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Brussels, 7 January 2009

Att. European Commission, Member States and ICES

INITIAL RESPONSE, European Anglers Alliance (EAA) concerning:

Proposal for a COUNCIL REGULATION establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (14.11.2008)¹, the accompanying IMPACT ASSESSMENT report² and the COMMUNICATION from the Commission to the European Parliament and the Council³.

10 RECOMMENDATIONS BY EAA, European Anglers Alliance:

- 1) – Delete Article 47 for now or exempt recreational angling from this proposed Regulation**
- 2) – The Commission to show the evidence behind the claim that recreational fishing “... has an increasing influence on fish stocks and marine environment.”**
- 3) – Analyze legal status whether recreational fisheries is in or out of the CFP at present**
- 4) – Discuss and decide the future status of recreational fisheries with regard to the CFP**
- 5) – As part of the ongoing CFP review, in depth discussions and proposals for the recreational fisheries sector to achieve more recognition and better treatment with regard to the sectors needs and (sustainable) growth potential**
- 6) – Provide more and better data on the recreational fisheries sector as a whole and separately for at least the two sub-sectors “Recreational Sea Angling” and “Other Recreational Fishing”**
- 7) – Increase or re-allocate within the Commission budget to set up and run a genuine recreational fisheries unit with recreational fisheries expertise and capacity building**
- 8) – Set up a 5th ACFA Working Group named “Recreational Fisheries: Access to fisheries resources, management of fishing activities, socio-economics and sector analysis”**
- 9) – To investigate if and how ICES and the Member States today include recreational catches in their fishing mortality estimates with regards to setting and distribution of TACs and quotas**
- 10) – To launch another consultation round on this proposed Regulation**

¹ **PROPOSAL** for a COUNCIL REGULATION establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, Brussels, 14.11.2008, COM(2008) 721 final, 2008/0216 (CNS). In all EU languages:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0721:EN:NOT>

² COMMISSION STAFF WORKING DOCUMENT accompanying the Proposal for a COUNCIL REGULATION establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy **IMPACT ASSESSMENT** (SEC(2008) 2760):
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2760:FIN:EN:PDF>
Summary in all EU languages SEC(2008) 2761: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008SC2761:EN:NOT>

³ **COMMUNICATION** FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the proposal for a Council Regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, Brussels, 14.11.2008 COM(2008) 718 final
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0718:FIN:EN:PDF>

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SECTION 1: ARTICLE 47

1.1 – Introduction

We understand the need for better control of the fisheries but we find the content and inclusion of Article 47 to be premature and untimely for a number of reasons explained on the following pages.

The inclusion of recreational fishing – and thereby our activity Recreational (Sea) Angling – in this Regulation seems to us to be a not very considered but hasty action done very close to deadline. Nobody else than the Commission seem to have any knowledge about Article 47 before the final proposal was released 14 November.

The proposed Article 47 inclusion raises many, many questions and issues that need to be discussed in depth in the months ahead. The issues should be examined with the close involvement of people and organisations with an in-depth knowledge of the various components of the Recreational (Sea) Angling sector.

Recreational angling is a very fundamentally different sector compared to other recreational fishing and the commercial fisheries sector. Gear, motivations and problems, environmental impact and scope for sustainable development are very different.

There is a substantial lack of data and understanding of the Recreational Sea Angling sector at EU level as well as nationally. We only know of Sweden producing studies on the sector every fifth year. Some countries only recently produced their very first socio-economic study on recreational angling - other countries still haven't produced any study.

We fear that moving to fast on recreational angling without proper information is likely to generate a series of wholly inappropriate, ineffective and unenforceable, and ultimately very costly and damaging proposals. We suggest more and better data first, then action – not the other way round.

We wonder how many other articles from this Regulation might apply to recreational fishing? And we wonder if the inclusion of Article 47 makes any difference in this regard?

We wonder if Article 47 can find proper legal ground for all provisions e.g. concerning the authorisation part, which seems to include other vessels then fishing vessels like charter boats but maybe also (all) other private boats used occasionally to catch a fish.

For the recreational fisheries sector more data seem needed to comply with the Common Fisheries Policy (CFP). For commercial fisheries the CFP requires for both recovery plans and multi-annual management plans that: "The measures to be included in the management plans shall be proportionate to the objectives, the targets and the expected time frame, and shall be decided by the Council having regard to:

- (a) the conservation status of the stock or stocks;
- (b) the biological characteristics of the stock or stocks;
- (c) the characteristics of the fisheries in which the stocks are caught;
- (d) the economic impact of the measures on the fisheries concerned."⁴

If now recreational fisheries is to be included multiannual plans and shall be looked at and treated in a similar manner as the commercial fisheries then the Community fails to deliver on (c) and (d). And due to that we fear that several of the measures to follow from an Article 47 inclusion would not be "proportionate to the objectives", with regard to Recreational Sea Angling.

Due to these and other uncertainties we find it sensible for now to exempt recreational fisheries – or as a minimum exempt recreational angling – from this regulation and initiate another consultation round.

⁴ COUNCIL REGULATION (EC) No 2371/2002 of 20 December 2002
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:358:0059:0080:EN:PDF>

For now we suggest leaving it to ICES to estimate the fish mortality from recreational fisheries and for-profit fisheries not licensed – boat and non-boat – and the discards from commercial fisheries to take these figures into account when proposing the TACs for the commercial fisheries sector.

It will do nothing good to let this Regulation introduce new battle fields for quotas nationally between commercial and recreational fisheries sectors, and the recreational sectors in between e.g. recreational angling and what FAO names “artisanal or semi-industrial boats”⁵. The improved control and enforcement in combination with less discard has and will bring down further the overall fish mortality. And if the Member States would stop overshooting the scientists’ advises for quotas at December’s TAC and Quota negotiations it should be possible to achieve sustainable fisheries with fish enough for all with no need to bring recreational fisheries into the quota system.

The next CFP reform is under way. It would be good to know if there are any plans to integrate recreational fisheries better with the CFP before moving on with legislation like Article 47.

Article 47- Recreational fisheries

1. Recreational fisheries on a vessel in Community waters on a stock subject to a multiannual plan shall be subject to an authorisation for that vessel issued by the flag Member State.
2. Catches in recreational fisheries on stocks subject to a multiannual plan shall be registered by the flag Member State.
3. Catches of species subject to a multiannual plan by recreational fisheries shall be counted against the relevant quotas of the flag Member State. The Member States concerned shall establish a share from such quotas to be used exclusively for the purpose of recreational fisheries.
4. The marketing of catches from a recreational fishery shall be prohibited except for philanthropic purposes.

1.2 - A surprise inclusion

We were caught by surprise learning that the Commission suggests recreational fishing to be included this Regulation in the form of Article 47 and other articles, which this inclusion might trigger.

1.3 - Article 47 have not been discussed with stakeholders

As stated in the proposed Regulation⁶ discussions have taken place among experts and stakeholders on drafted versions of this Regulation. However, nobody else than the Commission seem to have any knowledge about Article 47 before the final proposal was released 11 November. Neither the “non-paper” discussed by the fisheries ministers 18 February, nor the papers delivered to the members of the Regional Advisory Councils (RACs) and ACFA with regard to the control conference 10 April, nor the consultation paper prepared by DG MARE for the public consultation, which ran from February to 5th May had any mention of Article 47 or other mentions of recreational fisheries.

Our inputs were given via the RACs on a non-paper around only nine issues and none of them about recreational fisheries. Among the 25 public responses uploaded to the Commission website we found only one dealing with recreational fishing. In that response it is stressed that potting and angling can be sustainable and selective practises and therefore should be allowed within marine protected areas.⁷

In another response recreational fishing was touched upon implicitly – in a positive way in our view. A co-ordinated response by the Joint Nature Conservation Committee on behalf of the UK Statutory Nature Conservation Agencies (Countryside Council for Wales, Natural England and

⁵ “While small-scale and artisanal fisheries clearly differ from industrial and recreational fisheries, the subtle distinctions between them are hard to pin down. The FAO Glossary tends to equate “artisanal” with “small-scale””
<http://www.fao.org/fishery/topic/14753/en>

⁶ Page 3: “II. Consultation of the interested parties and impact assessment...”

⁷ The Sea Fishery Advisory Group of the Irish Seal Sanctuary, Johnny Woodlock
http://ec.europa.eu/fisheries/cfp/governance/consultations/contributions280208/01_woodlock_en.pdf

Scottish Natural Heritage) emphasizes the need for holistic socio-economic, environmental impact and sustainable “best outcome” considerations⁸

1.4 - Top-down approach

We are annoyed about this top-down approach. As shown above there was no previous notice or any discussion of Article 47 in public or with the stakeholders so far. The same thing happened with the Council Regulation on Data Collection⁹, which came out in a revised version in February. For recreational fisheries the two pieces of legislation together seem to present nothing less than a revolution.

1.5 – 88 pages Impact Assessment Report, but five lines only about recreational fisheries

The first time we see or hear anything about Article 47 is by the release of the final proposal for this Regulation and the accompanying impact assessment report worked out by Commission staff.

This is what is said about recreational fishing in the assessment report:

Measures for the control of recreational fishing

The proposed initiative would envisage introducing proportionate control measures for recreational fishing, to be carried out by the Member States, as this activity has an increasing influence on fish stocks and marine environment. For that purpose, it would be envisaged to limit the use of allowed fishing gears, and submit recreational fishermen to prior registration.

We are not impressed by the few words offered recreational fishing in that report. Neither are we thrilled about the content. It jumps to conclusions without presenting any evidence.

1.6 – No evidence for “increasing influence on fish stocks and marine environment”

We see the assertion that Recreational Fishing has an “increasing influence on fish stocks and marine environment” as total speculation until we are presented with scientific evidence proving differently. We would have liked to see details and links to supporting background information in the assessment report. And we would have appreciated if the recreational fishing sub-sectors “Recreational Sea Angling and “Other Recreational Fisheries” were assessed independently. If that had happened recreational angling might have escaped both the “increasing influence” claim as well as the objective to “limit the use of allowed fishing gears, and submit recreational fishermen to prior registration.”

In this regard we would also like to know of any existing research and studies showing any significant “non-compliance” with the CFP legislation by the recreational fishing sector, and in particular by the Recreational Sea Angling sector.

1.7 - No recreational fisheries trend studies available

We don't know much about the other recreational sectors than our own recreational angling. We know for a fact that trend studies showing changes in pressure on sea fish stocks by recreational sea angling over time are very sparse to none existing, and we guess that kind of information lacks even more for other kinds of recreational fishing.

1.8 – Anglers' view on increased fishing pressure

From an angling point of view, based on anecdotal information by anglers having been active through many years, “the trend” is seen and explained somewhat differently. During recent decades the fish stocks have dwindled and the bigger fish in particular have disappeared/been removed. For a number of years the fishing mortality from angling is believed to be the same or having decreased for most of the targeted fish stocks.

⁸ UK Statutory nature conservation agencies, p. 1: “In responding to what the socio-economic and environmental impacts of introducing the suggested measures in the consultation will be, we believe that it is important for the Commission to examine the links between the environmental impacts of fishing and the value that may be derived from other maritime activities, in order to deliver the best and most environmentally and socio-economically sustainable outcomes.”
http://ec.europa.eu/fisheries/cfp/governance/consultations/contributions280208/11_uk_statutory_nature_conservation_agencies_en.pdf

⁹ COUNCIL REGULATION (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy.
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:060:0001:0012:EN:PDF>

The allegation that anglers exert “Increasing influence on fish stocks and marine environment” is regarded as insulting and is rejected by recreational anglers. Anglers have for decades complained about the systemic failures of EU management in respect of our public fishery resources because dwindling fish stocks, in particular of older and larger fish, have led to deterioration in the angling experience. These complaints have fallen on deaf ears so it is extremely annoying to learn that when at last some of the CFP failures are to be addressed, anglers are to be targeted with yet further reductions in catches over and above those caused by the failures mentioned above.

1.9 - More recreational sea angling isn't a bad thing

We would like to state as a fact that “increasing influence on fish stocks” isn't a bad thing per se.

For stocks where recreational sea anglers seem to be having a relatively high take of fish compared with other recreational or commercial fishing sectors this may well prove to be the best use of what after all are public fishery resources. Rebalancing of catching effort between various fisheries are often intended and welcomed as to achieve better sustainable use of the fish stocks, providing more social and economic benefits to local communities and society at large.

As long there is no risk of overfishing or otherwise non-sustainable exploitation an increase in sea angling can only be a good thing.

To be able to find and decide amongst the best management options socio-economic data are vital. Economy, conservation targets, livelihoods, local development, sustainable development as well as life quality all are issues with a role to play in the decision-making.

From a conservation, socio and economic point of view it often will be an advantage to rebalance the present fish take in favour of recreational angling and/or to introduce “recreational angling species” and/or “for recreational angling only zones”¹⁰

¹⁰ **A few examples:**

US: “The Relative Economic Contributions of U.S. Recreational and Commercial Fisheries” (2006), Southwick Associates. http://www.angling4oceans.org/pdf/Economics_of_Fisheries_Harvests.pdf

US Striped bass: “The most successful restoration of a fin fish stock in the history of North America”; the Atlantic States Marine Fisheries Commission (ASMFC) when reporting on the state of striped bass stocks in 2003.

“The Economics of Recreational and Commercial Striped Bass Fishing”, (2005), Southwick Associates
<http://www.stripersforever.org/info/southwickstudy>

IRELAND, salmon: “An Economic/Socio-Economic Evaluation of Wild Salmon in Ireland”, 2003, INDECON; page iv: “fisheries in Great Britain, Iceland and Canada have each pointed to a substantial gap between the economic values attributed to commercial and recreational salmon fishing, with recreational activity typically yielding a large multiple of the values estimated for commercial salmon fishing.”

p.157: “We recommend that a rebalancing of exploitation between commercial and angling sectors should be achieved..”
http://www.cfb.ie/pdf/CFBMIDAPRFL_17.pdf

IRELAND, sea bass: In Ireland the sea bass is a recreational only species.

UK sea bass management plan: with more focus on the angling sector's needs, growing the fish stock with continued commercial fishing for bass as well. Worked out by UK BASS (a member of EAA)

<http://www.ukbass.com/bassmanagementplan/index.html>

SECTION 2: ARTICLE 47 – questions

2.1 - Article 47 (1)

Recreational fisheries on a vessel in Community waters on a stock subject to a multiannual plan shall be subject to an authorisation for that vessel issued by the flag Member State.

Questions:

1. In this Regulation what is the difference – if any – between a vessel and a boat? Why is “vessel”¹¹ preferred in this Article 47?
2. What is the definition of “recreational fisheries”? A man using his rowboat or kayak once a year to catch a couple of cod, is this activity to be deemed “recreational fisheries on a vessel in Community waters”, and thereby to be included in the Regulation?
3. Is there any difference between a charter boat and a private vessel/boat within this article?
4. New authorisation scheme(s) seems needed nationally: How much time will be given the Member States to implement such systems?
5. More and more fish stocks will be “subject to a multiannual plan” as part of the CFP strategy. We find that virtually all recreational sea anglers in Europe fishing from a boat at some point in time will be fishing on a stock “subject to a multiannual plan”. Has the Commission any idea or figures showing just how many boats will be subject to authorisation; European wise and nationally?
6. The authorisation mentioned here seems different from and not corresponding well with the fishing license and authorisation scheme for Community vessels described in Article 6 and 7 and defined in Article 4 (7) and (8). Clarification is welcomed how the Art 47 authorisation scheme(s) is imagined.
7. If Recreational Sea Anglers fish on stocks subject to a multiannual plan on a catch and release basis are the requirements the same?
8. Will returned fish be set against quota?
9. On the basis that Vessels “shall be subject to an authorisation”, “recreational fisheries...shall be registered” and “recreational fishermen” need registration¹², we wonder if it is possible at all for a Member State to comply with Article 47 without setting up:
 - a) a register for all small boats,
 - b) a catch recording system and a catch register/database, and
 - c) to introduce recreational fishing licenses, if not introduced already (which is the case in about half of the EU coastal states)?

Note: The proposed Regulation’s Article 4, defines “Fishing licence” to mean “..an official document conferring on its holder the right, as determined by national rules, to use a certain fishing capacity for the commercial exploitation of living aquatic resources. It contains minimum requirements concerning the identification, technical characteristics and fitting out of a Community fishing vessel”; This Article and the fishing license therein cannot apply to recreational fisheries, as they are non-commercial fisheries.

¹¹ “Vessel” is not defined in the CFP but “fishing vessel” is: Article 2 (c) ‘fishing vessel’ means any vessel equipped for commercial exploitation of living aquatic resources; COUNCIL REGULATION (EC) No 2371/2002 of 20 December 2002 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:358:0059:0080:EN:PDF>

¹² Assessment Report’s page 31: “*Measures for the control of recreational fishing...* it would be envisaged to limit the use of allowed fishing gears, and submit recreational fishermen to prior registration.”

2.2 - Article 47 (2)

Catches in recreational fisheries on stocks subject to a multiannual plan shall be registered by the flag Member State.

Questions:

1. Will the regulation include shore anglers? And nets set close to shore without a boat involved? Divers fishing with spear-guns or other fishing tackle but without a boat involved?
2. Shall returned fish be registered?

2.3 - Article 47 (3)

Catches of species subject to a multiannual plan by recreational fisheries shall be counted against the relevant quotas of the flag Member State. The Member States concerned shall establish a share from such quotas to be used exclusively for the purpose of recreational fisheries.

Questions:

1. Will all recreational fisheries vessels and/or fishermen be required to keep log books and fill in monthly/quarterly/annual returns?
2. Shall returned fish be counted against quota?
3. We see a need for a definition of a recreational catch and landing. (This caused confusion on a tope consultation in the UK as commercial landing and Recreational Sea Angling landing has a different meaning). Will the Commission provide such a definition?
4. Do stocks subject to a multiannual plan and used as bait need reporting?
5. If the EU carries out future plans to stop discarding (i.e. all fish to be brought to the quay) will recreational fishing be included in this?
6. Will recreational fishermen have to buy into the quotas?
7. How shall the size of recreational quotas be calculated first time? Shall quota be taken or bought from commercial fishermen? Who to pay? How to allocate quotas among various groups and localities of recreational fishermen? And how to avoid that recreational sea angling cannot expand as it is locked into this quota system and/or have to buy quotas?
8. If recreational fisheries shall bring down its catching effort do the Commission favour bag limits or catch limits per boat trip (the tuna regulation in force says one tuna per boat trip)?

2.4 Article 47 (4)

The marketing of catches from a recreational fishery shall be prohibited except for philanthropic purposes.

Questions:

- Again we see a need to establish what a recreational fishery is. Will the Commission come up with a definition?
- What are the proposed policing methods?

SECTION 3: ARTICLE 47 – comments, critics and suggestions

3.1 – No recreational fisheries definition

“Recreational fisheries” is the main legal subject for Article 47. Nevertheless there is no definition of recreational fisheries/-fishing or any of its sub-sectors to be found among the 24 terms defined in Article 4.

The proposed regulation talks about “recreational fisheries” in the broadest sense. However, this broad term comprises several sub-sectors of fishermen using very different catching gears and techniques, e.g. anglers vs. netmen, longliners, trappers and spear-divers. It could be useful for management to break down the broad term into e.g. “Recreational Sea Angling” and “Other Recreational Fisheries”.

It makes it difficult to grasp what is actually meant by “Recreational fisheries on a vessel in Community waters on a stock subject to a multiannual plan shall be subject to an authorisation for that vessel.....”

Also difficult to see clearly which kinds of (recreational) boats or vessels the Article 47 applies to.

Only recreational catches from boats are explicitly mentioned as subject for monitoring and quotas. It is not clear whether recreational fisheries taking place without the involvement of a boat is included (e.g. angling from shore, cliffs, piers and nets set close to shore etc.)..

Existing definitions could have been copied in from e.g. the “EAA definition on recreational angling” (2004)¹³, the EU funded study “on “Sport Fisheries” (or Marine Recreational Fisheries) in the EU” (2006)¹⁴ or the “EIFAC Code of Practice for Recreational Fisheries” (2008)^{15 16}

3.2 – Recreational fisheries and the counting against quotas - Article 47(3)

“Catches of species subject to a multiannual plan by recreational fisheries shall be counted against the relevant quotas of the flag Member State. The Member States concerned shall establish a share from such quotas to be used exclusively for the purpose of recreational fisheries.”

We have difficulties to imagine If/when implemented how this will change today’s practises, the quota setting and distribution between Member States and between sectors within the Member States?

How to identify and quantify “quotas to be used exclusively for the purpose of recreational fisheries.”? Baseline? Based on what criteria, short and long term? Are catches from boat as well as catches from non-boat fisheries included? Shall catches from non-boat fisheries also be counted, and counted against the relevant national quota? If not, why not?

Shall the recreational fisheries quotas be taken from the commercial fisheries quotas? Shall recreational fisheries quotas be deemed commodities and priced likewise the commercial fisheries’ quotas? Will recreational fisheries quotas be affected by or affecting the Relative Stability?

¹³ EAA’s recreational angling definition:

EN http://www.eaa-europe.eu/fileadmin/templates/aaa/docs/EAA_Angling_Def_long_FINAL_EN.pdf

FR http://www.eaa-europe.eu/fileadmin/templates/aaa/docs/EAA_Angling_Def_long_ver7_FINAL_FR.pdf

¹⁴ FINAL REPORT, EU contract FISH/2004/011 on “Sport Fisheries” (or Marine Recreational Fisheries) in the EU For The European Commission Directorate-General for Fisheries (2006) M. G. Pawson, D. Tingley, G. Padda1, and H. Glenn http://ec.europa.eu/fisheries/publications/studies/sportfishing_2006.pdf

¹⁵ EIFAC Code of Practice for Recreational Fisheries” (2008), - see definitions page 20-21 “Glossary” <ftp://ftp.fao.org/docrep/fao/011/i0363e/i0363e00.pdf>

¹⁶ There are no contradictions between the definitions from these three sources. The EU funded study supports the EAA’s Definition and terminology. Also EIFAC by and large follow suit but extend it with a fourth segment “subsistence fishing”, which we welcomes.

3.3 - Over-kill

By and large we find the measures proposed in Article 47 alone and in Regulation context for “over-kill” with a great risk it will bring unnecessary adverse effects onto our sector, recreational angling¹⁷.

3.4 – The Community and Member States not ready for Article 47

We find that the Community and Member States are not ready for Article 47. At present the Commission and most of the Member States only hold sparse information about the recreational fishing sector i.e. catch and mortality data¹⁸, target species, environmental impact, socio-economics, number of practitioners, days of fishing etc. We cannot see how the needed data material can be provided before 1 January 2010.

3.5 – RECFISH – A pan-European Socio-Economic Study on Recreational Angling

EAA has stressed the lack of data for years¹⁹. We have sketched a pan-European pilot study RECFISH developed for the 6th Framework (research) Program. It was not funded by then. We still have a consortium readily available to carry out RECFISH²⁰ if the Commission, Member States or others should be willing to finance it.

3.6 - More and better data needed

Much more and better data are needed on the recreational fisheries sector as a whole, but also specified for recreational sub-segments. Data should be provided separately for at least these two segments: “recreational angling” and “other recreational fisheries” (which eventually can be further subdivided). These segments can’t/shouldn’t be tarred with the same brush. Their environmental impact, socio-economic output and the regulations and measures to control and manage them are very different²¹

When restrictions on recreational catches are called for it is necessary to identify the fish mortality caused by each of these groups and to take into consideration the socio-economic aspects and data to avoid doing more harm than necessary to the local communities and the businesses dependant on these fishermen. The measures to restrict catching effort from one group to another differ, and so do the conservation effects and economic impact from catch restrictions.

3.7 - Recreational fisheries already included the TACs and Quotas?

We would like to know if and how ICES at present deals with “unaccounted fishing mortality”. We would be surprised if ICES has a zero for recreational catches. We would also like to know how many Member States take into account fishing mortality from the recreational fishing sector before they distribute the national quotas onto the commercial fisheries sector. We have information that UK some years ago - and maybe still - included recreational fisheries fish mortality in their Natural Mortality figure before the quotas were set and distributed. Does UK still do that? Other countries?

3.8 – Art 47 won’t add to simplification of rules or cost relief – on the contrary

We find that Article 47 will not contribute to simplification of rules and administration or cost relief for the Member States as intended by this Regulation – on the contrary.

¹⁷ Angling = rod and line fishing. Recreational Sea Angling is a sub-sector of “Recreational Sea/Marine Fisheries”.

¹⁸ “At present, it is **not possible to produce a comprehensive, quantitative overview of the importance of MRF** (Marine Recreational Fisheries) because the information is neither available for each country nor is it in a consistent format. This suggests that **new studies are required** to provide robust information **upon which to make decisions...**”; (page 4), FINAL REPORT, EU contract FISH/2004/011 on “Sport Fisheries” (or Marine Recreational Fisheries) in the EU For The European Commission Directorate-General for Fisheries (2006) M. G. Pawson, D. Tingley, G. Padda1, and H. Glenn http://ec.europa.eu/fisheries/publications/studies/sportfishing_2006.pdf

¹⁹ We have done so on a number of occasions including as guest speakers at the European Parliaments Committee on Fisheries (Nov 2002). Also as co-arrangers of a seminar in the European Parliament, March 2004 on “The Socio-Economic Value of Recreational Angling in Europe” http://www.eaa-europe.eu/fileadmin/templates/eea/docs/EAA_EFTTA_25_March_2004_FINAL.pdf

²⁰ Our RECFISH project here: <http://www.eaa-europe.eu/index.php?id=20>

²¹ See for an example the Annex I “Denmark Recreational Angling – Definition and licenses”. The overview shows how various segments of recreational fisheries are defined and licensed in Denmark.

The proposed Regulation states that: “The proposal will lead to simplification of the relevant legislation, together with improvements in the control system. - The system establishes a single ambitious framework laying down the principles governing all aspects of control, but leaving it to implementing regulations to establish detailed technical rules.”²²

That makes sense, but what next? “Detailed technical rules” don’t come without a cost. We doubt the inclusion of recreational fishing will lead to much simplification but add a new layer of rules with more administration to be paid for by the Member States.

We fail to see how Article 47 can be implemented and enforced properly without a substantial increase in either the Commission budget and/or the Member States’ budgets.

Portugal introduced a sea angling license last year. Among other things it was expected that the license fees could generate income to pay not only the administration but also other things. By now there should be some useful lessons to be learnt from there. The tackle trade says they have suffered substantial losses in sales and profit. And we hear from the tackle trade and anglers that the number of licenses sold were considerable less than expected.

SECTION 4: OTHER ARTICLES – questions and comments

4.1 - Which other articles might apply to recreational fisheries apart from Art 47?

We are puzzled, which other articles might apply to recreational fisheries apart from Article 47. Article 47 seems like an add-on to the 115 other articles, which are mainly or only aimed at commercial fisheries, aquaculture and processing. However, we fear that the (late) Article 47 inclusion might (unintentionally) trigger other articles to apply for recreational fisheries as well. Could this be so? If so which articles?²³ And which articles – if any – would still apply to recreational fisheries if Article 47 is deleted? Clarification is needed. It is not acceptable if all these uncertainties are sent to comitology committees to be dealt with, where neither we nor the public have access.

4.2 - Article 2: The scope for the Regulation

Article 2: Scope

This Regulation shall apply to all activities carried out on the territory of Member States or in Community waters or by Community fishing vessels or, without prejudice to the primary responsibility of the flag State, nationals of Member States, which relate to

- (a) the conservation, management and exploitation of living aquatic resources,
- (b) aquaculture,
- (c) processing, transport and marketing of fishery and aquaculture products.

This scope seems to be all-inclusive, which makes it difficult to argue it shouldn’t apply to recreational fisheries or any other human activity at sea. But does it have to apply?

The legal base for the Regulation is the CFP, which operates with shared competences. We see no legal requirement that the proposed regulation has to include recreational fisheries.

Commercial fisheries take place not only close to the coast but at the high seas as well. Most recreational sea fisheries are taking place within the first 12 mile from shore, where Member States operate their own fisheries management schemes and have their own ways of dealing with recreational fisheries (though all in compliance with the CFP). All the good talks and arguments, which can be found in assessment report about the need for harmonised monitoring and control of the commercial fisheries sector are opinions largely shared by stakeholders and Member States²⁴.

²² Proposed Regulation’s page 8.

²³ Some find that e.g. Article 2 (a); Article 7,1,(g); Article 23,3; Article 36,1; Article 81,1; Article 85,1 and Article 86 might apply to shore angling.

²⁴ See proposed Regulation’s page 3: “II. Consultation of the interested parties and impact assessment”

What the same stakeholders might think about harmonised monitoring, control, authorisations etc. for the recreational fisheries we don't know as this was never an issue for discussions. Indeed, we fail to see harmonised recreational fisheries control and management schemes have much added value, more likely the opposite.

We have pointed out further above that much more and better data are needed for the Community and Member States to be able to make informed and wise decisions about recreational fisheries.

We are pretty confident that if/when the data are produced it will be obvious clear that recreational angling is a minor contributor to the total fish mortality for most fish stocks. This might not always seem so if the national angling take is compared with the national TAC but the comparison should not be with the national TAC but the total (breeding) stock of a given fish species.

4.3 - Article 21 and 22: landing measures

Are recreational catches subject to any of the landing measures in Article 21 and 22?

4.4 - Article 37: fishing gear

Are recreational fishing boats subject to the fishing gear Article 37?

4.5 - Articles 39 and 40: Terminology problem: “MPA” is used for “No Take Zone”

We are worried – and we think the commercial sector should be worried, too – that Article 39 and 40 have set Marine Protected Areas equal to No Take Zones. We are not happy about that as it is misleading. A MPA can be open for certain kind of fishing but still be named a MPA. We would prefer another term than Marine Protected Areas in these articles e.g. “No Take Zones” or “No Fishing Zones”, which would cohere with the content.

4.6 - Articles 45 and 46: real-time closures

Do the real-time closure articles apply to recreational fisheries, too?

4.7 - Article 82: fines

Shall the minimum fine 5,000 euro in Article 82 apply to recreational fisheries?

4.8 – Articles about overfished quota, closure of fisheries and deduction of quota

If a given commercial fishery quota should be overfished shall Art 96, 97, 98 (closure of fisheries and deduction of quota) and Article 101;2;b (closure - emergency measure) only take effect for the commercial fisheries sector without any repercussions for the recreational fisheries sector and their quota? What shall happen if the recreational quota is overfished? In this regard we would like to stress that angler's voluntary releases are common for certain fish. In the Netherlands more than 40% of the sea bass caught are released alive. In UK the percentage is even higher.

SECTION 5: RECREATIONAL FISHERIES AND THE CFP

5.1 - Is recreational fishing in or out of the CFP today?

Or maybe one should ask: How is recreational fisheries included the CFP today compared to commercial fisheries, aquaculture and processing? We find it is the time to evaluate the present situation. What is status for the recreational fisheries sector today with regards to the CFP? And what is the prospect for the future? Will recreational fisheries, or at least recreational angling, become a genuine CFP stakeholder on an equal footing with commercial fisheries and aquaculture?

We see more and more Community legislation dealing with the recreational fisheries sector explicit or implicit but we still lack to see on print a genuine recognition of the sector within the CFP itself. We wonder if this lack of explicit recognition makes some of the provisions in Article 47 unlawful.

In our opinion, at some point in time the accumulated amount of piecemeal legislation for our activities cannot continue any longer without a change in the CFP making recreational fishing fully recognised; eventually the EU Treaty should be amended, too, at the first given opportunity.

Indeed, we have stressed for years the lack of recognition of recreational angling within the CFP and we have suggested this to be corrected within the CFP legal text²⁵ and the EU Treaty as well²⁶ but to no avail so far.²⁷

Before the Community introduces more piecemeal legislation with adverse effects for the recreational fisheries time has come for the Commission and Member States to consider for real, discuss and decide if and how the recreational fisheries shall be included the CFP. We recommend this to happen on an equal footing with commercial fisheries and aquaculture. Now is a good time for these considerations. CFP reform discussions were kicked off last year and a Green Paper is expected in April.

The US Magnuson Stevens Act is a paper for inspiration²⁸ to that discussion but also the UK marine bill on the table is worth having a closer look at.

SECTION 6: RACS AND ACFA

6.1 - RACs, Regional Advisory Councils and ACFA, Advisory Committee on Fisheries and Aquaculture

We are represented on all 7 Regional Advisory Councils, but for some reason recreational angling still is denied representation in ACFA²⁹, which we find unreasonable and unfair today, and even more should Art 47 be adopted.

The recent ACFA evaluation assessed, among other things, some interest groups not currently represented in ACFA. With regard to anglers it is said that:

“Recreational fishermen could be represented by EAA. While able and willing to take part in ACFA, recreational fishing is largely restricted to coastal areas and their presence in RACs (which is already the case) seems more appropriate.”³⁰

We strongly disagree with this opinion. ACFA and RAC representation is not a question of being onboard one and not the other body. Most interests in ACFA also are represented on one or more RACs, e.g. the E-NGOs. Aquaculture has its own Working Group within ACFA. This is where they are most active but they have a right to be presented in RACs, too.³¹

²⁵ EAA's CFP Green Paper Response (Sept 2001)

www.eaa-europe.eu/fileadmin/templates/uploads/Positions/EAA_contribution_to_CFP_Greenpaper_2001.pdf

²⁶ EAA PRESS RELEASE, 13 Sept 2003: “Recreational Fisheries and Tourism in the new EU Constitution”

EN www.eaa-europe.eu/fileadmin/templates/uploads/Positions/press_release_EN_final.doc

FR www.eaa-europe.eu/fileadmin/templates/uploads/Positions/press_release_FR_final.doc

EAA and EFTTA amendments to the EU Treaty (Sept 2003):

EN www.eaa-europe.eu/fileadmin/templates/uploads/Positions/EU_Treaty_amendments_EN_final.pdf

FR www.eaa-europe.eu/fileadmin/templates/uploads/Positions/EU_Treaty_amendments_FR_final.pdf

²⁷ Sport and Tourism included the new Treaty but not recreational fisheries. EAA press release (June 2004):

www.eaa-europe.eu/fileadmin/templates/eea/docs/Sport-Tourism-New-Constitution%20_EN.pdf

²⁸ Magnuson-Stevens Fishery Conservation and Management Act As Amended Through January 12, 2007

www.nmfs.noaa.gov/msa2005/docs/MSA_amended_msa%20_20070112_FINAL.pdf

Note: The word “recreational” is used 57 times in that Act. The proposed EC Regulation makes use of that word only 7 times and all within Art 47.

Note: US definition: “104-297 (37) The term “recreational fishing” means fishing for sport or pleasure.”

Magnuson-Stevens Fishery Conservation and Management Act Reauthorized www.nmfs.noaa.gov/msa2007/details.html

²⁹ **FAQ:** http://ec.europa.eu/fisheries/faq/committees_en.htm#2 **Question:** *What is the Advisory Committee on Fisheries and Aquaculture (ACFA)?* **Answer:** The implementation of the rules of the Common Fisheries Policy requires that the opinion of the stakeholders is taken into consideration as well as the encouragement of the formulation of analyses and of joint positions. For that purpose the Commission has established the Advisory Committee on Fisheries and Aquaculture (ACFA).” See also Council Regulation (EC) n° 657/2000 “on closer dialogue with the fishing sector and groups affected by the common fisheries policy” <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:080:0007:0008:EN:PDF>

³⁰ Final report: www.ccr-s.eu/transfert-pdf/2008/38/ACFA_Mid_term.pdf

Technical Annex www.ccr-s.eu/transfert-pdf/2008/38/ACFA_Final.pdf

³¹ COUNCIL DECISION of 19 July 2004 establishing Regional Advisory Councils under the Common Fisheries Policy, Article 1, Definitions: (...) 3. ‘Other interest groups’ shall mean, amongst others, environmental organisations and groups, aquaculture producers, consumers and recreational or sport fishermen.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:256:0017:0022:EN:PDF>

6.2 – Suggestion: An ACFA Working Group 5 - Recreational Fisheries

ACFA's four Working Groups:

Group 1: Access to fisheries resources and management of fishing activities

Group 2: Aquaculture: fish, shellfish and molluscs

Group 3: Markets and Trade Policy

Group 4: General questions: economics and sector analysis.

We suggest the setting up of this 5th working group:

Group 5: Recreational Fisheries: Access to fisheries resources, management of fishing activities, socio-economics and sector analysis.

This would be an appropriate and timely Working Group to set up.

The members of this group should be recreational fisheries sector representatives from as a minimum recreational angling, tackle trade, angling dependant tourism and charter boating.

This would make sense taking into consideration the continued incremental inclusion of the recreational sector under Community legislation and where we are now. The latest revision of the Data Collection Regulation included recreational fisheries in the definition on fisheries for the first time. And now this proposed control regulation takes another step forward. Combined the two regulations present a revolution for recreational fisheries management. European sea anglers need a forum in the ACFA to be able to defend the interest of Europe's 8-10 million sea anglers and to be able to deliver recommendations and advises to the Commission and Member States before they adopt legislation having unintended adverse effects on our sector.

A vast number of Articles in the Regulation has as their last sentence:

"Detailed rules for the application of this Article may be adopted in accordance with the procedure referred to in Article 111."

Article 111 concerns the implementation of this Regulation. It says: "the Commission shall be assisted by the Committee set up under Article 30 of Regulation (EC) No 2371/2002".

That Committee is ACFA. We need to be there.

SECTION 7: RECREATIONAL FISHERIES UNIT WITHIN DG MARE

We have for a long time advocated that DG MARE should be equipped with a genuine Unit for Recreational Fisheries having the manpower and expertise to deal with the recreational fishing sector adequately. That we will still advocate. It is long overdue.

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The European Anglers Alliance (EAA) is a European NGO. Members of the alliance are 14 national recreational angling organisations in 11 European countries with 3 million affiliated members. EAA defends the interests of its members and the rest of Europe's 25 million recreational anglers. Recreational angling in Europe generates some 25 billion euro in socio-economic value. The tackle trade business alone has a turnover of about 5 billion euros supporting some 100,000 jobs across Europe.

ANNEX I

Country: Denmark Recreational Angling – Definition and licenses

Law: Bekendtgørelse af lov om fiskeri og fiskeopdræt (fiskeriloven) www.retsinformation.dk/Forms/R0710.aspx?id=121218

Licenses: www.fisketegn.dk/fisketegn/common/frontPageShow.jsp

Definition	Name of Licenses	Who can fish?	Who must buy a licence?	Kinds of licenses and prices	
<p>Two kinds of Recreational Fishing</p> <p>----- (A third group is named, “bi-erhvervsfiskere”/ “commercial part-time fishermen”; They are not “recreational” but commercial fishermen alike) -----</p> <p>1) “Lystfiskeri”</p> <p>Angling/sportfishing</p>	<p>The law says, §26 (translated from Danish by the editor):</p> <p>“Anyone is allowed to go angling using a rod, jig or similar light hand fishing tackle, as if the rules in §54 concerning angling license are kept”</p>	<p>Public information says: angling/sportfishing is:</p> <p>“Fishing with light hand fishing tackle”</p> <p>No rule but a <u>recommendation</u> urges the use of only 1-2 rods per person.</p>	<p>“Lystfiskertegn” (angling license)</p> <p>- The purchase of a govt. angling licence is required (no difference between sea- and fresh water angling) for persons between the age of 18 and the age of 65.</p> <p>- The right of fishing in fresh waters is normally private. A permit will thus have to be obtained from the holder of the right of fishing, usually the bank owner, for fishing in creeks or lakes in Denmark.</p> <p>- Fishing in a “Put and Take” pond normally require no license but a permit bought on the spot</p>	<p>All</p> <p>Basic rule 18-65 y.o.</p>	<p>1. for 12 months: DKK 125 (€ 16.78)</p> <p>2. for one week: DKK 90 (€ 12.08)</p> <p>3. for one day: DKK 30 (€ 4.02)</p>
<p>2) “Fritidsfiskeri”</p> <p>Hobby fishing (or part-time fishing)</p>	<p>The law says, §27 (translated from Danish by the editor):</p> <p>“Besides angling as mentioned in §26, a person, not registered as commercial or commercial part-time fisherman, or granted those fishing rights mentioned in §§ 24 and 25, could practise hobby fishing”(..)</p>	<p>Public information says: Hobby fishing/part-time fishing is:</p> <p>a) “All other kinds of fishing, which is not angling/sportfishing”</p> <p>b) “recreational fishermen using passive standing gear”.</p>	<p>“Fritidsfiskertegn” (hobby fishing license)</p> <p>- No license is required for the landowner and his family</p> <p>- A landowner (or any leisure/part-time fisherman) can ask a permission to sell their catch (this is a possibility for fresh water catching only – sales of sea fish caught by hobby/part-time fishermen cannot be permitted)</p> <p>- The fishing tackle and fishing seasons are regulated by law</p>	<p>From 12 y.o.</p> <p>Basic rule 12-65 y.o. (and being a Danish inhabitant)</p>	<p>Only one kind of licenses: 12 month licenses Price: 250 DKK (€ 33.56) (this license covers angling, too)</p>

Other information: The regulations of fishing with nets are comprehensive with detailed rules for placement, mesh sizes, distance between gears, distance to the coast (100 meters minimum), owner identification of the gear etc. etc.

The Danish member of EAA, Danmarks Sportsfiskerforbund launched in 2004 a website where the public can report illegal set net. Today more than 900 incidents are reported and plotted in on a map of Denmark: <http://ulovlige.net/index.php>