



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES
POLICY DEVELOPMENT AND CO-ORDINATION
FISHERIES CONTROL POLICY

WORKING DOCUMENT

WORKSHOP ON EVALUATION OF REGULATION (EC) 1224/2009

ON FISHERIES CONTROL

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1. THE CONTROL REGULATION

The success of the Common Fisheries Policy (CFP) depends very much on the effective implementation of control system requirements. The measures provided for in Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with rules of the common fisheries policy¹ (*hereinafter 'the Control Regulation'*) seek to establish a Union system for control, inspection, and enforcement based on a global and integrated approach which is in accordance with the principle of proportionality and administrative cost-efficiency.

Before the adoption of the Control Regulation, the former control system no longer ensured compliance with the rules of the CFP. Control provisions were contained in a wide number of overlapping and complex legal texts. Some parts of the control system were poorly implemented by Member States which resulted in insufficient and divergent measures in response to infringements of the CFP rules thus undermining the level playing field for fishermen across the EU. The European Court of Auditors² made the same diagnosis: national catch registration systems had numerous shortcomings, basic data were incomplete and unreliable and the legal framework was inadequate and not properly applied by Member States. As a result, the Commission was unable to identify errors and anomalies and take necessary decisions in due time. Inspection systems did not guarantee efficient prevention or detection and there was an absence of general control standards.

Against this background, the Control Regulation consolidated and simplified all control related obligations in a single legal instrument, deleting duplicate regulations and reducing administrative burden. Furthermore, it aimed at developing a new approach to inspection and control, both at EU and Member States level, creating level-playing field across the EU in terms of sanctioning serious infringement on CFP rules, strengthening cooperation and assistance between Member States and with the Commission. It intended to develop a culture of compliance and of enhanced transparency, making more use of modern technologies, implementing a crosschecking methodology to improve the quality of control data, increasing cost effectiveness and reshuffling the mandate of the European Fisheries Control Agency (EFCA)³.

The Regulation entered into force on 1 January 2010.

¹Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006

²Special Report No 7/2007 pursuant to Article 248(4) second paragraph, EC, on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources.

³Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy

2. EVALUATION OF THE CONTROL REGULATION

Article 118 of the Control Regulation calls on Member States to report every five years on the application of the Regulation to the Commission. It also calls on the Commission to draw up a report on the basis of these reports and its own observations to be submitted to the European Parliament and the Council. The same article put an obligation to the Commission to evaluate the impacts of the Control Regulation on the common fisheries policy five years after the entry into force.

In addition the Control Regulation has been put on the Regulatory Fitness and Performance Programme (REFIT) of the Commission⁴, with the main objective to evaluate its impact on the implementation of the CFP rules and objectives, since it entered into force in 2010. The evaluation in this context will deliver an assessment of whether the Control Regulation is fit for purpose by focusing on its simplification and regulatory burden reduction aspects. The evaluation also aims to identify possible areas for further simplification and administrative burden reduction analysis.

The evaluation will be performed taking into account the five criteria of effectiveness, efficiency, relevance, coherence and EU added value, according to the following questions:

- Effectiveness: To what extent the control Regime has achieved its objectives ?
- Efficiency: To what extent the new control Regime has been efficient to achieve its objectives?
- Relevance: To what extent do the objectives of the control Regime correspond to the problems and issues to be addressed?
- Coherence: To what extent the new control Regime has been coherent with the CFP? (internal coherence) To what extent the new control Regime has been coherent with other EU policies (external coherence)
- EU added value: What are the advantages of one EU-wide control system? What are the advantages of an EU-wide coordination?

On the top of it the administrative burden reduction aspects will be investigated.

The evaluation process started in 2015 and will end in the second semester of 2016 with the publication of the Commission Report to the European Parliament and the Council.

⁴ SWD(2015) 110 final

3. WORKSHOP: RATIONALE AND GOAL

This workshop will support the evaluation of the Control Regulation, gathering the opinion of industry and environmental NGOs on the current fishery control system.

In this frame the debate will mainly focus on the themes of

- Promotion of the level playing field
- Development of a culture of compliance and respect of the Common Fisheries Policy rules
- Simplification and reduction the administrative burden

More information on these points can be found in the Annex.

In particular the discussion aims at gathering the opinion of the participants on:

1. Status of implementation of the obligations set in the Control Regulation for operators;
2. Effectiveness and efficiency of the instruments and tools of the Control Regulation (for instruments and tools see text in bold in the Annex);
3. Status of the results so far achieved;
4. Weaknesses and strengths of the current system.

Delegations which have specific points for discussion are welcome to submit them prior to the meeting to Manuela.Musella@ec.europa.eu.

Annex

Promotion of the level playing field

Level playing field is a concept about fairness. In this context it relates to critics to the previous systems, where it was claimed that the rules of the Common Fishery Policy and its control were applied in different ways in the different Member States, creating disparities and inequalities among the various players. The Control Regulation which entered into force in 2010 puts in place a comprehensive integrated and uniform policy for the control of fishing activities in Union waters in order to ensure the effective implementation of the Common Fishery Policy. The regulation defines the general concept of **inspections for all catches at all stages of the chain - at sea, in port, on transports and markets** – and introduces harmonised inspection procedures with a view to ensuring uniformity in the implementation of the new control regime. The first main thrust in this context is the introduction of a systematic **risk analysis approach** and the introduction of a **comprehensive traceability system** as the basis for fisheries control. The new approach aims at making the best possible use of modern technologies. In particular **data have been automated** as far as possible and are subject to comprehensive and **systematic cross-checks** with a view to identifying areas where there is a particularly high risk of irregularities. By proceeding this way the control resources should be effectively concentrated on the areas of risks. Moreover, **the use of modern technologies should ease the administrative burden both for fishermen and for the authorities**, in particular with regard to managing quotas, while at the same time providing a global view of the situation of fishing activities almost in real time and in a cost and time efficient way. For this purpose the Control Regulation extends the use of the Vessel Monitoring System (VMS), the Automated Identification System (AIS), the Electronic Reporting System (ERS), the Vessel Detection System (VDS) and other new technologies⁵.

To answer new needs on the control of specific fisheries, specific control measures applicable for multiannual plans have been established. Since the limitation of fishing effort became more and more important, the **monitoring of engine power**, e.g. by certification, is an integral part of the regulation. Finally, as recreational fisheries have an increasing influence on fish stocks and the marine environment, the Control Regulation envisages control measures for this activity, such as the registration of catches.

Development of a culture of compliance and respect of the Common Fisheries Policy rules

An important cornerstone of the Control Regulation is to cover and raise awareness among all stakeholders involved in the full range of fishing activities (catching, processing, distribution

⁵ http://ec.europa.eu/fisheries/cfp/control/technologies/index_en.htm

and marketing) of the importance of compliance with the CFP rules. Compliance with the policies and regulations of the CFP should ideally be achieved through not only monitoring and control activities, but as a result of an overall culture of compliance where all parts of the industry understand and accept that the respect of applicable rules is in their own long term interest.

A regime of harmonised and proportionate **administrative sanctions** was established in the Control Regulation for ensuring an equal and effective application of the CFP rules. The overriding principle applied in this context is that a sanction must remove any economic benefit that may result from the infringement and create a sufficient deterrent for a potential offender. The Control Regulation defines **serious infringements** and establishes criteria for defining the sanctions to be applied to natural and legal persons. Furthermore, the Control Regulation creates a **penalty point system** for infringements carried out by the holder of a fishing permit comparable to similar systems that exist in many countries for traffic violations. In cases of repeated breaches of the CFP rules this mechanism should lead to suspension or, in particularly serious circumstances and taking into account the principle of proportionality, to withdrawal of the fishing permit.

Cooperation between Member States is foreseen both on the operational and the administrative level with a view of enhancing both control measures and infringement procedures. The Control Regulation reform extends the **possibilities for Member States to inspect each other's vessels in all Union waters**. The Control Regulation allows a systematic exchange of information on possible infringements either on request or on a spontaneous basis. Regarding technical matters the Control Regulation follows a modern approach on the **transfer of data and the exchange of information**, both between Member States and with the Commission or the European Fisheries Control Agency (EFCA). Each Member State must store all relevant information and control data on a national website, and depending on the nature of the information, this is stored either on a public or a secured part of the website, to which the Commission, the EFCA and the other Member States have remote access. This aimed at facilitate and speed up the access to data for all officials involved in the control system while respecting all existing obligations on confidentiality and the protection of personal data.

In order to enhance cooperation the **mandate of the EFCA** was amended, extending **organisation of operational cooperation between the Member States covering control and inspections at all stages of the chain up to the retailer**. Furthermore, the EFCA is now able to assist Member States in order to improve their control systems. For this purpose it carries out risk analyses and verifications of control data. The EFCA also enabled to set up an emergency unit when a serious risk to the CFP has been identified which otherwise could not be tackled adequately. EFCA plays a leading role in the development of an integrated EU maritime surveillance network, by making its data available to other EU institutions and bodies.

Simplification and reduction of administrative burden

The Commission brought together the CFP control measures in one legal framework, with the objective of simplifying and rationalising the set of former different legal acts. This was done by establishing the **principles and framework in the Control Regulation while laying down the more technical and detailed matters in implementing regulations.**

The use of modern technologies and the development of an electronic information system and data sharing were also supposed, on a long term, to reduce the administrative burden of the whole system.

Compliance with the new Common Fisheries Policy

A central objective of the Common Fisheries Policy which entered into force in 2014, is the progressive elimination of discards in all EU fisheries through the introduction of an obligation to land all catches. This is designed to make better use of the available resources, and responds to public pressure to end the practice of throwing marketable fish back into the sea. **The Control Regulation was amended in 2015⁶ to allow for the control of the new provision on landing obligation.**

⁶ OJ L 133, 29 May 2015.