

WORKSHOP ON THE EU FISHERIES CONTROL SYSTEM

Brussels, 16 November 2017

STAKEHOLDER CONSULTATION

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Stakeholder consultation on the policy options proposed in the [inception impact assessment](#)¹ in order to tackle the shortcomings identified by the evaluation of the EU fisheries control system.

Stakeholders should express their views on the 3 proposed policy options. Stakeholders are also invited to express their opinion on certain specific actions that could be envisaged in Options 2 and 3 as outlined in this document.

Option 1: No policy change. Continue current policy and focus on implementation and enforcement of existing framework

The continuation of the current situation is taken as baseline to assess the impacts of the other proposed policy options.

Option 2: Amendment of the Fisheries Control Regulation

This option foresees amendment of the provisions of Control Regulation to: 1) increase effectiveness and coherence of rules, in particular as regards sanctions and point system, follow up of infringements, data exchange and data sharing, traceability, recreational fisheries, monitoring and catch reporting tools for vessels below 12 meters; 2) simplify the current legislative framework, including by clarifying provisions prone to different interpretations that resulted in problematic and uneven implementation and by addressing the numerous derogations and by addressing the numerous derogations; 3) bridge the gaps with CFP, in particular with the landing obligation; 4) promote the use of harmonised and/or interoperable (at national level) IT tools; 5) increasing synergies with other policies, notably the fight against IUU fishing, environment, markets and security, and 6) align the text with the Lisbon Treaty.

Option 3: Amendment of the Fisheries Control System

This option includes all the elements indicated in option 2, any related amendments of specific provisions in relevant legislation, the alignment of EFCA's mission and tasks to the changed needs of the new CFP and of the revised Control Regulation and adaptation of EFCA procedures and working practices to take into account the Common Approach on decentralised agencies as adopted in the 2012 Joint Statement of the European Parliament the Council of the EU and the European Commission.

POLICY OPTION 2: AMENDMENT OF THE FISHERIES CONTROL REGULATION

¹ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-4808152_en

A. Enforcement

Problem: *Lack of consistency and effectiveness of national sanctions for infringements of the CFP rules.*

The whole enforcement system is very complex with provisions scattered between the Control Regulation and the IUU Regulation, creating confusion for its application.

The levels of sanctions are very different from one Member State to another. The current point system for serious infringements is not applied by Member States with even criteria.

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to clarify the current enforcement rules (Title VIII) and ease and improve the exchange of information among the Member States involved in case of infringements (Costal State, Flag State, Member States whom national committed infringement)

1. Lay down unequivocal criteria to define the gravity of the infringements.
2. Clarify and revise the current Control Regulation obligations to apply immediate enforcement measures (or preventive measures) in case of serious infringements.
3. Maintain the common list of points to be attributed for serious infringements (it already exists).
4. Clarify that points must apply in addition to the main sanction(s).
5. Establish common/minimum rules for the masters' point system.
6. Establish an EU system to exchange data on infringements and sanctions in cooperation with EFCA and the Member States (ECA request).
7. Digitalisation of inspection reports through use of an Electronic Inspection Report System (ECA request).

B. Data: availability, quality and sharing

1. Reporting and tracking for vessels < 12 m

Problem: *Impossibility to monitor and control fishing activities and catches of vessels below 12meters efficiently.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation and extend monitoring and reporting of catches to all vessels.

1. All vessels are monitored and report electronically their catches, irrespective of their size.

2. For vessels below 12m an easy and cost effective solution is applied (e.g. IOT, cellular/3G, application – as already in place and/or tested in several MS).

2. Control of recreational fisheries

Problem: *Lack of control measures for recreational fisheries despite their possible significant impact on fish resources.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation introducing fishing licenses, vessels registers and reporting of catches for certain types of recreational fisheries.

1. All stocks and species subject to recovery plans, multiannual management plans, and to the landing obligation (i. e. TACs/quotas and species listed in Annex III of the Med Regulation) are subject to a fishing licence and electronic reporting of the catches (easy and cost-effective system as for vessels <12m).
2. All vessels used for recreational fishing are registered.
3. Further control measures can be applied at national/regional level.

3. Weighing, transport and sales

Problem: *Existing provisions related to post landing activities do not ensure that each quantity of each species landed are correctly accounted for by weighing and that the results are always recorded in mandatory catch registration documents. This jeopardises quota uptake monitoring (thus the sustainability of the stock), undermining the legality of the fishing activities and subsequent data analysis.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to revoke exemptions that undermine the accurate weighing and registration of each quantity of each species landed and transported.

1. Each quantity of each species landed is weighed on approved systems, recorded in weighing records.
2. All weighing activities are conducted by authorised/permitted "registered weighers" and that the results of weighing are used to complete landing declaration and transport documents.
3. All quantities sold/dispensed for private consumption, to non-registered buyers, are recorded in landing declarations.
4. Weighing of primary, bulk weighing of unsorted landings of small pelagic species for human consumption and industrial species can follow a two-step procedure. (Weighing of all unsorted catches immediately at landing followed by a secondary weighing to account for each quantity of each species of by-catch present. For small

pelagic species this may entail weighing after transport and sorting at the receiving premises. For industrial landings this shall entail sample weighing, immediately at landing, according to a Commission approved sampling plan).

5. Requiring that Member States conduct a documented annual review of weighing practices and shall, as necessary, introduce additional measures to ensure that each quantity of each species is accurately accounted for by weighing.
6. Clarify responsibilities and accountability of operators at all process stages.
7. Simplify the reporting procedure of documents from operators to competent authorities (flag state, state of landing, state of sale).
8. Impose registration of post-landing operators (same register used in the food law – thus also increasing synergies with food law and reducing the administrative burden).

4. Monitoring of the fishing capacity

Problem: *Current provisions on physical verification of the engine power are not effective to detect differences between the real and the certified engine power. As a result, there is the risk that vessels with manipulated engines may exceed the engine power specified in their fishing licences and that Member States may exceed their capacity ceilings as set in the CFP.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to mandate continuous monitoring and transmission of the maximum power developed by the engines when the vessels are active.

1. For vessels >120 kW using active gears, mandate a continuous monitoring system and transmission of the maximum power developed by the engines when the vessels are active.
2. The information on engine power is stored in a black box and/or sent to the competent authorities by automatic means. The information must also be directly accessible to the authorities when they are conducting an inspection at sea.
3. Procedures should be developed that include how to act in case of system failures.

5. Data management and sharing at EU level

Problem: *Major shortcomings in the exchange of fisheries data between Member States, and limited access of the Commission to disaggregated fisheries data (resulting in difficulties for the Commission to assess the accuracy of the Member States' catch reporting).*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to complete the digitalisation of the data system, and enhance availability and exchange of data.

1. Complete the digitalisation of the control data system (e.g. electronic reporting of the vessels <12m).
2. Establish an EU-Fisheries Control Data Centre (FCDC) for an integrated European information system for fisheries management.

C. Control of the landing obligation

Problem: *Conventional controls, such as inspections at sea are not effective to control and enforce compliance of the landing obligation.*

In the current system there is no legislative basis requiring the use of remote electronic monitoring tools (e.g. CCTV), widely recognised as the most effective means to promote compliance with and control and enforce the landing obligation at sea. Member States are unwilling to install those systems on-board of their fishing vessels in absence of any regional consensus on the harmonised use of CCTV across all Member States.

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to require the use of remote electronic monitoring tools, including CCTV, on individual vessels and fleet segments according to risk assessment.

1. 100% coverage of those vessels with an inherent highest risk of non-compliance and those with the potential to discard high quantities of fish in a short period of time (factory vessels, freezer vessels, refrigerated seawater tank vessels, vessels otherwise equipped to pump fish in bulk).
2. For the remaining vessels coverage levels should be determined per fleet segment in accordance with the regional risk assessment and in cooperation with EFCA.
3. Within the fleet segments determined as the highest risk, Member States should determine which individual vessels to be equipped with CCTV on a dynamic basis, according to risk. Member States should be required to annually compare reference data such as the catch composition reported from those vessels which are equipped and those which are unequipped with CCTV, within a certain fleet segment, and incorporate the results of such analyses into the risk assessment.

D. Increased synergies with other policies

1. Environment

Problem: *Lack of synergies with environmental legislation resulting in an inefficient control system.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to extend the control of fishing restricted areas to all marine protected areas (listed under RFMOs, Birds Directive, Habitat Directive).

1. Establishment of minimum requirements for the control of fishing restrictions due to environmental obligations, e.g. by extending the scope of existing Article 50.
2. Additional provisions would be defined at national or regional basis.

2. Market control (and traceability)

Problem: *Traceability of fishery products is not effective and the type and level of implementation is uneven across the Member States. In addition, the current system is exclusively designed for EU fishery products, and does not allow the use of certain data on imported fishery products from Third Countries.*

The 5 major causes of inefficient implementation of the rules are: 1) lack of clarity in the provisions and clear indication of the objectives of traceability; 2) paper based system; 3) lack of systematic, consistent and coherent collection of EU wide data , in particular from the catch event to landing/entry into the EU market; 3) different technical solutions applied by Member States for data collection and exchange, resulting in national systems which are not compatible nor interoperable; 4) current derogation for some information on imported products, available in the catch certificate, and lack of such information across the traceability chain for market related control purposes.

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to clarify the provisions and establish an EU wide based system.

1. Clarify definitions and provisions, including the objective of traceability and its use (market control purposes vs information to consumers). Add requirement of unique trip identifier.
2. Digitalise the system to control the application of the rules of the CFP at all stages of the marketing of fisheries and aquaculture products, from the first sale to the retail sale, including transport.
3. An EU – wide system is established.

3. Food and feed safety

Problem: *Some definitions (e.g. risk management or audit) and general principles (cooperation rules, responsibility of operators) are not aligned with the food law, thus creating confusion and posing problems to the authorities when enforcing the fishery and the food and feed control legislations.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to better align it to the principles of the food law.

1. Align the terminology and principles of Control Regulation with the food law;
2. Introduce minimum cooperation rules and procedures between Member States and define the responsibilities of the food chain operators (using the same register as under food and feed law, see point B.3.4 above).

POLICY OPTION 3: AMENDMENT OF THE FISHERIES CONTROL SYSTEM

Policy option 3 builds upon policy option 2, considering all the approaches proposed in the policy option 2 plus the following (not implementable in policy option 2 as they need amendment of IUU Regulation and/or EFCA Founding regulation).

Enforcement rules

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation and the IUU Regulation to clarify, simplify and streamline the current rules. Move enforcements rules from the IUU Regulation to the Control Regulation to ensure one single enforcement system.

1. Establish a common list of definitions of serious infringements of the CFP by ensuring EU international obligations in this respect.
2. Introduce the obligation to treat infringements of CFP under administrative law (not excluding criminal law).
3. Introduce common rules on administrative sanctions for infringements of the CFP rules either:
 - a. by setting at EU level types and ranges of sanctions (*e.g.* in monetary terms or as % of economic revenue/benefit from infringement, % of value of the illegal catches);
 - b. or by obliging MSs to set national sanctions, including their ranges, in accordance to clear benchmarks or minimum levels set in EU rules.
4. Define concepts such as "economic benefit from the infringement" or "value of the prejudice to the fishing resources and the marine environment" (not necessary if point 3.a is chosen).

Increased synergies with other policies

Market control (and traceability)

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation so to apply it to products from Third Countries

1. Remove derogation for products from Third Countries*.
2. As a result need to also digitalise the IUU catch certificate (see next point).

* This can also help EU operators and administrations to comply with possible Third Countries' import requirements.

IUU

Problem: *The IUU Catch Certification Scheme is paper-based and as a result it would not be compatible with a fully digitalised traceability system extended to imported products.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the IUU Regulation to digitalise the IUU catch certificate.

1. Mandate the use of an EU-wide IUU IT system (already under development) for the electronic submission and collection of catch certificates and processing statements.

EFCA Founding Regulation

Problem: *Lack of alignment of the Founding Regulation with the Common approach on decentralised agencies, alignment with the CFP (LO, role of EFCA as regards the external dimension), alignment with the proposed amendments in the Control Regulation, need to follow-up on recommendations of the Administrative Board.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the EFCA Founding Regulation to:

1. Align it to the Common approach on decentralised agencies.
2. Clarify EFCA's mission and tasks as regards the external policy, and align them fully with the CFP. This would include: a) empowering EFCA to carry out inspections beyond international waters, upon mandate/request by the Commission, limited to activities in the context of RFMOs, SPFAs and fight against IUU; b) allowing EFCA to coordinate among MS certain control schemes in RFMOs; and possibly c) clarify the future EFCA's coordination role when it comes to regional control measures in the framework of the landing obligation (see also point on landing obligation).
3. Clarify the tasks of the Advisory Body and review the tasks of the Administrative Board.

4. Revise current rules for the adoption and participation to the Joint Deployment Plans, and provide for more flexible working arrangements to ease the participation of Third Countries under the coordination of EFCA.
5. Follow-up on ECA recommendation by requiring EFCA to set up an EU-wide system to exchange data on infringements and sanctions –and this beyond JDPs. Data accessibility will have to be designed carefully taking into consideration data confidentiality rules at EU/national level.
6. Possible role of EFCA in the EU-Fisheries Control Data Centre (FCDC) (see also policy option 2 point B.5 on data management and sharing at EU level).