introduced since it would influence the ability of commercial fishermen to finance their gear and would greatly increase the risk of capital destruction. Quotas and fishery-conservation regulations would instead be used to address the consequences of fluctuations in the supply of fish.

Board of Fisheries reviews applications for renewal, it normally restricts its examination to the requirement that fishing activities must be of significant importance for the applicant's ability to earn a living.⁷⁰

By contrast, the Board of Fisheries may restrict individual licences to specific fishing activities, which the Government stressed as an important aspect when this possibility was introduced in 2003.⁷¹ In the same year, the Board was also given the possibility to allocate quotas completely freely within the fisheries sector. The Committee on Environment and Agriculture of the Riksdag has emphasised that 'specific fishing activities' may refer to local or regional restrictions as well as to provisions relating to vessel sizes or species.⁷² The Board has exercised its power to restrict licences to specific fishing activities for a small proportion – around 5.5 per cent – of all valid licences. Most of these restrictions prohibit fishing for eel and spiny dogfish. These prohibitions are being progressively abolished by the Board and replaced with special fishing permits.⁷³

4.3.2 *The Board of Fisheries has not compiled data on the use of special fishing permits*

Special fishing permits supplement vessel permits by allowing fishing vessels to fish during certain periods in certain zones. The overall rules are decided as part of the CFP. The Member States may establish, among other things, the individual distribution of fishing permits at the national level.⁷⁴

The Board of Fisheries issues special permits for many different types of fishing activities. One use of these permits is to control access to fisheries. The permits issued relate to, among other things, fishing for eel and spiny dogfish and fishing for crawfish using cages. Special permits may also relate to fishing effort as such. Fishing for cod in the Baltic Sea is a fishery where the EU requires special permits. The main rule is that the Member States may issue cod-fishing permits only to vessels that carried out cod fishing there in 2005. There is, however, some national discretion to issue cod-fishing permits

⁷⁰ Chapter 2, Section 5(3), of FIFS 2004:25 on access to resources and controls in the field of fisheries.

⁷¹ Government Bill 2002/03:41, p. 17. Cf. Chapter 2 of FIFS 2004:25 on access to resources and controls in the field of fisheries.

⁷² Committee Report 2003/04:MJU13, p. 20, Riksdag Written Communication 2003/04:186, *Kust- och insjöfiske samt vattenbruk* ['Coastal and freshwater fisheries and aquaculture']. The Committee also considered it important that these policy instruments should be used in a way that would promote the establishment of small-scale operations with strong links to local communities.

⁷³ The Board of Fisheries has exercised its power to restrict for around 110 (5.5 per cent) of almost 2,000 individual licences for fishermen; see e-mail message from the Board of Fisheries, 26 August 2008.

⁷⁴ Article 8 of Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits and Article 9 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture.

to other vessels as well. The Board of Fisheries has made use of this possibility until and including August 2008.⁷⁵

The Board of Fisheries has not compiled data on special permits or their use. As a result, it cannot be assessed whether special permits have been issued in line with the overall objectives of fisheries policy. However, the Board is developing an IT system to compile information about all special permits.⁷⁶

4.3.3 *Vessel permits have not been used to reduce the number of active fishing vessels*

To be used for commercial fishing activities under Community rules, any vessel longer than five metres must have a vessel permit ('fishing licence is the term used in Community Regulations). The EU also stipulates the information to be included in vessel permits and requires that Member States' issuance of vessel permits must be in accordance with the Community rules on the management of the capacity of the fishing fleet. The establishment of more detailed requirements for the issuance and revocation of vessel permits is left to the national discretion of the Member States.⁷⁷

Until 2002, the EU broke down fishing vessels into a number of segments. Since then Member States have been able to choose whether to do so. The Board of Fisheries has chosen to maintain the breakdown into segments as a basis for its rules on vessel permits and on the entry into and withdrawal from the fishing fleet of fishing vessels.⁷⁸ This means that the Board could establish time limits for vessel permits, based for example on the size of the quota allocated. The Board itself determines the balance among the vessel segments through its rules on entry and withdrawal. For example,

⁷⁵ This requires, among other things, that the Member State guarantees that at least the equivalent capacity is prevented from fishing in the Baltic Sea using cod-fishing gear; see Article 10(1) and 10(2) of Council Regulation (EC) No 1098/2007. Each Member State must establish, maintain and publish on its website information about the vessels authorised to fish for cod in the Baltic Sea. See also FIFS 2008:20, amendment of Chapter 4, Section 8(d), of FIFS 2004:25 on access to resources and controls in the field of fisheries.

⁷⁶ E-mail message from the Board of Fisheries, 26 August 2008. In its reply to a question from the SNAO, the Board states that there is no compilation of information about special fishing permits. The Board's rules for special fishing permits are laid down in Chapter 4 of FIFS 2004:25, in FIFS 2004:36 and in FIFS 2004:37.

⁷⁷ See Articles 2, 5 and 7 of Commission Regulation (EC) No 1281/2005 of 3 August 2005 on the management of fishing licences and the minimal information to be contained therein. The Board of Fisheries' rules for vessel permits are laid down in Chapter 3 of FIFS 2004:25 on access to resources and controls in the field of fisheries. Powers to issue agency regulations are delegated to the Board by virtue of Chapter 2, Section 20, of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716); see also Section 21(2) of the Fisheries Act (SFS 1993:787).

⁷⁸ Fiskeriverket [Board of Fisheries], *Protokoll 2003-12-23* ['Minutes of 23 December 2003'], avdelningen för resursförvaltning [Resource Management Department], Ref. No. 222-4097-03. Vessel permits may be issued with special restrictions, which may relate to catch zones, catch methods, gear and fish species. There may also be conditions to the effect that vessel capacity (as expressed in tonnage and engine power) must be withdrawn from the Swedish fishing fleet.

the Board has decided that, in principle, any entry of vessel capacity for which the port of origin is located in the counties of Västra Götaland, Halland, Skåne or Blekinge requires the withdrawal of 110 per cent of that capacity. For vessels whose port of origin is located in other parts of Sweden and which fish only in the Baltic Sea, there is a corresponding withdrawal requirement of 100 per cent.⁷⁹ These rules have not yet led to a reduction of the number of active fishing vessels (see also Section 5.6.2 on the structure of the fishing fleet). A reduction of overcapacity is necessary for the achievement of the objectives of economically and environmentally sustainable development.

4.3.4 *The European Commission has criticised Sweden for failing to comply with rules on fishing permits*

The Commission pointed out in a letter of formal notice in 2006 that Sweden had failed to ensure the duty of notification for fishing gear of Swedish fishing vessels in accordance with the Community rules fixing fishing opportunities for 2004.⁸⁰ According to the Commission, Sweden had failed to ensure that fishing vessels flying the flag of Sweden notified the types of fishing gear that they intended to use before entering certain fishing zones for which a permit was required. As a result, the fishing vessels concerned were not entitled to fish in those zones, but they did so anyway. Moreover, after the Swedish authorities had informed the captains of the fishing vessels of their duty of notification, the authorities also, according to the Commission, issued retroactive permits to fish in the fishing zones concerned. These observations were presented in the Commission's 2006 letter of formal notice relating to shortcomings in the Swedish control system.⁸¹

⁷⁹ www.fiskeriverket.se/vanstermeny/yrkesfiske/tillstand/fartygstillstand.4.28e4ca7c10e9e5e8f9c80001768.html. Accessed on 27 August 2008.

⁸⁰ Letter of formal notice (2004/2270) of the European Commission of 7 February 2006, p. 3 ff. See, further, Annex V(7) of Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.

⁸¹ See Section 6.3.1.

4.4 Conduct of fisheries

4.4.1 *The Board of Fisheries can allocate Sweden's quotas more actively*

In terms of the value of the catch landed, most part of the Swedish fishing quotas are not allocated at the level of individual vessels.⁸² All Swedish fishermen are entitled to fish within the quotas that have not been allocated by the Board of Fisheries at the level of individual vessels. The allocation of fishing opportunities among various categories of fishermen is decided by the Board under extended powers granted to it in 2003. In its request to the Government for extended powers, the Board had stressed its need to be able to even out landings over time, ensure a high quality of the fish landed and use regional or individual quotas or quotas for specific zones.⁸³

In 2007, the quotas allocated to individual vessels corresponded to less than half of the total value landed. The individually allocated quantity was 183,000 metric tons. All of these quotas allocated to individual vessels referred to pelagic fisheries (i.e. open-sea fisheries above the bottom layer of water). In the same year, the Board of Fisheries allocated 2,000 metric tons of these quotas to coastal fisheries; 15,000 metric tons of herring and sprat in the Baltic Sea for regional measures; and 3,000 metric tons of herring for vessels fishing only in the Bothnian Sea/Bothnian Bay.⁸⁴

4.4.2 *Ban on discarding fish at sea has been delayed but is being prepared*

One major problem is that commercial fishermen throw unwanted catches overboard ('discard' them). The Government found in 2006 that the extent of such discarding was so large that, together with the large volumes caught and landed, it made fish mortality so high that several fish stocks were outright threatened. According to the Government, Swedish fishermen discard 5–20 per cent of all the cod that they catch, 50 per cent of all Norway lobster, 85 per cent of all whiting and more than 50 per cent of all plaice, witch flounder and haddock. The main reasons for throwing fish overboard are that they must not be landed because they are too small, that the catch would fetch too low a price or that the quota is exhausted.⁸⁵ The discarding of catches that could be

⁸² E-mail message from the Board of Fisheries, 18 September 2008. About 95 per cent of the Swedish landed value relates to species covered by quotas; see Committee Report 2007/08:MJU2, Annex 3, p. 97. See Riksdag Report 2007/08:RFR3, *Uppföljning av de fiskepolitiska insatsernas resultat och konsekvenser för företag inom fiskeområdet* ['Follow-up of the results and impacts on companies in the fisheries field of actions of fisheries policy'], p. 133.

⁸³ See Government Bill 2002/03:41, p. 12 ff., Committee Report 2002/03:MJU16, Riksdag Written Communication 2002/03:173.

⁸⁴ E-mail message from the Board of Fisheries, 18 September 2008.

⁸⁵ Government Written Communication 2005/06:171, *Vissa fiskeripolitiska frågor* ['Certain issues of fisheries policy'], p. 52 f.

landed under the applicable rules but would fetch too low a price is called 'high-grading'. This practice is prohibited in Denmark since 2002. Under the Danish rules, any fish caught that may be landed under Community rules must be brought ashore. The Swedish Government stressed in 2006⁸⁶ that a similar prohibition should be introduced without delay in Sweden, despite the problems associated with monitoring compliance. The Board of Fisheries intends to introduce a prohibition against high-grading in 2008.⁸⁷

4.5 Summary of findings

- The Board of Fisheries has failed to present information about the fishing effort in its annual reports. The Government has failed to request such information in its appropriation directions for the Board. As a result, it is not possible to assess compliance with the objective of a balance between the fishing effort and the quota allocated;
- There is significant national discretion as regards conservation measures. This relates to important policy instruments such as minimum sizes of finfish and shellfish as well as the issuance of permits and licences. As regards the minimum sizes of fish and minimum mesh sizes of fishing gear to be permitted, the Board of Fisheries has generally chosen not to introduce more stringent rules than those stipulated by the EU. Individual licences for fishermen may be used as a policy instrument to a greater extent, for example in that such licences may be restricted to certain fisheries. The Board has made use of these powers only for a small part of the total number of valid licences. The Board could also use vessel permits more actively to change the structure of the fishing fleet. For example, it could limit the validity of vessel permits depending on the size of the fishing quotas allocated;
- The Riksdag Committee on Environment and Agriculture has stated that restrictions on the conduct of fisheries based on species and geographical areas should be used as more active instruments of fisheries management;
- The Board of Fisheries finds it difficult to distinguish conservation measures and their costs. This makes it very difficult to assess the cost-effectiveness of such measures;

⁸⁶ *Ibid.*

⁸⁷ Notification of this matter has been made to the European Commission; the matter is still being prepared by the Board of Fisheries. See e-mail message from the Board of Fisheries, 28 August 2008.

- The Board of Fisheries has failed to compile information about special fishing permits and their use. This means that it cannot be assessed whether the issuance of special permits has been in line with the objectives of fisheries policy;
- The European Commission has criticised Sweden for failing to comply with CFP rules on fishing permits. Sweden had failed to ensure that fishing vessels flying the flag of Sweden notified the types of fishing gear that they intended to use before entering certain fishing zones for which a permit is required;
- Most part of the Swedish quotas, in terms of landed value, has not been allocated at the level of individual vessels. The quotas that the Board of Fisheries allocated to coastal fisheries and/or regional measures constituted a small part of the total quotas;
- A Swedish prohibition against discarding fish at sea has been delayed but is being prepared.

5 Structural measures

The Swedish fishing fleet has had overcapacity for a long time. To achieve the objectives of fisheries policy, one important task is to bring about a balance between the capacity of the fishing fleet and the quotas.

The Board of Fisheries has estimated the capacity reduction that the fishing fleet will need to undergo until 2015 in order for fishing companies to become commercially viable. These estimates show that overcapacity is at least 50 per cent for cod-fishing vessels, at least 30 per cent for pelagic trawlers and at least 10 per cent for shrimp trawlers.

Structural assistance is decided in the framework of the CFP. Such assistance may be given for a wide range of purposes, including to compensate commercial fishermen who wish to stop fishing and scrap their vessel as well as to promote the further development of fishing gear.

Besides structural assistance, the Swedish central government has influenced the economic conditions and structure of the fisheries sector through exemptions from fuel taxes and through special rules on unemployment benefit.

Fact box

To reduce the overcapacity of the fishing fleets of the EU and to bring about a balance between capacity and available fishing quotas, the 'reference levels' must not be exceeded. The reference levels refer to the total capacity of the fishing fleet expressed as engine power and gross tonnage. When a vessel is scrapped using structural assistance, the capacity that it represents must be withdrawn from the fishing fleet, meaning that the reference levels of the Member State concerned will be reduced by the corresponding capacity. This will ensure that the fishing fleet cannot grow but will instead progressively shrink through use of structural assistance.

5.1 Requirements and opportunities

The fundamental principle under which the EU has an exclusive right of decision within the CFP applies to structural measures as well.⁸⁸ However, the Member States enjoy considerable national discretion.

Under Community rules, the Member States are to put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and

⁸⁸ See Section 4.1.1 about the judgment of the European Court of Justice in Case 804/79, *Commission v United Kingdom of Great Britain and Northern Ireland* (paragraphs 17, 18, 28 and 29, *inter alia*).

enduring balance between fishing capacity and fishing opportunities (i.e. the catches allowed according to the quota allocated). To do this, they must ensure that the reference levels set for their fishing fleets are not exceeded.⁸⁹

One objective of structural assistance in the 2000–2006 period, which is managed through the Financial Instrument for Fisheries Guidance (FIFG), was to contribute to achieving a sustainable balance between fishery resources and their exploitation.⁹⁰ At the national level, Member States are to ensure that fleet-restructuring interventions under the Community programmes of structural assistance are consistent with their obligations under the CFP.⁹¹ For the 2007–2013 programming period, which is managed through the European Fisheries Fund (EFF), one objective remains to promote a sustainable balance between resources and the fishing capacity of the Community fishing fleet.⁹²

There are special ceilings and floors for both programming periods as regards Community financing relative to national financing.⁹³ For the 2000–2006 period, the EU also stipulated maximum allowed levels of assistance for individual beneficiaries, and the Commission had to approve the programmes of the Member States down to individual measures.⁹⁴ In other respects,

⁸⁹ To comply with the reference levels, the EU has introduced an entry/exit scheme for fishing vessels in the fishing fleets of Member States. Under this scheme, in principle, the entry of new capacity into the fleet without public aid has to be compensated for by the withdrawal of the same amount of capacity. The entry of new capacity into the fleet with public aid has to be neutralised by the withdrawal of at least the same amount of capacity for vessels up to 100 GT; for vessels of more than 100 GT, at least 1.35 times the amount of capacity has to be withdrawn from the fleet. If public aid is granted for scrapping, the capacity withdrawn will be automatically deducted from the reference levels for the capacity of the country concerned. See Articles 11–13 of Council Regulation (EC) No 2371/2002. Chapter 4 of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716) lays down more detailed provisions on structural measures, etc., relating to the fisheries sector; the Government's powers to issue that Ordinance are laid down in Section 2 of the Act on Community Regulations relating to the Common Fisheries Policy (SFS 1994:1709).

⁹⁰ Article 1(2) of Council Regulation (EC) No 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance (FIFG). The measures implemented under the FIFG are divided into programmes depending on the region concerned. For regions eligible for support under Objective 1 of the general Structural Funds, the FIFG measures are included in programming for that Objective. For regions outside Objective 1, the FIFG measures are governed by a single programming document for each Member State. In Sweden, the FIFG includes three programmes: Outside Objective 1, Objective 1 Upper Norrland and Objective 1 North-Central Sweden.

⁹¹ Article 2(4) of Council Regulation (EC) No 1263/1999.

⁹² Article 4(b) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund (EFF).

⁹³ Article 53(4) of Council Regulation (EC) No 1198/2006 stipulates that the minimum contribution from the EFF is to be at least 20 per cent of total public expenditure per 'priority axis'. This could mean that the SEK 70 million contributed annually by the EFF could be expanded to just over SEK 350 million through the addition of Swedish public funds.

⁹⁴ Annex IV of Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. For the 2000–2006 period, the EU also allowed 'increased scrapping premiums'. The aim was to assist Member States in achieving additional reductions in fishing effort resulting from recovery plans adopted by the Council. See Article 2 of Council Regulation (EC) No 2370/2002 of 20 December 2002 establishing an emergency Community measure for scrapping fishing vessels and Article 19(3) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds.

subject to certain specific conditions, the EU authorised the Member States to provide structural assistance to the fisheries sector in a number of areas. The areas eligible for assistance were renewal and modernisation of the fleet, small-scale coastal fishing and socioeconomic measures. The latter category included 'vessel grants', for which the EU specified eligible purposes but left detailed conditions and amounts to the national discretion of the Member States.⁹⁵

For the 2007–2013 structural-assistance period, the EU has increased the national discretion granted to the Member States compared with the previous period. The Commission no longer has to approve national programmes at such a detailed level as individual measures. The objectives of the structural-assistance period will be pursued in the framework of a partnership between the Commission and each Member State. Responsibility will be exercised at the appropriate territorial level in accordance with the institutional arrangements of each Member State and the Community rules.⁹⁶

Besides structural assistance, Member States decide themselves on direct and indirect subsidies for the fisheries sector.⁹⁷ As regards energy and carbon-dioxide taxes on fuel, Member States enjoy national discretion since 2004 to decide whether commercial fisheries (i.e. open-sea fisheries not relating to international transport as well as freshwater fisheries) are to be exempt from such taxes or not.⁹⁸

To sum up, the Community rules lay down certain requirements intended to ensure that the overall aims of Community legislation are achieved. In the framework of these requirements, Member States enjoy national discretion; the way in which they exercise direction over funds at the national level is vital to the impact and cost-effectiveness of their actions.

The Riksdag has called for more efficient control and monitoring of assistance on several occasions. It considers that the scrapping premiums could be more efficiently targeted against the parts of the fishing fleet where there is overcapacity.⁹⁹ According to its Committee on Environment and Agriculture, the requirements relating to the entry into and withdrawal from the fishing fleet of vessels should be used as more active instruments of fisheries management.¹⁰⁰

⁹⁵ Articles 8–12 of Council Regulation (EC) No 2792/1999. See also the e-mail message from the Board of Fisheries of 24 July 2008.

⁹⁶ Articles 8 and 9 of Council Regulation (EC) No 1198/2006.

⁹⁷ Importantly, however, any such support must comply with Community rules on State aid.

⁹⁸ See Section 5.4 below.

⁹⁹ Committee Report 2006/07:MJU2, p. 35, Riksdag Written Communication 2006/07:67–68; Committee Report 2007/08:MJU2, p. 39, Riksdag Written Communication 2007/08:93.

¹⁰⁰ Committee Report 2003/04:MJU13, p. 21, Riksdag Written Communication 2003/04:186.

5.1.1 *Swedish legislation and regulation*

The Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716) lays down more specific rules on requirements for EU assistance.¹⁰¹ Under that Ordinance, the assistance provided must not exceed the levels stipulated in the Community Regulations.¹⁰² The Board of Fisheries supplements and restricts the rules on structural assistance through the agency regulations included in its Code of Statutes (FIFS).¹⁰³ Swedish levels of assistance were significantly lower than the Community ones during the 2000–2006 programming period.¹⁰⁴ In conjunction with a few special scrapping campaigns, assistance levels have temporarily been raised to the maximum amount allowed by the EU.

5.2 Use of structural assistance

5.2.1 *One-tenth of structural assistance has been used for scrapping*

In recent years, structural assistance to the fisheries sector has amounted to about SEK 150 million per year. This assistance is largely financed from Community funds; see the table below. Member States have considerable scope for deciding how much assistance to apply for and how to distribute the assistance granted to them among areas of intervention.

Sweden has chosen to spread its assistance across a very large number of areas of intervention. The single most important type of assistance in Sweden is grants for processing and marketing (20 per cent), i.e. a type of assistance that does not directly benefit the fishing fleet.

About one-tenth of the assistance has been used for scrapping premiums. The aim of such premiums is to reduce the capacity of the fishing fleet. Sweden uses slightly less of its assistance for scrapping premiums than the EU average. Some countries used a significantly larger proportion of their

¹⁰¹ Chapter 4, Section 9, of the Ordinance (SFS 1994:1716) as amended until 30 April 2008.

¹⁰² Chapter 4, Section 1(2), of the Ordinance (SFS 1994:1716) as amended until 30 April 2008. After that date, the Ordinance contains no rules on amounts of structural assistance to the Swedish fisheries sector.

¹⁰³ Regulations of the Board of Fisheries on State aid for the fisheries sector (FIFS 2001:1).

¹⁰⁴ *Ibid.*, Section 4. For example, Section 4 of FIFS 2001:1 allowed a maximum national premium of SEK 8,000 per GT for the scrapping of fishing vessels. This translated into a maximum total premium amount of SEK 800,000–2,392,000 for vessels of 100–299 GT. According to the Community scales, the premium for the scrapping of vessels in that size range could be EUR 2,700 per GT and a lump sum of EUR 232,000. This corresponded to about EUR 4,800,000–9,900,000 (at an exchange rate of EUR 1 = SEK 9.5); see Table 1 of Annex IV of Council Regulation (EC) No 2792/1999.

structural assistance for scrapping premiums; for example, Poland used 38 per cent of the assistance granted to it for that purpose.¹⁰⁵

A smaller part of the assistance – a total of SEK 1.2 million for the entire 2000–2006 period – has been used for the development of fishing gear. One aim of such measures is to increase the sustainability of fishing by reducing by-catches.

Until 2004, funds were also granted for the new construction of fishing vessels. Since then such support is no longer permitted under the CFP.¹⁰⁶

Table 8. Structural assistance to the Swedish fisheries sector in 2002–2007, net disbursed funds, SEK million

Year	2002	2003	2004	2005	2006	2007
Community structural assistance	85	77.3	80	76	89.3	56.1
Domestically financed structural assistance*	61	61.7	63.1	53.2	69.3	39.9
Total assistance	145.9	139	143.1	129.2	158.6	96.1
Of which assistance targeting the fishing fleet**, including scrapping premiums	45.6	19.3	13.7	5.3	14.4	5.1

Source: Data processed by the Board of Fisheries.

* Domestically financed structural assistance includes the appropriations allocated to the Board of Fisheries and other Swedish financing.

** Above all scrapping, new construction and the vessel grants paid when fishing activities are suspended, i.e. measures targeting the fishing fleet.

The assistance is disbursed retroactively, meaning that payments made in 2007 relate to the 2000–2006 period of assistance. No disbursements have yet been made of assistance relating to the 2007–2013 period of assistance.

5.2.2 Weak demand for funds from the FIG

Swedish applications for funds from the Financial Instrument for Fisheries Guidance (FIG) have failed to attain the level allocated. It has thus not been possible to utilise structural assistance fully. Virtually all applicants who were formally eligible have been granted assistance. According to the interim evaluation carried out by the company Inregia AB at the request of the Board of Fisheries, the assistance had been governed by demand rather than by

¹⁰⁵ Relates to the use of the FIG from 2000 to 2005 inclusive. Eurostat, 2006.

¹⁰⁶ The 2001 programming document already included requirements for reductions in all segments of the fishing fleet except for vessels shorter than 12 metres using passive gear – a more environmentally friendly, small-scale type of coastal fishing.

the objectives that it aims to achieve.¹⁰⁷ The Board has fixed, in its agency regulations, a maximum amount for the scrapping premium which is significantly below the levels permitted by the Community rules.

Because of the weakness of demand, work in the context of the FIGG has focused on attaining a high level of utilisation, as regards both the decisions taken and the funds disbursed. This has been achieved both through targeted information measures and through well-developed cooperation between the county administrative boards and the Board of Fisheries. The Monitoring Committee¹⁰⁸ has decided reallocations within the programme to meet the demands and development needs of the sector.¹⁰⁹

5.2.3 *Unclear priorities for the next period of assistance*

The plans for the next period of assistance do not indicate what proportions of the resources are to be used for specific purposes such as scrapping premiums.

It is not clear from the national strategic plan for the Swedish fisheries sector in 2007–2013 drawn up by the Government Offices (ministries collectively) how large funds or how large a share of funds will be allocated to specific purposes such as the scrapping of vessels.¹¹⁰ Scrapping is part of a priority area which will receive 25 per cent of funds according to the plan. This priority area also includes funds for four other types of measures.

Sweden's proposed operational programme for the European Fisheries Fund in 2007–2013 has been drawn up by the Board of Fisheries. The company Ramböll Management performed a preliminary assessment of the proposed programme at the request of the Board. It found, among other things, that the programme is very broad, encompassing virtually everything that can be done under the Regulation.¹¹¹ In the final version of the programme, the Board claims to have taken account of the recommendations included in the evaluation by Ramböll Management.

¹⁰⁷ Inregia AB, *Halvtidsutvärdering av gemenskapens strukturåtgärder inom fiskesektorn 2000–2006* ['Interim evaluation of Community structural measures in the fisheries sector, 2000–2006'], December 2003. The SNAO's review of meeting minutes from the secretariat of the Monitoring Committee for the Fisheries Sector Outside Objective 1, 2002–2008.

¹⁰⁸ The task of the Monitoring Committee, which is appointed by the Member State, is to ensure the quality of the implementation of the programme. The Swedish Committee is chaired by the representative of the Ministry of Agriculture. Its members include representatives of county administrative boards, the Swedish Agency for Economic and Regional Growth (NUTEK), the European Commission and the fisheries sector. The Board of Fisheries provides its secretariat.

¹⁰⁹ Government Bill 2006/07:1, Expenditure Area 13, p. 62.

¹¹⁰ Each Member State has to draw up a national strategic plan to guide its national operational programme; see Article 15 of Council Regulation (EC) No 1198/2006 and Article 3 of Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund.

¹¹¹ The evaluation also showed that the programme was not complete and had to be amended or developed in many places to meet the requirements imposed by the Regulation on operational programmes.

However, the final programme still lacks clear priorities. It is not clear from the plan how money will be allocated among the various priority measures.

Different measures which are expected to contribute to different objectives are included in the same priority area. The final version includes five priority areas; in Priority Area 1 (there is no relative order of priority among Priority Areas 1 to 5) the following should be given special priority:

- scrapping of vessels to reduce the capacity of the fishing fleet;
- measures to increase the viability of small-scale fishing;
- socioeconomic measures, in particular to enhance the professional skills of young fishermen;
- selective fishing and prevention of damage caused by predators;
- improvement of working environment, safety and product quality.

No new appropriations have been granted; to achieve the Board of Fisheries' quantified objective of reducing the fishing fleet, the entire amount of national co-financing would – according to the Board – have to be used exclusively for scrapping premiums.

Instead, the plan entails that assistance will be given for a wide variety of measures, while experience from the previous period of assistance shows that interest in applying for funds was weak. Ahead of the new period of assistance, however, interest is very strong according to the Board of Fisheries: more than 20 applications for scrapping premiums have been received.¹¹²

5.3 Management and financial control of structural assistance

Each Member State has to issue guidelines on the design of national management and control systems for structural assistance.¹¹³ The national management systems for structural assistance under the FIFG are based on the following components.¹¹⁴

The national managing authority is responsible for the implementation of measures under the programmes of structural assistance. It must ensure that the special conditions governing assistance are complied with. It must also

¹¹² Website of the Board of Fisheries, 25 August 2008.

¹¹³ Article 2 of Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds. Among other things, Member States must ensure that managing and paying authorities receive adequate guidance on the provision of management and control systems necessary to ensure the sound financial management of the Structural Funds in accordance with generally accepted principles and standards. In particular, they must do so to ensure the correctness, regularity and eligibility of all claims on Community assistance.

¹¹⁴ Articles 9 and 34 of Council Regulation (EC) No 1260/99.

satisfy itself as to the technical capacity of beneficiaries, the financial viability of firms and their compliance with all provisions of the CFP before granting aid. If it emerges during the period of assistance that a beneficiary fails to comply with the provisions of the CFP, all or part of the assistance provided must be repaid in relation to the seriousness of the non-compliance.¹¹⁵

The paying authorities are responsible for ensuring that applications for disbursements from the programmes of structural assistance are presented in batches to the Commission. The paying authorities subsequently receive disbursements from the Commission.¹¹⁶

The Board of Fisheries is both managing and paying authority for the FIFG in Sweden. Its Resource Management Department is responsible for these functions.¹¹⁷ Decisions to grant assistance are made both by the Board of Fisheries and by county administrative boards. The latter have special secretariats in charge of preparing FIFG matters. There is also a special Monitoring Committee for the FIFG, whose members are appointed by the Government.¹¹⁸

The internal-audit function of the Gävleborg County Administrative Board used to be responsible for the 'EU audit' of the FIFG. From April 2008, this responsibility rests with the Department for the Audit of EU Structural Funds of the National Financial Management Authority.¹¹⁹

Member States must also ensure the financial control of assistance disbursed, in part to verify the effectiveness of their management and control systems. Financial checks must be carried out on a sample covering at least 5

¹¹⁵ Article 18 of Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector.

¹¹⁶ The paying authorities must also present 'declarations of expenditure' to the Commission in order to receive payments from the FIFG. See Article 32 of Council Regulation (EC) No 1260/99.

¹¹⁷ See Chapter 4, Sections 4–6, of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716), as amended until 30 April 2008. Under the supplementary Swedish rules, the Board of Fisheries must verify compliance with Community rules before any disbursement of assistance. If it finds that a disbursement would be in breach of Community rules, the Board must decide not to disburse the assistance in question and refer the matter back to the government agency or unemployment-benefit society that granted the assistance. The Board has been given, through delegation, the right to issue additional agency regulations on assistance and the handling by county administrative boards of matters relating to assistance, on the information required for disbursement of assistance and on the recovery of assistance disbursed. See Section 23(2) of the Ordinance on the Management of the EC Structural Funds (SFS 1999:1424), abrogated as per 1 March 2007.

¹¹⁸ See Chapter 4, Section 7, of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716).

¹¹⁹ Under Article 13 of Commission Regulation (EC) No 438/2001, Member States must inform the Commission by 30 June each year of their application in the previous calendar year of Article 10 of the Regulation, which relates to sample checks on operations in the framework of structural assistance; this is usually referred to as 'Article 13 reports'. Until and including 2007, this duty rested with the internal-audit function of the Gävleborg County Administrative Board. Then it was assumed by the Department for the Audit of EU Structural Funds of the National Financial Management Authority, which is also responsible for presenting a 'winding-up declaration' for the FIFG to the Commission. See Article 38(1)(f) of Council Regulation (EC) No 1260/1999 and Article 15 of Commission Regulation (EC) No 438/2001.

per cent of total eligible expenditure.¹²⁰ The Commission will accept no more than 2 per cent of incorrect checked eligible expenditure.¹²¹ In Sweden, responsibility for carrying out such checks rests with the Department of Fisheries Control of the Board of Fisheries.¹²²

5.3.1 High frequency of errors in granted and disbursed funds

The proportion of incorrect disbursements in Sweden is significantly larger than the 2 per cent accepted by the Commission; see the table below. The incorrect disbursements relate to funds both from the EU and from the Swedish central-government budget.

For the 2000–2006 period, the Board of Fisheries handled 2,688 applications for EU assistance. Assistance was granted in 2,653 cases.

Table 9. Structural assistance granted (SEK thousand) and accumulated* percentages of errors

Programme	FIFG EU funds Period of assistance 2000–2006	Total Swedish public funds, 2000–2006	Total public funds	Accumulated percentage of errors in 2006 according to the Dept. of Fisheries Control (BoF)	Accumulated percentage of errors in 2007 according to the Dept. of Fisheries Control (BoF)	Estimate of percentage of errors in 2006 ¹²³ calculated by the Resource Management Dept. (BoF)
Outside Objective 1	439,995	351,661	791,656	6.0%	5.4%	1.97%
Objective 1 Upper Norrland	41,202	18,678	59,880	29.8%	34.1%	2.3%
Objective 1 North-Central Sweden	27,986	7,795	35,781	11.6%	48.1%	10.3%

Source: Board of Fisheries (BoF), 18 June 2008.

* 'Accumulated percentage of errors' means that corrected errors have been subtracted while new errors have been added.

¹²⁰ Article 10 of Commission Regulation (EC) No 438/2001.

¹²¹ Decision of the Commission: Guidelines on closure of assistance (2000–2006) from the Structural Funds, Annex 2, Paragraph 3.7.

¹²² The total amounts checked represent the following proportions of total eligible expenditure for the 2000–2007 period: Objective 1 Upper Norrland: 14.2 per cent; Objective 1 North-Central Sweden: 13.4 per cent; and Outside Objective 1: 6.2 per cent. See Ekonomistyrningsverket, avdelningen för EU-revision [National Financial Management Authority, Department for the Audit of EU Structural Funds], *Systemrevision år 2007 avseende Fonden för fiskets utveckling (FFU) för programmen Utanför mål 1, Mål 1 Norra Norrland och Mål 1 Södra Skogslänen* ['System audit for 2007 relating to the Financial Instrument for Fisheries Guidance (FIFG) for the programmes Outside Objective 1, Objective 1 Upper Norrland and Objective 1 North-Central Sweden'], Audit report, Ref. No. 292/2008.

¹²³ Where the Department of Fisheries Control and the Resource Management Department of the Board of Fisheries differ in their opinion of appropriate measures to take, the Director-General of the Board will decide the measures, if any, to be taken in accordance with an agreement among the Department of Fisheries Control, the internal-audit function and the Resource Management Department. The percentages of errors stated by the Resource Management Department are those remaining after the matter has been decided by the Director-General, i.e. those matters where recovery or cancellation will occur. See the Board of Fisheries' reply of 18 June 2008 to the draft audit report drawn up by the National Financial Management Authority.

The table shows estimates of error frequencies calculated by the Department of Fisheries Control and the Resource Management Department of the Board of Fisheries.¹²⁴

As can be seen from the table, the share of incorrect disbursements is large for the programme relating to measures outside Objective 1 of the Structural Funds. For the programmes relating to Objective 1 Upper Norrland and Objective 1 North-Central Sweden, the shares are very large and, moreover, have grown.

External audit bodies, the internal-audit function of the Board of Fisheries¹²⁵ and the European Commission have all criticised the Swedish management of the three structural-assistance programmes under the FIGG. For a detailed description of this criticism, see Annex 3.

In December 2008, the Commission will determine the amount of the final payment from the FIGG. The total for the amounts which have been granted at the national level in Sweden but have not yet been reimbursed by the Commission was about SEK 48 million in mid-June 2008.¹²⁶

5.3.2 *The shortcomings in the management of assistance may lead to financial consequences*

Shortcomings in the management and control systems may lead to the Commission suspending part or all of the final payment for the 2002–2006 programming period.¹²⁷ If that happens, additional expenditure may have to be charged to the Swedish central-government budget, given that the disbursements concerned have already been decided. Further, any disbursements during the 2007–2013 programming period are conditional upon the certifying authority issuing, first, an initial opinion and, second, annual opinions during the period. The initial opinion will state whether the national system meets the Community requirements. The annual ones will examine the accuracy of the information presented by Sweden as a basis for disbursements by the Commission. If the initial opinion contains reservations relating to shortcomings and these are not remedied, Sweden may be

¹²⁴ E-mail message from the Board of Fisheries, 18 June 2008. As regards suspected irregularities, the Board of Fisheries has reported 15 matters to the European Anti-Fraud Office (OLAF) at the Commission. A report was also filed with the Swedish National Economic Crimes Bureau in four of these cases. E-mail message from the Board of Fisheries, 17 June 2008.

¹²⁵ Annual reports of the internal-audit function of the Board of Fisheries for the 2002–2007 financial years.

¹²⁶ This amount includes about SEK 44.5 million for Outside Objective 1, about SEK 2 million for Objective 1 Upper Norrland and about SEK 1.5 million for Objective 1 North-Central Sweden. See e-mail message from the Board of Fisheries, 18 June 2008.

¹²⁷ See Sections 1 and 2 of the Commission's Guidelines on the principles, criteria and indicative scales to be applied by the Commission departments in determining financial corrections under Article 39(3) of Regulation (EC) No 1260/1999. Brussels, 2 March 2001. C(2001)476.

deprived of EU assistance during the next period of 2007–2013 until the shortcomings are remedied. If the frequency of errors remains high during that period, the annual opinions of the certifying authority may lead to the Commission suspending payments.¹²⁸ These circumstances may, in turn, entail that a larger share of the cost of structural assistance will have to be borne by the Swedish central-government budget.

5.4 Exemption from taxes on energy and carbon dioxide

5.4.1 *Sweden may decide whether taxes on energy and carbon dioxide for the fisheries sector are to be levied*

The EU Member States previously had an obligation to exempt commercial fisheries in Community waters from excise duties on fuel (in Sweden: energy tax and carbon-dioxide tax).¹²⁹ Since 1 January 2004, however, each Member State may decide whether its fisheries sector – both freshwater and saltwater fisheries¹³⁰ – will continue to be exempt from taxes on energy and carbon dioxide.¹³¹ Sweden has kept the exemption.¹³²

¹²⁸ Articles 61(1)(e)(ii) and 71(2) of Council Regulation (EC) No 1198/2006. The annual opinions will state whether the management and control system functions effectively, so as to provide reasonable assurance that statements of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular. On 30 October 2008, the National Financial Management Authority submitted to the Government an initial opinion and a report on the Swedish management and control systems for the 2007–2013 programming period. The initial opinion must be presented to the Commission within 12 months of the approval of the operational programme; in the case of Sweden, this means that the opinion must be presented to the Commission by 19 December 2008. As presently worded, the opinion includes a number of reservations relating to shortcomings. See Ekonomistyrningsverket [National Financial Management Authority], Utlåtande jämte rapport om förvaltnings- och kontrollsystemens förenlighet utfärdad enligt artikel 71.2 rådets förordning (EG) 1198/2006 och artikel 50 kommissionens förordning (EG) nr 498/2007 [‘Opinion and Report on the compliance of the management and control systems issued under Article 71(2) of Council Regulation (EC) No 1198/2006 and Article 50 of Commission Regulation (EC) No 498/2007’], Ref. No. 10-209/2008, 30 October 2008.

¹²⁹ ‘Excise duties’ are all indirect taxes (except VAT) calculated directly or indirectly on the quantity of energy products and electricity at the time of release for consumption; see Article 4(2) of the 2003 Energy Tax Directive. Sweden has chosen to divide the harmonised excise duty into two separate taxes, one on energy and one on carbon dioxide. In addition, a national tax on sulphur which is not covered by the provisions of the 2003 Energy Tax Directive is levied on fuels; cf. Government Bill 2006/07:13, p. 50.

¹³⁰ Provided, in the case of saltwater fisheries, that the activities concerned do not include international or intra-Community transport; see note below.

¹³¹ See Articles 14(1)(c), 14(2) and 15(1)(f) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (the 2003 Energy Tax Directive). That Directive replaced Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils (the Mineral Oil Directive). The expression ‘Community waters’ in the first paragraph of Article 8(1)(c) of Directive 92/81/EEC, which corresponds to Article 14(1)(c) of the 2003 Energy Tax Directive, has been the subject of interpretation by the European Court of Justice in Case C-391/05; see e-mail message from the Legal Division of the Swedish Tax Agency, 30 May 2008. However, ‘international and intra-Community transport’ must always be exempt from tax; cf. Article 14(2) of the 2003 Energy Tax Directive.

The annual value of the tax exemption for the fisheries sector is more than SEK 200 million¹³³ – to be compared with a total net profit for this sector in 2006 of just over SEK 68 million.

One important objective of fisheries policy is to adapt the fishing effort to fishing opportunities, i.e. to the quotas allocated.

The tax exemption counteracts that objective because it contributes to making it significantly less expensive for fishermen to increase their fishing effort than it would otherwise be, even though a reduction of the fishing effort would in fact be desirable in several segments so as to achieve the objectives. For example, the marginal cost of hauling the trawl one more time is significantly lower than it would have been without the tax exemption.

A case in point: A bottom trawler consumes, on average, 1,000 litres of fuel per fishing effort.¹³⁴ This means that the value of the tax exemption is almost SEK 4,000 per fishing effort. What is more, the tax exemption makes 'high-grading' (throwing non-profitable catches back into the sea) more profitable than it would otherwise have been.

The objective of supporting small-scale coastal fisheries is also counteracted by the tax exemption. This is because large-scale trawling benefits the most from the exemption since it uses the most fuel. About half of all fuel is consumed by the 92 fishing vessels that are more than 24 metres long and conduct large-scale fishing. As a consequence, half of the value of the tax exemption – about SEK 100 million per year – accrues to the 92 largest vessels (out of the 1,267 active vessels in the fishing fleet). In other words, the average annual value of the tax exemption for the largest fishing vessels exceeds SEK 1 million per vessel.

The fisheries sector is in third place among Swedish industries when it comes to carbon-dioxide emissions relative to value added. In 2004, it emitted 461 kg of carbon dioxide per SEK 1 million of value added. For comparison, the Swedish private sector as a whole emitted, on average, 28 kg per SEK 1 million of value added.¹³⁵ The fisheries sector thus causes relatively very large emissions of carbon dioxide. Since this sector is exempt from taxes

¹³² This tax exemption is governed by Chapter 6a, Section 1(4), of the Energy Taxes Act (SFS 1994:1776).

¹³³ The total value of the tax exemption for the fisheries sector can be calculated in several ways, which is why several estimates are presented here. The tax on carbon dioxide is SEK 2,883 per cubic metre for all grades of oil while the tax on energy varies depending on the grade of oil. Taken together, the value of the tax exemption is then SEK 3.65 or 4.16 per litre depending on the grade of oil. The annual oil consumption in 2006 of all segments of the fisheries sector was 60,020,559 litres according to the Board of Fisheries. This means that the value of the tax exemption is between SEK 219.1 million and SEK 249.7 million.

¹³⁴ Swedish bottom trawlers were used for just over 25,000 fishing efforts in 2006. In that year, fishing vessels in this segment consumed just over 25 million litres of fuel. This means that the average fuel consumption per fishing effort was about 1,000 litres. Data on fishing efforts and fuel consumption in different segments have been obtained from the Board of Fisheries.

¹³⁵ Environmental accounts, Statistics Sweden.

on energy and carbon dioxide, incentives for using more energy-efficient engines or fishing methods are weaker than they would otherwise have been.

5.4.2 *The effects of the exemption from taxes on energy and carbon dioxide have not been reported on*

The Board of Fisheries has not reported to the Government on the negative effects of the tax exemption on several of the overall objectives of fisheries policy.

The Government, in turn, has not reported to the Riksdag on the negative effects that the tax exemption exerts on the likelihood of attaining the objectives of fisheries policy, nor on the fact that, since 2004, Sweden enjoys national discretion to determine whether the fisheries sector¹³⁶ should remain exempt from taxes on energy and carbon dioxide. These issues are not addressed in the Government Bill entitled *Anpassningar av energibeskattningen till energiskattedirektivet, m.m.* ['Adjustments of energy taxation to the Energy Tax Directive, etc.'] (Government Bill 2006/07:13) nor in the Government memorandum of 27 June 2006 entitled *Anpassning av energibeskattningen till energiskattedirektivet m.m.* ['Adjustment of energy taxation to the Energy Tax Directive, etc.'].¹³⁷

However, the Swedish Maritime Administration has explicitly discussed the issue of the tax exemption, also as regards the fisheries sector, including some possible consequences of the introduction of taxation.¹³⁸ The Administration stated in a 2004 report into the taxation of shipping fuel, which was drawn up at the request of the Government, that it had consulted the Swedish Environmental Protection Agency and the Swedish Tax Agency – but not the Board of Fisheries – as part of its work on the report. The fisheries sector enjoys a tax exemption in many countries but some, such as Estonia, seem to have exploited their national discretion to introduce some level of fuel taxation for the fisheries sector.¹³⁹

¹³⁶ This refers to saltwater fisheries that cannot be considered to include international transport as well as freshwater fisheries.

¹³⁷ Report 2006/07:SkU5 of the Riksdag Committee on Taxation, entitled *Anpassningar av energibeskattningen till energiskattedirektivet, m.m.* ['Adjustments of energy taxation to the Energy Tax Directive, etc.'], also does not address the issue of the tax exemption for the fisheries sector.

¹³⁸ Sjöfartsverket [Swedish Maritime Administration], *Beskattning av sjöfartens bränslen. Förutsättningar för och effekter av beskattning enligt det nya energiskattedirektivet. Slutredovisning av regeringsuppdrag* ['Taxation of shipping fuels. Conditions for and effects of taxation under the new Energy Tax Directive. Final report on a Government commission']. Ref. No. 0302-04-02397, 30 December 2004.

¹³⁹ Estonian Alcohol, Tobacco and Fuel Excise Duty Act, Section 74, which entered into force on 1 January 2007.

5.5 Assistance through unemployment-benefit societies

5.5.1 *Special rules on unemployment benefit for fishermen*

Commercial fishermen may receive unemployment benefit not only under the general rules but also when they cannot fish because of bad weather conditions or because the Board of Fisheries or the EU has decided to suspend fishing activities.

Unemployment benefit for fishermen is managed by the Swedish Fishermen's Unemployment Benefit Society (SFA). Unemployment insurance is funded by payroll tax and membership fees.

In 2007, the SFA paid out SEK 27.4 million, of which SEK 26.9 million to saltwater fishermen.¹⁴⁰ The number of days for which benefit was paid was 46,874. A total of 836 persons received benefit, meaning that, on average, each beneficiary received unemployment benefit for 56 days. The single largest reason for unemployment in 2007 was the suspension of fishing activities by the Board of Fisheries or the EU.

The SFA also manages payments of financial assistance ('vessel grants') as instructed by the Board of Fisheries. Vessel grants are intended as compensation for the fixed costs of fishing vessels during periods when the Board of Fisheries has suspended fishing activities.¹⁴¹ In 2007, cod-fishing companies received SEK 13.5 million in vessel grants for some of the periods during which fishing for cod was prohibited in the Baltic Sea. The reason given by the Board of Fisheries for the existence of this grant is that the Swedish cod-fishing vessels are in a difficult financial situation.¹⁴²

5.6 Effects of various structural measures

5.6.1 *Inadequate reporting on prolonged overcapacity in the fishing fleet*

The objective of adapting the capacity of the fishing fleet to the quotas requires a reduction of capacity, especially in certain segments. However, the trends do not indicate that the action of the central government has had such

¹⁴⁰ The SFA estimates that only a small part – about SEK 0.5 million per year in all – of total unemployment benefit is paid to freshwater fishermen.

¹⁴¹ Act on the Right for Recognised Unemployment Benefit Societies to Examine Matters of State Aid for Fishing Companies (SFS 1976:447), Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716), Regulations of the Board of Fisheries on State aid for the fisheries sector (FIFS 2001:1).

¹⁴² Fiskeriverket [Board of Fisheries], *Plan för anpassning av fiskeflottan: torskfiske i Östersjön* ['Plan for adapting the fishing fleet: Cod-fishing in the Baltic Sea'], 18 March 2008, Ref. No. 40-1337-08, p. 5.

an effect. On the contrary, the most recent estimates of the Board of Fisheries indicate an increase in overcapacity.¹⁴³

In the annual reports of the Board of Fisheries, overcapacity is reported only per fishery (per species). The Board has not specified the proportion of the capacity of the fishing fleet or the number of fishing vessels that would have to be taken out of use in order for balance to be achieved between the capacity and the quota or in order to attain commercial viability. The Government has failed to request such reporting in its appropriation directions for the Board.

5.6.2 *Shortcomings in reporting – the number of active fishing vessels has increased somewhat*

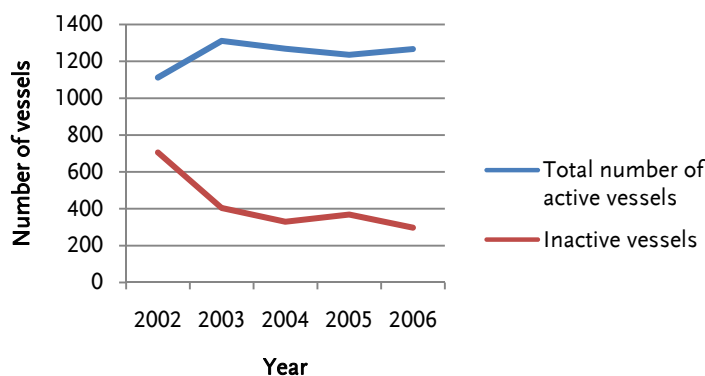
It cannot be determined from the annual reports of the Board of Fisheries how large a proportion of capacity is accounted for by active vessels. This is because inactive fishing vessels are also included in the figures.

Under Community rules, all fishing vessels – even those that have not recorded any catches – must be included in the ‘reference levels’.

According to the reports submitted by the Board of Fisheries to the European Commission, the capacity of the Swedish fishing fleet has fallen slightly. However, these reports include vessels that are inactive, i.e. that have not reported any catches. The reduction reported relates mainly to fishing vessels that were already inactive when they were removed from the fleet. If only active vessels are counted, by contrast, the capacity of the fishing fleet has increased somewhat, in terms of both engine power and gross tonnage.

¹⁴³ The programme complement for structural assistance to the fisheries sector outside Objective 1 in 2000–2006 included requirements for large reductions in several segments. There was no requirement for a reduction in Segment 1, but reductions of 2.2 per cent for Segment 2, 0.5 per cent for Segment 3, 26.4 per cent for Segment 4, 18.4 per cent for Segment 5 and 26.1 per cent for Segment 6 were required. Estimates in the operational programme for 2007–2013 show that the reductions necessary are even larger than those required under the previous programme. Capacity must fall by about 50 per cent for demersal cod fisheries and by 10 per cent for the shrimp segment. Further, there is overcapacity in the pelagic segment; the estimates indicate that about 30 per cent of capacity in this segment should be scrapped or otherwise removed from the Swedish fleet in order to achieve a balance between the capacity of the fishing fleet and the quotas.

Diagram 1. Changes in the numbers of active and inactive fishing vessels



Source: Data from the Board of Fisheries as processed by the SNAO.

5.6.3 *Different breakdowns of fishing vessels make comparison more difficult*

Comparison and overall analysis is made more difficult not only by the fact that some reports include fishing vessels with no catches but also by the fact that the Board of Fisheries presents data according to two different breakdowns into vessel segments.

Sweden decides whether to break down its fishing fleet into vessel segments and also what segments to use.

The Board of Fisheries has chosen its own breakdown into vessel segments which is not consistent with the breakdown into segments forming the basis of the Community Regulation on the collection of economic data on fisheries. This makes it more difficult to carry out the comparisons of data that are necessary, among other things, to perform a comprehensive overall analysis of trends for the fisheries sector relative to the overall objectives of fisheries policy. For example, it is difficult to compare value added or profits with capacity in the various segments. It is also difficult to compare economic data on, for example, fuel consumption with catches in the various segments or to compare value added with fishing effort. To make such comparisons, basic data at the level of individual vessels first have to be processed anew.

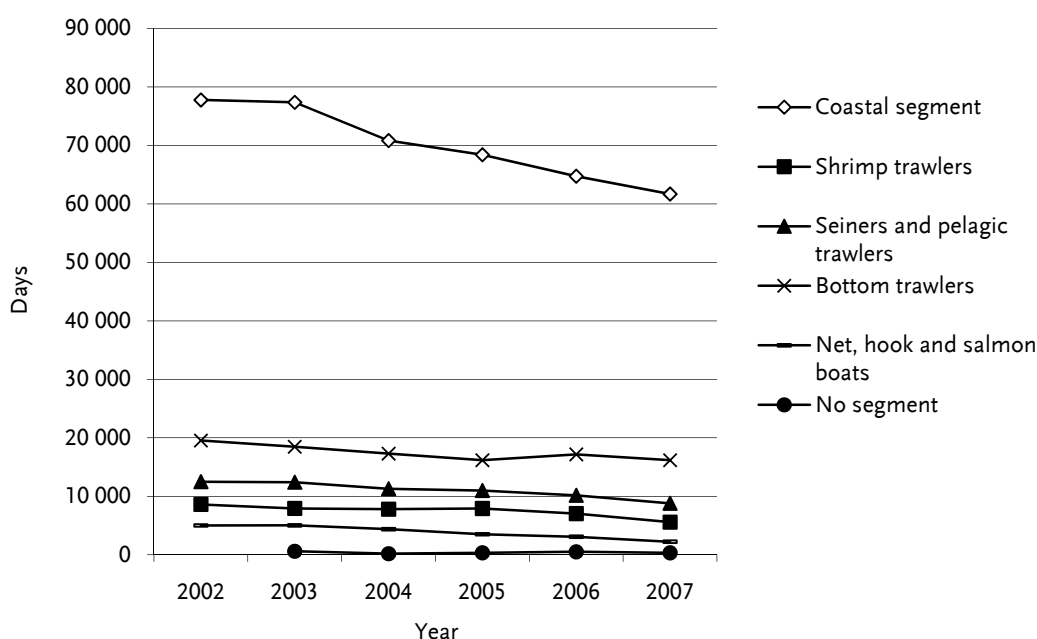
5.6.4 *Fewer days spent at sea by coastal fishermen*

The number of days spent at sea by fishing vessels has fallen over the 2002–2007 period. The coastal segment has accounted for most of this fall. Under the Riksdag's objective of socially sustainable development, employment

should be promoted above all in coastal fisheries; this aim is thus not reflected in the outcome.¹⁴⁴

Given that the number of active fishing vessels has increased somewhat over the period, the fall in the number of days spent at sea would indicate a reduction in the capacity utilisation of the fisheries sector.

Diagram 2. Number of days spent at sea per vessel segment



5.6.5 Reduced profitability of the fisheries sector

The value added¹⁴⁵ and net profit¹⁴⁶ of the fisheries sector have fallen over time. Trends for this sector have moved away from the objective of economically sustainable fisheries. See also the chart in Section 5.6.6.

The value added is what remains after the costs of inputs have been deducted from revenues. It should cover interest costs, other fixed costs, costs of labour including pay, and reinvestment.

The value added per vessel has fallen strongly over the period. While there is of course variation in the value added across vessels in the various

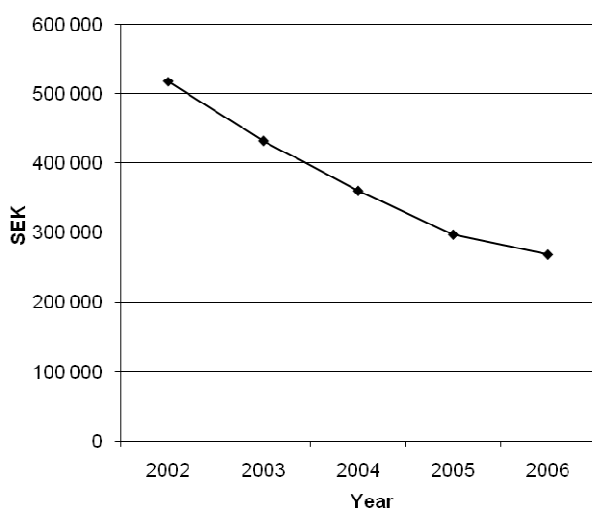
¹⁴⁴ The vessel capacity of coastal fisheries has also fallen.

¹⁴⁵ The SNAO has used data from the Board of Fisheries on the value added at current prices of the saltwater fisheries conducted by the Swedish fishing fleet. Statistics Sweden reports other data in the national accounts. One important difference is that the data published here refer only to saltwater fisheries. The national accounts cover the entire fisheries sector, i.e. including freshwater fisheries and aquaculture.

¹⁴⁶ Data from the Board of Fisheries on net profits of saltwater fisheries.

segments, the Board of Fisheries considers that the value added is often so low that it can hardly both cover all fixed costs and ensure that commercial fishermen receive reasonable pay.¹⁴⁷

Diagram 3. Value added per vessel (excluding inactive vessels)



Source: Board of Fisheries.

5.6.6 Support for fisheries is almost as large as its value added

The total value of the direct and indirect financial support¹⁴⁸ provided to the fisheries sector in 2006 was SEK 283 million; in that year, the value added of the sector was SEK 340 million.

Spending on direct and indirect financial support for commercial saltwater fisheries amounts to the following:

- structural assistance: SEK 5.1 million (net payments made in 2007);
- unemployment benefit for commercial fishermen when fishing activities are suspended: SEK 26.9 million (2007);
- vessel grants for fishing companies when fishing activities are suspended: SEK 13.5 million (2007);
- exemption from fuel taxes: SEK 222.4 million (2006).

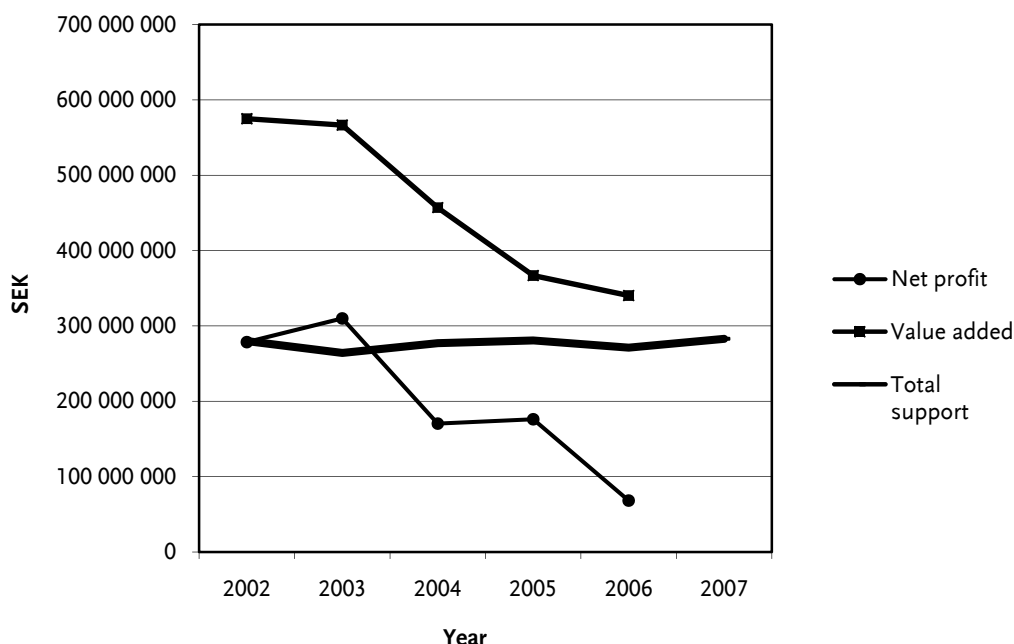
For large bottom trawlers (24–40 metres), the value of the tax exemption exceeded average value added in both 2005 and 2006.¹⁴⁹ On average, the value

¹⁴⁷ Website of the Board of Fisheries, 14 August 2008.

¹⁴⁸ The other costs to society of fisheries policy, such as for fisheries control, are not included in this estimate.

of the exemption from fuel taxes was about SEK 1.255 million per vessel in this segment. The value added per vessel was about SEK 1 million. To this should be added direct and indirect financial support in the form of unemployment benefit and vessel grants when fishing activities are suspended as well as the part of structural assistance that may have gone to this sector, but these items would require considerable processing to be broken down per segment. On average, vessels in this segment recorded a loss of almost SEK 300,000 per vessel in 2006 despite the tax exemption and any assistance that they may have received.¹⁵⁰

Diagram 4. Value added and net profit of the fishing fleet relative to direct and indirect support



Source: Data from the Board of Fisheries (value added, net profit and the fishing fleet's share of structural assistance), the Tax Agency (rates of tax on energy and carbon dioxide)¹⁵¹ and the Swedish Fishermen's Unemployment Benefit Society (vessel grants and unemployment benefit), as processed by the SNAO. The Board of Fisheries had not completed its data on fuel consumption for 2007 at the time of publication of this report. The 2007 value of the tax exemption used in the chart is based on average fuel consumption in 2002–2006 and the tax rates applicable in 2007.

The Swedish Fishermen's Unemployment Benefit Society has estimated that about SEK 500,000 of unemployment benefit is paid to freshwater fishermen each year. For this reason, SEK 500,000 per year has been deducted to ensure that the chart refers only to saltwater fishermen.

¹⁴⁹ Data for 2007 were not available from the Board of Fisheries at the time of publication of this report (November 2008).

¹⁵⁰ This information is based on data from the Board of Fisheries on fuel consumption, value added and net profit as well as tax rates provided by the Tax Agency.

¹⁵¹ For liquid fuels, the fisheries sector is also exempt from a sulphur tax of SEK 27 per cubic metre for each one-tenth of one per cent of sulphur by weight; this exemption has not been considered in the above estimate.

5.6.7 *Different policy instruments counteract each other*

An individual fisherman who is thinking of applying for a scrapping premium will weigh profit opportunities, opportunities to receive financial support and the tax exemption against the level of the scrapping premium. This means that the higher the level of direct and indirect financial support for the fisheries sector, the higher the scrapping premium will have to be in order to constitute a financially beneficial option.

Possibilities to use the scrapping premium as a cost-effective policy instrument to achieve a balance between the capacity of the fishing fleet and the available quotas are limited by various types of direct and indirect financial support for the fisheries sector. The Board of Fisheries has not informed the Government of this.

The level of interest shown by the fisheries sector for the scrapping premium has been even lower than it is at present; the Board of Fisheries claims that the situation has improved, with about twenty applications received in 2008.

5.7 **Summary of findings**

- The EU Member States have considerable national discretion as regards structural measures. Sweden has chosen to use about one-tenth of structural assistance for scrapping of vessels to reduce the overcapacity of the fishing fleet. Demand for assistance has been weak and all available funds have not been utilised during the 2000–2006 period of structural assistance. The plans for the next period do not indicate the amount of resources to be used for purposes such as scrapping premiums;
- The proportion of incorrect disbursements of structural assistance is significantly higher than the 2 per cent of errors accepted by the European Commission;
- There is increased national discretion since 2004 to decide whether the fisheries sector will be charged energy and carbon-dioxide taxes on ship fuel. The Government has not informed the Riksdag of this;

- The exemption of the fisheries sector from taxes on energy and carbon dioxide entails that increasing the fishing effort costs significantly less than it would otherwise have done, while a reduction of the fishing effort would instead be desirable in several segments to achieve the objectives. The objective of supporting small-scale coastal fisheries is also counteracted by the tax exemption: it favours large-scale trawling because it uses more fuel. The higher the level of direct and indirect financial support for the fisheries sector, the higher the scrapping premium will have to be in order to constitute a financially beneficial option. This means that the tax exemption counteracts the reduction of the overcapacity of the fishing fleet that is necessary to attain the objective of economically sustainable fisheries. The Board of Fisheries has not reported to the Government on the negative effects that the tax exemption exerts on several of the overall objectives of fisheries policy. The Government has not reported to the Riksdag on the negative effects of the tax exemption on the likelihood that several overall objectives of fisheries policy will be achieved;
- The Board of Fisheries has not specified, in its annual reports, the proportion of the capacity of the fishing fleet or the number of fishing vessels that would have to be taken out of use in order for balance to be achieved between the capacity and the quota or in order to attain commercial viability. The Government has also failed to request such information in its appropriation directions for the Board;
- The number of active fishing vessels has increased somewhat between 2002 and 2006;
- Comparison and overall analysis is made more difficult by the fact that some reports include fishing vessels with no catches and by the fact that the Board of Fisheries presents data according to two different breakdowns into vessel segments;
- The number of days spent at sea has fallen in the 2002–2007 period. This fall has above all affected the coastal segment;
- Total direct and indirect financial support for the fisheries sector amounted to SEK 283 million in 2006, while the value added of the sector was SEK 340 million in that year.

6 Swedish fisheries control

The main purpose of Swedish fisheries control is to ensure that Sweden does not exceed the quotas decided at the EU level and that the rules for the conduct of fisheries are complied with.

The Board of Fisheries has overall responsibility for fisheries control in Sweden. Among other things, this entails a duty to collect documentation from the fisheries sector. The Board must verify that the Swedish quotas are not exceeded and carry out various types of inspections.¹⁵² The Swedish Coast Guard is in charge of monitoring compliance with fisheries regulations at sea.

The total costs of fisheries control in 2007 were about SEK 44.7 million for the Board of Fisheries and about SEK 101.5 million for the Coast Guard.¹⁵³

6.1 Requirements and opportunities

The control system is to guarantee compliance with the provisions of the CFP, for instance ensuring that commercial fishermen have fished in accordance with the applicable rules and that their catches have been recorded. The Member States must ensure that controls are effective and have adequate resources. Within its territory, each Member State must ensure the best possible controls and carefully monitor the operations of the fisheries sector. The inspection and enforcement activities of the Member States must be carefully documented, and they must be effective and proportional and have a discouraging effect. The Member States also have a duty to ensure that appropriate action is taken against natural or legal persons who fail to comply with the provisions.¹⁵⁴

The Community rules on fisheries control are very detailed. In parallel with the rules laid down in the various Regulations, the Council of Ministers decides special 'benchmarks' for controls, such as for catches of cod.

¹⁵² The Board of Fisheries took over responsibility for landing inspections from the Coast Guard on 1 January 2007.

¹⁵³ These costs also cover inspections of recreational and freshwater fishing.

¹⁵⁴ Articles 23–25 of Council Regulation (EC) No 2371/2002 (part of Chapter V, 'Community Control and Enforcement System'), supplemented, *inter alia*, by Article 2 of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ('Control Regulation')

However, these benchmarks largely have a flexible design and leave scope for control samples to be based on national risk analysis.¹⁵⁵

The Swedish rules on control measures are decided by the Board of Fisheries.¹⁵⁶ These rules consist in part of provisions intended to facilitate the application of Community rules and in part of provisions which are subject to national discretion. They may also be more or less independent of the Community rules. What is more, it is often difficult to determine where the boundary is between rules facilitating Community requirements and rules reflecting the direction exercised by the Board under national discretion. It is also difficult, according to the Board, to determine which rules go beyond the Community Regulations.¹⁵⁷ Annex 2 of this report describes how the Board has made use of national discretion for some actions of fisheries policy.

The CFP requires reliable documentation so that fish can be traced from capture to consumption.¹⁵⁸

As regards cooperation with other government agencies, the Board of Fisheries has a duty to provide information to the Coast Guard¹⁵⁹ and others.

6.2 The control system

The control system is based on the documentation that fishermen have a duty to provide. Administrative and physical checks in several stages are performed on the basis of that documentation.

During each fishing journey, fishermen must record information on a logbook sheet about the location of each catch, the species caught, the weight

¹⁵⁵ See Article 24(2) and Annex I(4) of Council Regulation (EC) No 1098/2007. For the level of inspection in port, the Council specifies that, as a general rule, the accuracy to be achieved should be equivalent to what would be obtained by a simple random-sampling method, where inspections should cover 20 per cent of all cod landings by weight in a Member State. Aerial surveillance and inspections at sea are to be performed according to flexible benchmarks based on risk analysis. Only for marketing inspections of cod is a specific level fixed: Member States are to inspect 5 per cent of the quantities of cod offered for sale at auction.

¹⁵⁶ The Board of Fisheries' powers to do so are laid down, *inter alia*, in Chapter 2, Sections 7 and 14, and Chapter 5, Sections 1 and 4, of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716).

¹⁵⁷ Attachment of e-mail message from the Board of Fisheries, 28 August 2008, p. 8.

¹⁵⁸ See Section 2.1.3. The Board of Fisheries is responsible for recording and verifying information from fishing logbooks, landing declarations and sales notes as well as data from the satellite-based vessel-monitoring system (VMS). Such information and data are to be cross-checked so that any discrepancies will be detected. Since 1 January 2007, the Board is responsible for landing and quality inspections in Swedish ports. It must also perform inspections as to marketing standards (quality, categorisation by size, etc.) at auctions and other sales transactions at the first stage of marketing.

¹⁵⁹ By virtue of Chapter 5, Section 1(a), of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716), the Board of Fisheries must provide the Coast Guard with the information about fishing vessels, individual licences for fishermen and vessel permits that the latter needs for its operations in the context of fisheries control.

of the catch, etc.¹⁶⁰ When they land their catch they must draw up a landing declaration. The logbook sheets and the landing declaration must be submitted within 48 hours of the landing to the authorities of the Member State where the catch was landed. Coastal fishermen¹⁶¹ must submit, on a monthly basis, the corresponding information to the Board of Fisheries in coastal-fishing journals.

When the fish is sold, a sales note must be drawn up at the first stage of marketing. The sales note must also include information about the location of the catch, its weight and the species concerned. If the catch is not sold directly but transported to a place other than the landing location, it must be accompanied by a transport document which has to include more or less the same information as the landing declaration. Within 48 hours from the first sale or landing, the sales notes and, in some cases, copies of the transport documents must be submitted to the relevant authorities.

The information contained in logbooks and coastal-fishing journals is to be verified by the Member States. The Board of Fisheries will then monitor the utilisation of Sweden's quotas on the basis of that information.

The Swedish control system can be broken down into a number of types of inspections. All of these are part of a chain intended to cover the entire process from the capture to the final sale of the fish. In practice, these inspections consist of a number of control actions as specified in manuals and on control forms for the various types of inspections.

Table 10. Types of inspections

Type of inspection	Government agency responsible
Inspection at sea	Coast Guard
Landing inspection	Board of Fisheries (since 1 Jan 2007)
Transport inspection	Board of Fisheries
Trade inspection	Board of Fisheries
Quality inspection	Board of Fisheries
Document inspection	Board of Fisheries

When, during the implementation of one of the above-mentioned types of inspections, officials of the Board of Fisheries detect a suspected infringement, they will submit a report to the Board's own investigators. The investigators will then decide whether there is enough information to refer the matter to a public prosecutor, who may bring legal charges, or to take other action, such as revoking a permit. Since 1 August 2008, the Board may

¹⁶⁰ Chapter 6 of the Regulations of the Board of Fisheries on access to resources and controls in the field of fisheries (FIFS 2004:25).

¹⁶¹ Commercial fishermen who fish in the Skagerrak/Kattegat from vessels no longer than ten metres and commercial fishermen who fish in the Baltic Sea from vessels no longer than eight metres.

impose administrative sanctions – temporary suspension of an individual licence or payment of a fee – on fishermen who commit minor infringements.

If the Coast Guard detects a serious infringement at sea, it will submit a report to the Police, which will carry out a preliminary investigation into the matter. Infringements covered by the system of administrative sanctions are to be referred by the Coast Guard to the Board of Fisheries, which will examine the matter and make the relevant decisions.

6.3 The control system and the Community rules

6.3.1 *The Commission has repeatedly criticised Sweden for failing to ensure that its control system meets the requirements*

The European Commission has criticised Sweden on several occasions for failing to ensure that its national control system complies with the requirements laid down in Community legislation.

In 2006, Sweden received a letter of formal notice to the effect that Swedish public administration did not fulfil its obligations in relation to the recovery plan for cod and the monitoring of the landing of fish for industrial purposes, and that there were shortcomings in enforcement as regards infringements of CFP rules.¹⁶²

The Commission also evaluated the documentation of fish catches established by the countries around the Baltic Sea in 2005–2006. This evaluation showed that Sweden failed to comply with Community legislation in a number of respects. The observation that attracted the most attention was that the difference in weight between inspected and non-inspected landings of cod was about 21.5 per cent in Sweden. However, the Commission based its calculation on a limited sample of landings.¹⁶³

In 2007, the Commission's inspectors carried out three unannounced inspections of the Swedish control system as regards fishing for cod in the Baltic Sea. On all three occasions they found shortcomings both in reporting

¹⁶² European Commission (2006), *Formell underrättelse angående vissa krav på kontroll och övervakning av fiskeriverksamhet som föreskrivits i rådets förordning (EEG) nr 2847/93 om införandet av ett kontrollsystem för den gemensamma fiskeripolitiken* ['Letter of formal notice regarding certain requirements for the control and monitoring of fishing activities laid down in Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy'] (Commission Ref. No. SG-Greffe (2206) D/200550), Matter No. 2004/2270, 8 February 2006.

¹⁶³ European Commission (2007), *Evaluation Report of Catch Registration in Baltic Sea Member States 2005–2006*, European Commission, Directorate General for Fisheries and Maritime Affairs, Control and Enforcement, Fisheries Inspection, January 2007.

by the fisheries sector and in the enforcement action taken by the Board of Fisheries following infringements.¹⁶⁴

For 2007, the Commission estimated that the Swedish fisheries sector had systematically under-reported its catches of cod by 17 per cent. The estimate of under-reporting was based on the difference in weight between inspected and non-inspected landings for a sample of landings. When the Board of Fisheries had carried out calculations for all landings of cod in the eastern Baltic Sea, the estimate of under-reporting was revised to 8 per cent. The Board did not carry out corresponding calculations for landings of other species of fish.

As a result of the discovery of systematic under-reporting of catches by the fisheries sector, the Board of Fisheries suspended fishing for cod in the eastern Baltic Sea when 91 per cent of the quota had been reached in 2007.

Against the background of the shortcomings pointed out by the Commission, a written agreement was concluded between the Commission and the Department of Fisheries Control of the Board of Fisheries in which the Board undertook to implement a number of improvement actions. These actions were a prerequisite for the EU to continue providing financial support for the Swedish control system.¹⁶⁵

The matter before the Commission which was initiated by the letter of formal notice in relation to shortcomings in the control system has not yet been concluded. If Sweden fails to address the shortcomings in its control system, the next steps could be a reasoned opinion from the Commission and possibly infringement proceedings before the European Court of Justice for failure to fulfil obligations.¹⁶⁶ And if Sweden were to fail to abide by the judgment of the Court, the Commission could bring a new action before the Court to request that it impose a penalty on Sweden. The amount of such penalties can be very considerable.¹⁶⁷

¹⁶⁴ European Commission (2007), *Mission Report SE-2007-01-A, Mission Report SE-2007-02-A, Mission Report SE-2007-03-A*, Directorate General for Fisheries and Maritime Affairs.

¹⁶⁵ European Commission (2007), *Agreed Record of the Meeting on the Swedish Fisheries Control System in the Context of Financial Aid for Fisheries Control*, Gothenburg, 11 October 2007.

¹⁶⁶ Interview at the Directorate General for Fisheries and Maritime Affairs, 29 April 2008.

¹⁶⁷ In a case of infringement of the CFP, for example, France was ordered to pay a lump sum of EUR 20 million and a recurrent fine of about EUR 58 million per six-month period. An ongoing procedure may lead to Sweden being ordered to pay a penalty of about SEK 200 million for failing to comply with a judgment relating to failure to fulfil obligations in relation to the cross-compliance requirements of the single-payment scheme (SPS) of the Common Agricultural Policy (CAP) (Bernitz and Kjellgren, p. 131 f.; cf. Articles 226 and 228(2) of the EC Treaty).

6.4 Shortcomings and gaps in the control system

The total cost of fisheries control in 2007 was about SEK 44.7 million for the Board of Fisheries and just over SEK 101.5 million for the Coast Guard.¹⁶⁸ In that year, the Board made 732 landing inspections and the Coast Guard carried out 514 boardings of commercial-fishing vessels.¹⁶⁹

6.4.1 *Fishermen may establish their documentation after the fact*

One shortcoming of the control system is that documentation may be drawn up after the fact, before a boarding or landing inspection.

The rules require that information about the catch must be recorded in the logbook after each fishing effort, for example each haul of the net. However, a fisherman wishing to keep some of the catch from being recorded may postpone making the entry in the logbook. It is difficult for the Coast Guard to detect such infringements of the rules because fishermen have enough time to enter correct information after the fact once they see that a Coast Guard ship is preparing an inspection.

Similar problems exist for landing inspections: fishermen may postpone making entries for weight or species in the logbook until they discover that a landing inspection will be carried out. For non-inspected landings, fishermen and buyers may agree after the fact to indicate a weight or species different from the real one in the logbook and on the sales note.¹⁷⁰

6.4.2 *Fishermen are able to avoid inspections*

There are possibilities for fishermen to avoid being inspected. The following gaps and shortcomings in the control system facilitate evasion:

The main rule is that fish may be landed in any Swedish port. There are restrictions on landings of certain vulnerable species, however. For example, catches of cod from the Baltic Sea in excess of 750 kg may be landed only in around 40 ports specified by the Board of Fisheries.¹⁷¹

In 2007, the fisheries sector reported 41,635 landings. Of these, 732 were the subject of landing inspections by the Board of Fisheries. In the same year, the Coast Guard performed 514 boardings of fishing vessels.

¹⁶⁸ These total costs also include the costs of controls relating to recreational and freshwater fishing.

¹⁶⁹ The total costs of the control systems of the agencies include several items other than landing inspections and boardings of fishing vessels.

¹⁷⁰ One case that attracted a great deal of attention is the 'Pollack Case' at Varberg District Court, where catches of cod had been reported to the Board of Fisheries as pollack. In that case, the incorrect reporting amounted to 12 per cent of the cod quota. Swedish Radio, 'Ekot' news broadcast, 27 August 2008.

¹⁷¹ Chapter 9 of FIFS 2004:25.

The Board of Fisheries inspected less than 2 per cent of all landings in 2007 and carried out only four landing inspections at weekends, even though weekend landings amounted to 10 per cent of all reported landings.¹⁷² When the Board took over responsibility for landing inspections from the Coast Guard on 1 January 2007, ten employees were transferred from the Coast Guard to the Board; since then, the workforce involved in landing inspections has been expanded to 26 employees.¹⁷³

When the Board of Fisheries carries out landing inspections, its inspectors usually arrive in easily recognisable white vans with the text 'Board of Fisheries, Fisheries Control' very clearly visible on their sides.

Other types of inspections, such as transport and trade inspections, have been carried out only on a few occasions.¹⁷⁴

6.4.3 *Weak links in the chain of inspections, investigations and referrals to prosecutors*

There are weak links in the chain of inspections, investigations and referrals to public prosecutors managed by the Board of Fisheries and the Coast Guard. For example, the Board lacks the authority to impound fish, gear, fishing vessels and certain other objects.¹⁷⁵ Officials of the Board also cannot pass on tips about infringements committed by individual fishermen to the Coast Guard, since it is deemed that this would be in contravention of the Secrecy Act (SFS 1980:100).¹⁷⁶ The Coast Guard has no officials qualified to lead investigations into suspected crimes against fisheries legislation (even though it does for environmental crimes). Instead it refers suspected fisheries crimes to the Police for investigation, but according to the Board of Fisheries these matters are often given such low priority that they fall under the statute of limitation before reaching a court of law. When prosecutions are made and

¹⁷² Fiskeriverket [Board of Fisheries], *Landningskontroller januari–december 2007* ['Landing inspections, January–December 2007'].

¹⁷³ Fiskeriverket [Board of Fisheries], *Nationell handlingsplan för fiskerikontroll 2008–2011* ['National action plan for fisheries control, 2008–2011'], 29 February 2008, p. 8,

¹⁷⁴ Interviews at the Board of Fisheries on 19 and 28 March 2008 and at the Fisheries Skills Centre on 6 May 2008.

¹⁷⁵ The Ministry of Agriculture has drawn up a memorandum containing a proposal for an amendment to Section 47 of the Fisheries Act (SFS 1993:787). This amendment would give officials of the Board of Fisheries the right to impound fish, gear, fishing vessels and certain other objects. The memorandum has been circulated for consultation, but any legislation based on it is unlikely to be enacted before 1 January 2009 at the earliest. SOU [Swedish Government Official Reports] 2008:55, *KBV:s framtida roll i brottsbekämpningen* ['The future role of the Coast Guard in law enforcement'], p. 582.

¹⁷⁶ Interview at the Fisheries Skills Centre on 6 May 2008.

convictions handed down, the punishment is often mild compared with the value of the illegal catches.¹⁷⁷

Since 1 August 2008, however, the Board of Fisheries may impose sanctions for certain infringements in the context of commercial fisheries without first having to refer the matter to a court of law.¹⁷⁸

6.4.4 *Risk analysis has been poorly developed so far*

With high-quality risk analysis, controls can be targeted to obtain the largest possible effect. The Riksdag Committee on Environment and Agriculture has stressed on several occasions since 2002 how important it is to ensure that the Board of Fisheries and the Coast Guard base their control activities on risk analysis.¹⁷⁹

Ensuring that control activities are based on risk analysis was also stated as an explicit objective in the Government's appropriation directions for the Coast Guard until 2007. However, the Government has not established a corresponding objective in its appropriation directions for the Board of Fisheries, despite the fact that the Board has overall responsibility for fisheries control.

The first attempt to use risk analysis to select a sample of entities and types of fisheries to be inspected was carried out in 2002.¹⁸⁰ The risk analysis in question, however, was operational rather than systematic given that it was based mainly on high-risk entities already identified as such.¹⁸¹ Even so, inspections have targeted cod-fishing and pelagic fisheries to some extent.

The purpose of basing inspection planning on systematic risk analysis is to ensure the efficiency and effectiveness of inspections. The analysis should include variables such as biological impact, economic importance and propensity to cheat.

¹⁷⁷ Fiskeriverket [Board of Fisheries], *Den svenska användningen av sanktioner i ärenden om överträdelse av fiskebestämmelser – erfarenheter och förslag* ['Swedish use of sanctions in matters of infringement of fisheries rules – experiences and proposals'], Report.

¹⁷⁸ The decisions made have the same legal force as the judgments of general courts. Any fines imposed are based on strict liability, meaning that the fine must be paid regardless of whether the infringement was committed intentionally or through negligence. The amount of these fines is in the range of SEK 2,000–25,000. When imposing a fine, the Board of Fisheries may also suspend individual licences for fishermen and vessel permits for a limited period of time if the infringement is serious or the same infringement has been committed three times. Website of the Board of Fisheries, 4 September 2008.

¹⁷⁹ In a 2002 report on guidelines for Sweden's actions in the context of the review of the CFP, the Riksdag Committee on Environment and Agriculture stresses the importance of urgently improving fisheries control. The risk-based system for fisheries control implemented by the Board of Fisheries and the Coast Guard should be evaluated and enhanced on an ongoing basis, and these government agencies should report annually on the measures they have taken; see Committee Report 2001/02:MJU23, Riksdag Written Communication 2001/02:321. The importance of risk analysis is also emphasised in Committee Report 2006/07:MJU14, pp. 29 and 31; according to the Riksdag Minutes, the Riksdag approved the comments of the Committee.

¹⁸⁰ Inspections have targeted pelagic fisheries and cod-fishing to some extent in 2002–2007.

¹⁸¹ Interviews at the Fisheries Skills Centre on 6 May 2008 and at the Coast Guard on 23 June 2008.

The Board of Fisheries is carrying out a project, begun in 2007, to develop a new model of risk-based fisheries control. The starting point of the analysis concerned is a risk-assessment plan drawn up on the basis of biological and economic conditions which have been linked to the risk of various types of infringements. The risk analysis will indicate a suitable orientation for fisheries control to ensure the efficient use of resources. The Coast Guard is also involved in this project.

6.4.5 *Inadequate coordination of controls by the two agencies*

Shortcomings in coordination between the control activities carried out by the Board of Fisheries and the Coast Guard, respectively, may reduce the effectiveness of controls.

The Board of Fisheries has overall responsibility for fisheries control, but planning and execution are the responsibility of the Coast Guard to some extent. The two agencies cooperate above all through the Fisheries Skills Centre in Gothenburg.

Only in exceptional cases have the agencies carried out control efforts where inspections at sea and landing inspections have been coordinated.¹⁸² So far there has also been no routine exchange of information between the ships of the Coast Guard and the landing inspectors of the Board of Fisheries.¹⁸³ The latter often do not know whether the fishing vessels that they inspect have already been inspected at sea by the Coast Guard. There are no procedures to ensure that Coast Guard staff will inform the Board of Fisheries when they suspect that an infringement has been committed at sea.¹⁸⁴ What is more, the Coast Guard's ships lack access to the system used by the Board of Fisheries to register inspection findings. As a result, information from inspections at sea carried out by the Coast Guard must be entered manually into the Board's system when the ship has returned to port.

¹⁸² So far, coordinated inspections have been carried out only as part of a pilot project on the west coast.

¹⁸³ According to an interview at the Fisheries Skills Centre on 6 May 2008, there is an ongoing pilot project on the west coast to enhance coordination between the types of inspections. If this project leads to a positive outcome, the intention is to implement it on a more general basis.

¹⁸⁴ Interview at the Coast Guard, 23 June 2008.

6.5 Costs and impacts of controls

6.5.1 Unclear presentation of costs and impacts

The Board of Fisheries has not carried out an overall analysis of the costs or impacts of the various types of inspections.

The SNAO has recommended, in a financial-audit report, that the Board of Fisheries should further develop its work on indicators to make it easier for readers of its annual reports to assess the impacts and compliance levels described there.¹⁸⁵

The Board of Fisheries started a project in 2007, with help from the National Financial Management Authority, to break down the overall objectives into concrete achievements and to monitor the impacts and costs of these achievements.¹⁸⁶

6.6 Summary of findings

- Sweden has repeatedly been criticised by the European Commission for failing to ensure that its control system meets the legislative requirements of the CFP;
- Commercial fishermen may draw up their documentation after the fact if they notice that a boarding or landing inspection is going to be carried out. This makes it very difficult for inspectors to detect cheating;
- Shortcomings in the control system make it possible to evade controls. The facts that fish may be landed in any Swedish port, that there are relatively few inspectors and that few inspections are made at weekends contribute to this;
- There are weak links in the chain intended to ensure that infringements of the rules of fisheries policy lead to sanctions. For example, the Board of Fisheries lacks the authority to impound fish, gear or fishing vessels. The Coast Guard has no officials qualified to lead investigations into suspected fisheries crimes (even though it does for environmental crimes). According to the Board of Fisheries, Police investigations of fisheries crimes are often given such low priority that they fall under the statute of limitation before reaching a court of law. When prosecutions are made and convictions handed down, the punishment is often mild compared with the value of the illegal catches;

¹⁸⁵ Riksrevisionen [SNAO], *Revisionsrapport 32-2007-0653* ['Audit Report 32-2007-0653'], 23 April 2008.

¹⁸⁶ Interview with the Head of the Executive Staff and the Head of the Financial Department at the Board of Fisheries, 12 June 2008.

- Risk analysis should identify the appropriate orientation of fisheries control with regard to the efficient use of resources. The risk analysis performed so far has been poorly developed;
- Shortcomings in coordination of the control activities carried out by the Board of Fisheries and the Coast Guard, respectively, may make fisheries control less effective. So far there has been no routine exchange of information between the ships of the Coast Guard and the inspectors of the Board of Fisheries. What is more, the Coast Guard's ships lack access to the system used by the Board to register inspection findings. Only in exceptional cases do the agencies carry out control efforts where inspections at sea and landing inspections are coordinated;
- There is no overall analysis of the costs and impacts of the various types of inspections.

7 Conclusions and recommendations

The overcapacity of the fishing fleet is an important reason why several fish stocks are overfished today.¹⁸⁷ This means that fishing must be reduced to more sustainable levels to give fish stocks a chance to recover.

Sweden's fisheries policy is part of the EU Common Fisheries Policy (CFP). The objectives of fisheries policy and the legislation governing it have changed in recent decades. While the objectives in the past used to be geared mainly towards development of the industry, they are nowadays designed to ensure a long-term sustainable development: economically, socially and environmentally. The objectives of this legislation are to ensure the viability of the fisheries sector, so that fishermen can earn a living; to promote employment in small-scale coastal fisheries; and to stop overfishing that threatens fish stocks.

The overall orientation of the CFP also entails a requirement for the EU Member States to apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine eco-systems.¹⁸⁸

The SNAO has examined whether the action taken by the Swedish central-government sector has been effective in promoting the intentions of the legislation governing fisheries policy and whether the Government and the various government agencies have fulfilled their obligations in the field of fisheries policy as laid down in that legislation.

The SNAO's general conclusion is that, overall, the action taken has been ineffective. In fact, Sweden is moving away from the objectives in several material respects even though the problems concerned have been known for a long time, many policy instruments are being used and public spending for this purpose is high. The Government and the government agencies have also failed to ensure full compliance with legislation.

Compliance with the economic objective of a viable fisheries sector is deteriorating. A large proportion of commercial fishermen are experiencing a

¹⁸⁷ Several fish stocks are overfished today, according to the International Council for the Exploration of the Sea (ICES) (*Baltic Sea Advice*, 2008). The important role of overcapacity, at the European level, in this context is clear from, e.g., the report *Reflections on the common fisheries policy* (Sissenwine and Symes, 2007) submitted to the European Commission. The Swedish Environmental Objectives Council's 2008 evaluation of the national environmental objectives, *Sweden's environmental objectives: No time to lose*, concludes (on page 154 in the Swedish version) that the overcapacity of the Swedish fishing fleet is an important reason for overfishing. This Council monitors and evaluates compliance with the national environmental-quality objectives. It was established by the Government to coordinate the work of different government agencies and ensure the efficient use of their resources.

¹⁸⁸ Article 2 of Council Regulation (EC) No 2371/2002.

reduction in profitability, and the level of net profit for the fisheries sector as a whole has fallen strongly in recent years. Compliance with the social objective of promoting employment in small-scale coastal fisheries is also deteriorating. The number of days spent at sea in the coastal-fisheries sector has fallen from just under 78,000 in 2002 to just under 62,000 in 2007. And the objectives relating to an environmentally sustainable development are also not being met. According to reports on the environmental objectives set by the Riksdag, the situation of several fish stocks is critical; in certain cases the situation has grown worse. What is more, the relative size of stocks of different species has changed considerably, which may have an impact on the maritime eco-system as a whole.¹⁸⁹

Sweden has repeatedly been criticised by the European Commission for failing to meet the requirements laid down in fisheries-control legislation. The extensive criticism levelled at Sweden has referred, among other things, to shortcomings in reporting by the fisheries sector and in the actions taken by Sweden in relation to infringements. On several occasions there have been major, systematic differences between inspected and non-inspected catches, which shows that the controls have failed to fulfil their purpose. Another area with shortcomings is structural assistance. A large proportion of assistance payments have been incorrect and the management of assistance by the Board of Fisheries has weaknesses.

Society's direct and indirect spending on the various policy instruments of fisheries policy exceeds the value added of the fisheries sector. The main spending items are:

- Spending on conservation measures is virtually impossible to account for in a simple way, according to the Board of Fisheries;
- Spending on various types of direct and indirect financial support for commercial saltwater fisheries amounts to:
 - structural assistance: SEK 5.1 million (net payments made in 2007);
 - unemployment benefit for commercial fishermen, *inter alia*, when fishing activities are suspended: SEK 26.9 million (2007);
 - vessel grants for fishing companies when fishing activities are suspended: SEK 13.5 million (2007);
 - exemption from fuel taxes: SEK 222.4 million (2006);

¹⁸⁹ The Environmental Objectives Council monitors and evaluates compliance with the national environmental-quality objectives. Information about the situation of fish stocks has been retrieved from its website, Miljömålsportalen.nu. The Council was established by the Government to coordinate the work of different government agencies and ensure that their resources are used in the most efficient way possible.

- Costs of fisheries control (total for both commercial and recreational fishing in both freshwater and saltwater):
 - SEK 44.7 million for the Board of Fisheries (2007);
 - SEK 101.5 million for the Coast Guard (2007).

7.1 The actions have not been effective in achieving the objectives

7.1.1 *Unclear prioritisation of objectives and policy instruments*

The Government has failed to establish a clear prioritisation of the various contradictory objectives. The Board of Fisheries has not used the large number of policy instruments in a strategic manner to achieve the objectives. These circumstances have contributed to making the action of the central government ineffective.

Despite the unclear prioritisation of the often contradictory objectives of economically, socially and environmentally sustainable development, the Government has vested the Board of Fisheries with far-reaching authority, including an extensive right to issue agency regulations and access to a wide variety of policy instruments. What is more, new policy instruments have been added as the objectives have been modified.

The Board of Fisheries, in its turn, has failed to decide a clear prioritisation as regards the results to be achieved by each of the policy instruments at its disposal. It has also failed to coordinate the various instruments in order to achieve the objectives. The lack of clear prioritisation has contributed to a failure by the Board to use the instruments effectively. Some instruments are not used at all, or not used to a sufficient extent to contribute effectively to enhancing compliance with the objectives. One example is the issuance and renewal of various permits and licences.

7.1.2 *No overall analysis of Sweden's national discretion*

The extent of Sweden's national discretion in fisheries policy has not been analysed and clarified. This is part of the reason why the actions of the central government have not been effective and transparent.

The Government and the Board of Fisheries have failed to perform an overall legal analysis, based on the objectives and intentions of the legislation, in order to identify the requirements imposed by the EU or to establish the extent to which the Government and the Board of Fisheries may use various policy instruments – despite the fact that the Government informed the

Riksdag as early as 2003 that there is room for Sweden's fisheries policy to develop in the framework of the Community rules through increased use of national discretion.

Because of the absence of such a legal analysis, there is no overview as regards what aspects can be decided by the Government or the Board of Fisheries at the national level and what aspects can be influenced only through negotiations at the EU level. In addition, this absence also leads to a lack of transparency for fishermen, who have no way of knowing which of the rules are a direct result of Community regulation and which ones have been decided by the Riksdag, the Government or the Board of Fisheries.

The use of certain policy instruments is governed by Community law and by international conventions. One example is the size of Sweden's catch quotas. Other instruments may be decided wholly or in part by Sweden. Examples include structural assistance as well as the issuance of various permits and licences. Yet other policy instruments are outside the field of fisheries policy as such but still exert a decisive influence over conditions for commercial fisheries and affect the extent to which the direct instruments can be used in a cost-effective way. Above all, this includes the exemption from taxes on energy, carbon dioxide and sulphur which has been granted to the fisheries sector.

In public debate, various interventions of fisheries policy are often presented as already decided by the EU. However, the legal analysis performed by the SNAO shows that there is considerable national discretion within the legal framework of the CFP. As regards structural assistance, the extent of national discretion has in fact increased progressively.

7.1.3 *More effective use can be made of national discretion*

There is considerable national discretion within the legal framework of the CFP, which the Government and the Board of Fisheries have failed to use effectively in order to attain the objectives.

Sweden may introduce its own – stricter – rules for Swedish commercial fishermen, but this opportunity has rarely been used. One example of a policy instrument that could have been used more effectively to achieve the objective of an environmentally sustainable development relates to minimum fish and mesh sizes. Most of Sweden's rules in this area correspond exactly to those of the EU.

Further, the Board of Fisheries could make more active and more extensive use of its power to issue agency regulations and permits. For example, vessel permits could be used more actively to change the structure of the fishing fleet and reduce its overcapacity. The Board could also allocate Sweden's quotas at the level of individual vessels to a larger extent, so as to

promote employment in coastal fisheries and thus help achieve that social objective. In addition, a larger share of structural assistance could be used to scrap fishing vessels in order to reduce the overcapacity of the fishing fleet, which would help achieve the economic objective of viability. A reduction of the capacity of the fishing fleet would also help reduce overfishing and thus contribute to the achievement of the objective of an environmentally sustainable fisheries sector, since threatened fish stocks would then have greater opportunities to recover.

Some rules are entirely national in nature. One example is Sweden's rules on individual licences for fishermen. This means that Sweden could take the size of quotas into account when renewing licenses rather than doing so only for new licenses, as it does at present. When these rules were introduced in 1993, the Government explicitly abstained from proposing a possibility to take fish stocks into account in the renewal of individual licences for fishermen.

There are also national policy instruments outside fisheries policy that have a large impact on the fisheries sector. Swedish fishing companies are exempt from taxes on energy, carbon dioxide and sulphur. This tax exemption counteracts the objectives of an economically, socially and environmentally sustainable development. The amount involved is just over SEK 200 million per year. Since 2004, the decision whether to grant such a tax exemption to the fisheries sector has been left to national discretion. The Government, however, has failed to inform the Riksdag of this.

7.1.4 *Material shortcomings in analysis and reporting*

There are important deficiencies as regards analysis and reporting to produce the information required to monitor compliance with the objectives. This makes it more difficult to determine priorities to ensure that policy instruments are used cost-effectively and lead to the desired impact in relation to the objectives.

Shortcomings in economic analysis and overview in reporting

Even though the Board of Fisheries is the authority responsible for fisheries policy, its reporting does not provide an overall view of the action taken by the central-government sector in the fisheries field. For example, there is no complete presentation of the direct and indirect financial support given to the fisheries sector. For the vessel segment of large bottom trawlers, the value of direct and indirect financial support exceeded value added in both 2005 and 2006; this has not been reported on.¹⁹⁰

¹⁹⁰ Data for 2007 were not available from the Board of Fisheries at the time of publication of this report (November 2008).

There are shortcomings in the evaluation and reporting by the Board of Fisheries of the costs and effects of various interventions. For instance, the Board finds it difficult to specify the costs of conservation measures. What is more, the Board does not measure the direct effects of all policy instruments. One example of a performance indicator for control measures would be the existence of systematic differences in weight or species between inspected and non-inspected catches.

There is also no overall analysis of the costs and effects of the various types of inspections.

As regards special fishing permits, the Board of Fisheries is unable to assess whether it has issued them in compliance with the overall objectives of fisheries policy.

Comparison and overall analysis is also made more difficult by the fact that some reports include fishing vessels having made no catches and by the fact that the Board of Fisheries presents data using two – mutually non-comparable – breakdowns into vessel segments.

Certain important information has not been requested by the Government and is not provided in the annual reports of the Board of Fisheries

Reducing overcapacity, i.e. achieving a balance between the capacity and activities of the fishing fleet in relation to the available quota, is an important objective of the CFP.

However, it is not clear from the annual reports of the Board of Fisheries how this capacity has developed over time in relation to the available quota. The Government has failed to make explicit requests for such information in its annual appropriation directions for the Board.

In its annual reports, the Board of Fisheries states that the capacity of the fishing fleet has fallen in recent years. It is not clear from its annual reports, however, that the number of active fishing vessels actually increased slightly between 2002 and 2006. The reason for this is that the Board's statistics include inactive vessels that have made no catches. Vessels scrapped were mainly inactive ones. The capacity in actual use of the fishing fleet has thus increased slightly.

The annual reports of the Board of Fisheries also include no information about the development of the fishing effort relative to available quotas.

Further, it cannot be determined on the basis of the annual reports of the Board of Fisheries what proportion of the capacity of the fishing fleet or what number of fishing vessels would have to be taken out of use in order for a balance to be achieved between the capacity and the quota or in order to attain commercial viability. The Government has failed to request such reporting in its appropriation directions for the Board.

Financial support counteracts achievement of objectives

The impact of various policy instruments on the objectives has not been the subject of analysis or reporting. Several policy instruments counteract each other. The Board of Fisheries has failed to perform an overall analysis of the ways in which the various policy instruments affect each other in relation to the achievement of the objectives.

The SNAO's compilation of information shows that the total value of direct and indirect financial support for the fisheries sector was SEK 283 million in 2006; the value added of the sector, according to the Board of Fisheries, was SEK 340 million in that year.

Use of the scrapping premium as a cost-effective instrument to reduce the overcapacity of the fishing fleet is made more difficult by various types of direct and indirect financial support for the fisheries sector. Examples of such support include unemployment benefit and vessel grants when fishing activities have been suspended as well as the exemption from taxes on energy, carbon dioxide and sulphur.

Because of the exemption from taxes on energy, carbon dioxide and sulphur, incentives for using more energy-efficient engines or fishing methods are weaker than they would otherwise have been. The fisheries sector causes relatively large emissions of carbon dioxide; it is in third place among Swedish industries when it comes to carbon-dioxide emissions relative to value added.

An individual fisherman who is thinking of applying for a scrapping premium will weigh opportunities to make a profit from fishing, opportunities to receive financial support and the tax exemption against the level of the scrapping premium when analysing the financial pros and cons of such a decision. This means that the higher the level of direct and indirect financial support for the fisheries sector, the higher the scrapping premium will have to be in order to constitute a financially beneficial option.

Interest in the scrapping premium has been weak in the 2000–2006 period. Through its agency regulations, the Board of Fisheries set the scrapping premium at a level significantly lower than that permitted by the Community rules.

The exemption from taxes on energy and carbon dioxide makes it significantly less expensive for the fisheries sector to increase its fishing effort than it would otherwise have been. In fact, a reduction of the fishing effort would instead be desirable in several vessel segments so as to achieve the objectives.

The objective of supporting small-scale coastal fisheries is also counteracted by the tax exemption. Large-scale trawling benefits the most from this exemption since it uses the most fuel. About half of all fuel is used by the 92 fishing vessels that are more than 24 metres long and carry out large-scale fishing. As a consequence, half of the value of the tax exemption –

about SEK 100 million per year – accrues to the 92 largest vessels (out of the 1,267 active vessels in the fishing fleet). In other words, the average annual value of the tax exemption for the largest fishing vessels exceeds SEK 1 million per vessel.

The Board of Fisheries has not analysed, nor reported to the Government on, the negative effects that various types of direct and indirect financial support may exert on possibilities to achieve, in a cost-effective way, the overall objectives of fisheries policy. The Government, in turn, has not reported to the Riksdag on the negative effects of the tax exemption on the likelihood of achieving a balance between the capacity of the fishing fleet and the quotas allocated, so that the economic viability of fishing may improve and so that fish stocks may recover.

Other policy instruments may also counteract each other. The failure to effectively address the overcapacity of the fishing fleet results in higher pressure on other instruments. Poor profitability as a result of overcapacity may increase incentives for commercial fishermen to try to circumvent various rules, which may in turn increase the need for controls. When the Board of Fisheries renews licences for commercial fishermen without taking the status of fish stocks or the development of quotas into account, this leads to increased demand for compensation when fishing activities are suspended.

7.1.5 Shortcomings in the implementation of fisheries control

The Swedish control system has a number of gaps and shortcomings that make it possible to evade controls. For example, fishermen may postpone drawing up their documentation until they know that a boarding or landing inspection will be carried out. The facts that most species of fish may be landed in any Swedish port, that there is a fairly small number of landing inspectors and that few inspections are carried out at weekends also create opportunities to escape controls. Some types of inspections, such as trade and transport inspections, are rarely made by the Board of Fisheries.

There are also weak links in the chain intended to ensure that infringements of the rules for commercial fishing lead to the imposition of sanctions. For example, the Board of Fisheries lacks the authority to impound fish, gear and fishing vessels. The Coast Guard has no officials qualified to lead investigations into suspected crimes against fisheries legislation (even though it does for environmental crimes). And matters of suspected fisheries crime handed over to the Police for investigation are often given such low priority that they fall under the statute of limitation before reaching a court of law. When prosecutions are made and convictions handed down, the punishment is often very mild compared with the value of the illegal catches.

The risk analysis which should determine the orientation of fisheries control and ensure the efficient and effective use of resources is poorly developed. Inadequate coordination of the planning and implementation of control activities between the Board of Fisheries and the Coast Guard may also undermine effectiveness. The Board of Fisheries has not analysed the costs and impacts of the various types of inspections. Such an overall analysis would be necessary to assess the impact and cost-effectiveness of inspections.

However, the Board of Fisheries and the Coast Guard are working on improving the Swedish control system. For example, an electronic logbook is being developed, the number of landing inspectors increased in 2007, on 1 August 2008 the Board was given the power to impose administrative sanctions for minor infringements, and a new method of risk analysis is being developed.

7.2 Recurrent shortcomings in compliance with legislation

On several counts, Sweden has been criticised by the European Commission for failing to meet the requirements of the CFP. The main reason for this criticism is that the Swedish control system does not comply with Community rules in several important respects. The matter is still pending before the Commission. The Commission has also criticised Sweden for failing to comply with CFP rules on fishing permits.

There are also serious deficiencies in the management of structural assistance by the Board of Fisheries. The share of incorrect payments is significantly above the threshold of 2 per cent accepted by the Commission. The internal-audit function for the EU Structural Funds has severely criticised, on several occasions, the way in which the Board of Fisheries handles structural assistance.

7.3 Recommendations of the SNAO

7.3.1 Recommendations for the Government

- Exercise direction over fisheries management by laying down clear priorities as regards performance in relation to the economic, social and environmental objectives of fisheries policy. Ensure that overall compliance with the objectives is not reduced as a result of various policy instruments counteracting each other;

- Consider whether the exemption from tax on energy, carbon dioxide and sulphur granted to the fisheries sector can be reduced or abolished. Propose necessary legislative amendments to the Riksdag;
- Use the policy instruments in a coordinated and cost-effective way to bring about reductions in vessel segments with overcapacity. Consider whether the special compensation and grants paid when fishing activities are suspended can be reduced or abolished, and whether the scrapping premium should be increased. Use individual fishing licences to adapt the number of fishermen to the quotas available. Propose necessary legislative amendments to the Riksdag. Ensure that overcapacity is reduced at the lowest possible cost;
- Ensure that Sweden's national discretion is effectively exploited to achieve the objectives. Investigate the legal situation to establish what Sweden's opportunities and obligations in fisheries policy are. The Government and the government agencies need such information as a basis for strategic direction, negotiations, legislation and regulation;
- Insist that the Board of Fisheries should perform regular analysis and regularly report basic information necessary to assess whether various policy instruments increase compliance with objectives in a cost-effective way;
- Ensure that the Board of Fisheries and the Coast Guard coordinate their procedures and IT systems so that controls become effective. Investigate whether there are any legal obstacles to cooperation between these two agencies;
- Address any weak links in the chain of controls, investigations and sanctions to ensure that most infringements of the rules will be detected and investigated and that legal action will be taken. Follow up and ensure that administrative and penal sanctions create desirable financial incentives and sufficient deterrent effects. Propose necessary legislative amendments to the Riksdag.

Once the legal situation has been clarified and basic information has been compiled about the impact of the action taken by the central-government sector and about trends relative to the objectives, it will also be possible to provide the Riksdag with the information which it has requested on a number of occasions.

7.3.2 *Recommendations for the Board of Fisheries*

- Make more effective use of Sweden's national discretion to enhance compliance with the objectives. Make active use of the policy instruments to achieve, in a cost-effective way, the present overall objectives laid down in legislation;
- Consider, in particular, whether the scrapping premiums can be increased or differentiated to reduce the vessel segments in which there is overcapacity;
- Analyse the costs and impacts of different types of policy instruments, especially various types of inspections;
- Continue developing and implementing the projects addressing shortcomings in the control system, to ensure that it will effectively deter and detect infringements;
- Improve annual reporting as regards general overview, basic information and the presentation of the costs of various policy instruments and their impact on compliance with the objectives;
- Remedy the shortcomings identified in the administration and eligibility control of expenditures of structural assistance.

Sources and literature

Community legislation, etc.

Treaties

Treaty establishing the European Community ('EC Treaty').

Regulations

Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture.

Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ('Control Regulation').

Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits.

Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms.

Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds.

Council Regulation (EC) No 1263/1999 of 21 June 1999 on the Financial Instrument for Fisheries Guidance.

Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector.

Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds.

Council Regulation (EC) No 2370/2002 of 20 December 2002 establishing an emergency Community measure for scrapping fishing vessels.

Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ('Basic Regulation').

Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.

Commission Regulation (EC) No 1281/2005 of 3 August 2005 on the management of fishing licences and the minimal information to be contained therein.

Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98.

Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund.

Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund.

Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97.

Directives

Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ('Mineral Oil Directive').

Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ('2003 Energy Tax Directive').

Jurisprudence of the European Court of Justice

Case C-804/79, Commission v United Kingdom of Great Britain and Northern Ireland.

Case C-98/86, Criminal proceedings against Arthur Mathot.

Case C-391/05, Jan De Nul NV v Hauptzollamt Oldenburg.

Swedish legislation and regulations

Act on the Right for Recognised Unemployment Benefit Societies to Examine Matters of State Aid for Fishing Companies (SFS 1976:447).

Fisheries Act (SFS 1993:787).

Act on Community Regulations relating to the Common Fisheries Policy (SFS 1994:1709).

Energy Taxes Act (SFS 1994:1776).

Act on the Central Government Budget (SFS 1996:1059).

Ordinance concerning Annual Reports and Budget Documentation (SFS 2000:605).

Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716).

Ordinance on the Management of the EC Structural Funds (SFS 1999:1424).

Regulations of the Board of Fisheries on State aid for the fisheries sector (FIFS 2001:1).

Regulations of the Board of Fisheries on access to resources and controls in the field of fisheries (FIFS 2004:25).

Regulations of the Board of Fisheries on fisheries in the Skagerrak, the Kattegat and the Baltic Sea (FIFS 2004:36).

Regulations of the Board of Fisheries on fishing in freshwater zones (FIFS 2004:37).

Regulations of the Board of Fisheries (FIFS 2008:20) amending the Regulations of the Board of Fisheries on access to resources and controls in the field of fisheries (FIFS 2004:25).

Other legislation

Estonian Alcohol, Tobacco and Fuel Excise Duty Act.

Preparatory materials

Riksdag Committee Reports

Committee Report 1997/98:JoU9, Riksdag Written Communication 1997/98:116, *Hållbart fiske och jordbruk* ['Sustainable fisheries and agriculture].

Committee Report 2001/02:MJU23, Riksdag Written Communication 2002/03:321, *Ansvarsfullt fiske – svenska prioriteringar för EU:s framtida fiskeripolitik, m.m.* ['Responsible fishing – Swedish priorities for the future EU fisheries policy, etc.'].

Committee Report 2002/03:MJU16, Riksdag Written Communication 2002/03:173, *Ändringar i fiskelagen, m.m.* ['Amendments to the Fisheries Act, etc.'].

Committee Report 2003/04:MJU13, Riksdag Written Communication 2003/04:186, *Kust- och insjöfiske samt vattenbruk* ['Coastal and freshwater fisheries and aquaculture'].

Committee Report 2004/05:MJU2, Riksdag Written Communication 2004/05:128–129, *Utgiftsområde 23 Jord- och skogsbruk, fiske med anslutande näringar* ['Expenditure Area 23: Agriculture and forestry, fisheries and related industries'].

Committee Report 2005/06:MJU27, Riksdag Written Communication 2005/06:48–49, *Vissa fiskeripolitiska frågor* ['Certain issues of fisheries policy'].

Committee Report 2006/07:MJU2, Riksdag Written Communication 2006/07:67–68, *Utgiftsområde 23 Jord- och skogsbruk, fiske med anslutande näringar* ['Expenditure Area 23: Agriculture and forestry, fisheries and related industries'].

Committee Report 2006/07:MJU14, *Fiskeripolitik* ['Fisheries policy'].

Committee Report 2006/07:SkU5, *Anpassningar av energibeskattningen till energiskattedirektivet, m.m.* ['Adjustments of energy taxation to the Energy Tax Directive, etc.'].

Committee Report 2007/08:MJU2, Riksdag Written Communication 2007/08:93, *Utgiftsområde 23 Jord- och skogsbruk, fiske med anslutande näringar* ['Expenditure Area 23: Agriculture and forestry, fisheries and related industries'].

Government bills

Government Bill 1992/93:232, *om fiskelag, m.m.* ['on a Fisheries Act, etc.'].

Government Bill 1995/96:220, *Lag om statsbudgeten* ['Act on the Central Government Budget'].

Government Bill 1997/98:2, *om ett hållbart fiske och jordbruk* ['on sustainable fisheries and agriculture'].

Government Bill 2002/03:41, *Ändringar i fiskelagen, m.m.* ['Amendments to the Fisheries Act, etc.'].

Government Bill 2006/07:1, *Budgetpropositionen för 2007* ['Budget Bill for 2007'].

Government Bill 2006/07:13, *Anpassningar av energibeskattningen till energiskattedirektivet, m.m.* ['Adjustments of energy taxation to the Energy Tax Directive, etc.'].

Government Bill 2008/09:1, *Budgetpropositionen för 2009* ['Budget Bill for 2009'].

Government written communications

Government Written Communication 2005/06:171, *Vissa fiskeripolitiska frågor* ['Certain issues of fisheries policy'].

Ministerial memoranda

Government memorandum of 27 June 2006, *Anpassning av energibeskattningen till energiskattedirektivet m.m.* ['Adjustment of energy taxation to the Energy Tax Directive, etc.'].

Other written materials

- Terms of Reference 2007:125, *En ny fiskelagstiftning* ['New fisheries legislation'].
- Ekonomistyrningsverket, avdelningen för EU-revision [National Financial Management Authority, Department for the Audit of EU Structural Funds] (2008), *Systemrevision år 2007 avseende Fonden för fiskets utveckling (FFU) för programmen Utanför mål 1, Mål 1 Norra Norrland och Mål 1 Södra Skogslänen* ['System audit for 2007 relating to the Financial Instrument for Fisheries Guidance (FIG) for the programmes Outside Objective 1, Objective 1 Upper Norrland and Objective 1 North-Central Sweden'], Audit report, Ref. No. 292/2008.
- Ekonomistyrningsverket, avdelningen för EU-revision [National Financial Management Authority, Department for the Audit of EU Structural Funds] (2008), *Artikel 13-rapport avseende Utanför Mål 1, SPD-nr 2000SE14FDO0001, Verksamhetsår 2007, Fond: FFU* ['Article 13 report on Outside Objective 1, SPD No 2000SE14FDO0001, financial year 2007, Fund: FIG'], 27 June 2008, Ref. No. 292/2008.
- Ekonomistyrningsverket [National Financial Management Authority] (2008), *Utlåtande om förvaltnings- och kontrollsystemens förenlighet utfärdat enligt artikel 71.2 rådets förordning (EG) nr 1198/2006 och artikel 50 kommissionens förordning (EG) nr 498/2007* ['Opinion on the compliance of the management and control systems issued under Article 71(2) of Council Regulation (EC) No 1198/2006 and Article 50 of Commission Regulation (EC) No 498/2007'], Ref. No. 10-209/2008, 30 October 2008.
- Ekonomistyrningsverket [National Financial Management Authority] (2008), *Rapport enligt artikel 71.2 rådets förordning (EG) 1198/2006 och artikel 50 kommissionens förordning (EG) nr 498/2007 över förvaltnings- och kontrollsystemen avseende CCI2007SE14FPO001* ['Report under Article 71(2) of Council Regulation (EC) No 1198/2006 and Article 50 of Commission Regulation (EC) No 498/2007 relating to the management and control systems as regards CCI2007SE14FPO001'], Ref. No. 10-209/2008, 30 October 2008.
- Bernitz, U., and Kjellgren, A., (2007) *Europarättens grunder* ['Fundamentals of European Law'], 3rd edition, Norstedts juridik.
- European Commission (2001), *Guidelines on the principles, criteria and indicative scales to be applied by the Commission departments in determining financial corrections under Article 39(3) of Regulation (EC) No 1260/1999*, Brussels, 2 March 2001. C(2001)476.
- European Commission (2006), *Decision of the Commission: Guidelines on closure of assistance (2000–2006) from the Structural Funds*.

- European Commission (2006), *Formell underrättelse angående vissa krav på kontroll och övervakning av fiskeriverksamhet som föreskrivits i rådets förordning (EEG) nr 2847/93 om införandet av ett kontrollsystem för den gemensamma fiskeripolitiken* [‘Letter of formal notice regarding certain requirements for the control and monitoring of fishing activities laid down in Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy’] (Commission Ref. No. SG-Greffe (2206) D/200550), Matter No. 2004/2270, 8 February 2006.
- European Commission (2006), audit report, Directorate General for Fisheries and Maritime Affairs, 14 September 2006, Ref. No. 2006/SE/FISH/E-1.
- European Commission (2007), *Agreed Record of the Meeting on the Swedish Fisheries Control System in the Context of Financial Aid for Fisheries Control, Gothenburg, 11 October 2007*.
- European Commission (2007), *Draft Minutes, Annual Review Meeting with the Swedish Managing Authority Fisheries Programme Sweden Outside Objective 1 2000–2006, Gothenburg, 22 March 2007*.
- European Commission (2007), *Evaluation Report of Catch Registration in Baltic Sea Member States 2005–2006*, European Commission, Directorate General for Fisheries and Maritime Affairs, Control and Enforcement, Fisheries Inspection, January 2007.
- European Commission (2007), *Mission Report SE-2007-01-A*, Directorate General for Fisheries and Maritime Affairs.
- European Commission (2007), *Mission Report SE-2007-02-A*, Directorate General for Fisheries and Maritime Affairs.
- European Commission (2007), *Mission Report SE-2007-03-A*, Directorate General for Fisheries and Maritime Affairs.
- Fiskeriverket [Board of Fisheries] (2002), *Den svenska användningen av sanktioner i ärenden om överträdelse av fiskebestämmelser – erfarenheter och förslag* [‘Swedish use of sanctions in matters of infringement of fisheries rules – experiences and proposals’].
- Fiskeriverket [Board of Fisheries] (2003), *Protokoll 2003-12-23* [‘Minutes of 23 December 2003’], avdelningen för resursförvaltning [Resource Management Department], Ref. No. 222-4097-03.
- Fiskeriverket [Board of Fisheries] (2007), *Landningskontroller januari–december 2007* [‘Landing inspections, January–December 2007’], avdelningen för fiskerikontroll [Department of Fisheries Control].

- Fiskeriverket [Board of Fisheries] (2008), *Nationell handlingsplan för fiskerikontroll 2008–2011* ['National action plan for fisheries control, 2008–2011'], 29 February 2008.
- Fiskeriverket [Board of Fisheries] (2008), *Plan för anpassning av fiskeflottan: torskfiske i Östersjön* ['Plan for adapting the fishing fleet: Cod-fishing in the Baltic Sea'], 18 March 2008, Ref. No. 40-1337-08, p. 5.
- Fiskeriverket [Board of Fisheries] (2008), *Svar 2008-06-18 på ESV:s utkast till revisionsrapport* ['Reply of 18 June 2008 to the draft audit report drawn up by the National Financial Management Authority'].
- Fiskeriverket [Board of Fisheries], annual reports for the 2002–2007 financial years of the internal-audit function.
- Fiskeriverket [Board of Fisheries], annual reports relating to the 2002–2007 financial years.
- Fiskeriverket [Board of Fisheries], appropriation directions issued by the Government for 2002–2007.
- International Council for the Exploration of the Sea (2008), *Baltic Sea Advice*.
- Inregia AB (2003), *Halvtidsutvärdering av gemenskapens strukturåtgärder inom fiskesektorn 2000–2006* ['Interim evaluation of Community structural measures in the fisheries sector, 2000–2006'], December 2003.
- Kustbevakningen [Coast Guard], annual reports relating to the 2002–2007 financial years.
- Länsstyrelsen Gävleborg, Internrevisionen för EG:s strukturfonder [Gävleborg County Administrative Board, Internal Audit Function for the EC Structural Funds] (2007), *Artikel 13-rapport avseende strukturfondsprogrammet FFU Utanför Mål 1 för verksamhetsåret 2006* ['Article 13 report on the Structural Fund programme of FIGG Outside Objective 1 for the 2006 financial year'], 28 June 2007.
- Länsstyrelsen Gävleborg, Internrevisionen för EU:s strukturfonder, artikel 15-ansvariga för programperioden 2000–2006 [Gävleborg County Administrative Board, Internal Audit Function for the EC Structural Funds, officials in charge of Article 15 for the 2000–2006 programming period] (2007), *sva 2007-11-16 på skrivelse från DG Fish angående Rapport enligt artikel 13 i kommissionens förordning (EG) nr 438/2001* ['Reply of 16 November 2007 to a letter from DG FISH relating to a report under Article 13 of Commission Regulation (EC) No 438/2001'].
- Swedish Environmental Objectives Council (2008), *Sweden's environmental objectives: No time to lose*. The Swedish Environmental

Objectives Council's 2008 evaluation of the national environmental objectives.

Programme complement for structural assistance to the fisheries sector outside Objective 1 in 2000–2006.

Riksrevisionen [Swedish National Audit Office, SNAO] (2008), *Revisionsrapport 32-2007-0653* ['Audit report 32-2007-0653'], 23 April 2008.

Riksdagen, miljö- och jordbruksutskottet [Riksdag, Committee on Environment and Agriculture] (2007), *Uppföljning av de fiskepolitiska insatsernas resultat och konsekvenser för företag inom fiskeområdet* ['Follow-up of the results and impacts on companies in the fisheries field of actions of fisheries policy'], 2007/08:RFR3.

Statistics Sweden, environmental accounts.

Sekretariatet för Övervakningskommittén för fiskenäringen utanför mål 1 [Secretariat of the Monitoring Committee for the Fisheries Sector Outside Objective 1], minutes 2002–2008.

Sissenwine, M., and Symes, D., (2007) *Reflections on the common fisheries policy*. Report to the General Directorate for Fisheries and Maritime Affairs of the European Commission.

Sjöfartsverket [Swedish Maritime Administration] (2004), *Beskattning av sjöfartens bränslen. Förutsättningar för och effekter av beskattning enligt det nya energiskattedirektivet. Slutredovisning av regeringsuppdrag* ['Taxation of shipping fuels. Conditions for and effects of taxation under the new Energy Tax Directive. Final report on a Government commission']. Ref. No. 0302-04-02397, 30 December 2004.

SOU [Swedish Government Official Reports] 2008:55, *KBV:s framtida roll i brottsbekämpningen* ['The future role of the Coast Guard in law enforcement'].

Swedish Radio (2008), 'Ekot' news broadcast, 27 August 2008.

E-mail messages

E-mail message from the Board of Fisheries, 11 April 2008.

E-mail message from the Board of Fisheries, 17 June 2008.

E-mail message from the Board of Fisheries, 18 June 2008.

E-mail message from the Board of Fisheries, 24 July 2008.

E-mail message from the Board of Fisheries, 15 August 2008.

E-mail message from the Board of Fisheries, 26 August 2008.

E-mail message from the Board of Fisheries, 28 August 2008.

E-mail message from the Ministry of Finance, 15 September 2008.

E-mail message from the Board of Fisheries, 16 September 2008.
E-mail message from the Board of Fisheries, 18 September 2008.
E-mail message from the Legal Division of the Swedish Tax Agency,
30 May 2008.

Internet

Website of Eurostat, accessed on 20 September 2008.
Website of the Board of Fisheries, accessed on 14 August 2008.
Website of the Board of Fisheries, accessed on 25 August 2008.
Website of the Board of Fisheries, accessed on 27 August 2008.
Website of the Board of Fisheries, accessed on 4 September 2008.

Interviews, etc.

Hearing on the Community fisheries policy organised by the Swedish
Ministry of Agriculture on 9 April 2008.
Interview, Fisheries Skills Centre, 6 May 2008.
Interview, Board of Fisheries, 29 February 2008.
Interview, Board of Fisheries, 19 March 2008.
Interview, Board of Fisheries, 19 March 2008.
Interview, Board of Fisheries, 28 March 2008.
Interview, Board of Fisheries, 14 April 2008.
Interview, Board of Fisheries, Head of the Executive Staff and Head of
the Financial Department, 12 June 2008.
Interview, European Commission Directorate General for Fisheries and
Maritime Affairs, 29 April 2008.
Interview, Coast Guard, 23 June 2008

Glossary

The Swedish version of this glossary is based on the glossary included in Report 2007/08:RFR3 of the Riksdag Committee on Environment and Agriculture, entitled *Uppföljning av de fiskepolitiska insatsernas resultat och konsekvenser för företag inom fiskeområdet* ['Follow-up of the results and impacts on companies in the fisheries field of actions of fisheries policy']. Some additions and modifications have been made.

Active gear: Fishing gear is usually broken down into two main categories depending on how the fish is caught. Active gear is gear which is moved through the water with the aid of humans and which actively locates the target species (examples include trawl and seine nets); passive gear is gear 'located' by the target species itself.

By-catch: A catch of species other than the target species.

Catch methods: Two main types of **trawls** are used. The pelagic species of herring, sprat and mackerel are mainly caught using floating trawls and purse seines. The use of a floating trawl typically involves two fishing vessels working together. Fishing for species such as cod, crawfish and shrimp usually involves a bottom trawl. A bottom trawl is pulled across the bottom by a vessel. Depending on the target species, different trawl-mesh sizes are used. A beam trawl is a small, strong bottom trawl kept open by a cross-beam. A **Danish seine** is similar to a trawl but is not pulled after the vessel. A **purse seine** has the shape of a long net; the largest ones used in Sweden may be 800 metres long and 200 metres deep. **Fixed gear** consists of various types of nets or traps which are fixed to the bottom. Such gear is mainly used in fishing for salmon, common whitefish and eel. A **wedge seine** is a floating net fixed to the bottom. The various types of **nets** are used at different depths or on the bottom depending on the target species. Bottom nets are used to catch cod and flatfish. Species caught using driftnets include salmon and mackerel; driftnets are set with floats on the surface and allowed to drift with the current. Trammel nets are used to catch flatfish and other species. A **hoop net** is a wedge-shaped net held open by a number of hoops; it is mainly used to catch eel. Various types of **traps** made of netting and laths are used in freshwater fishing for crawfish and in fishing along the west coast for European lobster, Norway lobster and crab. Hook gear is no longer used to any major extent in commercial fishing. However, bottom-set longlines (for cod, eel and flatfish) and surface longlines (for salmon) are still used to some extent. Hook gear may also be pulled at different depths. Off the west coast, for example, trolling lines are used to fish for mackerel in the summer months.

CFP: The Common Fisheries Policy, which is common to all EU Member States and decided at the EU level.

Commercial fisheries: Fishing activities carried out under an individual licence for fishermen or by foreign fishermen under another special permit to carry out commercial fishing activities in Sweden's maritime territory or exclusive economic zone.

Community waters: Waters under the sovereignty or jurisdiction of the EU Member States.

Days at sea: An effort-regulation system differs from a quota-regulation system in that fish mortality is restricted by the number of days spent at sea instead of by quotas and rations.

Demersal: Close to the bottom.

Discard: The part of a catch discarded either because it is below minimum sizes, belongs to a species for which the quota has been exhausted or lacks commercial interest, or to maximise the value of the total catch.

EFF: European Fisheries Fund.

Effort: Work undertaken. Fisheries regulation through effort restrictions may involve, *inter alia*, restrictions on the number of 'fishing days'.

Entry into the fleet: The registration in the fishing-fleet register of an EU Member State of a fishing vessel.

Exclusive economic zone: Sweden's exclusive economic zone is a maritime area outside national territorial waters as specified by the Government.

Exit from the fleet: The removal of a fishing vessel from the fishing-fleet register of an EU Member State.

FIFG: Financial Instrument for Fisheries Guidance.

Fishing: Under the Fisheries Act (SFS 1993:787), fishing is any activity whose purpose is to catch or kill freely living fish. The provisions relating to fish in the Fisheries Act also apply to molluscs and crustaceans living in water.

Fishing capacity: A vessel's gross tonnage in GT and its engine power in kilowatts (kW).

Fishing effort: The product of the capacity and activity of a fishing vessel. For a group of vessels, the fishing effort is the sum of the fishing effort of all vessels in the group.

Fishing-mortality rate: See 'Mortality'.

Fishing opportunity: A quantified legal right to fish, expressed in catches or fishing effort. 'Community fishing opportunities' are the fishing opportunities available to the Community in Community waters, plus the total Community fishing opportunities outside Community waters, less the total fishing opportunities allocated to third countries.

Fishing vessel: Any ship equipped for the commercial exploitation of living aquatic resources. 'Community fishing vessels' are all fishing vessels flying the flag of a Member State and registered in the Community.

Fixed fishing gear: Fixed fishing gear includes fishing structures and fishing gear equipped with a hinged arm which are fixed to the bottom or the beach and are intended to remain there for a continuous period of at least 48 hours.

GT, gross tonnage: The total internal volume of a ship, calculated using an internationally accepted method. Used as a measure of the capacity of a fleet.

High-grading: Catches discarded because they lack commercial interest or in order to maximise the value of the total catch.

ICES: International Council for the Exploration of the Sea, Copenhagen.

kW: Kilowatts are used to measure the power of engines, which is used as a measure of the capacity of the fleet.

Living aquatic resources: Available and accessible living marine aquatic species.

Mobile gear: Any fishing gear that is not a fixed gear.

Mortality: The **fishing-mortality rate (fisheries-mortality rate)** refers to the proportion of a stock that dies during a year as a result of fishing. The **natural mortality rate** refers to the proportion of a stock that dies during a year for reasons other than fishing. The natural mortality rate is predominantly accounted for by the predation-mortality rate, i.e. the proportion of a stock that becomes feed for other fish during a year (predation by other fish, predatory fish). Estimates of this mortality factor are calculated using multiple-species models.

Passive gear: Fishing gear is usually broken down into two main categories depending on how the fish is caught. Passive gear is gear 'located' by the target species itself. There are more types of passive than of active gear; examples of passive gear include various types of nets, hooks and traps.

Pelagic: Relating to fish and plankton living in the open sea as opposed to coastal waters and bottom layers.

Pelagic species: Mainly herring, sprat, mackerel, vendace and blue whiting.

Precautionary approach: The precautionary approach to fisheries management means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species, and their environment.

Quota: The part of the total allowable catch (TAC) allocated to, for example, a country or a vessel category.

Recreational fishing: Fishing carried out in a person's spare time using hand gear or other gear such as various types of nets, traps, cages, etc. Recreational fishing includes fishing for crawfish and other shellfish.

Restriction on fishing effort: Restrictions as to the number of days on which fishing may be carried out. Such restrictions may be specific to an individual vessel or apply to the entire fishing fleet of a country.

Safe biological limits: Indicators of the state of a stock or of its exploitation inside which there is a low risk of transgressing certain limit reference points.

Stock: One or several populations (groups of individuals) of a species of finfish or shellfish which can be geographically delimited and whose members are assumed to be more similar to each other (in terms of spawning grounds, migration patterns, growth, etc.) than to individuals belonging to other stocks of the same species.

Sustainable exploitation: The exploitation of a stock in such a way that the future exploitation of the stock will not be prejudiced and that no negative impact will be exerted on the marine eco-systems.

TAC: Total allowable catch from a given stock during a year.

Target species: The species sought by a fishery.

VMS: A satellite-based vessel-monitoring system.

Annex 1 Use of Sweden's national discretion for conservation measures

This Annex describes the extent of national discretion for some of Sweden's conservation measures.¹⁹¹

- The issuance of permits (both vessel permits and special fishing permits) by the Board of Fisheries is, in most cases, subject to national discretion. The rules on licences for individual fishermen are entirely national in nature.¹⁹²
- A vessel permit ('fishing permit') is a fundamental Community requirement for a vessel to be used for commercial fishing. The EU also specifies the information to be included in a vessel permit. However, more detailed rules for the issuance and revocation of vessel permits are left to Member States' national discretion.¹⁹³ This means that the Board of Fisheries could limit the duration of vessel permits based on, for example, the size of the quota allocated. Until 2002, the EU broke down fishing vessels into a number of segments. Since then Member States have been able to choose whether to do so. The Board of Fisheries has chosen to maintain the earlier breakdown into segments as a basis for fisheries policy.

¹⁹¹ See e-mail message of 28 August 2008 from the Board of Fisheries as well as the SNAO's own review of legal acts governing the CFP and the Regulations of the Board of Fisheries on fisheries in the Skagerrak, the Kattegat and the Baltic Sea (FIFS 2004:36) and on access to resources and controls in the field of fisheries (FIFS 2004:25). According to the e-mail message of 28 August 2008 from the Board of Fisheries, p. 8, the rules laid down in FIFS 2004:25 consist in part of provisions intended to facilitate the application of Community rules and in part of provisions which are subject to national discretion. These rules may also be more or less independent of the Community rules. What is more, it is often difficult, according to the Board of Fisheries, to determine where the boundary is between rules laying down necessary administrative and procedural provisions for compliance with the Community requirements, rules subject to national discretion and rules that go beyond the Community Regulations. Powers to issue agency regulations are delegated to the Board by the Government, *inter alia*, under Chapter 2, Sections 7 and 12, of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716).

¹⁹² The Swedish rules on individual licences for fishermen were introduced before Sweden's accession to the EU; cf. Riksdag Report 2007/08:RFR3, p. 122 ff.

¹⁹³ See Articles 2, 5 and 7 of Commission Regulation (EC) No 1281/2005. The Board of Fisheries lays down rules on vessel permits in Chapter 3 of its Regulations on access to resources and controls in the field of fisheries (FIFS 2004:25). Powers to issue agency regulations are delegated to the Board by virtue of Chapter 2, Section 20, of the Fishing, Aquaculture and Fisheries Sector Ordinance (SFS 1994:1716); see also Section 21(2) of the Fisheries Act (SFS 1993:787).

- The EU has also laid down rules on access requirements, with special restrictions ('special fishing permits') on access to certain fisheries. Special fishing permits supplement vessel permits by allowing fishing vessels to fish during specified periods in specified zones. The Member States are entitled to take certain action, such as establishing individual allocations of fishing permits.¹⁹⁴ The Board of Fisheries claims to have established rules requiring special fishing permits for a large number of fisheries.
- For cod fishing, the Board of Fisheries has established rules on 'vessel rations', i.e. maximum amounts to be landed per calendar week by fishing vessels. These rules are entirely national in nature.¹⁹⁵
- For Swedish waters to which only Swedish fishermen have access, the Board of Fisheries has introduced various types of area-protection measures, such as prohibitions on trawling or the use of other types of gear in certain zones.¹⁹⁶
- Most of the coastal area-protection measures are subject to national discretion. The Board of Fisheries claims to have taken extensive coastal area-protection measures.¹⁹⁷
- Many minimum sizes for finfish and shellfish are determined by the rules of the CFP. This is true of, for example, cod, plaice, eel, salmon, brill and turbot in the Baltic Sea, and sea trout, haddock, saithe, hake, common sole, whiting, mackerel, herring, European lobster and whole Norway lobster.¹⁹⁸ Member States may introduce more stringent rules, but the Board of Fisheries has done so only for eel in the Baltic Sea and for European lobster.¹⁹⁹
- Other minimum sizes are determined entirely at the national level. The Board of Fisheries has determined such entirely national minimum sizes for oysters, grayling, pike and pike-perch, as well as for salmon and eel in the Kattegat and the Skagerrak.²⁰⁰

¹⁹⁴ Article 8 of Council Regulation (EC) No 1627/94 and Article 9 of Council Regulation (EEC) No 3760/92. The Board of Fisheries' use of special permits is described in Section 4.3.2 of this report.

¹⁹⁵ Chapter 14 of the Regulations of the Board of Fisheries on access to resources and controls in the field of fisheries (FIFS 2004:25).

¹⁹⁶ Attachment of e-mail message of 28 August 2008 from the Board of Fisheries, p. 2.

¹⁹⁷ E-mail message of 16 September 2008 from the Board of Fisheries.

¹⁹⁸ Article 17 and Annex XII (on the Skagerrak and the Kattegat) of Council Regulation (EC) No 850/98; and Article 14 and Annex IV of Council Regulation (EC) No 2187/2005 (minimum sizes may differ between 'sub-areas').

¹⁹⁹ Attachment of e-mail message of 28 August 2008 from the Board of Fisheries, p. 2. See also the presentation in Section 4.1.2 regarding Council Regulation (EC) No 850/98 on technical measures for the protection of juveniles of marine organisms.

²⁰⁰ E-mail message of 16 September 2008 from the Board of Fisheries.

- The Board of Fisheries has introduced national restrictions on the number and structure of fishing gear, e.g. for lobster cages and sea-trout nets.²⁰¹
- To protect certain species, there are rules prohibiting fishing for them completely or during certain periods.²⁰²

By virtue of the 2002 Basic Regulation, Member States have a general right to take measures in their own waters which apply only to their national fishing vessels. Such measures must be compatible with the objectives of the CFP and must not be less stringent than existing Community legislation.²⁰³

Since 1998, Member States also enjoy an extended right to take national technical measures for the protection of juveniles of maritime organisms applying only to fishing vessels flying their national flag. This relates to conditions or detailed arrangements designed to limit catches by technical measures which either supplement those of the CFP or go beyond the minimum requirements of the CFP.²⁰⁴ For fisheries in the Baltic Sea, the Sound and the Belts, Member States are entitled since 2006 to take technical measures applying only to fishing vessels flying their national flag which either supplement the measures of the CFP or go beyond the minimum requirements of the CFP.²⁰⁵

According to the Board of Fisheries, these two rights to take measures, taken together, are applicable to all Community fishing zones (within their respective geographical limits) to which Swedish fishermen have access. In practice, they cover the same types of measures as the provisions on conservation measures included in the Basic Regulation. The Board of Fisheries has exercised these two types of rights under Community legislation by laying down rules applicable to Swedish fishing vessels in Community waters outside the Swedish exclusive economic zone. The Board does not consider that the rights granted in 1998 and 2006 give Member States greater scope for action than Article 10 of the Basic Regulation. When the Board is

²⁰¹ Ibid.

²⁰² About fifteen species on the 'red list' of the Swedish Species Information Centre are completely protected and must not be landed. For other species, including salmon, sea trout, European lobster, cod, pollack, haddock, perch and pike, there are periods during which no fishing may take place; these periods are decided entirely at the national level. Attachment of e-mail message of 28 August 2008 from the Board of Fisheries, p. 3.

²⁰³ Article 10 of Council Regulation (EC) No 2371/2002. Such measures must be measures taken by a Member State that apply solely to fishing vessels flying the flag of that Member State.

²⁰⁴ Article 46 of Council Regulation (EC) No 850/98. Such measures may relate to rules for towed and fixed gear, to conditions for use (e.g. zones), to minimum sizes of marine organisms and to geographical restrictions for specific species. There are special procedural rules for notifying the other Member States and the European Commission.

²⁰⁵ Article 26 of Council Regulation (EC) No 2187/2005. The measures referred to in the Regulation may relate, inter alia, to the structure (e.g. mesh size) and use of gear, to prohibited gear and methods, to the calculation of percentages for target species, to immersion time, to restrictions on permitted fishing zones, to restrictions on 'unsorted landings' and to minimum landing sizes. There are special procedural rules for notifying the other Member States and the European Commission.

considering amendments to its agency regulations on conservation measures, it notifies these proposed amendments to the European Commission. On those occasions, the Board usually submits an integrated legislative package invoking both the provisions of the Basic Regulation and those of Council Regulations (EC) Nos 850/98 and 2187/2005.²⁰⁶

Compared with Article 46 of Council Regulation (EC) No 850/98 and Article 10 of the Basic Regulation, Article 26 of Council Regulation (EC) No 2187/2005 has wider scope as regards the aim of the measures concerned: measures may be taken not only 'for the conservation and management of stocks' but also 'to reduce the effect of fishing on the marine eco-system'.

²⁰⁶ Attachment of e-mail message of 28 August 2008 from the Board of Fisheries, p. 6 ff.

Annex 2 Use of Sweden's national discretion for control measures

This Annex describes the extent of national discretion for some of Sweden's control measures.²⁰⁷

- The EU requires that fishing vessels above a certain size must be equipped with a satellite transmitter to enable tracking of their movements. The Swedish rules mainly lay down provisions necessary for compliance with the Community requirements.²⁰⁸
- The Swedish rules on logbooks in part lay down provisions necessary for compliance with the Community requirements and in part go beyond them.²⁰⁹ One example of a requirement that goes beyond those of the EU is that the estimated catch must be recorded in the logbook after each haul.²¹⁰ Another example is the fact that Swedish fishermen are given individual control numbers for each landing and fishing effort, which must be recorded in the logbook.²¹¹ For smaller vessels that are exempt from the requirement to keep a logbook, the Board of Fisheries has laid down rules requiring them to keep a coastal-fishing journal.²¹²
- The EU imposes requirements for fishing vessels to make preliminary notifications and submit reports. The agency regulations issued by the Board of Fisheries largely represent the provisions necessary for compliance with the Community requirements in this field.²¹³
- To facilitate controls, the EU requires that special landing ports should be used for landings above a certain amount of some species, including cod. The Board of Fisheries has selected such ports.²¹⁴

²⁰⁷ E-mail message of 28 August 2008 from the Board of Fisheries, p. 3 ff., as well as the SNAO's own review of about 40 legal acts in the framework of the CFP. The Board of Fisheries has stated that in many cases relating to FIFS 2004:25, it may be difficult to distinguish between laying down necessary administrative and procedural provisions for compliance with the Community requirements and supplementation (where supplementary provisions make use of national discretion).

²⁰⁸ Chapter 5 of FIFS 2004:25.

²⁰⁹ Chapter 6 of FIFS 2004:25.

²¹⁰ Chapter 1, Section 2(4), and Chapter 6, Section 1, of FIFS 2004:25.

²¹¹ Chapter 6, Section 12(16), of FIFS 2004:25.

²¹² Chapter 7 of FIFS 2004:25.

²¹³ Chapter 8 of FIFS 2004:25.

²¹⁴ Chapter 9 of FIFS 2004:25.

- The rules of the Board of Fisheries relating to auction establishments, sales notes, transport documents, inspections regarding trade standards and effort regulation²¹⁵ largely represent the provisions necessary for compliance with the Community requirements in this field.²¹⁶ For vessels equipped with satellite-tracking systems, the Board has introduced an exemption from reporting obligations.²¹⁷
- As regards explicit national discretion in other respects, Member States may allow reloading and fishing activities conducted jointly by two or more Community vessels. The Board of Fisheries has used this opportunity as regards joint fishing for mackerel, herring and sprat.²¹⁸
- The EU also imposes special requirements on the documentation of fish transports. Member States may grant exemptions from these requirements under certain circumstances. The Board of Fisheries has not granted any such exemptions.²¹⁹
- Member States have an explicit duty to ensure that all landings and sales operations are recorded. For this purpose, they may require that the first sale of fish catches should be carried out through a public auction. The Board of Fisheries has not used this opportunity to enhance its controls.²²⁰

²¹⁵ A system based on permits to fish during a specified number of days at sea, with no requirement that fishing activities should take place on certain days of the week.

²¹⁶ Chapters 10–13 of FIFS 2004:25.

²¹⁷ Chapter 8, Sections 3(1) and 3(2), of FIFS 2004:25.

²¹⁸ Article 11(1) of Council Regulation (EC) No 2847/93 as well as Chapter 4, Section 8b, of FIFS 2004:25.

²¹⁹ This requires that the fish is transported within the compound of a port area or not more than 20 kilometres from the point of landing. Article 13(5) of Council Regulation (EC) No 2847/93. The SNAO's analysis of the Regulations (FIFS 2004:25) of the Board of Fisheries.

²²⁰ Article 14(1) of Council Regulation (EC) No 2847/93. The SNAO's analysis of FIFS 2004:25.

Annex 3 Criticism of audit bodies and the Commission

The external audit bodies, the internal-audit function of the Board of Fisheries²²¹ and the European Commission have all criticised the Swedish management of the three structural-assistance programmes under the FIG.

The internal-audit function for the EC Structural Funds stated, in a reply to the Commission in November 2007, that the Board of Fisheries, in its capacity as managing authority, has not taken sufficient action to correct errors in payments of assistance.²²² In its audit report for the FIG Outside Objective 1 for 2006²²³, the internal-audit function states, *inter alia*, the following:

*There are manifest shortcomings in the procedures to review and monitor results of financial controls. Controls to ensure that measures decided are actually implemented have not functioned satisfactorily during the year(s) in question. The internal-audit function also considers that the Board of Fisheries needs to review the national agency regulations it has issued; the reports from the Board's own internal-audit function and its Department of Fisheries Control show that the Board does not consider that the national regulations need to be complied with. The overall finding of the auditors is that the management and control systems for the FIG are less satisfactory.*²²⁴

The internal-audit function for the EC Structural Funds, which was transferred to the National Financial Management Authority on 4 April 2008, mentions in an audit report for 2007 that financial controls for the programming period have consistently identified a high percentage of errors. According to the Authority, even though top management of the Board of

²²¹ Annual reports for the 2002–2007 financial years of the internal-audit function of the Board of Fisheries.

²²² Länsstyrelsen Gävleborg, Internrevisionen för EU:s strukturfonder, artikel 15-ansvariga för programperioden 2000–2006 [Gävleborg County Administrative Board, Internal Audit Function for the EC Structural Funds, officials in charge of Article 15 for the 2000–2006 programming period], svar 2007-11-16 på skrivelse från DG Fish angående Rapport enligt artikel 13 i kommissionens förordning (EG) nr 438/2001 [‘Reply of 16 November 2007 to a letter from DG FISH relating to a report under Article 13 of Commission Regulation (EC) No 438/2001’], p. 2.

²²³ Länsstyrelsen Gävleborg, Internrevisionen för EG:s strukturfonder [Gävleborg County Administrative Board, Internal Audit Function for the EC Structural Funds], Artikel 13-rapport avseende strukturfondsprogrammet FFU Utanför Mål 1 för verksamhetsåret 2006 [‘Article 13 report on the Structural Fund programme of FIG Outside Objective 1 for the 2006 financial year’], 28 June 2007.

²²⁴ Translation into English. By ‘less satisfactory’, the auditors mean that the management and control systems work but need to improve.

Fisheries have been aware of this, these conditions remain unchanged at the end of the programming period. The Authority therefore finds that top management of the Board have not taken sufficient action to remedy the shortcomings of the management and control systems. The control system is found to have been poorly developed in the 2000–2006 programming period.

For the FIG outside Objective 1, the National Financial Management Authority²²⁵ finds, among other things, that several of the observations and recommendations of the internal-audit function are repeated year after year and do not seem to be dealt with in a satisfactory manner. According to the Authority, the Board of Fisheries has not given priority to addressing the recommendations from the internal-audit function for the EC Structural Funds for 2006 or from the European Commission.

The Authority also finds that top management of the Board of Fisheries have not fully assumed their management responsibilities for any one of the three structural-assistance programmes (FIG outside Objective 1, Objective 1 Upper Norrland and Objective 1 North-Central Sweden) when it comes to taking actions following the observations of the Department of Fisheries Control.

The Authority's final assessment is that the management and control systems do not work well and are deemed to be unsatisfactory for all programmes financed through the FIG.

In 2006, the European Commission carried out an audit of the function of the management and control systems in Sweden. It found that the management and control systems could be deemed to work as intended, provided that one organisational shortcoming was remedied.²²⁶ Subsequently, in 2007, the Commission communicated observations about problems in the Swedish handling of the FIG to officials both at the Board of Fisheries and at the Ministry of Agriculture. These observations related mainly to the following problems in Sweden's implementation of the FIG:

- weak monitoring of the implementation of the FIG;
- difficulties in administrative procedures and financial management; and
- work overload and limited human resources preventing accurate and effective financial monitoring, reporting and direction in relation to the programme.²²⁷

²²⁵ Ekonomistyrningsverket, avdelningen för EU-revision [National Financial Management Authority, Department for the Audit of EU Structural Funds], *Artikel 13-rapport avseende Utanför Mål 1, Verksamhetsår 2007, Fond: FFU* [Article 13 report on Outside Objective 1, financial year 2007, Fund: FIG], 27 June 2008.

²²⁶ European Commission, Directorate General for Fisheries and Maritime Affairs, audit report of 14 September 2006, Ref. No. 2006/SE/FISH/E-1, Section 7.4.

²²⁷ European Commission, *Draft Minutes, Annual Review Meeting with the Swedish Managing Authority Fisheries Programme Sweden Outside Objective 1 2000–2006*, 22 March 2007, Gothenburg.