

A. Alignment with the CFP

Some combined comments in sections below.

B. Monitoring and control of small scale fisheries

1) The derogation on logbooks for U10m vessels has left a gap in data as the alternative methods for collecting data have loopholes (e.g. 30kg private sales)

We believe it is important that catch and location can be connected for fisheries management purposes. The introduction of VMS and electronic catch reporting for all vessels would be beneficial. This would bring both technological and financial challenges but every effort should be made to overcome these. Wider use of such systems could help drive the development of improved systems and reduce costs.

2) The commission could contribute to research and development of more cost-effective systems. Amend the article and include VMS / enhanced reporting using updated, fit for purpose platforms. U10m vessels should be required to complete and submit catch returns

C. Sanctions, serious infringements and point system

1) The regulation cannot be prescriptive due to the different legal systems in MSs, and this must be recognised by the Commission. There is no registration/licensing for masters so points for masters is difficult to administer.

There is confusion about the terminology in this article, the language and definitions need to be clear and specific to ensure it is applied evenly. The points system is fine.

Scotland further adds in relation to their legal system.....

Article 90 and 92 both refer to 'serious infringements' and therefore need to be read together. Article 90 provides that a serious infringement is punishable by effective, proportionate and dissuasive administrative sanctions. Article 92 in particular provides that points must be applied in respect of serious infringements.

However, the approach taken UK wide (and not just with Marine Scotland) is that points shall be awarded on conviction for a serious infringement. This means that the points are applied once the commission of the offence is proven in a court of law.

In taking this approach where no points are applied if a Fixed Penalty Notice is offered, our legal advice is that offering an FPN is not treating the offence as a serious infringement. As an FPN and payment thereof is not an admission of guilt, assigning points on conviction has always seemed to be the fairest way of dealing with the matter. In addition to this we are encouraged, by the Crown Office and Procurator Fiscal Service (COPFS), to use a sanction (in this case an FPN) if we have one available to dispose of the matter and only referring to the COPFS as a last resort.

In summary, the above highlights the difficulty in making parts of the Control Regulation work within our distinct legal context.

We have issues here as in the UK you are innocent until proven guilty. We have admin penalties which are offered in a number of cases, but this does not have the same effect as a criminal conviction and therefore points cannot be attributed if you pay the admin penalty. We are aware that this causes frustration in the EU, but our legal system is quite clear.

2) Details of points against vessels, and Masters are also not freely available to all, and therefore dilutes the Risk Assessment process. A European wide registration/licensing/standards system for masters would allow the points system to work and ensure that they are suitably trained. Possible amendment of article required.

A recognition of the different legal systems would be beneficial.

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

1) We have had issues over recent years in terms of a lack of access to sales notes for landings by UK vessels into some member states either in paper or electronic formats, and also UK vessels and other MS vessels landing into the UK and first point of sale being in OMS. Despite attempts to improve the flow of information ourselves with the member states concerned and also seeking help from the Commission in improving the situation we are still in the situation where we have no provision of data, or the data provided is deficient in some key elements. The improved access to data by the switch to the UN/CEFACT and the FLUX mechanism for exchange should result in an improvement in the volume and speed of exchange of relevant information between Member States. As such the UK is working to ensure that these requirements for change are implemented by the May 2018 deadline

At present data exchange is problematic, e.g. in Wales we have great difficulty in obtaining Belgian data. This has been raised with the commission.

b) The issue could be resolved if all member states used the same database which could be managed by the commission.

E. Traceability

1) Paper based system is difficult to administer, and complicated for users. At present it is difficult to trace fish beyond the first point of sale. The article needs to be better aligned with the other articles in the CR and other food regulations. Industry has traceability systems in operation based around existing commercial documentation. It is challenging to be fully compliant with CFP provisions in this area without major level investment by either Government or industry. Main problem area is in export of product to other states as no single system is in place across

Member States and third countries. Wild caught product does not readily fit into schemes or systems developed for farmed produce and the various market/auction distribution models in operation.

2) An EU wide electronic barcode system would be easier to administer, and would allow easier movement of fish between MSs. This is one area where we should consider if a rewrite of the regulation.

F. Derogations

a) Derogations create an un-level playing field as some MSs invoke them and others don't.

b) There should be no derogations, but the CR should allow simplified regulation where derogations were previously allowed.

G. Recreational Fisheries

1) Difficulties in applying the regulations to recreational fisheries due to no EU wide requirement for registration for recreational vessels or anglers fishing from the shore.

2) The TAC and quota regs should set bag limits for recreational fisheries so that stocks are better protected. An EU wide licensing system would allow MS to enforce more easily.

8. Simplification

This a broad topic, and should be looked at in respect of all the parts of the CR during the review. Need one set of rules with clear specific language throughout defining minimum standards but allowing for regional management solutions.

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

As above and section E

10. EFCA Mandate

EFCA need to demonstrate a clearer purpose and communicate their mission objectives and co-ordinating role. Our Compliance unit has much interaction and puts in a significant level of effort into working with EFCA but would welcome seeing more coming back from other Member States input.