



23 November 2017

Ministry of Enterprise and Innovation
Department for Business, Competition and
Agriculture, Division for Fisheries, Game
Management and Reindeer Husbandry

Member States consultation on policy options for a revision of the EU fisheries control system, written comments from Sweden

The European Commission has launched in June 2016 a political initiative to review the EU fisheries control system.

During the meeting of the Expert Group for Fisheries Control 6 November 2017 Member States were invited to submit written comments to the Commission on the Member State consultation document.

Sweden would like therefore to give the following comments to the consultation document.

General

Sweden supports the European Commission as to the need for an effective, uniform, harmonised and comprehensive fisheries control system at EU level in order to create a level playing field among fisheries operators and Member States across the EU.

All Swedish comments are based on the principles of level playing field, cost efficiency, alignment to the CFP and simplification.

Policy options

Regarding the policy options presented, Sweden is in favor of option 3 of the consultation paper as it is extending the scope of the revision to related amendments of specific provisions in relevant regulations.

POLICY OPTION 2: AMENDMENT OF THE FISHERIES CONTROL REGULATION

A. Enforcement

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

Sweden agrees with the description of the problem and would like to give the following comments:

1. *Lay down unequivocal criteria to define the gravity of the infringements.*

Unequivocal criteria could address the problem as well as create a level playing field between fishers concerning the point system. However, the criteria would need to be balanced and take into account that different circumstances may affect the level of seriousness, depending on the type of infringement.

2. *Clarify and revise the current Control Regulation obligations to apply immediate enforcement measures (or preventive measures) in case of serious infringements.*

Sweden has immediate enforcement measures regarding the point system, in the form of a possibility to decide interim points. Application of other immediate enforcement measures or preventive measures connected to criminal procedural law would be dependent on national procedural rules regarding criminal law. Sweden does not consider other immediate enforcement measures or preventive measures necessary for the time being.

3. *Maintain the common list of points to be attributed for serious infringements (it already exists).*

The common list of points should be maintained.

4. ***Clarify that points must apply in addition to the main sanction(s).***

Sweden considers it clear in articles 89-93 in the Control Regulation that points must be applied in addition to the main sanctions. If there is any doubt regarding this application, the application should be clarified.

5. ***Establish common/minimum rules for the masters' point system.***

Common or minimum rules for the masters' point system should be established. In the Swedish point system for masters, the point system for fishing license holders has been used as a basis, with a prohibition to serve as master for a certain time period instead of suspension of the fishing license.

6. ***Establish an EU system to exchange data on infringements and sanctions in cooperation with EFCA and the Member States (ECA request).***

In principle Sweden is in support of information exchange between the Member States and the Commission as this provides necessary information for analyses, risk analyses, control and management decisions, etc.

An EU Data exchange system on infringements and sanctions with EFCA and Member States would have to take Member States different rules concerning secrecy into account, as well as current applicable EU legislation such as Regulation (EU) 2016/679 of the European Parliament and of the Council (GDPR) and the Directive (EU) 2016/680 of the European Parliament and of the Council. It is important to make sure that the exchanged information can only be used for certain pre-defined purposes. All processing of personal information, even the processing occurring when granting access to other Member States or EFCA, must be in accordance with GDPR and the Directive regarding legal basis as well as that the information must not be used for a purpose which is irreconcilable with the purpose for which it was collected.

7. ***Digitalisation of inspection reports through use of an Electronic Inspection Report System (ECA request).***

Digitalisation of inspection reports allows for a more efficient handling procedure than a paper based system. Sweden therefore supports all efforts to digitalise fisheries information.

The exchange of inspection data between Member States, is a very important element for effective control and the ability to carry out risk analyses. To have the electronic inspection report in place would facilitate when vessels are inspected in other Member States, which is an important part of risk analyses, especially in case of suspected infringement. Today, exchange of inspection data is made via contacts with the different Member States, which is time-consuming and administrative burdensome.

An Electronic Inspection Report System would have to take into account Member States' different rules concerning secrecy, as well as relevant EU legislations as discussed in point 6 above.

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 12 meters efficiently. Sweden agrees with the description of the problem and would like to give the following comments:

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

Information on catches and fishing activities forms the basis for fisheries management and stock assessment. It is therefore of the utmost importance that it is reliable and complete throughout the EU and for all vessel sizes. Furthermore, the increasing number of Marine Protected Areas (sometimes located close to shore) entails an increasing need for position information and accuracy of data.

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).***

Sweden is in favor of implementing a simple and cost-efficient solution for reporting of catch and geographical position. AIS is a well performing tool for geographical positioning and monitoring. The combination of AIS with mobile phone application for catch reporting should be further explored as a mean to increase quality and coverage of the data from these vessels.

2. Control of recreational fisheries

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

Sweden does not agree with the description of the problem and would like to give the following comments:

General

Recreational fisheries are strictly regulated in the Swedish national legislation, especially in cases where recreational fisheries can have a significant impact on fish stocks concerned. National provisions stipulate detailed rules regarding e.g. permitted gears, fishing times and zones.

Control of Swedish recreational fisheries in marine waters is carried out by the Swedish Coast Guard and by The County Administration Board. Focus for the control measures is on recreational fisheries where catches can have an important impact on the fish stocks concerned.

The basic regulation states in the preambles that "recreational fisheries can have a significant impact on fish resources and member states shall ensure that they are conducted in a manner that is compatible with the objectives of the CFP". Sweden's firm position is that recreational fisheries should be regulated at national level.

Sweden does also consider it important to clarify the definition of recreational fisheries so that it is clear that either a fishing activity is carried out for commercial purposes based on a fishing license or for recreational purposes (without a license). In order to avoid unclear situations, the definition of recreational fisheries should make reference to fisheries for which a fishing licence, according to current article 6 of the Control Regulation, is not required.

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).***

Sweden does not agree with the proposal.

Sweden does not agree with the conclusion that there is a need for registration of recreational catches for fish stocks/species where recreational catches have low impact on the fish stocks concerned, which is the case for the vast majority of the TAC-regulated species, as well as stocks under multiannual plans.

Sweden does not agree with the conclusion that a fishing license and electronic reporting system for recreational fisheries would be an “easy and cost-effective system”. In Sweden, such a system would encompass around 1 million persons and 100 000 very small boats. As a comparison, current administration and reporting systems deal with approximately 1000 Swedish commercial fishing vessels.

Statistics on catches from recreational fisheries in Sweden are collected through wide off-site studies with national coverage and regional on-site studies in selected focus areas. The studies have been performed in line with national legislation, demographics as well as knowledge on Swedish recreational fisheries and have been related to the need for management measures.

2. ***All vessels used for recreational fishing are registered.***

Sweden does not agree with the proposal.

Sweden has around 750 000 recreational boats that can be used for fisheries in some ways. Of these, 62 % are located in the Baltic Sea, 13 % in Kattegat and Skagerrak and 25 % in inland waters (lakes). Out of the total, 383 000 are small boats without an engine (rowing boats, kayaks etc.), 216 000 are small open boats with an engine, 40 000 are sailing boats and 27 000 are larger boats with an engine. Most of these boats are not used regularly for recreational fishing but they can all be used for that purpose, and thus be regarded as potential recreational fishing boats.

3. ***Further control measures can be applied at national/regional level.***

Sweden is of the view that control and statistics on recreational catches have to be carried out in relation to the individual possibilities in each nation taking account the legislation, demographics, coastal and marine areas natural conditions for fishing, knowledge of how fishing is conducted and the impact on the fishing resources. Sweden does however, believe that it is important to cooperate in order to develop and compare methods and results regarding control and statistics of recreational fisheries.

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.

Sweden agrees with the description of the problem and would like to give the following comments:

General

Sweden encourages a revision of the weighing provisions as accurate catch data is fundamental for quota management. The aim of the revision of these provisions should be to simplify and clarify the provisions as well as to increase controllability and to promote level playing field between fishermen of different Member States.

To address the shortcomings Sweden proposes to adapt the weighing provisions for different fisheries, e.g. pelagic and demersal as there are significant differences in how the catches are stored, landed and handled within respective fisheries.

1. ***Each quantity of each species landed is weighed on approved systems, recorded in weighing records.***

Demersal fisheries: Weighing at landing should take place within a restricted timeframe after the landing, no matter if the fish is transported or not.

Pelagic fisheries: Weighing of pelagic species separately in unsorted landings is difficult, and the provisions of the Control Regulation need to be adapted (see also question 4). Another difficulty arises concerning the risk of tampering with the weighing system. The approved systems are easily manipulated which poses a serious risk as it can jeopardise the quota uptake due to the often very large quantities landed in this fishery. The weighing journal (Article 70 of the Implementing Regulation) is considered a heavy administrative burden with little added value and should therefore be removed.

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.***

Sweden does not support the proposal as it would according to our view not solve the current problems as regard to the weighing provisions. On the contrary, it is expected that such proposal would add more complexity to the current process.

Sweden agrees that the weighing results should be used as basis for other documents, such as landing declaration, transport documents and sales notes.

3. ***All quantities sold/dispensed for private consumption, to non-registered buyers, are recorded in landing declarations.***

As is the case today, all catches landed by professional fishermen shall be reported and registered in landing declarations (Article 23 of the Control Regulation) which is the basis for the quota uptake.

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).

A two-step weighing procedure might improve the current weighing procedure. However, it is important that certain conditions are met. It is crucial that there is no requirement to weigh the entire catch in the first step and then by species as in some industries it may be possible to manage the weighing in combination with sampling of catch composition. Furthermore, it might be problematic to determine species at a later stage as the quality of the catch deteriorates rapidly over time.

It should be clear that the buyer is also responsible for conducting sampling to assess the catch composition. Catch sampling is important to achieve an as precise quota uptake as possible.

It should furthermore be regulated to what extent the buyer should save and store samples taken during the weighing process and make these available for the competent authority. How extensive the sampling should be and how it should be conducted must be stipulated in the regulation in order to achieve a level playing field between operators of different Member States.

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.***

One way could be that the Commission or EFCA make annual reviews to ensure a level playing field among Member States.

6. ***Clarify responsibilities and accountability of operators at all process stages.***

Sweden agrees that clear roles and responsibilities at all stages are necessary as they contribute to the controllability of the provisions.

7. ***Simplify the reporting procedure of documents from operators to competent authorities (flag state, state of landing, state of sale).***

Sweden supports electronic reporting procedures within the different reporting steps in post landing activities. The creation of synergies between for example the reporting in sales notes and of traceability information is strongly supported.

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).*

Sweden does not see the need to register post-landing operators for weighing purposes. Post-landing operators who are food business operators have an obligation to be registered in the Swedish traceability system database for fisheries and aquaculture products.

9. *Other issues*

1. The sampling plans: When national sampling plans for weighing are applied differently in different Member States a level playing field cannot be achieved. In addition, when Member States apply the provision differently, and no joint sampling plan is in place, it is very difficult to ensure accurate weighing when a vessel from one Member State is landing in another Member State.

2. Margin of tolerance (Article 14.3 of the Control Regulation): There are practical problems regarding the margin of tolerance, e.g. when fish is weighed and sorted onboard. In the case of onboard weighing, a zero margin of tolerance does not allow for increased weight due to ice and water. Sweden suggests solving this by introducing a water deduction or to introduce a low margin of tolerance.

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 a 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.

Sweden agrees with the Commission that the current provisions on physical verification of the engine power are not effective to detect differences between the real and the certified engine power and would like to make the following comment:

- 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.***

Sweden opposes the proposal as the verification and certification of engine power cannot be justified from a cost efficiency point of view. It is associated with high costs, administrative burden, difficulties to implement practically and time consuming. Furthermore, it is highly questionable how important strict controls of engine power are to achieve the objectives of the Common Fisheries Policy. There is already a requirement for IAPP-certificate (International Air Pollution Certificate) for engine power from 130 kilowatts. Sweden therefore stresses that together with other documents issued by the engine manufacturer, the IAPP-certificate is considered as a sufficient requirement in this context. More adequate measures for the verification of fishing capacity could be considered, such as sealing of the engines.

In Sweden, all fishing vessels with active gears, have individual fishing opportunities for quota species. Increased engine capacity does not allow for increased fishing opportunities. It is instead control of catches that are crucial for the implementation of the aims of the Common Fisheries Policy.

It is estimated that there is no risk that Sweden exceeds the capacity ceiling, as there are very large margins to the capacity ceiling.

- 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.***

See point 1 above.

3. ***Procedures should be developed that include how to act in case of system failures.***

See point 1 above.

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).*

Sweden agrees with the problem and would like to give the following comments:

1. ***Complete the digitalisation of the control data system (e.g. electronic reporting of the vessels <12m).***

Electronic recording and reporting of information allows for a more efficient data handling procedure than a paper based system. Sweden therefore supports all efforts to digitalise fisheries information, also from smaller vessels.

2 ***establish an EU-Fisheries Control Data Centre (FCDC) for an integrated European information system for fisheries management.***

In principle Sweden supports information exchange between Member States and the Commission as it provides necessary information for analyses, control and management decisions, etc. However, it is important that security and integrity issues related to certain data types are being well considered. Also, it adds administrative burden to the Member States (data owners) to make national databases compatible with the European Data Centre. It is therefore crucial that thorough analyses of different technical solutions are made before implementation on the EU-level. A realistic timeframe for implementation is also crucial.

An EU Fisheries Control Data Centre (FCDC) would have to take Member States different rules concerning secrecy into account, as well as EU law such as Regulation (EU) 2016/679 of the

European Parliament and of the Council (GDPR) and the Directive (EU) 2016/680 of the European Parliament and of the Council. It is important to make sure that the exchanged information can only be used for certain purposes. All processing of personal information, even the processing occurring when granting access to other Member States or EFCA, must be in accordance with GDPR and the Directive regarding legal basis as well as that the information must not be used for a purpose which is irreconcilable with the purpose for which it was collected.

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.*

Sweden agrees with the description of the problem and would like to give the following comments:

General

The landing obligation was introduced through the Basic regulation (CFP) without any complimentary control and enforcement tools to achieve compliance with the measure.

Three years after the beginning of the implementation of the landing obligation it is apparent from last haul analyses, scientific sampling and other sources that unreported discarding is still taking place. The currently available catch data which is the main input for quota management is therefore not complete. In addition, quota top-ups are being applied to certain fisheries to compensate for previously allowed discards. This together with the fact that the catch data currently used for quota management is not reliable means that we face a serious risk fishing beyond F^{MSY} .

Sweden is of the opinion that options 1 and 2 (below) shall be carefully examined in the light of the new data protection rules. In addition, it shall not prejudice the use of other as efficient means of control. It is important that a risk and cost-efficient approach is taken, and the over-arching goal of all measures introduced should be to obtain an efficient, fit-for-purpose control system, adjusted to the CFP and

particularly to the landing obligation, i. a. through the introduction of new technical solutions and IT-based tools.

Option 3 would not secure level playing field for fishermen from different Member States as Member States will have large discretion and the level of strictness will differ from one State to another. The consequences of option 3 are that it would increase the costs and administrative burdens for the Member States and fishermen without much value added in terms of improved data. The data provided from this alternative would in fact only provide a reference point for the segment in the same way as collected information from last hauls. Also, it would work against the principle of a level playing field and the allocation to certain fishermen would be very difficult.

- 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.

Sweden agrees with the description of the problem and would like to add the following comments:

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.*

In the regional process of establishing fisheries conservation measures according to articles 11 and 18 in the Common Fisheries Policy, where the initiating Member State shall provide the Commission and the other Member States having a direct management interest with relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement, it has become evident that there is a discrepancy between member states as to the most appropriate means of control and surveillance. With regard to specific and even unique management issues, Sweden acknowledges the benefits of the regional process when defining these fisheries conservation measures.

With regards to control and surveillance measures the overall aim should be a harmonised approach across the EU ensuring level playing field between fishermen and members states, respectively. Therefore, Sweden supports stringent minimum requirements on the EU level in article 50 to ensure a harmonised implementation of control measures and a creation of level playing field.

To share information and agree on best practice as regards to control and enforcement methods an interregional workshop is recommended to be set up where participants from both the policy side and fisheries control would be invited. Sweden offers to host such an event.

2. *Additional provisions would be defined at national or regional basis*

In addition to minimum requirements set out in article 50 such as for instance increased frequency of data transmission or a mandatory requirement to use AIS within MPAs, there may be a need for regional adaptations and additional control measures

which are customised to the geographical distribution of the fisheries conservation measures.

The need for regional adaptations or additional control measures could be necessary in addition to the minimum requirements set out in article 50, for instance to decrease the frequency of data transition in article 50(3), or by adding a requirement to use AIS within MPAs.

3. *Synergies with the Marine Strategy Framework Directive 2008/56/EC.*

The Marine Strategy Framework Directive 2008/56/EC (hereafter MSFD) is the dedicated binding legal instrument for assessing, monitoring and setting targets to reach good environmental status.

There are 11 descriptors in the MSFD to reach Good Environmental Status GES. Of those 11, descriptors 3, 4, 6 and 10 are particularly relevant where the revision of the control regulation provides opportunity to create synergies with the MSFD. Indicators are developed and used for assessing GES both nationally and within the regional seas conventions.

The control regulation is particularly well suited to provide the tools needed to for the assessment of GES for descriptor 6, Sea-floor integrity.

Regarding descriptor 10 on Marine Litter, Sweden proposes that additional provisions are added in the control regulation to set up a compensation scheme (through the EMFF) for fishers who bring waste from the fishing activity and marine litter discovered at sea, back to shore. Some parts of the oceans are currently trawled multiple times in the year, which gives potential for large quantities of marine litter being removed.

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.

Sweden agrees with the statement that the five points are obstacles for the implementation of traceability systems in Member States. In addition, Sweden would like to give the following comments:

General

There is a lack of international standards for digital labeling and data sharing that fulfils requirements in the Control Regulation. It is only recently that the organisation GS1 will have a full-fledged global system where labeling with databars and datamatrix can be used together with electronic information sharing via the EPCIS-framework. Sweden is not aware of any other standards that fulfill the requirements. It is not possible today to have all information in article 58 within a marking itself. The label serves merely as a link to information in a database or trade documents (paper or electronic). Unfortunately, it could be an unneglectable economic burden for minor operators to use GS1-EPCIS in its current set-up.

The internal traceability systems of operators are not fully adapted to the requirements. Many operators need to change internal processes including storage and distribution systems. The internal traceability might have been sufficient for food safety, but detailed traceability according to article 58 would be lost.

- 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.***

During the Swedish implementation of a national “digital” traceability system problems arose at the drafting of national traceability provisions. The EU-regulation is in some parts complex and not precise and not adequately linked with

provisions in other EU legislative acts on the traceability of food.

Sweden considers that some amendments are necessary in order to make the current provisions clearer. Even if there still will be differences in legislations in the areas of food and feed, fisheries market and fisheries control, it would reduce confusions if the same basic terminology and definitions are used.

Sweden does not see any advantages of introducing a trip number on the traceability documents after first sale, where there already exist provisions. On the opposite, a trip number would make the system more complex and thus increase the administrative burden for both the industry and the authorities. The identification number is sufficient as a backbone key through the chain.

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.*

Sweden does agree that the system should be digital but not with real time reporting to authorities. It is important to understand that it would be almost impossible to launch a real time digital system without introducing a vast administrative burden on the industry, specially the small scale. The trade of fresh fishery product is recognised by the speed (many chain operators during limited time) and delivery outside office hours.

3. *An EU – wide system is established.*

The proposed action is unclear for Sweden. Sweden is opposed to the establishment of standards and specifications in parallel with global standards and specifications already operational. However, it is important that EU influences the development of such standards and specifications. With a future digital system using international standards, most of the problems today with cross-border trade will be solved.

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.

Sweden interprets the description of the problem as focused on the process relating to inspections, on the basis of the examples made within the brackets and focus on “enforcing” rather than “applying”. If that is the case Sweden partly agrees with the description of the problem.

The problem could also refer to the definitions and principles in matter, such as what constitutes a “lot” and which deliveries or movements of goods have to be traceable through the different traceability systems, i.e. the food traceability system (between establishments and food business operators) as opposed to the fisheries and aquaculture products traceability system (between operators owning the lots). In some cases, it may be unclear whether an operator regarding a certain activity has to follow both sets of rules (parallel application) or only one of them (special law having prejudice before general law). This is commented under the previous point, 2, on traceability.

Sweden would like to give the following comments:

1. *Align the terminology and principles of Control Regulation with the food law;*

This action could address the problem (regarding ‘enforcing’). But it must be emphasized that different regulations have different purposes which affects and motivates certain

differences, for example concerning risk management. Each definition and principle would have to be analysed thoroughly before being aligned and adopted. In certain aspects, the food and feed safety rules may need to be phrased widely because they have much broader application than fisheries rules and may need to be applicable in situations which have not been perceived when the rule was first adopted. The fisheries rules on the other hand need a certain clarity in order for them to be useful. There might be a possibility that definitions and general principles would still be interpreted differently by the different legal entities in case of ambiguity.

4. *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).*

Whether or not it would address the problem to introduce minimum cooperation rules and procedures between Member States depends on the specific purpose of the minimum cooperation rules and procedures between Member States. Perhaps it is more of a question regarding the need for standardisation or common views on labelling. Defining the responsibilities of the food chain operators/food business operators would address the problem.

POLICY OPTION 3: AMENDMENT OF THE FISHERIES CONTROL SYSTEM

Enforcement rules

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

Sweden agrees with the description of the problem and would like to give the following comments:

1. ***Establish a common list of definitions of serious infringements of the CFP by ensuring EU international obligations in this respect.***

This action could address the problem mentioned under section 2.A. The suggested list, which we assume would be based on Article 3 of the IUU Regulation together with Article 90.1 (a-c) of the Control Regulation, would clarify and simplify the application of the rules.

2. ***Introduce the obligation to treat infringements of CFP under administrative law (not excluding criminal law).***

By administrative law, we understand applying administrative sanction systems. It may not be possible for all Member States to develop administrative sanction systems. If a Member State has a criminal law system which enables already in a satisfactory way punishment of persons and legal entities regarding infringements of the CFP, then there should be no need for an obligation to treat infringements of the CFP under administrative law. Maybe some comparisons can be made with the administrative fines of the GDPR (Regulation (EU) 2016/679 of the European Parliament and of the Council). Also, it may not be possible for all Member States which have administrative sanction systems to handle all types of infringements in their administrative sanction system, due to national regulations concerning the rule of law and legal principles.

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.***

Sweden is in favor of alternative b, which gives Member States certain flexibility, within given frames. The EU lacks competence in the area and cannot set sanction fees, in types or levels, or in monetary terms.

Common rules would have to very clearly describe how to calculate such an administrative sanction fee, so that the possible cost of an infringement (the administrative fee) is fairly transparent for the fishermen. Clearly described methods of calculation are also of the greatest importance for the competent authorities, so that fees are calculated in the same manner in all Member States. This is of importance for achieving a level playing field as well as reducing unnecessary administrative burden for Member States. In some cases, national authorities might take into account the damage that has been done (without this being a form of damages). If infringements are to be graded on the base of revenue/benefit, it must be noted that not all infringements can be calculated on this basis, that sometimes the economic benefit is small but the damage done can be considerable (and should be taken into account). For example, infringements connected to illegal fishing with a bottom trawl, trawling it through a marine protected area without the fisherman getting any valuable catch, but causing considerable damage to the bottom habitats.

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).***

"Economic benefit from the infringement": Either a) sales price or local market value of a commodity, or b) economic net gain that a person or legal entity has attained directly or indirectly by committing an infringement or through an employee committing an infringement on the behalf of a legal entity. Net gain could be calculated by using gross gain and deducting certain expenses directly attributable to the gross gain.

"Value of the prejudice to the fishing resources and the marine environment": This concept is difficult to be described or defined since the use of the legal term "prejudice" lacks a corresponding meaning in the Swedish legal system without the combination of "with" or "without". It could be understood as "the difference between the value of fishing resources and the marine environment in its basic status, as opposed to its status after degradation, including value of ecosystem services lost", that is, the value a certain action or consequence might have to the fishing resources and the marine environment. The

term “prejudice” can sometimes be used to describe waiver of responsibility. In that case the expression could be interpreted as “value (to the fishing resources and the marine environment) which a person or legal entity has not been able to waive himself or herself of and thereby is responsible for”. This concept should be clarified or rephrased.

Additional actions: If possible, Article 6.3-4 of the Control Regulation should be repealed. As an alternative, it should be clarified if a fishing authorisation may be immediately suspended or withdrawn in accordance with Art. 45.4 of the IUU Regulation after one single infringement, considering that such a withdrawal/suspension shall lead to the automatic withdrawal/suspension also of the fishing licence according to Art. 6.3-4 of the Control Regulation.

The reason for this is that the connection which is made between the suspension/withdrawal of the fishing authorisation and the fishing licence in Article 6.3-4 of the Control Regulation with reference to Article 45.4 of the IUU Regulation can have problematic consequences.

According to Article 6.3-4 of the Control Regulation a withdrawal or suspension of a fishing authorisation shall lead to the automatic withdrawal or suspension also of the fishing licence. Considering that the point system for fishing licences does not have a single infringement which renders more than 7 points (and that the maximum number of points which can be awarded per inspection is 12) it does not fit together with the point system that a fishing licence can be withdrawn or suspended immediately if it is done as a consequence of the withdrawal or suspension of a fishing authorisation. Repealing or amending Article 6.3-4 of the Control Regulation would detach the fishing authorisation from the point system, thus making it easier to suspend or withdraw a fishing authorisation if the holder fails to adhere to certain terms.

The problem outlined above can have the consequence that even a violation of the terms of a specific fishing authorisation can be considered not enough to suspend the fishing authorisation, since this could constitute a bypassing of the point system and the purpose behind it. The suspension of a fishing authorisation could be motivated by a fisherman neglecting specific environmentally motivated terms for the authorisation. As a result of the suspension the fishing

authorisation holder no longer has access to a certain fishing area, such as a marine protected area, but can still access other areas and other fisheries, as long as the holder does not violate specific terms in those authorisations. A connected suspension of the fishing licence however, can effectively shut the holder out of his/her ability to provide for himself/herself altogether regardless of what other kinds of fishing authorisations held. In such instances, it is not likely that it would be considered as being proportionate to suspend the fishing authorisation first mentioned, considering its consequences.

Increased synergies with other policies

Market control (and traceability)

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

Sweden agrees with the description of the problem and would like to give the following comments:

1. *Remove derogation for products from Third Countries.*

Sweden welcomes the removal of some of the derogations. The derogation concerning imported products from aquaculture should not be removed.

A removal of the derogation concerning imported fisheries products will make the market more even (level playing field), and the traceability less complex. Today EU fish landed in a third country and thereafter imported to the EU is not part of the EU-traceability. It is difficult for an operator later in the chain to know where the fish was caught and thus if article 58 applies. There is also a problem when imported products are mixed with domestic catch in the same lot.

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

Sweden agrees that IUU catch certificate should be digital and part of the article 58 traceability system. However, for direct

landings in EU ports such catches could follow the same provisions in the beginning of the chain.

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.

Sweden agrees with the problem and a digitalised IUU catch certification system is already under development. In addition, Sweden would like to give the following comments:

- 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.***

Sweden would like to reiterate its comment from section 2 that market control (and traceability) IUU catch certificates should be digital and part of the article 58 traceability system. If this is the case and a fully digitalised traceability system is implemented it must be possible to send data from the IUU catch certificate system to the traceability system.

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.

Sweden agrees with the description of the problem and would like to give the following comments:

- 1. Align it to the Common approach on decentralised agencies.***

Sweden supports the alignment of the EFCA Founding Regulation to the Common approach on decentralized agencies. According to this joint statement one of the objective criteria's concerning the agencies location refers to its accessibility. Sweden does not consider that Vigo is easily accessible from most parts of Europe and therefore questions the suitability of its location. Currently Swedish representatives at EFCAs many meetings need two travelling days for each meeting which is not efficient both in terms of time and EU finances. More efforts should be spent on facilitating for web conferences rather than physical meetings.

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).***

In principle Sweden supports all efforts to align current control and enforcement activities in the EU to the CFP. However, a thorough analysis of the value added of the proposed increased mandate is needed. Also, the role of the EFCA will depend on the outcome of the revision of the Control Regulation and it would be premature to provide an answer at this early stage of the process.

2. ***Clarify the tasks of the Advisory Body and review the tasks of the Administrative Board.***

Sweden supports the clarification and review of the tasks of the Advisory Body and the Administrative Board.

3. ***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.***

Sweden agrees that EFCAs mandate should be extended to the also include third countries in JDPs, in particular relevant for the Mediterranean.

4. ***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.***

See comments under 2.A.6. Sweden argues that it is logical that EFCA would be the host for this data considering their role in EU fisheries control.

Other issues

1. **Increased synergies with the Data Collection Framework (DCF)**

Within the data collection framework, regulation (EU) 2017/1004 and specifically in Commission Implementing Regulation (EU) 2016/1251 Chapter III, Section 4, collection of information on fishing activity (landings, fishing effort, etc.) may be financed, even though this data is collected within the Control Regulation. The financing is motivated, inter alia, by the fact that the data collected within the Control Regulation are not considered to be of sufficient quality or coverage.

Sweden strongly suggests that the objective of the revision of the Control Regulation is to improve the quality of these data so that they also meet the quality requirements of the Data Collection Regulation.