

31 August 2017

Review of the Control Regulation

Dear

With reference to the Report from the Commission to the European Parliament and the Council: Implementation and evaluation of Regulation (EC) 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy as required under Article 118 - REFIT - Evaluation of the impact of the fisheries regulation, please find below preliminary comments. Enclosed to the letter are our initial comments to the discussion points presented in Commission's working document and presented at the Compliance Working Group meeting on 5 July 2017.

First of all, we would like to thank the Commission for the comprehensive work in analysing the implementation of the Control Regulation (CR). In general, the Control Regulation has been effective in implementing a Union control system for ensuring compliance with the rules of the common fisheries policy (CFP). Compared to the previous CFP Regulation, one of the main principles of the current CFP Regulation (1380/2013) is the principle of taking into account of regional specificities through a regionalised approach (Art 3(b)). Thus, Control Regulation should be modified in a manner which would take more into account the regional differences through giving more flexibility to regions when deciding over technical, control and surveillance measures. In general, the provisions of the CR should be reviewed critically and simplified as much as possible, for example in areas concerning inspection thresholds, reporting obligations, double-sanctioning, provisions relating to the small-scale fisheries etc.

Taking into account of regional specificities and the practical problems that have arisen during the implementation of the Control Regulation, we propose to consider introducing the following changes into the Control Regulation and its implementing regulation (404/2011):

1. The regulation of serious infringements committed by EU vessels/nationals is currently divided between two regulations – CR and the IUU regulation (Council Regulation (EC) No 1005/2008). This leads to misinterpretations and consequently to the unequal treatment of offenders. In addition, some types of

infringements are not covered with current CR and IUU regulations, for example, quota overshoot in cases where the quota is not allocated to individual Member States but is set as a general TAC; fishing above set depths; falsification of documents etc. Provisions concerning serious infringements of EU vessels/nationals in both regulations should be therefore critically reviewed. One possibility would be to aggregate all serious infringements by EU vessels/nationals to the CR.

2. Review of specific obligations and objectives that Member States have to follow, for example level of inspections in ports set under multiannual plans (CR Annex I para 4(a)). The CFP Regulation foresees that all regulated species should be covered with multiannual plans. It is not realistic to implement a 20% level of inspections in ports for all species covered with multiannual plans. Therefore a review of the provision is needed and inspection levels should be replaced with the risk-based control.
3. Increasing the maximum allowed ice and water percentage in case of weighing pelagic species from 2% to 10%. The current level of 2% set in the Article 74 para 2 of the implementing regulation (404/2011) is not sufficient in the Baltic Sea pelagic fisheries. More water and ice is needed to maintain the quality of fish. The common practice of draining fish is time-consuming and may substantially degrade the quality of fish during warmer months. Thus, the maximum allowed ice and water percentage should be amended in the implementing regulation (404/2011). Other option would be to decide on the specific ice and water percentage on a regional level.
4. Adding a clear indication to Articles 6 and 7 of the CR allowing for electronically issued fishing licences and fishing authorisations. There are several cases where the print-out of a fishing licence or fishing authorisation is not needed as Member States are using electronic licencing and authorisation systems. For example when conducting fishing activities in Member States' territorial seas or in the EU waters.
5. Amendment of Article 34 in a way that it applies only to stocks where a Member State does not have an exclusive allocation (Others quota, by-catch quota, block-quota). Member States have the obligation to report their aggregated catch data before the 15th of each month (Art 33 of CR). Additionally, Article 34 of the CR requires Member States to inform the Commission when its catches or fishing effort is deemed to have reached 80% of that quota or effort limit. In that case, Commission may request the Member State to send the relevant data more frequently or more detailed. It is the obligation of Member States not to overshoot their quota or effort. Therefore there is no need for informing the Commission when 80% is reached when a specific quota or effort level has been allocated to a Member State. It would be reasonable to inform the Commission of the 80% in cases only where a Member State is fishing under Others quota or under the block-quota or receiving by-catches under the by-catch quota. In those cases a close cooperation and a timely communication of catch data between Member States and the Commission is needed.
6. Amendment of Article 33 para 4 by replacing the requirement to report catches of non-regulated species quarterly with the requirement to report catches of

non-regulated species before the 15th of each month. Current provision requiring reporting the catches of non-regulated species quarterly is not in line with the actual procedure put in place in Article 146i of the Commission implementing regulation (EU) No 404/2011.

Yours sincerely,

Annex 1. Comments on the Control Regulation discussion points

1. Alignment with the CFP

The main keyword is regionalisation with giving more flexibility for regions to set specific control levels and technical measures.

2. Monitoring and control of small scale fisheries

It is important to support a cost-effective and technologically suitable electronic monitoring solution for vessels used in small scale fisheries. From our point of view, VMS is too expensive and in many cases too difficult to mount on a small vessel (no deck construction, no power source). For the same reasons we do not consider it possible to equip small vessels with surveillance cameras. One possibility to consider would be to use GPS equipment. Norway has an experience of using GPS in inland fisheries. Since November 2012 vessels which have equipment on board for fishing by demersal seine or otter trawl shall be equipped with GPS equipment. The requirement to use GPS was expanded to all motored vessels used for commercial fishing on 1 January 2015 in September 2015.

For the control and monitoring of small scale fisheries other measures could be discussed also. For example, extending catch reporting to all vessels and enhancing electronic reporting possibilities for those vessels. In Norway, all commercial fishers, whether by using a vessel (regardless of the vessel length) or conducting fishing activities without a vessel, have the obligation to use either a paper-logbook or ERS. For years, there has been a possibility for fishers using paper-logbook to insert their paper-logbook data directly to the National Fisheries Administration by themselves. In addition, Norway has developed a mobile app called 'FISHER' which allows fishers using paper-logbook to report their catch data directly through the app in real time making it easier and more operative to control and monitor fishing activities also for the control authority.

3. Sanctions, serious infringements and point system

Penalties are an integrated part of the environmental policy and for that reason sanctioning system in use in fisheries cannot be viewed separately from that. This should be kept in mind when evaluating Member States' penalty rates. Thus, one-size-fits-all approach for all Member States is not appropriate in this case and some elements should be set at the regional level based on fleet segmentation. Some penalty rates set according to the EU IUU Regulation are very high in Norway already at present, for example, up to tenfold of the fish price caught illegally.

4. Data (exchange/share/access to info)

Member States have to send often the same information to different parties. Data containing same information should be sent only to one central EU-level end point. That end point could disseminate the data to other recipients taking into consideration the data protection requirements. The work load of fishermen related to catch reporting, both for fisheries conducted with vessels below 10 m and above, tends to increase over time. In case of reporting obligations for fishermen, only the data elements actually needed and used by fisheries administrations and scientists should be requested to be reported.

5. Traceability

Traceability of fisheries and aquaculture products is an important element of fisheries control. In Norway a large number of first buyers with the annual financial turnover below

200 000 euros submit sales notes electronically on voluntary basis, which reduces the administrative burden and makes cross-checks and traceability more efficient. Possible revision of provisions regarding traceability and possible modifications to the reporting requirements should not bring with it substantial changes to the existing electronic reporting system as the overall electronic reporting system has proved to be working well.

6. Derogations (weighing)

In some cases derogations are necessary for taking into consideration regional differences. For example, allowing (partial) weighing of pelagic species in other places than landing place because of the ice and water content. Draining of fish at the landing place may not always be suitable option. We support increasing the maximum allowed ice and water percentage in case of weighing pelagic species from 2% to 10%.

7. Recreational fisheries

We do not see a need to change the approach taken so far on the recreational fisheries. If the impact is considerable, MS is obliged to take necessary measures to manage it appropriately. Via data collection the data on the scale is conducted. The same approach should be continued, no management on EU level is needed.

8. Simplification

In general we are in favour of clear and simple rules on EU level setting level playing field. As the fisheries vary on different areas the regional approach is important to improve culture of compliance. Therefore we find new regionalisation policy which came in force after the CFP to be on right tracks. On inspection aspects less thresholds, more risk-based management serves the direction of the simplification as well as less reporting.

9. Coherence with other policies (ENV/MARKET/IUU)

Coherence with other policy areas is very important and a more holistic approach is needed. In the light of the EU IUU Regulation, the main problem is the lack of coherence of provisions concerning serious infringements committed by EU vessels/nationals in the EU IUU Regulation and in the Control Regulation. One option would be to aggregate these provisions into one regulation for clearer and common interpretation.

10. EFCA mandate

No specific comments.