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Reference	

Background

In addition to document 8-8, FEAP likes to inform the Meeting of additional communication between the aquaculture organizations and DG Environment, namely a letter from Danish Aquaculture on August 1, 2016 and the general reply of October 11, 2016 from DG Environment.

In the submitted document FEAP shortly describes its position on the recent report (April 12, 2016) from the European Court of Auditors (ECA).

The recent report of ECA is quoted in the correspondence and also in document 8-6 from CCB and WWF.

The statement from the press release, "The Baltic is one of the world's most polluted seas.", is used by both DG Environment and the NGO's.

The statement has, however, no basis in the report. As source a 2013-report for European Environment Agency (EEA) is stated.

- 1) This report however only deals with the EU-waters and not the "World".
- 2) The 2013-report is not the latest on that subject from EEA. The latest is from March 2015 – one year prior to ECA's report.
- 3) In the EEA-reports data are missing for many parts of the EU-seas. The Baltic Sea is certainly not singled out as special polluted. In the tables in the EEA-reports the Baltic Sea and the English Channel are more or less similar.

The ECA-report does not deal with eutrophication etc. It deals mainly with a judgement on the EU-countries' implementation of various directives, that should contribute to less eutrophication. Waste water-directives etc.

Action requested

The Meeting is invited to provide a feedback on the above stated point of view.

To the

Reersoe, Denmark, the 01.08.2016

European Commission
DIRECTORATE-GENERAL ENVIRONMENT

Directorate C - Quality of Life, Water & Air
ENV.C.2 - Marine Environment & Water Industry

Dear Mr. Malgaj

Subject: Aquaculture guidelines

Thank you for your kind letter dated July 1, 2016 (ENV.C.2 CA/gm Ares(2016)). In addition to our letter dated May 18 – 2016, we have the following comments:

- 1) You state that the guidelines are not legislative in character and not of “a legally binding nature”. However the national authorities will often implement the guidelines in their administration and even – on the basis of EU-guidelines - elaborate more or less binding national guidelines or even statutory orders. The national authorities have naturally great respect for the EU Court of Justice, who in their ruling in specific cases probably will refer to EU guidelines. In this way the guidelines will be legally binding after all and also therefore it is very important that the guidelines are based on correct data.
- 2) You refer to the recent report (April 2016) from the European Court of Auditors (ECA) “Combatting eutrophication in the Baltic Sea: further and more effective action needed”. We have the following comments to the ECA-report:

When you read the corresponding press release and the report, we understand that the situation looks serious for the Baltic Sea. It is stated “The Baltic is one of the world’s most polluted seas..” The source for this statement is - according to ECA¹– the 2013-report “Nutrients in transitional, coastal and marine waters” from the European Environment Agency (EEA). However the EEA-report only covers European waters – not the “world”. So in fact the statement “one of the worlds most polluted waters” is **very misleading** and cannot at all be concluded from the EEA-report! Furthermore the EEA-report has no data from non-EU seas, and the report states that data from parts of the EU seas, e.g. the Black Sea, are not available. In addition the EEA-report has no specific conclusion on the eutrophication of the Baltic Sea alone.

Conclusion: By characterizing the Baltic as one of most polluted seas in the world based on a report that only has data from part of the European seas and no data from seas in the rest of the world, DCA - and quoted by DG ENVI - misleads and influences policy makers in EU countries to elaborate conclusions that are not based on any scientific data.

The newest version of the EEA-report “Nutrients in transitional, coastal and marine waters” is actually from March 2015 – more than one year prior to the publication of the ECA-report. DCA does not state why the 2013-version is used. Looking at some of the tables in the 2015-EEA-report (figure 1 and 2) many parts of the Baltic Sea are not severely affected by eutrophication. This marks a great improvement compared to the 2013-EEA-report. Conclusion: Based on the data of the EEA report from 2015 it would have been more correct by ECA to conclude that there are environmental improvements in the Baltic Sea from 2013 to 2015. However DCA have chosen to conclude on older data which they at the time of the report knew was not correct..and as mentioned with a non-

¹ Point 01 in the Introduction

existent comparison with the "world's seas" . This again might mislead and influence policymakers to make conclusions based on wrong data.

Another observation from the ECA-report:

The report "exonerates" the Bothian Sea and the Danish Straits. Here there are no further requirement for nutrient reduction (point 24 on page 19). According to annex III (page 55) Kattegat is also "exonerated" – but apparently forgotten on page 19. The aquaculture guidelines do not make a distinction between the different parts of the Baltic Sea.

Finally the ECA-report centers on the implementation of EU-legislation on agriculture and waste water treatment and mostly based on visits to Finland, Latvia and Poland.

- 3) The guidelines have basis in a 2014-CEFAS-report:
"Background information for sustainable aquaculture development addressing environmental protection in particular", ref. mail on May 11 – 2016 from Anna Cheilari.

In the CEFAS-report point 5 "Eutrophication" in table 3.3. on p. 31/32 it is stated: "However, in enclosed seas like the Baltic that already have significant nutrient inputs, this may present a barrier to expansion of aquaculture with only nutrient-neutral schemes acceptable (e.g. Denmark, 2012)".

There is one column in the table 3.3. named: "MS identifying an interaction". The memberstates mentioned under "Eutrophication" are Cyprus, UK, Greece, Spain and France. None of them are Baltic Sea-countries. The quoted report is the Danish initial assessment (Marine Strategy Framework Directive) p. 101 according to the references in the CEFAS-report. Page 101 deals with atmospherical deposition. So this part of the CEFAS-report seems rather misleading.

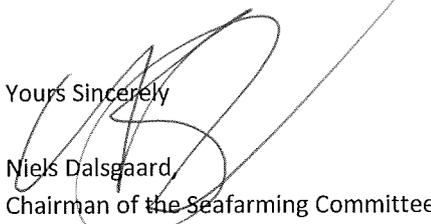
As you know there are no independent analysis of the environment in the CEFAS-report. It mostly deals with "good practice" etc. So the report cannot substantiate the statement concerning the "Baltic Sea".

- 4) One of the strategic goals of the EU-Commission is to increase the aquaculture-production in the Community. Guidelines where some of the instructions are based on erroneous or misleading data are counter-productive and do not support this goal.

Once again we strongly urge DG-Environment to withdraw the guidelines and ask the EEA to elaborate a judgment among others of the Baltic Sea. Actually the Baltic Sea can be characterized with a status between "oligotrophic" and "mesotrophic". Danish Aquaculture strongly supports the protection of the marine environment and also the policy to develop aquaculture in the EU. On the other hand we naturally find that it is a serious problem if environmental policies are based on biased and misleading reports from EU, CEFAS and DCA.

As stated in our first letter we would be pleased at a meeting with DG-Environment to discuss and qualify this matter.

Yours Sincerely


Niels Dalsgaard
Chairman of the Seafarming Committee, The Danish Aquaculture Organization



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT
Directorate C - Quality of Life
DIRECTORATE-GENERAL MARITIME AFFAIRS AND FISHERIES
Directorate A- Policy Development and Co-ordination

Brussels, 10/10/2016
ENV/C2/AC/gm Ares(2016

Mr Courtney Hough
General Secretary
FEAP Secretariat
rue de Paris 9,
B-4020 Liege
courtney@feap.info

Concerns: Your letter dated 31 August 2016

Dear Mr Hough,

Thank you for your letter regarding the recently published Commission Staff Working Document on the application of the Water Framework Directive (WFD) and the Marine Strategy Framework Directive (MSFD) in relation to aquaculture (SWD(2016) 178 final) and which sets out FEAP's views.

As you know, FEAP was consulted on the draft of this Commission Staff Working document in the framework of the Strategic Coordination Group (SCG) meeting (Brussels, 29 September 2015) and comments submitted by FEAP to the Commission on 7 October 2015 were taken into consideration in the preparation of the final document. FEAP and its member organisations were also represented and provided comments in all 6 workshops organised by CEFAS in preparation of the background document on which the Commission Staff Working Document is based.

As you rightly point out in your letter, the document's objective is to assist Member States and the industry in the implementation of the Water Framework Directive (WFD) and the Marine Strategy Framework Directive (MSFD) in relation to aquaculture, and illustrate how environmental protection can be compatible with sustainable aquaculture. Although clearly the socio-economic impact of all EU legislation is of crucial importance, the objective of the document was to present practical guidance in implementation of the Directives.

With regards to FEAP's request to guide authorities not to apply the Precautionary Principle on the inflow of nutrients into WFD areas, we would like to recall that the Precautionary Principle is enshrined in Article 191 of the Treaty on the Functioning of the European Union (EU). It aims at ensuring a higher level of environmental protection through preventative decision-taking in the case of risk.

The Communication from the Commission¹ that you refer to in your letter outlines the Commission's approach in applying the precautionary principle and establishes common guidelines on its application. We would like to highlight that the document stresses that *"The precautionary principle is relevant only in the event of a potential risk, even if this risk cannot be fully demonstrated or quantified or its effects determined because of the insufficiency or inclusive nature of the scientific data. It should however be noted that the precautionary principle can under no circumstances be used to justify the adoption of arbitrary decisions."* We do not consider it necessary at this stage to provide new guidelines on the application of the precautionary principle to each specific sector.

In relation to the Baltic Sea, we would like to clarify that the Commission Staff Working Document does not state that the Baltic Sea is significantly eutrophic, as you suggest in your letter. However, based on currently available information – including, the report of the European Court of Auditors that you refer to in your letter – there is a clear need to reduce the overall nutrients load in the Baltic Sea Basin; ignoring this aspect would in our view reduce the usefulness of the document for operators and public authorities in this sea basin.

Finally we wish to underline that aquaculture is one of the pillars of the EU's Blue Growth Strategy and its development can contribute the EU's priorities in growth, jobs and investment. The Commission supports the development of sustainable aquaculture and the aim of the Commission Staff Working Document is to help national and regional administrations to implement EU environmental legislation without imposing unnecessary burdens on producers.

We would like to thank FEAP for its contribution.

Yours sincerely,

Elisa ROLLER
(Head of Unit MARE.A.2)

Pavel MISIGA
(Head of Unit ENV.C.1)

Matjaž MALGAJ
(Head of Unit ENV.C.2)

¹ COM(2000)1 final