

# AIPCE-CEP position paper

## ~ FISHERIES CONTROL REGULATION ~

### Introduction

Since the last revision of the Control Regulation (EC No. 1224/2009) companies have made every effort to comply with the latest rules and regulations regarding traceability and control of the marketing of fisheries and aquaculture products. As a result, the CR is finally starting to function as intended and provide all parts of the supply chain and consumers with the information and assurances they need. In the light of this, it seems neither appropriate nor necessary to seek to introduce further change at this stage.

AIPCE-CEP is of the opinion that the focus of any revision should be on **improving the performance of the already existing rules and regulations rather than implementing new and/or additional rules and regulations.**

If there is to be a review, we would prefer that references to labelling and imported products be deleted as they are already adequately provided for elsewhere, for example in Regulations EC No. 1169/2011 and EC No. 1005/2008.

### **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.

AIPCE-CEP is in favour of this option with the addition of transferring provisions concerning labelling and imported products from the Control Regulation (EC No. 1224/2009) to Regulations EC No. 1169/2011, EC No. 1379/2013 or EC No. 1005/2008 as required.

### ~~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.~~

### 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/permited "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).

**AIPCE-CEP supports a 2 step procedure for weighing, especially for tropical tuna which needs refined sorting of frozen round tuna by species when landing.**

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).

AIPCE-CEP supports harmonization and as far as possible alignment with procedures in other relevant legislation such as measures relating to food law or hygiene.

## 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*.

Accuracy in data exchange is of crucial importance: in fact, a major problem lies in the lack of sound reporting from Member States.

## 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 un-willing 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.

AIPCE-CEP strongly supports a risk management approach and, as already stated, harmonization of procedures.

#### D. Increased synergies with other policies

#### 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?

AIPCE-CEP do not agree with the problem description.

The legal framework for seafood traceability is performed through a complex combination of regulations that have different scopes, different purposes, and different implementations:

1. Fisheries Control Regulation (Council Regulation (EC) No 1224/2009);
2. Catch documentation scheme on imported products (Council Regulation (EC) No 1005/2008);
3. General food law (one step back - one step forward traceability principle, Regulation (EC) No 178/2002).

In addition to the traceability requirements, operators have to cope with another important set of regulations, in respect of information to consumers.

While the control regulation is implemented on the EU territory, the imported fish/fishery products into the EU are covered by IUU Regulation and the catch certificate already provides sufficient information for market related control purposes.

Including rules in the control regulation on imported products will create overlap between the IUU and Control Regulations, duplication of bureaucratic burdens and add to costs and confusion.

AIPCE-CEP believes a review of the fisheries control regulation should be used to better **synchronise** the regulations.

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.

Traceability is an essential tool for the official control Authorities to manage potential safety problems along the food chain.

The definition of traceability is clearly stated by the EC Regulation 178/2002 (art. 3 point 15) and the mechanism of the application (so called “one step back-one step forward”) is established by the art. 18 of the same regulation.

Fish and fishery products are covered by the same rules in terms of principle while the specific information are already listed in the control regulations (art.58 Reg. 1224/2009 and art. 67 of Reg.404/2011). It is important to bear in mind that:

1. For imported fish and fishery products traceability is ensured by Regulations 1005/2008 and 178/2002
2. The traceability of processed fisheries products in NC 1604 and 1605 headings is ensured by the Regulation No 178/2002, laying down the general principles and requirements of food law.

It must be also underlined that traceability has complementary but different objectives compared to consumer information. The current regulatory framework for seafood labelling is

already well-developed. AIPCE-CEP does not believe traceability objectives should be different for market control purposes and consumer information purposes: the information on products should follow lots, and made available to consumers at the appropriate stage, and also by means other than “on pack information”.

All in all, there is no valid reason to change the current rules. AIPCE-CEP believes the main weaknesses are the uneven implementation of the regulation across MS, and the discrepancies between EU originating products and imported products.

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.

AIPCE-CEP is in favour of digitalisation and it should be pursued. However, the financial impact of this requirement and the practicalities (user friendliness - simplification) should be taken into account. Moreover, digitalisation should not lead to the implementation of more rules and regulations but focus on improving the performance of the already existing rules and regulations.

The “one-step-back” – “one-step-forward” principle should remain.

3. An EU – wide system is established.

AIPCE-CEP is in favour on setting up an EU-wide control system as long as:

- interoperability with all relevant planned or existing systems is ensured EU-wide (EU & MSs)
- practicalities are ensured (simple and user-friendly systems)
- costs remains bearable by the supply chain. It should be recalled that additional costs along the food chain mean an increase of prices at consumers’ level.

### 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?

AIPCE-CEP believes the description of the problem is vague and does not indicate clearly in which way some definitions and principles are not aligned with food law.

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).

AIPCE-CEP is in favour of the points 1 and 2 abovementioned, specifically on the principle of one step back- one step forward.

### **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).

Synchronisation and harmonization of rules do not necessarily mean “merging of rules”. A single enforcement system, to be effective, should remain easy to understand and to implement: it should be “user-friendly”.

#### **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\*.

AIPCE-CEP do NOT agree on this point. For imported fish and fishery products, traceability is ensured by Regulations 1005/2008 and 178/2002. The effect of the removal of the derogation will be that the operators importing fish and fishery products from the Third countries will have to comply with three different regulations: the Control Regulation, the General Food Law and the IUU Regulation. It means more cost and administrative burden.

2. As a result need to also digitalise the IUU catch certificate (see next point).

Simple solutions could be found: the catch certificate (or its copy, in paper or digital) should accompany the goods downwards in the market after import.

\* 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.

The idea of digitalization is very welcome; however, account must be taken of the fact that not all Third Countries have digitalization facilities. Any decision which could lead to disruption of trade should be avoided.

### 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).

**General comment:**

The funding regulation is too complex and rigid. It would need some improvements in user' friendliness

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**General conclusions:**

AIPCE-CEP is in favour of **policy option 1** with the additional note that the Control Regulation should be adapted in such a way that rules and regulations regarding labelling and imported fishery products are removed from the Control Regulation, as they are already covered in Regulation EC No. 1169/2011, Regulation EC No. 1005/2008 and Regulation EC No. 178/2002.