



**EUROPEAN COMMISSION**

DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels,  
MARE/ [REDACTED] ARES (2012)

**EFF Certifying Authority**

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*To be sent via SFC 2007*

**Subject:** Follow up of the 2011 Annual Control Report for Operational Programme 'Perspectieven voor een duurzame visserij' (CCI2007 NL14 FPO 001)

**Ref.:** Annual Control Report and Opinion for the year 2011 submitted by the EFF Audit Authority for the above-mentioned programme  
Interruption of the payment deadline for EFF expenditure under the EFF Operational Programme

Dear [REDACTED],

I am writing to inform you that, based on the analysis of the report mentioned above, viz. the Annual Control Report and opinion submitted according to Article 61(1)(e) of Regulation (EC) No 1198/2006, we have identified evidence to suggest significant deficiencies in the functioning of the management and control systems (MCS) for the implementation of the European Fisheries Fund (EFF) in the Netherlands within the meaning of Article 88(1)(a) of Regulation (EC) No 1198/2006.

The evidence concerns:

1) Weak management verifications carried out by the Managing Authority and its intermediate body (IB MA), especially in the area of public procurement. This was identified by the Audit Authority in the Annual control report 2011. This is not in compliance with Articles 57(c) and 59(b) of Regulation (EC) No 1198/2006 and Article 39(2) of Regulation (EC) No 498/2007 which require the Managing Authority to verify the legality and regularity of expenditure and its compliance with Community and national rules.

2) The irregularity of the project 'Limbo Shrimp' has been qualified as an anomaly by the Audit Authority. However, based on the information provided in the Annual Control Report, the Commission does not have sufficient assurance that this error is in fact

anomalous. Management verifications carried out by the Managing Authority and its intermediate body should be strengthened, especially as regards the procedures for the selection of operations – in particular the evaluation of the financing plan provided and the financial capacities of the beneficiaries (art. 59a and 65a of Regulation (EC) No 1198/2006 and art.29 and 39.1 of Regulation (EC) No 498/2007).

3) Insufficient evidence that the management and control system excludes land purchase for an amount exceeding 10% of the total eligible expenditure for the operation, as stipulated in Article 55 (5) of Regulation (EC) No 1198/2006. The information in the Annual Control Report gives the interpretation of the IB MA on the eligibility of land purchase. The correct interpretation of the European rules on ineligible expenditure, in particular compliance with the above mentioned article of the Regulation, needs to be demonstrated.

4) Lack of detailed information in the Annual Control Report on the shortcomings found in the system for the management and control of the programme, other than those related to public procurement. This is not in compliance with Article 61 (e) of Regulation (EC) No 1198/2006 and Article 42 (3) of Regulation (EC) No 498/2007 which require the Audit Authority to carry out further examination where problems detected appear to be systemic, to accurately establish the scale of any such problems.

5) The information in the annual control report on the financial corrections made in connection with the irregularities found, does not give sufficient assurance that the contributions cancelled were not re-used for the operations that were the subject of the correction, nor, where a financial correction was made for a systemic irregularity, for existing operations within the priority axis where the systemic irregularity occurred, as stipulated in article 96 (2)(3) of Regulation (EC) No 1198/2006.

The Dutch reply of 5 March 2012 to the Commission letter of 23 February 2012 does not sufficiently clarify the above mentioned shortcomings. Additional information is needed for the Commission to determine whether sufficient and adequate control measures have been taken to remedy systemic weaknesses, and to prevent such errors from occurring in the future.

Moreover, in respect of the so-called "anomalous" error of the project 'Limbo shrimp', the Dutch authorities are requested to calculate the expenditure at risk by applying the projected error rate to the unaudited expenditure, taking into account all random errors (also those of the project 'Limbo Shrimp'). (See GN COCOF\_11-0041-01-EN, 5.4).

Based on the deficiencies identified in the functioning of the management and control systems, the Commission does not have reasonable assurance that the expenditure declared in the 2011 Annual Control Report is free of material error.

I wish to inform you that the Commission returns for the correction the 3<sup>rd</sup> application for payment you submitted on 19 December 2011 due to the errors detected in the certified eligible expenditure. The nature of the errors was explained by the Commission to your services in a bilateral meeting which took place on 17 February 2012 in Brussels.

Therefore we ask you to re-submit as soon as possible the 3<sup>rd</sup> application for payment basing it on the certified eligible expenditure for which the accounts have been provisionally closed on 1 December 2011 as presented in your 4<sup>th</sup> application for payment.

Please be aware that the 3<sup>rd</sup> and the 4<sup>th</sup> applications for payment remain interrupted and any future applications for payment submitted to the Commission will be interrupted under Article 88 (1) (a) of Regulation (EC) 1198/2006 for a maximum period of 6 months until the Commission has the assurance that the national authorities have taken the necessary corrective measures.

In this context, the Dutch authorities are requested to take the corrective actions and to fulfil the corresponding deliverables under the action plan, which is included as an Annex to this letter, within 2 months of receipt of the national language version of this letter.

Yours sincerely,

Lowri EVANS

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