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Survey of Institutions responsible for inspecting polish fisheries in the Baltic Sea – REPORT

Szczecin 2009



**SURVEY OF INSTITUTIONS RESPONSIBLE FOR INSPECTING
POLISH FISHERIES IN THE BALTIC SEA
– REPORT**

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INTRODUCTION

The purpose of this report is to present the results of activities performed by Federacja Zielonych GAJA (Green Federation Gaja) within the framework of the project “Survey of the fisheries inspection system with respect to cod, salmon and other socially and ecologically important species in the Baltic Sea” during the period between January and October 2008.

The report contains data obtained primarily from official sources (the Polish fisheries administration). It also includes the opinions of fishermen and ship operators, as well as scientific data. All this information has been summarized in the form of remarks, comments, conclusions and recommendations.

We hope that this report will broaden the public debate on issues concerning control of Polish and European fisheries and, most importantly, strengthen the efforts already underway to improve the sustainability of fishing in the Baltic Sea by supporting an effective fisheries inspection system and other measures. Only decisive steps toward a better management of fish resources can help stamp out illegal fishing practices.

SUMMARY

In the course of the survey, Federacja Zielonych GAJA has obtained official information from various institutions responsible for inspections and fisheries management in Poland. The acquired information was contrasted with the opinions of people employed in the fishing industry. The resulting report presents our observations and describes the inaccuracies and weak points both in the management of Baltic fisheries and in the Polish system for monitoring and controlling fishing in the Baltic Sea. The report presents a number of remarks, opinions, conclusions and proposed changes to the current system for inspecting both fisheries and the distribution chain of fish products. We have indicated the generally known ways of circumventing fisheries regulations. The report leaves no doubt that the existing legal loopholes and mismatches between regulations and reality are the main reasons why the fisheries inspection and fish distribution systems in Poland are so easily exploited.

It is, and will remain, very difficult to eliminate illegal, unreported and unregulated (IUU) fishing and the black market controlled by people who make considerable profits from its existence. The vocal opposition of some fishermen and fish processors to stricter inspections, more severe penalties and more effective market mechanisms comes as no surprise, as such measures entail the loss of substantial profits from the illegal activities of many individuals. Hence the fierce resistance and the ruthless exploitation of all weaknesses of the Polish and European fisheries administration. All this happens at the expense of honest fishermen, who would like to work under normal conditions and who are not indifferent to the fate of fish stocks.

That is why it is so important and so necessary to take decisive steps to eliminate all dishonest elements from the chain. Unfortunately, the relatively low number of Fisheries Inspectors, rare nightly inspections, inadequate pay and even a feeling of being threatened all contribute to the poor quality of inspections in Poland. Another problem is the fact that Inspectors are not authorized to review the invoices and other financial records of fish traders in order to compare them with landing and first-sale records. These and other issues make it easy for poachers to engage in illegal activities.

It is high time to improve the way the administration operates. Its attempts to take fisheries inspection and management to the next level should be more transparent, and the inspection procedures more effective. In connection with the European Commission's efforts to implement positive changes in the European fisheries control system and the planned reform of the Common Fisheries Policy of the European Union, Federacja Zielonych GAJA wishes to draw the attention of the fisheries administration to basic problems in the inspection and management procedures of Polish fisheries summarised below. The problems are described in more detail in further sections.

- ***Sea Fisheries Inspectors*** – insufficient number of inspections (especially at night), poorly paid, insufficiently motivated, threatened, lacking adequate legal measures, often connected to local fishermen, cases of corruption
- ***District Sea Fisheries Inspectorates*** – frequency and quality of inspections are too low, not enough responsibility in the area of fish product distribution and tracking the origin of products on land
- ***Penalties*** – the penalties for violating fisheries regulations are too low, no on-the-spot fines, prolonged criminal cases
- ***Financial aid*** – offenders are still allowed to seek and receive EU funding, no blacklists to prevent aid from being provided to habitual offenders
- ***Cooperation between institutions*** – poor information exchange, few joint inspections, lack of common objectives

- *Sports and recreational fishing* – anglers are insufficiently inspected, the amounts of fish caught by anglers is not recorded, general belief that violations of recreational fishing regulations cause little harm
- *Polish fishing administration* – lack of openness and transparency (insufficient release of information), slow to take action, more decisive steps to combat illegal fishing practices are needed
- *Marine Unit of the Border Guard* – insufficient authority to inspect sea fisheries, inadequate number of inspections of fish distribution on land
- *Compliance with the law* – lack of a widespread culture of compliance with the law in the Polish fisheries sector

Based on our non-governmental survey of Polish institutions responsible for inspecting fisheries in the Baltic Sea, Federacja Zielonych GAJA has drawn the following basic conclusions:

- We confirm that the Polish fisheries inspection system is easily exploited and ineffective, and that the management of marine resources is functioning poorly.
- Polish institutions created to inspect fisheries are often unable to carry out their duties fully due to a lack of staff and equipment and, most importantly, due to inadequate legal means and the lack of better cooperation between authorities.
- The current fisheries regulations are ineffective due to their poor design. Regulations developed in the past no longer suit current fishing practices, nor the magnitude of the problems.
- To eliminate IUU fishing and improve the situation in Baltic fisheries, it is essential to reform the Common Fisheries Policy of the EU, in particular the fisheries inspections, which constitute a very important element of this policy.
- To combat the black market, it is necessary to tighten up and develop the system for monitoring of the distribution of fish products on land and tracking their origin.
- We must deny financial aid to habitual offenders and support honest fishermen and ship operators in acquiring EU funds.
- We must impose severe penalties for illegal fisheries activities, including the revocation of fishing licenses. On-the-spot fines given by Fisheries Inspectors would greatly speed up the execution of penalties.

Federacja Zielonych GAJA believes that similar surveys should be initiated in other countries surrounding the Baltic Sea to help combat illegal fishing and support the attempts to normalize the currently difficult situation of Baltic fisheries. The survey could motivate NGOs in other countries to review their fisheries control systems and detect all obvious irregularities in the way European fisheries are managed in the Baltic Sea. Such public initiatives can be an important tool in the fight against the invisible sphere of illegal profits, which poses an extreme threat to the future of European fisheries, honest workers in the fisheries sector, and the entire Baltic Sea ecosystem.

It is important to inform the public of the primary problems of fisheries in Europe and in Poland. It is also essential to share information on the ways to protect fish resources in the Baltic Sea, which are a common good of the citizens of Europe. Such efforts increase public knowledge about fisheries and the acceptance of activities promoting a culture of compliance with the law.

1. GENERAL INFORMATION ON THE BALTIC SEA FISHERIES AND THEIR PROBLEMS

1.1. Fishing and fishing fleets in the Baltic Sea

Fisheries in the Baltic Sea are among the most developed in the world. The Baltic Sea is treated by many as a kind of large lake. The Baltic fish resources are currently subject to extraordinary fishing pressure, which affects the life of individual marine organisms and the structure of the food chain in the entire Baltic ecosystem.

The economically most important species of the Baltic Sea are cod and salmon. It is these two species that are the most profitable targets for fishermen; at the same time, they give rise to the biggest problems and most heated disputes. Having said that, the species caught in the largest amounts by fishermen of all countries bordering the Baltic Sea are sprat (over 300,000 tons) and herring (over 200,000 tons). It is worth mentioning that it is those fishes, along with the Baltic cod, that are caught most intensively by Denmark, Poland and Sweden. With respect to the sprat and the herring, Estonia and Lithuania are also important players.

According to the data gathered by the European Commission and Eurostat, the EU fishing fleet in the Baltic Sea currently consists of over 12,000 vessels, including 840 flying the Polish flag¹. Poland has one of the least numerous fishing fleets in the Baltic Sea; however, among the Polish vessels, over 600 hold special permits for cod fishing. This gives Poland a top position in terms of the number of cod fishing vessels and the intensity of cod fishing in the Baltic Sea.

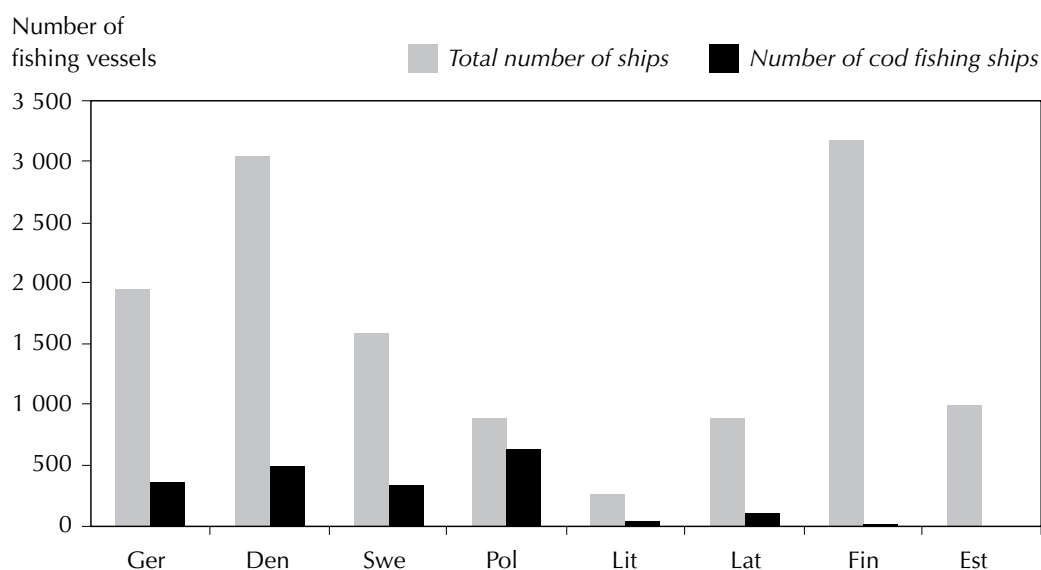


Fig. 1. Overall fleet size compared to the number of fishing vessels licensed to fish for cod in countries bordering the Baltic Sea. Source: Sea Fisheries Institute, 2007.

The fishing effort of the EU fleet in the Baltic Sea is currently being adjusted to the size of the different fish populations. Low levels of fish resources mean that maintaining large fishing fleets is no longer profitable for either the state or the fishermen. Proper adjustment of fleet sizes would make it possible to reduce the fishing mortality of depleted fish populations, as well as improve the profitability of the vessels that remain active. The efforts to restructure fishing fleets is supported by the European Fisheries Fund, which will enable the withdrawal (scrapping) of some of the currently

¹ as of 22.09.2008.

active fishing vessels. Poland plans to carry out another reduction of the fleet size by 30 percent under its Operational Programme titled “Sustainable development of fisheries and coastal fishing areas 2007–2013”.

1.2. Illegal, unreported and unregulated (IUU) fishing

IUU fishing is one of the biggest problems in the Baltic Sea fisheries, and indeed in the whole world. It has an enormous adverse impact on fish resources, and the overfishing inflicts significant damage on marine ecosystems as well as the fishing industry. IUU fishing is holding back the stable growth of the Baltic cod population and is the origin of the conflicts and disputes which we are currently witnessing in the Baltic Sea region. As a result of these harmful practices, fishermen catch too many specimens which are sexually immature, incapable of breeding, or protected by law. Illegal, unreported and unregulated fishing is oriented towards the maximization of profits, and is a flagrant violation of the law and the principles of sustainable fishing.

Illegal fishing harms both fishermen and consumers. This is because the selling of illegally caught fish reduces the market value (too many fish hit the market). In this way, honest fishermen earn less money while still facing the consequences of any penalties or fishing limits imposed under the principle of collective responsibility. Such a situation occurred in 2007 and 2008 – due to the fact that the national quota was exhausted by irresponsible and illegal overfishing, *all* fishermen were banned from fishing for cod in the eastern Baltic Sea, despite the fact that many honest fishermen had not yet used up their individual limits. For this reason, leniency towards individuals who break the law and derive significant financial benefits from it is unacceptable.

Unfortunately, the poor atmosphere surrounding Polish fisheries and the lack of determined administrative action is not helping fishermen’s motivation to combat IUU within their own community.

It is very important that fisheries regulations be obeyed by all, and that fishing be conducted according to the principles of sustainable fisheries. Such an approach would create a good chance to ensure really effective protection of existing fish resources. The goal is not only to safeguard the fishing legacy, but, most importantly, to preserve jobs in the fisheries sector and ensure that future generations of fishermen receive fair compensation for their hard work.

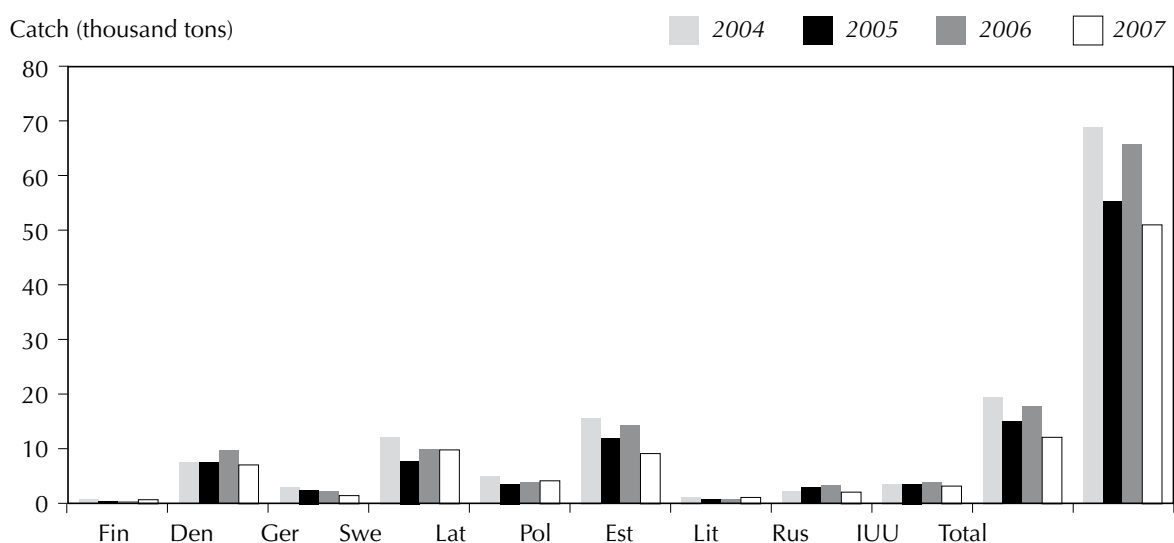


Fig. 2. Catches of Eastern Baltic cod by individual EU countries and Russia in 2004–2006 and estimated magnitude of IUU fishing. Source: ICES Advice 2007, book 8.

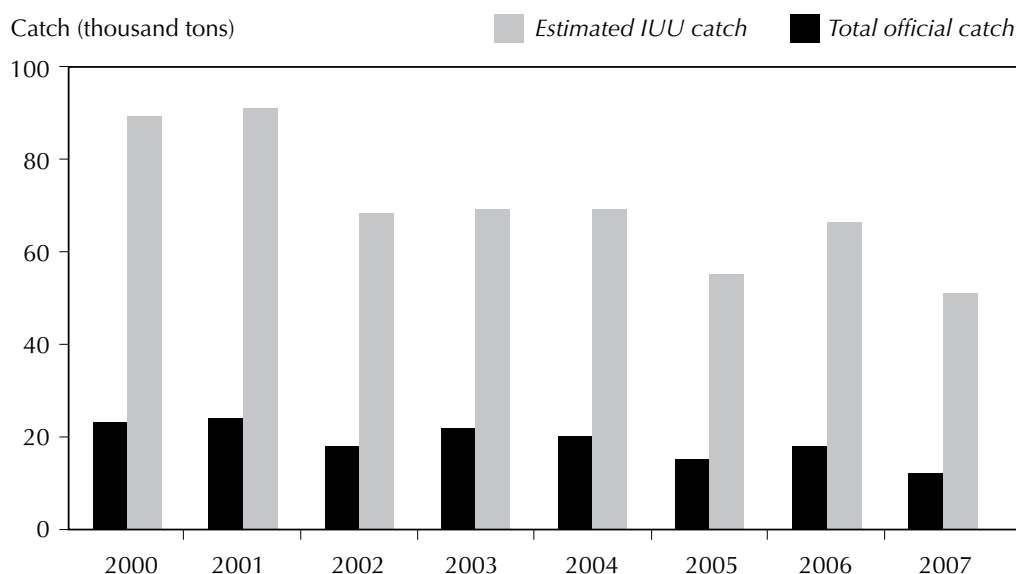


Fig. 3. Official catches of Eastern Baltic cod and estimated magnitude of IUU fishing in 2000–2007. Source: ICES Advice 2007, book 8.

1.3. Industrial fishing

In this report, “industrial fishing” refers to a specialized method of fishing conducted for the purpose of supplying low-value fish products to processing plants for the manufacturing of feed and oils. In the Baltic Sea, the target species of industrial fishing are sprat and herring. Because of the lower salinity of the water in the Baltic Sea, these fishes grow to smaller sizes than their counterparts in the North Sea, which is why the Baltic sprat and herring are perceived as less attractive for consumers and of lower value. Many ship operators consider it more profitable to sell caught fish for feed production, than to look for markets where it could be sold for human consumption. Industrial fishing, however, has given rise to many controversies, especially in the sensitive Baltic Sea, where irresponsible and unregulated human activity can cause a great deal of damage in a short period of time.

Industrial fishing in the Baltic Sea is usually done by enormous, often 80-metre-long ocean vessels, mainly from Denmark and Sweden. Such large vessels may catch everything within the range of their huge nets with small mesh size, including the fry of the valuable cod. According to many, such large vessels should not be allowed to operate in a small sea like the Baltic.

On the other hand, people from the industrial fishing community claim that industrial fishing is one of the few methods of fishing free of illegal fishing activities. They also assert that industrial fishing is easy to control and that the bycatch of undersized cod is negligible or even non-existent, as is damage to the ecosystem. These people further affirm that industrial fishing has a positive regulatory effect on the populations of pelagic species, and indirectly also on the cod, whose spawn is the fodder of the sprat and herring.

In spite of all that, the fisheries community in Poland seems to share a common opinion on industrial fishing. Fishermen are calling for a stop to industrial fishing or at least for solutions that would make it more rational. The suggested regulations include strict limits on the number of industrial fishing vessels, the use of more selective fishing gear, bans on fishing in locations with a high probability of catching young cod, as well as adding cod bycatch from industrial fishing to the fishing quota of a Member State.

1.4. Sport and recreational fishing

Sport and recreational fishing is considerably different in nature and scale from commercial fishing. Nevertheless, recreational cod fishing is growing with each passing year and is emerging as a significant factor affecting the dynamics of fish stocks by increasing their fishing mortality. Besides, a number of issues related to anglers, and especially their compliance with regulations, still need to be solved in Poland. The lack of accounting of the quantities of cod caught in recreational fishing in the Baltic Sea makes it easier to ignore regulations, while hindering accurate estimations of the cod biomass in the Baltic Sea.

In the sea angler community itself, there is a serious dispute between those who support compliance with the law and those who break it on a regular basis. There is also something of a conflict of interest between anglers and fishermen, for example with regard to the idea of including angling catches in national fishing quota. If this idea was implemented, the cod quota of commercial fishermen would potentially be reduced by over 600 tons, which is the amount caught annually by Polish anglers according to the Sea Fisheries Institute. This naturally provokes the opposition of fishermen. At the same time, anglers are very sceptical of any proposals to limit recreational fishing. One thing is certain, however: all fishing must conform to the principles of sustainable fisheries and actions contrary to the law must be eliminated in an effective way. It is also essential to make favourable changes to regulations concerning sports and recreational fishing – primarily with respect to limits and record-keeping.

1.5. Assessment of resources and technical means of conservation

Unfortunately, the scientific data on the state of resources in the Baltic Sea still does not present full knowledge of the actual number of fish. This is being used by some fishermen as an excuse to violate fishing quotas and break the law. Unreported fishing only distorts the actual state of affairs, which leads to more and more stringent fishing restrictions. At the same time, restrictions and control are pointless in the face of illegal fishing. In this way, we come full circle – new fishing restrictions are imposed and some fishermen break them, trying to increase their profits in difficult times. Hence, there is a need to improve data collection and assessments of marine resources, preferably through increased cooperation between scientists and fishermen in an atmosphere of compliance with fisheries regulations.

1.6. Bycatch and discards

Fishermen often catch some other fish than the ones that they target. Species caught in this way are referred to as “bycatch” and may consist not only of fish, but also birds, mammals and crustaceans. Undersized specimens of the target species are also considered bycatch. Owing principally to certain economic mechanisms and legislative deficiencies, fishermen all over the world simply throw their bycatch back into the sea. This is an obvious waste of marine resources. Populations of certain fishes are considerably and unnecessarily weakened.

No one can determine the exact proportion of discarded catch. It is nonetheless certain that it has a negative effect on marine ecosystems. Effective prevention of bycatch and a reduction of discards would require speedy and determined actions of the European fisheries administration. Unfortunately, bycatch and discards is a complex, multi-faceted problem which demands a great deal of attention. Through smart regulatory changes, the continued improvement of selective fishing gear and a ban on discarding the fishing industry must be persuaded to take collective action against undesirable and unprofitable bycatch.

The European Union is hard at work on solving the problem of discarding. The administration is looking for the best ways to minimize bycatch, which would also eliminate discards. The European Commission has developed a *Strategy for limiting undesirable bycatch and discards in European fisheries*, and members of the European Parliament are decidedly in favour of introducing mechanisms that would curb the waste of resources. While the debate is underway, no specific decisions to alleviate the problem have been made.

1.7. The fisheries sector in Poland

The fishing industry is considered by many to be one of the fastest-growing sectors of the food industry in Poland. Besides fishing, fish processing is an essential part of the industry, which adds value to the natural resources of the sea. Fishing and fish processing are inseparably connected through trade and the distribution of products. Although the fishing sector account for only a small proportion of Poland's economic growth (0.07 % of GDP), it provides jobs to many people. Estimates say that about 30,000 people in Poland work in fisheries and the fish processing industry. It is also estimated that one job at sea creates about seven jobs on land. Fish products account for 10 percent of Poland's food exports.

Number of employees (thousands)

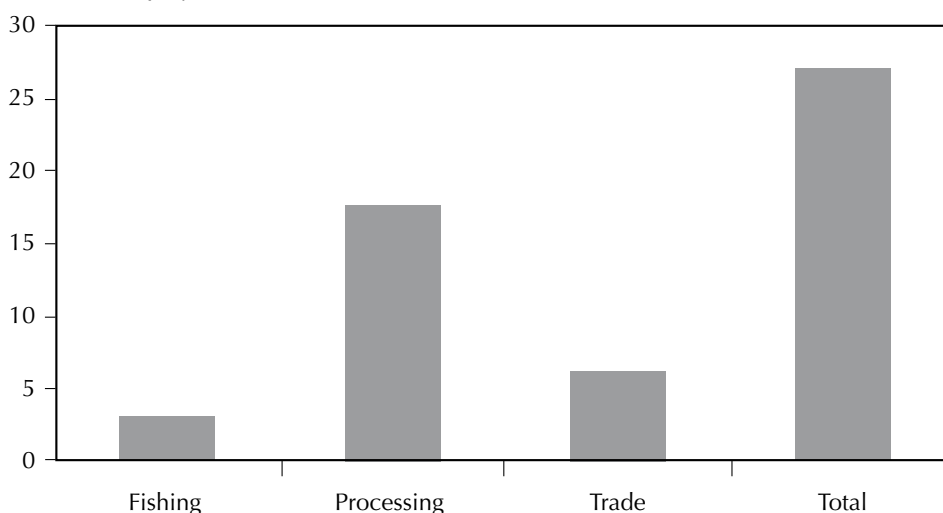


Fig. 4. Estimated employment in the Polish fishing industry in 2006.
Source: Sea Fisheries Institute and the Institute of Inland Fisheries.

The process of adjusting the operation of fish processing plants and logistic solutions in the fish trade to EU requirements is still underway. Regrettably, the poor situation of sea fisheries is affecting the Polish fish market. In 2008, the market price of Baltic cod dropped to a very low level. Polish fishermen earned 3.50 or 4.00 zlotys per kilogram of cod. In spite of that, the price of cod in stores and restaurants remained high. The low purchasing prices of fish are primarily the result of excessive quantities of illegally caught fish on the market and difficulties in processing them.

What has been illegally caught at sea is often illegally traded on the market, completely wrecking the rules of supply and demand. That is why we must implement a new, more effective strategy for combating both illegal fishing and trade practices. Individuals who benefit from illegal fishing and illegal fish distribution must be prevented from making a profit.

Unfortunately, the situation of Polish fisheries is poor. The atmosphere of increasing disputes has fueled unnecessary conflicts between fishermen and scientists, fishermen and politicians, fishermen and NGO activists, as well as among fishermen themselves. Deep divisions can be seen in the Polish fisheries community. Bottom and pelagic fishermen, cutter and boat fishermen, fishermen belonging to various industry associations all have different positions, opinions and ideas for putting an end to the present crisis. Nevertheless, all fishermen seem to feel bitterness and pity about the ineffective actions of the Polish and European fisheries administrations.

Putting aside the most striking, extreme and populist calls for a “final battle” against the Common Fisheries Policy, a crackdown on a “gang of criminals” and the exposure of “the cod scandal”, some fishermen point to specific problems both in the operation of supervisory institutions and in resource management on domestic and European levels. Unfortunately, such constructive comments remain largely unheard in the slew of antagonistic and nationalist voices. Thus, the issues of Polish and European fisheries remain unresolved, mainly to the detriment of those fishermen who value honest work, sustainable fishing, and the ability to pass down the tradition of fishing to future generations.

The circumstances in which Polish fishermen have found themselves in are certainly both complex and unfavourable. It is also true that many of the fishermen’s problems arise from the sluggishness of administrative proceedings, unreasonable decisions, frequent changes of political forces administering fisheries, lack of foresight in decision-making, and deficiencies in the management of the Baltic Sea resources, both on the domestic and European level. However, the current issues are mostly the aftermath of the shameful actions of people whose only aim is to use fisheries for their own profit. The flagrant theft of fish from the Baltic Sea, committed not only by Polish fishermen, made fisheries hit rock bottom.

In 2007, the European Commission determined that some of the Polish fishermen had seriously exceeded their fishing quotas and, in spite of protests, imposed a ban on Baltic cod fishing applicable to the Polish fishing fleet until the end of 2007, under Regulation (EC) 804/2007 of 9 July 2007². The European Commission also imposed a universal penalty, requiring that Poland “pay off” the overfished quantity. As a result, the fishing limits for Polish fishermen were reduced by 10 percent in 2008 and, in the three subsequent years, Poland will be forced to catch 30 percent less cod. Even if the overall 2009 fishing quota for the Eastern Baltic cod is increased by 15 percent³, the penalty outlined above results in Polish fishermen having to catch less cod than in 2008, despite the fact that the national quota for Poland will be higher.

The Polish government has promised compensation for the forced suspension of fishing. Unfortunately, the experience of previous years shows that many fishermen will have to wait a very long time for their money.

² (OJ, series L 180 of 10.07.2007, p. 3)

³ On 8.9.2008, the European Commission proposed a 15% increase in the cod fishing quota in the Eastern Baltic Sea. The Commission took into account the findings described in the ICES report of 23.5.2008, which contains an opinion on the state of the populations of Baltic fish stocks and recommendations about the management of Baltic fisheries in 2009. The report has confirmed that the attempts to restore the cod population in the eastern Baltic Sea are producing good results and its spawning biomass is improving.

2. SURVEY METHODOLOGY

2.1. Why was a non-government survey needed?

In the face of the difficult situation in Polish fisheries in 2007, Federacja Zielonych GAJA, in line with its mission as a public benefit organization, decided to conduct a non-governmental survey of the institutions responsible for inspecting Polish fisheries and to share the results of the survey with the general public. The main reason for starting the project was illegal, unreported and unregulated (IUU) fishing – a widespread practice in the Baltic Sea with an estimated prevalence of 35–47% that year. Furthermore, the sheer magnitude of irregularities, loopholes in the control system, illegal fishing practices, poorly functioning elements of fisheries management and social conflicts in Poland was sufficient to threaten the national fishing industry. At the same time, poor management was taking a toll on the lives of people employed in the fisheries sector and on the condition of the two cod stocks in the Baltic Sea, which according to scientists were overfished and still impaired in their reproductive capacity.

In 2007, the European Commission imposed its ban on Baltic cod fishing by the Polish fishing fleet⁴. At the same time, various people in the industry were reporting loopholes in the Polish system for controlling fishing and trading in fish products. Many fishermen complain about the low efficiency of inspection services and the ineffectiveness of penalties brought to bear against those who habitually violate fisheries laws. As a result, temporary fishing bans and other consequences of repeated overfishing or premature exhaustion of the general cod quota assigned to Poland affect everyone by collective responsibility. Due to illegal fishing practices, honest fishermen lose their money, their good name and their hope that the situation will improve. On the other hand, consumers lose fish, which will be missing both from the sea and from their tables unless the entire European fishing industry finally embarks on a path of more sustainable practices.

The current Common Fisheries Policy (CFP) has proved ineffective against illegal fishing practices and unofficial deals, and has failed to address the vital issues of many persons tied to the fisheries sector. There is little doubt that the European way of managing fish resources, including those in the Baltic Sea, requires an immediate and far-reaching reform. Some of the current regulations on fisheries are defunct, flawed or even poorly worded. In many matters, the domestic and European fishing authorities need to make important and immediate legislative changes or enact new laws to regulate controversial issues. This applies, among other things, to the effective prevention of IUU fishing and, consequently, rational methods of controlling fisheries.

2.2. The objectives of the survey

- To identify and describe the fundamental factors contributing to the low quality of fisheries control in Poland and the development of the black market for fish.
- To propose systemic changes that would radically improve the effectiveness of fisheries inspections.
- To support the upgrade of the EU fisheries control system that is planned by the European Commission and confirm the need for a reform of the Common Fisheries Policy.
- To share the knowledge gained from the survey with citizens, decision-makers and interested parties in the fisheries sector.
- To increase public awareness and knowledge of Baltic fisheries and their problems, including the threat posed by IUU fishing.

⁴ (OJ, series L 180 of 10.07.2007, p. 3)

- To broaden the debate on the need for sustainable fishing and rational management of the fish industry in the Baltic Sea.

2.3. Who was surveyed?

We surveyed institutions responsible for monitoring Polish fishing activities in the Baltic Sea, principally the District Sea Fisheries Inspectorates (Okręgowe Inspektoraty Rybołówstwa Morskiego) in Szczecin, Słupsk and Gdynia, and the Fisheries Monitoring Center (Centrum Monitorowania Rybołówstwa). Simultaneously, survey questions were sent directly to the Department of Fisheries at the Ministry of Agriculture and Rural Development as well as the Marine Unit of the Border Guard (Morski Oddział Straży Granicznej) in Gdańsk.

The survey also included other institutions whose connections with the above services are important with respect to control activities: regional offices of the Agency for the Restructuring and Modernization of Agriculture (ARMA) and the appropriate Tax Offices. We also considered the very interesting, sometimes unofficial opinions of fishermen, often presented in the media, especially on the industry forum at www.portalmorski.pl. Below a list with the surveyed institutions, together with basic contact information.

Surveyed institutions with basic contact information:

Ministry of Agriculture and Rural Development, Fisheries Department (Departament Rybołówstwa)

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kancelaria@minrol.gov.pl, <http://www.minrol.gov.pl>

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District Sea Fisheries Inspectorate (Okręgowy Inspektorat Rybołówstwa Morskiego)

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Kazimierz Malinowski, Senior Inspector
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District Sea Fisheries Inspectorate

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2.4. How was the survey conducted?

The project was conducted as a mail survey and lasted from January to September 2008. Each institution received several sets of questions related to inspections and the management of fisheries in Poland. The questions were asked in accordance with the Access to Public Information Act⁵ (*Ustawa o dostępie do informacji publicznej*) of 6 September 2001. The subject matter of the questions was based on the current Polish regulations on fisheries inspection and management, and on other widely available sources of information on sea fishing, such as news items in the media, personal communication with fishermen and scientists, and personal observations.

The legally mandated response time was 14 days. This deadline was generally met without major problems; however, in the case of the District Sea Fisheries Inspectorate in Szczecin, we had to mention the possibility of filing a complaint regarding unreasonable delays and poor communication.

⁵(Dz.U. 2001, No. 112, item 1198)

3. INFORMATION OBTAINED FROM SURVEYED INSTITUTIONS AND SERVICES

3.1. District Sea Fisheries Inspectorates

3.1.1. Basic information

Poland has three District Sea Fisheries Inspectorates (Okręgowe Inspektoraty Rybołówstwa Morskiego), located in Szczecin, Słupsk and Gdynia. Each of them supervises a number of field inspectorates:

- District Sea Fisheries Inspectorate Szczecin: Dziwnów, Świnoujście, Trzebiez, Wolin
- District Sea Fisheries Inspectorate Słupsk: Darłowo, Kołobrzeg, Ustka, Łeba
- District Sea Fisheries Inspectorate Gdynia: Frombork, Sztutowo, Hel, Władysławowo

Pursuant to sections 56.1 and 56.2 of the Polish Fisheries Act (*Ustawa o rybołówstwie*), fisheries laws and regulations are enforced by District Sea Fisheries Inspectorates through individual Sea Fisheries Inspectors. All District Inspectorates report directly to the administration of the Fisheries Department in the Ministry of Agriculture and Rural Development. This ministry monitors the activity of Inspectorates by means of periodic statistical reports on the number of documented fishing inspections, their frequency, detected violations and imposed penalties.

The fundamental regulation on the inspection of fisheries in the European Union is the Council Regulation (EEC) no. 2847/1993 of 12 October 1993 *establishing a control system applicable to the common fisheries policy*⁶. This regulation has given rise to multiple subordinate regulations (European Commission regulations).

In addition, the activity of Inspectorates in Poland and their decision-making and executive capacities are regulated by several basic statutes, which contain references to EU legislation:

- Fisheries Act (*Ustawa o rybołówstwie*) of 19 February 2004⁷,
- Organization of the Fish Market and Financial Aid in the Fishing Sector Act (*Ustawa o organizacji rynku rybnego i pomocy finansowej w gospodarce rybnej*) of 22 January 2004⁸,
- Regulation of the Minister of Agriculture and Rural Development of 24 September 2004 establishing the head offices and territorial jurisdiction of District Sea Fisheries Inspectors (*w sprawie siedzib i terytorialnego zakresu działania okręgowych inspektorów rybołówstwa morskiego*)⁹.

Among the responsibilities of District Sea Fisheries Inspectorates is ongoing compliance control with respect to the applicable regulations on the conservation and management of living marine resources and orderly fishing, including in particular:

- inspecting Polish and foreign fishing vessels in Polish sea areas, ports, settlements and fishing harbours;
- issuing sport fishing licenses;
- monitoring sport fishing in Polish sea areas;

⁶ (OJ, L series, No. 261 of 20.10.1993).

⁷ (Dz.U. 2004, No. 62, item 574)

⁸ (Dz.U. 2004, No. 34, item 291)

⁹ (Dz.U. 2004, No. 223, item 2267)

- receiving landing notifications;
- inspecting places where fish and other marine organisms are landed, traded, stored and sold, as well as the vehicles in which they are transported;
- inspecting fishing licenses and other permits for sea fishing;
- keeping and verifying fishing reports;
- compiling pages of fishing logbooks and sales documents, and submitting them to the Fisheries Monitoring Center (*Centrum Monitorowania Rybołówstwa*) in Gdynia;
- checking compliance with permanent and periodically closed areas;
- checking compliance with closed seasons for individual marine species;
- checking compliance with minimum sizes for fish and other marine organisms;
- checking compliance with minimum mesh sizes and other regulations concerning fishing gear, its design and its use;
- checking compliance with detailed regulations concerning other aspects of sea fisheries;
- checking the proper marking of fishing gear and fishing vessels;
- supervising the restocking of Polish sea areas; and
- supervising the scrapping of vessels.

Collaboration

The Regulation of the Ministry of Agriculture and Rural Development of 26 August 2004 on the collaboration of Sea Fisheries Inspectors with tax inspection agencies, food and agricultural product quality inspection agencies, veterinary inspection agencies, the Police, Fishing Guard, Border Guard and field agencies of marine administration¹⁰ establishes the rules for cooperation between District Sea Fisheries Inspectorates and the above agencies.

The inspectorates collaborate primarily with the Border Guard, by conducting joint inspections on sea and on land. It is worth noting that on 5.08.2008 the Ministry of Agriculture and Rural Development and the Border Guard Headquarters signed an agreement on the exchange of information about fishing vessels in Polish sea areas. The goal of this agreement is to ensure efficient and effective cooperation on tasks related to the supervision of the exploitation of Polish sea areas. The planned cooperation is to apply particularly to the monitoring of Polish and foreign fishing vessels with regard to their adherence to the regulations which are effective in those areas.

According to the information we obtained from the inspectorates, the cooperation with other agencies specified in the abovementioned regulation consists mainly of the exchange of information and experience. Additionally, the inspectorates point to their cooperation with similar agencies in other countries surrounding the Baltic Sea, the European Commission and the Community Fisheries Control Agency (CFCA). The inspectorates report that they have participated in meetings, conferences and information and training workshops, both domestically and internationally. These events have focused on fisheries supervision and control, and on effective means of enforcing regulations.

¹⁰ *Rozporządzenie w sprawie sposobu współdziałania inspektorów rybołówstwa morskiego z organami kontroli skarbowej, organami Inspekcji Jakości Handlowej Artykułów Rolno-Spożywczych, Inspekcji weterynaryjnej, Policji, Straży Rybackiej, Straży granicznej oraz terenowymi organami administracji morskiej*

Staffing at inspectorates

In the beginning of the surveyed period (in previous years), the average number of inspectors per District Inspectorate was about ten. However, between April and June 2008, inspectorates increased their capacity by creating new positions for Fisheries Inspectors. Seven new inspectors were appointed in Gdynia and Słupsk, and in Szczecin two new inspectors were hired. The recruitment of new inspectors depends mainly on the assignment of jobs in the Civil Service. The agency which controls the creation of such new jobs is the Ministry of Agriculture and Rural Development. District Inspectorates have reported that their present staffing is adequate and fully meets their needs. At the same time, they note that once the new EU regulation to combat IUU fishing fully comes into force, they may need additional human resources.

District Sea Fisheries Inspectorates contain the following positions:

- District Inspector
- Deputy District Inspector
- Director of the Administration Department
- Director of the Sea Fisheries Department
- Director of the Fisheries Inspection Department
- Senior Sea Fisheries Inspector
- Sea Fisheries Inspector
- Accountant
- Legal Counsel
- Workplace safety specialist
- Inspection ship crew member

Working hours and salaries

Polish inspectors belong to the Civil Service corps, which consists of employees in medium-level management positions, coordinators, independent employees, specialists and employees who support the government administration.

Fisheries Inspectors work 40 hours a week, in line with Civil Service regulations and labour laws. According to the inspectorates, due to the changing activity of the fishing fleet, the actual working week is variable and is adjusted to the predicted landing times in individual fishing ports.

An inspector's working time is divided between inspections and administrative work in the office. On the reports we have received, inspectors hold office hours on average once a week. The rest of their working time is spent supervising ports and fishing harbours, and, if necessary, patrolling coastal basins. The working schedule of Polish fisheries inspectors is "adjusted to current needs and the situation in fisheries".

The salary of a Fisheries Inspectors is between 2,130 and 2,300 Polish zlotys (gross). There is no compensation for overtime apart from leisure time. During this leisure time, inspectors receive their normal pay. Inspectors can also receive individual financial rewards (usually twice a year) at the request of their supervisor. These rewards depend on an inspector's effort and the results of his work. In addition, once a year inspectors receive an extra salary (the so-called 13th salary). There are no plans to increase the salaries of inspectors in the near future, other than a small salary increase due to an inflation adjustment of all salaries in the government sector.

Surveillance vessels

In the surveyed period, District Inspectorates had a total of 7 vessels for conducting inspections in territorial waters and in the coastal area. The Inspectorate in Gdynia was in the process of purchasing a new patrol ship by public procurement.

The age of the inspection vessels varies. Inspectorates make investments to upgrade their ships by fitting them with navigation and communications equipment. In general, the inspectorates state that their vessels are in good technical condition and are quite reliable. They are, however, threatened by acts of vandalism. In 2007, an inspection motor boat used by the Szczecin Inspectorate was burnt down, which resulted in a reduction in the number of inspections.

For multiple-day assignments in the Polish Exclusive Economic Zone, inspectors make use of ships belonging to the Marine Unit of the Border Guard as an additional platform for inspections.

Vessels belonging to District Sea Fisheries Inspectorates:

- District Inspectorate Szczecin – K17, K18,
- District Inspectorate Słupsk – K21, K25,
- District Inspectorate Gdynia – K10, K15, K16.

The District Fisheries Inspectorates have also indicated that they possess sufficient land vehicles to conduct inspections on land.

3.1.2. Methods and procedures of inspection

According to the obtained information, fishing inspection plans are adapted to the human resources and technical capacity of a given inspectorate. The times and places of inspection is selected by Sea Fisheries Inspectors by means of a risk analysis which takes into account the possible occurrence of the following factors:

- fishing without a valid license or special fishing permit
- failure to report fishing in accordance with applicable laws
- fishing and landing of undersized fish
- fishing in closed seasons or areas
- fishing with prohibited gear or methods
- landing, purchasing or trading in marine organisms caught in violation of fisheries regulations

The information supplied by the inspectorates also convey that inspections of vessels and businesses which trade in fish products are carried out randomly and uniformly with respect to the whole fishing fleet. Inspectors indicate their commitment to a “level playing field” – in other words: the non-discrimination principle. The targets for inspection are selected based on the following factors:

- weather conditions at sea
- available technical resources, such as VMS (Vessel Monitoring System for tracking the movement of fishing ships via satellite) in case of vessels of at least 15 metres length
- technical/operating characteristics of the fishing vessels currently at sea
- the system of advance notifications made by fishing vessels carrying over 300 kg of live weight cod (one hour before returning to port)
- “high-risk” fishing vessels (previous violations committed by their crews)

- the uptake of fishing quotas assigned to individual fishing ships
- current situation in fisheries
- personal experience of inspectors

Inspectorates obtain information on the uptake of fishing quota by individual vessels from the SIRM system (Sea Fisheries Information System). Whether this information is up to date depends on the speed of data entry in the Fisheries Monitoring Center. Inspectorates also evaluate the status of vessels specializing in cod fishing based on their own analysis, though this information is not generally available. The Inspectorates assert that vessels which have used up their quota are subject to inspections as long as they are still fishing.

In case of both fishing vessels and fish purchasers, the basic items checked by inspectors on sea and on land are:

- marking of a fishing vessel
- authorizations for sea fishing (fishing license, special fishing permit, sport fishing permit)
- authorizations for making the first purchase of fish products from a fishing vessel
- the species, types and quantities of fish found on a ship, in a collection point or in a vehicle
- fishing logbooks, landing declarations, first-sale documents, transport documents and labels (including cross-checking of these records)
- origin of fish products
- fishing gear used
- minimum sizes of species caught
- closed seasons or areas
- points of first sale
- land vehicles carrying fish products

Inspectors admit that they inspect fish trading businesses mainly in places where the catch is landed, i.e. at the point when the product enters the market.

Identification and quantification of fish products on the market is ensured by cross-checking. In addition, cross-checking makes it possible to check the utilization of previously assigned fishing quotas. According to the District Inspectorates, the cross-checking methodology includes comparing the quantities of various species (measured physically on vessels, at landing points, and at points of first sale) with the figures reported in fishing, landing and first-sale documents.

The most important part of effective cross-checking is physical inspections. This is because a direct inspection of a vessel, point of landing, point of sale or point of storage enables one to track the actual quantity of caught fish.

In the absence of physical inspection, it is the above mentioned documentation that is subject to cross-checking. In practice, the verification of documents is carried out in two steps:

1. The data are reviewed by Fisheries Inspectors (District Sea Fisheries Inspectorates).
2. The data are entered into an information system at the Fisheries Monitoring Center and checked for consistency by means of previously established algorithms.

In case any irregularities (logical contradictions) are found, inspectors aid FMC employees in investigating them.

Inspectors also conduct ongoing monitoring of the movements of vessels covered by VMS and compare this information with the reports of captains, visual observations made during inspection missions and data obtained from the Border Guard or the marine administration. This part of the inspection system is, however, hindered by the slow operation of VMS and problems with the online availability of data.

Besides commercial fishing, the District Sea Fisheries Inspectorates also monitor sport and recreational fishing. However, according to the Inspectorates, “due to the smaller magnitude of violations and direct threats to cod resources in the Baltic Sea”, the inspections focus on the activity of commercial fishing vessels.

3.1.3. Inspection results for 2005–2007

The tables presented below contain data on Polish inspections with respect to fisheries regulations in the years 2005–2007. The data were obtained from District Sea Fisheries Inspectorates and the Fisheries Department. The tables show the number of inspections broken down into sea inspections, landing inspections and fish trader inspections. We have also presented the recorded number of violations and the quantity of illegally used fishing gear collected. This section also shows the number of fishing vessels which violated the ban on cod fishing effective from 15 September to the end of 2007, and the results of inspections of foreign fishing vessels in Polish territorial waters.

It must be explained that, on one hand, the number of recommendations issued by the inspectorates was equal to the number of warnings given to specific entities without legal sanctions. On the other hand, the number of administrative decisions was equal to the number of commenced legal proceedings, which eventually resulted in sanctions for violating fisheries regulations. When data are missing in the tables, it means that the inspectorate does not keep statistics for a given area.

The tables indicate that the number inspections of fish traders accounts for only a small percentage of all inspections, despite the fact that such inspections are very important. The tables show that the Szczecin District Inspectorate (DI) commenced fewer administrative proceedings than the others. However, this does not mean that this Inspectorate is ineffective, nor that fishermen in this region are more honest than elsewhere. It should be noted that the Szczecin DI is responsible for a relatively small geographical area (from Dźwirzyno to the border with Germany), and the low number of sea inspections was the result of one of its patrol boats having been set on fire.

SZCZECIN DISTRICT SEA FISHERIES INSPECTORATE

<i>Inspection activities and their results</i>				
	2005	2006	2007	Total
Inspections at sea	887	890	523	2,300
Landing inspections	724	615	644	1,983
Inspections of businesses in the fish market	?	?	?	?
Quantity of collected fishing gear	0	0	0	0
Number of issued recommendations	100	35	13	148
Number of administrative decisions	31	46	28	105
<i>including: number of administrative decisions concerning businesses trading in fish products</i>	0	2	1	3
Number of inspections of foreign vessels	1	2	10	13
Number of violations by foreign vessels	0	0	1*	1
Number of violations of the Commission Regulation (EC) No. 804/2007 of 9 July 2007, establishing a ban on cod fishing for Polish vessels from 15 September to the end of 2007: 1				

Table 2. Number of fisheries inspections and violations detected by the Szczecin District Sea Fisheries Inspectorate in 2005–2007.

SŁUPSK DISTRICT SEA FISHERIES INSPECTORATE

<i>Inspection activities and their results</i>				
	2005	2006	2007	Total
Inspections at sea	180	203	162	545
Landing inspections	614	633	774	2,021
Inspections of businesses in the fish market	28	28	23	79
Quantity of collected fishing gear	16	29	34	79
Number of issued recommendations	463	411	389	1,263
Number of administrative decisions	43	48	84	175
<i>including: number of administrative decisions concerning businesses trading in fish products</i>	?	?	?	?
Number of inspections of foreign vessels	34	30	64	128
Number of violations by foreign vessels	0	0	0	0
Number of violations of the Commission Regulation (EC) No. 804/2007 of 9 July 2007, establishing a ban on cod fishing for Polish vessels from 15 September to the end of 2007: 65				

Table 3. Number of fisheries inspections and violations detected by the Słupsk District Sea Fisheries Inspectorate in 2005–2007.

GDYNIA DISTRICT SEA FISHERIES INSPECTORATE

<i>Inspection activities and their results</i>				
	2005	2006	2007	Total
Inspections at sea	288	260	247	795
Landing inspections	1,026	1,026	1,216	3,268
Inspections of businesses in the fish market	219	179	190	588
Quantity of collected fishing gear	428	427	429	1,284
Number of issued recommendations	234	98	102	434
Number of administrative decisions	40	85	68	193
<i>including: number of administrative decisions concerning businesses trading in fish products</i>	3	2	4	9
Number of inspections of foreign vessels	6	8	12	26
Number of violations by foreign vessels	0	0	0	0
Number of violations of the Commission Regulation (EC) No. 804/2007 of 9 July 2007, establishing a ban on cod fishing for Polish vessels from 15 September to the end of 2007: 24				

Table 4. Number of fisheries inspections and violations detected by the Gdynia District Sea Fisheries Inspectorate in 2005–2007.

3.1.4. Most common violations of fisheries regulations

Among the most frequent infractions against fisheries regulations detected by District Sea Fisheries Inspectorates are:

- underreporting the weight of catch in logbooks, landing declarations and first-sale records
- fishing in closed areas
- fishing during closed seasons
- using prohibited fishing gear
- catching undersized fish
- trading in fish from unreported and/or sport/recreational fishing

Moreover, fishermen – and not only Polish fishermen – employ proven and effective methods of circumventing regulations. The most notable are:

- hiding illegal cargo in specially adapted and concealed holds on vessels
- hiding illegally caught fish under a layer of fish of another species
- reporting Eastern Baltic cod as Western Baltic cod
- evading inspection by quickly passing information to each other on the whereabouts of inspectors

* In 2007, the Szczecin DI came across two offences committed by foreign fishing vessels. The inspectorate notified the proper authorities of the countries whose flags were flown by the vessels and received two responses after investigations were conducted: in one case the fault was found with the country's administration; in the other case, the fishing vessel involved received a fine for violating fisheries regulations.

- landing fish late at night
- engaging in “fish laundering” – selling traders larger quantities of fish than those declared in first-sale records
- putting untaxed fish on the market through illegal channels of distribution
- attempting to make connections and “deals” with inspection agencies

3.1.5. Procedures and penalties

Violations of Polish or EU fisheries regulations result in an administrative procedure pursuant to the Administrative Code¹¹. All violations related to fisheries are subject to penalties specified in the Fisheries Act of 19 February 2004 and in subordinate legislation. The principal sanction against an offending entity is a fine collected by the appropriate Tax Office. Lists of ship operators, captains, owners of fishing vessels and fish-trading businesses which have been subjected to fines as a result of administrative proceedings are submitted monthly to the appropriate offices at the Ministry of Agriculture and Rural Development.

In the case of grave, flagrant or repeated violations, the District Inspector may file an application with the Minister of Agriculture and Rural Development to restrict the offender or prevent them from fishing at sea (by suspending the fishing license along with the special fishing permit) or to prohibit the offender from trading in fish products. Three fishing licenses were suspended in 2005–2007 (all in 2005). In the same period, there were no temporary bans prohibiting offenders from fishing for marine organisms specified in the special fishing permit.

If the Inspectorates should detect a violation of fisheries regulations by a foreign fishing vessel, they may use the same procedures as those which apply to Polish vessels and are specified directly in the Fisheries Act (article 59).

The fines in Poland are specified in the Regulation of the Minister of Agriculture and Rural Development of 21 April 2005 on the amounts of fines for violations of fisheries regulations¹² (*w sprawie wysokości kar pieniężnych za naruszenia przepisów o rybołówstwie*). Depending on the severity of the infraction and the size of the fishing vessel, the ship’s operator or captain can receive a fine from 500 to 110,000 PLN. The fines are currently collected by Tax Offices, but the process is slow and begins only after the District Sea Fisheries Inspector commences an administrative proceeding. The following table shows the fines (in Euro) for violations of fisheries regulations, imposed by District Sea Fisheries Inspectorates in 2005–2007.

<i>Fines (EUR)</i>				
	2005	2006	2007	Total
D.I. Szczecin	16.453	21.760	13.386	51.600
D.I. Słupsk	12.748	31.091	46.361	90.201
D.I. Gdynia	33.573	56.186	42.026	131.786

Table 5. Fines imposed by District Sea Fisheries Inspectorates in 2005–2007.

Polish fishing vessels which, in 2007, broke the ban on cod fishing instituted by the Commission Regulation (EC) No. 804/2007 have been subjected to administrative procedures. According to the Fisheries Department, ship operators who violated the Commission Regulation are not entitled to financial aid due to the temporary suspension of fishing activity in 2007 pursuant to section 132(aa)

¹¹(Dz.U. 2000, No. 98, item 1071 with later changes)

¹² (Dz.U. 2005, No. 76, item 671)

(4) of the Regulation of the Minister of Agriculture and Rural Development on the conditions and procedure for granting financial aid under the Sectoral Operational Programme “Fisheries and fish processing 2004–2006”¹³.

3.2. Fisheries Monitoring Center (Ministry of Agriculture and Rural Development, Fisheries Department)

The Fisheries Monitoring Center is a field organisational unit of the Ministry of Agriculture and Rural Development, Fisheries Department, Administrative Section. Accordingly, all information regarding the activity of the FMC is provided by way of the Ministry of Agriculture. The FMC head office is located in Gdynia.

All the employees of the FMC have been hired in accordance with article 5 of the Civil Service Act¹⁴ (*Ustawa o służbie cywilnej*). At the time of this survey, the FMC had seven full-time employees in the following positions:

- chief specialist (1)
- senior inspector (1)
- specialist (4)
- clerk (1)

On February 11, the FMC hired two additional staff on a contract basis.

The Fisheries Monitoring Center in Poland owes its existence to the obligation imposed on Poland by the Council Regulation (EC) of 14 April 1997 amending Regulation (EEC) No 2847/93 establishing a control system applicable to the Common Fisheries Policy¹⁵. According to this Regulation, each Member State is required to establish a satellite-based Vessel Monitoring System (VMS) to track the positions of Community fishing vessels. With this system, the Fisheries Monitoring Center in each Member State monitors the movement of ships flying its flag, regardless of the waters and ports in which they are located. This means that even Polish vessels which land fish in foreign ports are monitored (with respect to the utilization of the national fishing quota and compliance with fisheries regulations).

As part of the fisheries monitoring system, each Member State has undertaken to staff its FMC properly and to provide staff with appropriate equipment and computer software to automatically process data and transfer it electronically.

The Fisheries Monitoring Center has specific tasks, detailed in the Work Policy of the Fisheries Department. The principal tasks of the FMC are:

- tracking the movements of fishing vessels
- feeding the Sea Fisheries Information System (*System Informatyczny Rybołówstwa Morskiego – SIMR*) with data from:
 - fishing logbooks, including data on landings and transshipments
 - monthly fishing reports
 - first-sale records
 - fish product acquisition documents

¹³ Rozporządzenie w sprawie warunków i trybu udzielania pomocy finansowej w ramach Sektorowego Programu Operacyjnego „Rybołówstwo i przetwórstwo ryb 2004–2006” (Dz.U. 2008, No. 213, item 2163, with later changes)

¹⁴ (Dz.U. 2006, No. 170, item 1218 with later changes)

¹⁵ (OJ, L 102, 19.04.1997, pp. 1–3)

- generating reports on the utilization of fishing quotas and the operation of VMS and sending them to all authorized institutions at home and abroad
- cooperating with District Sea Fisheries Inspectorates and with inspection agencies in the European Commission and the Community Fisheries Control Agency to the extent specified in the relevant legislation

The FMC serves as a supplier of information to other entities authorized to inspect fishing activities and fish trade. Oftentimes the data provided by FMC are indispensable for detecting violations of, for example, closed-area regulations or determining whether a given vessel engaged in fishing in the closed season for a given species. This is why the FMC provides certified copies of logbook pages and first-sale records to authorized regulatory and judicial institutions. The data contained in those documents are important for administrative proceedings.

The FMC verifies all the documents sent in by District Sea Fisheries Inspectorates – fishing logbooks¹⁶, monthly fishing reports¹⁷ and first-sale documents. FMC employees enter the data from logbooks into the SIMR system. In case of discrepancies between the quantities of fish recorded in the logbook or fishing declaration and the first-sale documents, copies of documents are mailed back to field Sea Fisheries Inspectorates for investigation.

The FMC prepares the following reports:

- Fishing reports sent to the European Commission in Brussels
 - **Type A:** monthly report on the quantities of restricted species caught by Polish fishing vessels and landed in Poland or outside of the EU
 - **Type B:** monthly report on the quantities of restricted species caught by EU fishing vessels and landed in Poland
 - **Type C:** quarterly report on the quantities of unrestricted species caught by Polish fishing vessels and landed in Poland or outside of the EU
 - **Type D:** quarterly report on the quantities of unrestricted species caught by EU fishing vessels and landed in Poland
- Fishing reports sent to the North East Atlantic Fisheries Commission (NEAFC)
- Fishing reports sent to the Northwest Atlantic Fisheries Organization (NAFO)
- Monthly statistical reports sent to the Central Statistical Office of Poland (GUS), including:
 - reports on the transshipments of Polish fishing vessels at sea
 - foreign vessel landings in Polish ports
 - Polish vessel landings in foreign port
- Daily reports on the positions of Polish fishing vessels, EU fishing vessels and vessels from other countries in the Polish Economic Zone
- Monthly reports on the sales of fish products made by EU vessels in Poland
- Semi-annual report on the activity of the Polish VMS sent to the European Commission
- Aggregate report for FAO

¹⁶ ships longer than 10 m

¹⁷ ships shorter than 10 m

3.3. Marine Unit of the Border Guard (MUBG)

Pursuant to section 1(2)(10) of the Border Guard Act (*Ustawa o straży granicznej*)¹⁸ of October 12, 1990, supervising the exploitation of Polish sea areas and enforcing the compliance of vessels with the laws in those areas are responsibilities of the Marine Unit of the Border Guard. The Marine Unit of the Border Guard comprises outposts and divisions composed of maritime units of the Border Guard tasked with the supervision and control of maritime traffic. These units are authorized to stop and inspect other vessels, and – in certain cases defined by law – use the weapons available aboard.

Commanders of maritime units of the Border Guard are not authorized to inspect fishing activities by themselves. Instead, they inspect fishing vessels on behalf of the local sea administration agency, to the extent specified in articles 50(5) and 50(7) of the Sea Areas of the Republic of Poland and Sea Administration Act of 21 March 1991 (*Ustawa o obszarach morskich Rzeczypospolitej Polskiej i administracji morskiej*)¹⁹, i.e. they are authorized to check the following:

- whether a fishing vessel is authorized to carry out its activities and whether it holds the required permits
- whether maritime traffic or other activity conforms with Polish law and international agreements
- whether a vessel is polluting the marine environment through its activity

Furthermore, during routine checks of vehicles carrying fish products on land, Border Guard officers verify the shipping documents. Any irregularities are reported to the appropriate fisheries administration agency.

Since the MUBG points to illegal fishing and fish trade by Polish and foreign fishing vessels as one of the chief threats along the coastal border, MUBG officers participate (when necessary) in training sessions on the application of fisheries regulations and on conducting vessel inspections specified by law.

The Marine Unit of the Border Guard cooperates with District Sea Fisheries Inspectorates in accordance with the Regulation of Ministry of Agriculture and Rural Development of 24 August 2004. As part of this cooperation, Fisheries Inspectors make use of Border Guard vessels when performing inspections of fishing vessels in Polish sea areas, both on a planned and *ad-hoc* basis. The MUBG declares that the cooperation with Sea Fisheries Inspectors occurs within the available means and according to the requirements stated by the sea fisheries administration.

When Border Guard officers detect violations during their own inspections of fishing vessels in Polish sea areas, chiefs of border organizational units of the MUBG provide District Sea Fisheries Inspectors with the collected documentation and request that the appropriate administrative sanctions be imposed. In the years 2005–2007, District Sea Fisheries Inspectorates received the following numbers of penalty requests from the MUBG due to violations of fisheries regulations:

- 2005: 9
- 2006: 11
- 2007: 10

¹⁸ (Dz.U. 1990., No. 78, item 462 with later changes)

¹⁹ (Dz.U. 2003, No. 153, item 1502 with later changes)

The most common violations detected by the MUBG in 2005–2007 have been the failure to comply with maritime traffic safety rules and fishing in closed areas. In addition, the MUBG is well aware of the practice of bypassing fisheries laws by failing to report or underreporting the quantities of caught sea organisms in fishing logbooks. Border Guard officers, within their authority, did not detect illegal activities during the ban on cod fishing from 15 September through 31 December 2007.

To ensure efficient and even more effective collaboration on tasks related to the supervision of the exploitation of Polish sea areas, on 5 August 2008 the Ministry of Agriculture and Rural Development and the Border Guard Headquarters signed an agreement on the exchange of information about Polish and foreign fishing vessels.

3.4. Agency for the Restructuring and Modernisation of Agriculture (ARMA)

The Agency for the Restructuring and Modernisation of Agriculture (*Agencja Restrukturyzacji i Modernizacji Rolnictwa*) was established in 1994. ARMA has been designated by the Government of the Republic of Poland to perform the role of an accredited payment agency which deals with the implementation of instruments co-financed from the European Union budget and provides aid from domestic funds. The Agency collaborates with the Ministry of Agriculture and Rural Development. At the same time, ARMA is under the supervision of the Ministry of Finance with respect to the management of public funds.

The Agency for the Restructuring and Modernization of Agriculture is headed by a President appointed by the Prime Minister of the Republic of Poland upon the request of the Minister of Agriculture and Rural Development and the Minister of Finance. ARMA has a three-tier structure which comprises the headquarters, 16 regional offices in each province and 314 district offices.

The principal beneficiaries of ARMA's activities are farmers, residents of rural areas, entrepreneurs and local governments. The Agency also provides aid to entities operating in the fisheries sector.

In 2007–2013, ARMA will be implementing aid instruments financed from new EU funds, including the European Fisheries Fund with over 600 million euro of aid assigned to Poland.

According to the information we obtained from the ARMA headquarters, in the granting of aid under the Sectoral Operational Programme (SOP) “Fisheries and fish processing 2004–2006”, entities receiving financial aid from EU funds were verified for compliance with Polish and EU fisheries regulations to the extent defined in the SOP. Consequently, entities which have violated the EC 804/2007 Regulation will not receive aid due to the temporary suspension of fishing. ARMA has received data on those entities from the Ministry of Agriculture and Rural Development.

In addition, ARMA has declared that, according to article 18 of the Council Regulation (EC) No. 2792/99 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector²⁰: “The management authority shall ensure that the special conditions governing assistance listed in Annex III are complied with. It shall also satisfy itself as to the technical capacity of beneficiaries and the financial viability of firms, as well as their respecting all rules of the Common Fisheries Policy before granting aid. If during the grant period it is found that the beneficiary does not comply with rules of the Common Fisheries Policy, the grant shall be reimbursed in proportion to the gravity of the infringement.”

²⁰ (OJ, series L 337 of 30.12.1999, p. 10)

4. COMMENTS AND REMARKS

4.1. District Sea Fisheries Inspectorates

The District Sea Fisheries Inspectorates were last audited by the Supreme Chamber of Control (*Najwyższa Izba Kontroli*) right before Poland's entry into the European Union. The audit was titled Audit of Polish sea fisheries with respect to their integration with the European Union (*Kontrola przygotowania polskiego rybołówstwa morskiego do integracji z Unią Europejską*²¹) and was conducted between 1 January 2003 and 30 April 2004. It covered legislative actions, the preparation of the Polish fisheries administration's implementation of the CFP, the implementation of EC instruments for managing fisheries, laying the groundwork for a common fish market, and the preparation for the implementation of a structural policy in sea fisheries.

The audit report made it clear that, according to the Supreme Chamber of Control (SCC), Polish sea fisheries were not fully prepared to fulfil the guidelines and goals of the CFP. District Sea Fisheries Inspectorates were also judged insufficiently prepared for enforcing fisheries regulations. It is unfortunate that the effects of this unpreparedness are apparent even today. In spite of the four years that passed since the SCC audit, the work of District Sea Fisheries Inspectorates is still poorly rated, both by outsiders and people from the fishing community. One must note that the low quality of inspections is not only due to incompetent inspectors, poorly fulfilled duties or the lack of adequate inspection equipment. The effectiveness of inspections depends largely on legislation, which in Poland does not allow inspectors to do their job as well as they could. For example, inspectors belong to the Civil Service which means that they fall under the jurisdiction of the Ministry of Agriculture and Rural Development. They are not authorized to issue fines on the spot, there is no requirement to sell fish at designated auction points, there is no possibility to review all the financial records of fish traders, and landing inspections greatly outnumber distribution inspections. The fixed working hours of inspectors and the lack of a shift system are also contributing factors.

These weaknesses and any other holes in the inspection system are exploited by individuals who habitually break fisheries regulations in pursuit of their own economic interests. This is not to say that no charges are levelled against inspectors. Many fishermen explicitly accuse them of taking considerable bribes for "setting up" inspections, passing on information about planned inspection locations, as well as favouring certain ship operators and turning a blind eye to serious offences committed by them. What may contribute to such situations is that inspectors, fishermen and ship operators often live in the same place or are related. It is possible that inspectors sometimes give in to the pressure of certain informal groups for whom illegal fishing is a sizeable and profitable business – in other words, to protect themselves and their loved ones, inspectors may fail to react to offences as vigorously as they should.

Another charge against the inspectorates involves the complete lack of effectiveness in inspecting foreign fishing vessels, which – according to fishermen – land suspiciously large quantities of cod in Polish ports. On the account of the inspectorates, only two foreign vessels were suspected of violating fisheries regulations in 2005–2007. One of these vessels was fined by a foreign fisheries administration.

Moreover, with respect to the recent ban on cod fishing in the eastern Baltic Sea²², fishermen accuse the inspectorates of failing to enforce the fishing limits on certain vessels which are known by the majority of fishermen to exceed their assigned limits. Every fishing vessel in Poland has its own

²¹ Audit no. P/04/170 conducted by the Szczecin field office of the SCC.

²² Commission Regulation (EC) no. 1012/2008 of 14 October 2008

fishing limit allotted from Poland's general quota. If the general quota is found to be exhausted due to illegal fishing, all fishing for a given species is suspended. Unfortunately, in such an event, honest fishermen who have not used up their limits are deprived of the possibility to keep making money.

The activities of inspectors are considered easy to predict. Fishermen have gotten used to warning each other about inspection locations. With radio and telephone communications, they are often able to evade inspectors. Contrary to the inspectorates' claim that fish landings are inspected both during the day and at night, fishermen say that night inspections are very rare. Ironically, it is usually at night that illegally caught fish are landed and sold to black-market traders

We must also mention the flaws of the system for inspecting fish-trading businesses. Currently, as admitted by the inspectorates, landing inspections and document cross-checks are generally done at sea or at the point of first sale. There are usually no inspections beyond that point, even though fish are often illegally distributed to warehouses, processing plants or directly to restaurants. All this means that whenever inspectors fail to detect violations at the point of landing, locating illegal fish products inland borders on the impossible. Inland inspections are virtually non-existent and when they do occur, they turn up nothing. Furthermore, full certification of fish products is still missing, while the system for illegal distribution and counterfeiting first-sale records is developing.

The penalties for breaking fisheries regulations in Poland are low. The poor enforcement encourages further attempts to circumvent the law. Penalties fail to fulfil their preventive function; they do not deter potential poachers from committing serious offences. The threat of losing one's fishing license is minimal, and dishonest ship operators think of the scant financial penalties as normal operational expenses. Thus, unlawful activities are profitable, as potential profits exceed potential losses even if an offence is detected by an inspector.

The exact number of fishing vessels subject to penalties for violating the ban on cod fishing under Regulation 804/2007 is currently unknown. The data provided by the inspectorates differ from those provided by the Fisheries Department and the ARMA (Inspectorates: 90 vessels, Fisheries Department: 92 vessels, ARMA: 94 vessels).

We have noted a lack of direct information exchange between the inspectorates and ARMA with respect to EU fund recipients and their compliance with fisheries and fish market regulations. Checking for compliance is impossible because ARMA is legally required to protect the personal data of its beneficiaries. Moreover, ARMA employees do not perform a full verification of prospective beneficiaries with regard to fisheries regulations. In consequence, some law-breaking ship operators have certainly been allowed to seek EU financing for ship upgrades or SOP compensation for forced stoppage. Offending beneficiaries of aid programs should be denied further aid; in extreme cases, they should be required to return the money they have received so far. In the future, the cooperation between the inspectorates and ARMA should be more effective.

The cooperation of inspectors with other agencies, according to the provisions of the Regulation of the Ministry of Agriculture and Rural Development of 26 August 2004, is practically limited to the usage of Border Guard patrol boats for inspection purposes. The cooperation of District Sea Fisheries Inspectorates (DSFIs) with the Food and Agricultural Product Quality Agency (*Inspekcja Jakości Handlowej Artykułów Rolno-Spożywczych*) and the Veterinary Inspection takes the form of joint working meetings and occasional exchanges of information. In the opinion of the DSFIs, previous meetings with these institutions have revealed a lack of common goals and the absence of a common methodology. Fisheries inspections are hardly ever synchronized with sanitary and veterinary inspections. The inspectorates have no data on the number of joint sanitary and veterinary inspections and their results. However, it is known that illegally caught fish are often distributed and stored under poor conditions.

Among other deficiencies on the part of the inspectorates are incomplete records of repeat offenders. Statistical records of inspections and detected violations are sometimes not grouped by location and type of offending entity. Furthermore, the inspectorates do not have any statistics grouped by species and quantity of illegally caught fish. All this is an obstacle to evaluating their effectiveness. It is also harder to determine the actual magnitude of IUU fishing and the principal locations where fisheries regulations are continually violated.

One must also be concerned about the low intensity of inspections targeting sea anglers. Neither the frequency of sports and recreational fishing nor the number of inspections is recorded, despite the fact that the problem of anglers catching undersized fish is generally recognized. The same is true of fishing in excess of allowed limits and breaking the regulation which prohibits anglers from selling caught fish after returning to the port. Whereas the magnitude of recreational fishing is much smaller than that of commercial fishing, inspectors should not hesitate to penalize all detected offences committed by anglers. It would also be advisable to introduce compulsory records of recreational fishing.

The earnings of Fisheries Inspectors are disproportionate to the responsibility, stress and risk inherent in their line of work. An average salary of about 2,200 PLN (gross) certainly does not encourage inspectors to eliminate vulnerabilities in the control system, especially in the face of a considerable risk of unpredicted and dangerous situations. Transferring the District Sea Fisheries Inspectorates from the Ministry of Agriculture to the Ministry of Internal Affairs and Administration would perhaps give inspectors more authority and better protection. The view of District Inspectors is that being part of Civil Service has a definite detrimental effect on the quality of inspections, mostly due to insufficient motivation and the lack of certain prerogatives possessed by some services which operate under the jurisdiction of the Ministry of Internal Affairs (license to carry weapons, authority to detain offenders, authority to issue fines on the spot, authority to review the complete financial records of fish traders).

Finally, it must be noted that inspectorates are not involved in any projects or informational campaigns concerning the threat of illegal, unreported and unregulated (IUU) fishing.

4.2. Fisheries Department

After the 2007 election, the fisheries administration was moved back to the Fisheries Department at the Ministry of Agriculture and Rural Development. At the same time, the new Polish government radically changed the direction of fisheries management, leading to Poland's withdrawal from an open conflict with the European Commission. The newly nominated Secretary of State, Dr Kazimierz Plocke, took over the responsibility for Polish fisheries during a difficult time. The severe disagreement of the previous government with the European Commission, its incorrect decisions and its irresponsible tolerance of offenders brought on a serious crisis. The accusations levelled by some fishermen against Polish scientists and the European Commission became quite belligerent. At the same time, the adamant stance of the Commission with respect to the severely overfished national cod quota and the ban on fishing, threatened Poland with multi-million losses through the withdrawal of EU financial aid for the Polish fisheries sector in 2007–2013. For these reasons, the Department of Fisheries took on the task of shaping an effective system for managing fish resources, tightening up fisheries inspections, alleviating the conflict with fishermen and ship operators, and improving their economic condition. It is too early to judge the end results but unfortunately, after a year, the results in each of these areas can be considered unsatisfactory.

There are still no regularly updated sources of government information on the management of Polish and European fisheries. The web pages of the Fisheries Department contain hardly any documents and/or official announcements on the most important issues related to fisheries. News about the Department's policy are presented laconically. The information supplied by the Ministry usually takes the form of general, brief announcements. The information sources provided leave much to be desired in terms of their factual content and do not enable the reader to familiarize himself with fisheries-related issues. This is making it considerably more difficult to understand the present situation. Unfortunately, the deficiencies in informing the public about various aspects of fisheries management are causing fishermen to voice much more serious accusations, which often seem warranted from the perspective of NGOs as well.

There is no doubt that the Department's work is not easy, and that positive changes cannot always be achieved over a short period of time. Nonetheless, the apparent activity of the Polish fisheries administration is simply not sufficient at a time when decisive steps to combat the black market and all forms of sea poaching need to be taken. We need swift, yet well-thought-out decisions to improve the fisheries control system at sea and on land, to regulate the fish market, to make Polish fisheries sustainable and to extend a helping hand to honest fishermen.

Instead, we see sluggishness, an air of chaos and powerlessness, and never-ending disputes. This state of affairs is being exploited, and most of all by the political opponents of the current government, whose grasp of the concept of sustainable fisheries leaves much to be desired. Thus, there is no end in sight of the current social conflict, and the Polish government and the European Union are constantly being accused of trying to "destroy Polish fisheries".

As mentioned, we need radical steps and rational decisions at the ministerial level. What needs to be done is not easy, but necessary in the current circumstances. Many people believe we need to cut the size of the Polish fishing fleet by about 300 vessels. In this way, the Polish national quota for Baltic cod would become sufficient for all remaining fishermen and the fishermen's profits would increase.

Honest ship operators and hired fishermen are entitled to immediate compensation for all restrictions on fishing – it is not acceptable to start paying out compensations a few months after the restrictions are established. All interested parties should be given access to EU financial aid from the EFF in the best way possible. It is worth noting that it took the Department far too long to prepare a proper Operational Programme ("Sustainable development of fisheries and coastal fishing areas 2007–2013").

The theft of fish for one's own profit should not be treated as a harmless offence. The courts are beginning to understand that in cases of poaching on inland waters, which pose a direct threat to populations of the *Salmonidae* and other fishes. The current penalties for serious violations of sea fisheries regulations are low. The Ministry of Agriculture and Rural Development should change the sanctions and introduce severe penalties for flagrant law-breaking. This would deter many potential poachers from fishing illegally, and so prevent the growth of the black market. Every honest fisherman and ship operator should be treated with respect and fairness, but there can be no leniency towards poachers.

One of the primary ideas to tighten up fishing controls is to transfer District Sea Fisheries Inspectorates to the Ministry of Internal Affairs. The letters we have received from the Department of Fisheries indicate that fisheries inspections are hampered by the fact that Fisheries Inspectors are employed as civil servants. According to many, the above change could give inspectors more authority, reorganize their work schedule and increase their feeling of safety.

It seems advisable to increase the intensity of inspections (especially on land), create additional jobs at the inspectorates, and raise the salaries of inspectors (which would translate directly into higher quality of work). Changes in the system for enforcing penalties are also essential. We need to set clear, specific objectives and coordinate the activities of inspectorates with those of veterinary and sanitary services. The introduction of electronic fishing logbooks (ERS)²³, the long-awaited improvement of the Polish VMS by the Ministry of Agriculture and Rural Development, obligatory reporting of each instance of cod fishing or compulsory shipping of catch to local first-sale centres – all these solutions would facilitate the enforcement of fishing quotas and the monitoring of Polish fisheries.

In addition, the Department of Fisheries ought to take a closer look at sport and recreational fishing for cod. The ostensibly small scale of these types of fishing should not encourage the administration to ignore problems in this area. We should consider tracking this popular form of fishing. It might be reasonable to change the law by replacing individual angler limits (currently 7 cod per person) with limits applied to operators of angling vessels. Being the only country which limits sport fishing for Baltic cod, Poland might promote the introduction of identical regulations in all the other countries bordering the Baltic Sea.

Furthermore, in the field of international cooperation, the Fisheries Department should consider more vigorous lobbying for solutions contributing to the establishment of sustainable fisheries in the Baltic Sea. It would be worthwhile to consider increasing the minimum size for cod from 38 to at least 42 centimetres. To eliminate bycatch, we must introduce a complete ban on fishing in areas where large numbers of young cod are observed. We must also restrict industrial fishing. Large fishing vessels (above 30 metres in length) which employ non-selective fishing gear should not be allowed to operate in the Baltic Sea.

The Department of Fisheries should be more active in the media. Besides the recent (and interesting) campaign promoting the consumption of fish products, it would be a good idea to promote sustainable fisheries (including coastal fisheries), compliance with regulations among fishermen, and highlight the consequences of illegal fishing practices – both in terms of the Baltic ecosystem and the socio-economic aspects. If the public lacks elementary knowledge about fisheries, the odds of improving the mechanisms of sustainable fisheries are slimmer. This is why it is so important to cooperate with NGOs that operate in the area of sea fisheries – they can help raise public consciousness of these issues.

As a result of the recent restrictions on cod fishing by Polish vessels in the Baltic Sea, many criticize the method for calculating the current utilization of the national fishing quotas for individual fish species – not only does it lack in clarity, but its results differ from the calculations of EU experts.

There is also the issue of responsibility for illegal fishing. According to the Department of Fisheries, each fisherman bears individual responsibility for his violations and is subject to penalties and other sanctions. But when the general fishing quota has been exhausted by a small proportion of fishermen, others – even if they have not used up their individual limits – are forced to suspend their work and endure restrictions together with the offenders. Obviously, such persons should be able to count on quick aid from the state, and the poachers should have no hope of lenient treatment. In order to avoid such situations in the future, the control system must be very tight; it has to detect all the cases where individual fishing limits have been exceeded.

During the survey the Department of Fisheries has confirmed that after the first-sale data have been entered into the SIMR system, the Fisheries Monitoring Center has no knowledge about the further trading of fish products. We have also confirmed the lack of a quality index for the fisheries control system, the lack of electronic inspection records, and the lack of electronic logbooks (ERS).

²³ *Electronic Reporting System*

According to the Department of Fisheries, the verification of Operational Programme beneficiaries with respect to compliance is performed in cooperation with the FMC, the DSFIs and ARMA. However, information obtained from these institutions does not fully match the information provided by the government. Nevertheless, similarly to the ARMA, the Department has reported that work is underway to lay down rules for withdrawing financial aid from beneficiaries who have violated fisheries regulations. In such cases, the withdrawal would be “proportional to the gravity of the infringement”.

4.3. Marine Unit of the Border Guard (MUBG)

In the future, officers of the Marine Unit of the Border Guard ought to play an important role in fisheries inspections, especially given that IUU fishing is identified by the MUBG as one of the main problems currently troubling the Baltic Sea. In spite of the ongoing cooperation between the Border Guard and the District Sea Fisheries Inspectorates, the role of the MUBG is mostly limited to assisting with inspections at sea; specifically, the MUBG allows its patrol ships to be used as additional inspection platforms. Other than checking sea fishing licenses, the MUBG officers themselves have no authority to inspect fishermen for compliance with the applicable regulations.

Besides expanding the competence of the MUBG to include enforcement of sea fisheries regulations, the MUBG should even more vigorously conduct independent and coordinated land operations, inspecting the vehicles and documents of fish traders outside of ports, and investigate all attempts at illegal distribution and storage of unreported fish products. Activities of the MUBG, particularly in areas where the human resources and authority of the inspectorates are inadequate, could considerably increase the effectiveness of inspections and support the efforts of the District Sea Fisheries Inspectorates. The fact that MUBG units are not bound by fixed working hours is an advantage as well. Additionally, the authorities should consider having MUBG officers participate in training sessions to acquire general information about the CFP, the principles of sustainable fishing and the threats of IUU fishing.

MUBG officers are already (more and more frequently) playing a part in combating poaching in inland waters, especially in cooperation with citizens' fishing guards. This shows that an increased activity of the Border Guard in sea fisheries inspections and, more importantly, in the inspection of land distribution of fish, could prove very helpful in closing the loopholes in the system for controlling fisheries and fish distribution.

4.4. Agency for the Restructuring and Modernization of Agriculture (ARMA)

There is no doubt that applicants for fisheries-related financial aid should be checked for compliance with fisheries regulations, apart from all the other procedures for verifying the formal correctness of applications and the utilization of received funds. However, the information obtained from the ARMA regional offices and the head office was contradictory and did not indicate that full verification of beneficiaries for compliance with the law takes place. The West Pomeranian ARMA office has stated that beneficiaries are checked for compliance with Polish and EU regulations, whereas the Pomeranian office has reported that no such checks are carried out. In reality, the District Inspectorates and ARMA offices do not exchange information on fishing offenders who are beneficiaries of the Sectoral Operational Programme. ARMA obtains information about offenders from the Ministry; however, penalties against dishonest beneficiaries (withdrawal of aid proportionally to the gravity of the infringement) are still a work in progress. We must introduce more effective verification of the legal compliance of aid program beneficiaries, and deny financial support to flagrant offenders. In extreme cases, dishonest beneficiaries should be required to return

the aid they have received. In the future, the cooperation between ARMA, the District Sea Fisheries Inspectorates and the Ministry of Agriculture and Rural Development should proceed more efficiently.

4.5. Fishermen

It must be noted that the community of Polish fishermen is hardly homogeneous. Polish fishermen are aware of deep divisions within their trade, and the absence of common goals and positions. Differences in interests, methods and proposed solutions remain large enough to prevent an agreement from being reached. Many fishermen recognize that disorder in the community is being spread most of all by individuals with unclear intentions who are creating an atmosphere of suspicion, stirring up protests and building their image on popular anti-EU slogans. Unfortunately, it is often those individuals who profess to represent fishermen and their attitudes.

It is currently very difficult to engage in constructive dialogue with some of the fishermen. Besides justified complaints, there are some opinions which exhibit a great deal of hostility. The lack of understanding of the principles by which the European Union operates and the role which NGOs are playing today means that anyone who disagrees with the views of fishermen is treated as the greatest enemy of Polish fisheries. Oftentimes institutions and individuals who would like to cooperate with the fishermen for their own benefit cannot break through the invisible barrier created by the most radical activists among fishermen. At the same time the media – perhaps unwittingly – are adding fuel to the fire, treating all fishermen as part of one rebellious, angry group, and presenting the environmentalists as overly ideological “tree-huggers” who have no idea about fisheries. All this is, of course, completely untrue. There are fishermen who are not indifferent to the fate of future generations of fishermen and the condition of marine resources. They understand that it is very easy to irresponsibly destroy elements of the ecosystem that will be extremely difficult to restore. Those fishermen would like to simply carry on their work in compliance with fisheries regulations, but their ideas and efforts to improve the situation are thwarted by extreme fishermen’s leaders and by deficiencies in the legal system. Proper operation of Polish fisheries is also the goal of scientists and NGO activists. Many of them are vitally interested in fisheries issues and share the opinions of honest fishermen. Their goal is not to put a ban on fishing, but to ensure rational management of fish resources in accordance with the law.

There is no doubt that illegal practices in fisheries are present, to varying extents, in other countries bordering the Baltic Sea as well. That is why we must exert strong social and governmental pressure against fishermen in Poland and in other countries in order to change this unfavorable state of affairs. One of the most important factors – if not *the* most important – is the attitude of fishermen themselves towards illegal fishing. After all, they are the ones who take the most damage. Honest fishermen are losing both money and their good names in an air of constant poaching accusations. It is essential that they begin to combat the habitual cheaters within their own community. At the same time, we must increase both the fishermen’s awareness of the European Union and their respect towards legal regulations. This, however, will not work without a reform of the fisheries policy. Smart fisheries regulations must be designed with the participation of fishermen; the fisheries administration must also guarantee that fishermen will be treated fairly and that marine resources will be managed in a sustainable way.

Polish fishermen blame the government for its lack of interest in important fisheries-related issues. They also complain about insufficient cod fishing limits, inadequate prices for caught fish, high fuel prices, ineffective fisheries inspections, inspections targeting only selected fishermen, ineffectiveness of Manufacturer Organizations, unclear political ties of fishermen’s union activists, poor operation of the SOP “Fisheries and fish processing 2004–2006”, and insufficient consultation with the fisheries community about ongoing fisheries management and the new Operational Programme for acquiring aid from the European Fisheries Fund in 2007–2013.

Fishermen also find fault with ARMA. Most of all, the agency is blamed for preparing grant applications that are too complicated, unclear requirements, lack of easy-to-understand information on applying for financial aid and overly bureaucratic procedures which often make it harder to apply.

Polish fishermen also point to other problems relevant to all Baltic Sea fisheries. These include the lack of accurate methods for estimating the cod resources and the European Commission's acceptance of industrial fishing. Fishermen also insist that scientific institutes in countries bordering the Baltic Sea underestimate the quantities of cod caught, which leads to a "virtual reality" in fisheries. Fishermen are opposed to the unfair treatment of fishermen in certain countries, particularly in Poland, the lack of bycatch regulations, the lack of official records of sport and recreational fishing, and the present principles of the Common Fisheries Policy, which, in their view, limit their ability to make money and carry on their trade freely. Some of the fishermen are also opposed to both current and EU regulations proposed for fisheries control.

Although it will be difficult to rebuild the trust among fishermen, scientists and EU representatives, the time has come to reach agreement. Without it, we will not manage to get Polish fisheries out of the serious crisis they are facing today and encourage fishermen to oppose harmful practices like IUU fishing.

4.6. IUU, industrial, sport and recreational fishing

The changes in the fisheries control system and the CFP reform planned by the European Commission allow us to hope for substantial improvement. Closing the loopholes in fisheries inspections, implementing vigorous and effective inspections of fish distribution and processing, severe penalties, anti-corruption activities, better law enforcement, and better legislation are all required to combat IUU fishing in all the countries with access to the Baltic Sea. National and EU administrations should also put more emphasis on informing consumers about the issue of IUU fishing to help eliminate this destructive practice.

It is also time to regulate industrial fishing which is a cause for great concern. Vessels above 30 metres in length which typically employ unselective fishing gear should not be permitted to operate on such a small sea as the Baltic Sea. It must be remembered that the Baltic Sea is a unique body of water which has been given PSSA (Particularly Sensitive Sea Area) status. The idea is to modify industrial fishing by removing its most harmful elements. EU acceptance of irresponsible industrial fishing, which is done in the Baltic Sea mostly by Scandinavian countries, is often viewed as the result of the existence of powerful interest groups. Unfortunately, this shows the ineptitude of the European fisheries administration within the Common Fisheries Policy.

With respect to sport and recreational fishing, the idea is to start recording and inspecting. While the impact of sport and recreational fishing on the cod population in the Baltic Sea appears to be minor, without official records of the numbers of cod caught and without proper inspections of anglers the existing problems will persist. Currently, recreational fishing, in spite of its rising popularity among anglers and tourists, is inspected less frequently, and there are no records whatsoever of the amounts of fish caught. If we had official data on the amount of cod caught by anglers, we would be able to come up with better estimates of its biomass in the Baltic Sea. According to the calculations of some fishermen, recreational catches of Baltic cod may exceed 10,000 tons. According to the Sea Fisheries Institute (*Morski Instytut Rybolówestwa*), the figure may be in the order of 4,000–7,000 tons (2006 estimates: Poland 530–650 tons, Sweden 430 tons, Denmark 645 tons, Germany 2,000–5,000 tons, Lithuania 30–40 tons)²⁴. In spite of these discrepancies and the roughness of the estimates, sport

²⁴ Source: Sea Fisheries Institute (*Morski Instytut Rybacki w Gdyni*): <http://www.mir.gdynia.pl/pliki/wed/index.html>

and recreational fishing for cod in the Baltic Sea accounts for a significant proportion of the total catch. Moreover, no available report on cod fishing or cod resources takes this type of fishing into account.

In Poland and other countries, there have been cases of habitual law-breaking, mainly by selling cod caught in sport fishing. Therefore, offences against sea angling regulations must not remain unpunished. We must also consider changing the laws that limit sport fishing for cod in Poland. The ban on fishing more than 7 cod is commonly ignored by anglers, and throwing away undersized cod, as in commercial fishing, is a waste of resources which, however, is a consequence of the current laws.

4.7. The fish market in Poland

As long as sea poaching remains a profitable activity and poachers are able to get away with landing and selling illegally caught fish, it will be very difficult to eliminate this harmful practice. To put it briefly, poaching and related land activities must not be profitable for anyone. Therefore, we must improve the operation of the fish market, which still allows people to evade regulations in Poland and in other European countries. According to many people, including fisheries inspectors, the number of fish traders in the supply chain is too large. There are over 500 fish trading businesses in Poland. It appears that it is extremely easy to register this type of business, and if the license for fish trading is suspended due to illegal behavior, it can be reobtained after as little as one year. It is often traders who manipulate cod prices. While lowering the value of fish, they tempt fishermen with untaxed profits. They write fake first-sale records and invoices on which the quantity of purchased fish is understated. Many traders use their own methods of distributing illegal fish all over the country to blur the difference between falsified fishing data and reality. This reinforces the black market. According to Fisheries Inspectorates, if the misrepresentation is not detected at the point of first sale, the chance of exposing the illegal activity (the so-called “fish laundering”) is virtually zero. This is why weeding out dishonest traders from the fish distribution system is one of the priorities in combating IUU fishing. Eliminating one of the links in the chain of unlawful activity is expected to have a beneficial effect on other problematic areas.

Fisheries inspections should be complemented by a demanding fish product identification system that would track the fish from the moment it is caught, through sales and processing, to the moment it reaches the consumer. This would make it easier to monitor the market and the consumer could easily find out when, where and with what gear the fish was caught. Most importantly, however, it will be known whether a product purchased at a given distribution point is a legal product that comes from sustainable fishing compliant with Polish and EU fisheries regulations. We need an effective fish product identification and tracking system harmonized across the EU and encompassing those non-EU countries which export large quantities of fish products into the EU. Otherwise, it may prove impossible to stamp out illegal practices on sea and on land.

It would be a good idea to centralise the sales of caught fish in local first-sale centres. This solution would combine direct sales with public sales (auctions), and would utilize the Fish Distribution Information System (*System Informatycznej Dystrybucji Ryb*) and other IT technologies in the fish trade. The local first-sale centres could be the place where fish lots receive certificates. Unfortunately, first-sale centres in Poland are still not working as expected, despite considerable EU funding and, in 2007, the Supreme Chamber of Control found many serious irregularities in the process of their creation. At the same time, we are in need of an efficient network of fish distribution centres. The new fish market legislation in Poland must solve all the problems and definitely strengthen the position of the existing local first-sale centres. Notwithstanding the protests of some fishermen, delivering fish to first-sale centres and putting them up for auction must be required of everyone. This will facilitate the enforcement of fishing limits and [the degree to which the national quota is utilized (unclear meaning)]. It will also mitigate the existing problems and, according to

the predictions of economists, drive up the value of fish. Fishermen must understand that their profits should come from the high value of their catch, not from excessive volume. The prices of fish must be regulated on the free market, according to supply and demand. Effective operation of fish auctions and first-sale centres can be reasonably expected to translate into higher fish prices.

4.8. The role of society in promoting sustainable fisheries

Apart from low consumption of fish products, Poland suffers from poor public awareness of sustainable fishing and the problems of fisheries. Consumers simply take no interest in the origin of the fish products they buy. Many people outside of coastal areas attach little importance to the existing problems, often explaining that fisheries have no direct connection to their lives. Nevertheless, a great deal depends on the attitude of society as a whole toward illegal fishing. If the black market is faced with public opposition, the demand for fish products from illegal fishing and illegal distribution will drop. Poaching will become unprofitable, which is one of the most important ways to effectively combat this practice. An uncompromising attitude of society can also put pressure on decision-makers to take more effective actions against law-breakers, to introduce certificates for fish products to ensure that fishing activities comply with the law and that the fish we eat have been caught by honest fishermen.

To help the public understand the role that it can play, it would be worthwhile to reach out to it with clear and specific messages about sustainable fishing. To this end, we must prepare campaigns promoting legal fisheries and the consumption of fish products that come from legal fisheries only. The campaign must be supplemented with additional information on fisheries management in the Baltic Sea, its problems and opportunities. In order to reach various layers of society, it would be advisable to take advantage of different types of messages targeted directly at recipients. The shaping of positive civic attitudes should occur with the participation of non-governmental organizations, sensitizing the public and raising its consciousness. It is, however, imperative that these efforts be accompanied by reasonable decisions on the administrative level. Without them, it will be difficult to convince citizens of the correctness of the fisheries policy which is supposed to serve current and future generations. The public must understand that certain attitudes of individual people will make it possible to effectively protect valuable fish resources while meeting consumer needs and maintaining fisheries that will be profitable for fishermen, ship operators, processors and traders alike.

5. CONCLUSIONS AND RECOMMENDATIONS

All the responses obtained by Federacja Zielonych GAJA during the survey in 2008 were used to develop the final report and draw conclusions. It is likely that many of them are well-known to fisheries administration officials and to decision-makers at home and abroad. Therefore, our confirmation of the magnitude of problems, vulnerabilities in the fisheries inspection system, the existence of illegal fishing practices, poorly functioning elements of fisheries management and alarming social conflicts should provide additional encouragement to the proper institutions to take radical and decisive steps to rectify the present problems.

This report clearly indicates that the current Polish system of fisheries control is easily exploited and thus very ineffective. This prevents effective management of the entire fish industry, as well as fueling social conflicts and supporting the growth of illegal distribution of fish products. Institutions that were established to inspect fisheries are often unable to fulfil their duties due to poor equipment, staffing problems and, most importantly, insufficient legal measures. The current fisheries regulations are ineffective due to their poor design. Regulations developed in the past no longer suit the situation in fisheries nor the magnitude of the problems. This serves only to confirm the necessity of a reform of the Common Fisheries Policy in the EU, in particular the fisheries inspections, which constitute a very important element of this policy. The European Commission's initiative to modernize fisheries inspections in Europe and crack down on IUU fishing is therefore appropriate, and any new European regulations should be implemented in Poland as quickly as possible.

It is worth reiterating that ideas such as changing legislation, closing the loopholes in land inspections, limiting the illegal distribution of fish with a well-functioning fish auction system, preventive increases of penalties for offences and extensive improvements in the operation of inspection services must be put into effect if the black market is to be combated effectively. Alongside these changes, it is necessary to regulate other issues, such as providing EU financial aid only to honest fishermen and ship operators or fostering an atmosphere of cooperation between fishermen, scientists and decision-makers. All this should eliminate widespread abuse while promoting a sustainable approach to the exploitation of marine resources.

To sum up, it would be worthwhile for the Supreme Chamber of Control to conduct a detailed audit of the fisheries administration, which is responsible for inspecting and managing Polish fisheries. This would make it pointless to challenge the detected irregularities and would increase the chances of improving the situation in the highlighted areas.

At the same time, based on the conclusions from our survey, we list the activities that must be performed by both Polish and European fisheries administrations in the table on the following pages.

Eliminating inspection-related vulnerabilities in all countries bordering the Baltic Sea

Necessary actions

- increase the intensity and effectiveness of inspections, especially on land (primarily with respect to distribution, storage, processing and retailing of fish products)
- increase the authority of the Marine Unit of the Border Guard with regard to fisheries inspections at sea and on land
- employ cross-checking more effectively, enable Fisheries Inspectors to review invoices
- improve the operation of VMS
- develop a fish auction system and local first-sale centres
- increase the effectiveness of tax audits in order to detect untaxed profits from the sales of illegally caught fish
- change the status of Fisheries Inspectors and increase their authority by transferring the Inspectorates to the Ministry of Internal Affairs and Administration.
- modify the Inspectors' work schedule to enable inspections to be made at any time and in any place
- raise the salaries of Sea Fisheries Inspectors
- enable Inspectors to carry out inspections outside of their area of residence
- improve enforcement through on-the-spot fines
- make it obligatory to notify Inspectors about each landing of cod
- eliminate all bribery
- conduct effective, ongoing monitoring of quota utilization by individual fishing vessels
- ensure effective inspections of all vessels without exception
- verify SOP beneficiaries for compliance with fisheries regulations

Legislative improvements

Necessary actions

- begin work and consultation on a new Fisheries Act
- introduce the Organization of the Fish Market and Financial Aid in the Fishing Sector Act
- change flawed or "dead" regulations
- eliminate legal loopholes that make it possible to circumvent regulations
- raise penalties and sanctions for breaking fisheries regulations
- regulate the issue of bycatch
- introduce uniform regulations for sea angling in the whole of Baltic Sea
- increase the minimum landing size of the Baltic cod to 42 cm
- make it obligatory to put caught fish up on auction
- introduce a compulsory system for certifying fish products
- ensure effective implementation of EU legislation in Poland

Reduction of fishing pressure

Necessary actions

- adjust the fishing effort of all countries bordering the Baltic Sea to match the existing fish resources
- set rational rules for industrial fishing in the Baltic Sea
- prohibit fishing vessels over 30 metres in length from fishing in the Baltic Sea
- establish closed areas where the risk of bycatch is high

Increased activity of the fisheries administration

Necessary actions

- decisively make difficult, but necessary decisions to combat IUU fishing and the black market
- provide ongoing information on the fisheries policy of the domestic administration
- improve the quality of the released information
- cooperate with NGOs on public education with respect to the principles of sustainable fisheries and opposition to illegal fishing practices
- actively lobby for the sustainable management of marine resources on the international level

Supporting honest fishermen

Necessary actions

- make it easier to obtain financial aid from the European Fisheries Fund for 2007–2013
- immediately pay out compensations for any fishing restrictions
- actively promote honest fisheries and fish products from legal fishing activities

Other

Necessary actions

- reduce the number of intermediaries trading in fish products
- crack down on flagrant offenders
- increase trust in scientific methods of estimating fish resources in the Baltic Sea

Federacja Zielonych GAJA

Since 1993, Federacja Zielonych GAJA has worked for the conservation of the environment and the development of a civil society. We specialize in projects which involve active protection of the natural environment and monitoring of institutions responsible for conservation in Poland. By resuming our earlier fisheries project („Sekretariat Rybacki”) in 2007, we want to take professional action to help implement new elements of an effective fisheries monitoring and inspection system in all countries bordering the Baltic Sea and shape civic attitudes by supporting the principles of sustainable fisheries in the Baltic Sea. At the same time, we approve the development of an accurate program for estimating fish stocks in the Baltic Sea, work towards a better legal system by lobbying for favorable changes in legislation, and support honest fishermen in their attempts to collect all due compensations and to gain easier access to EU financial aid. Together with our foreign partners, the Fisheries Secretariat (FISH) and Coalition Clean Baltic (CCB), we educate local communities and consumers on fishing and fisheries.

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