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Europêche position on the EU Fisheries Control System

Executive summary:

Below you can find Europêche's response to the inception impact assessment consultation on the EC proposal to revise the EU Fisheries Control System. The European fishing industry agrees on the need for the Regulation to be simplified, to make it more effective and efficient, and to ensure full compliance with the CFP. More specifically, according to the sector, this translates into the following changes to be included in the revision:

- A harmonised sanction system with a clear definition for serious infringements and a compilation of all control regulations and provisions in one legal act.
- To monitor and control vessels below 12m in a user-friendly cost effective way without making requirements overly complex and burdensome for the industries.
- Including recreational fisheries under the scope of the technical measures adopted in the multiannual plans.
- To avoid repetition of weighing and provide for flexible rules to prevent seriously adverse impacts on the quality of the product.
- To not control fleet capacity by monitoring engine power as it is not of relevance in the quota system and strongly related to fishing vessel safety.
- To only apply the use of remote electronic monitoring tools, like CCTV cameras, on a voluntary basis to avoid an invasion of privacy, of business confidentiality and the creation of mistrust.
- To strive for transboundary cooperation, dialogue and synergies with the market control, food safety and IUU policies, including the strengthening of EFCA. As well as enhancing these systems by means of digitalisation and harmonisation across the EU in order to use them to the fullest potential.

1. Introduction

In light of a public consultation held in 2015-2016, and the special report¹ of the European Court of Auditors (ECA) presented mid 2017 to evaluate the implementation and effectiveness of the current EU Fisheries Control Regulation, the European Commission (EC) intends to propose a new regulation by April 2018. This initiative to revise the EU fisheries control system aims to simplify it, to make it more effective and efficient, and to ensure full compliance with the Common Fisheries Policy (CFP).

From the aforementioned evaluations it was concluded that the EU does not yet have a sufficiently effective system of fisheries controls to support the CFP. In fact, these reports highlighted that full implementation lacks behind in many Member States (MS) creating sometimes uneven situations within the EU, and that certain provisions of the regulation would need modification to enable MS to

¹ The European Court of Auditors (ECA) presented on 22 June 2017 at the European Parliament a special report called "EU fisheries controls: more efforts needed". The report examined the effectiveness of the current EU fisheries Control Regulation by auditing the control system implemented in four key Member States (Spain, France, Italy and the UK (Scotland)).

effectively control fisheries activities. Consequently, the EC launched an inception impact assessment due to be finalised in February 2018 in order to gather feedback on the intended initiative to establish a Union control system for ensuring compliance with the rules of the CFP; hereby amending Regulation (EC) No 1224/2009 and possibly IUU Regulation (EC) No 1005/2008 and EFCA foundation Regulation (EC) No 768/2005.

2. Main shortcomings identified by the EU institutions

Both the EC and ECA agree that progress has been made on fisheries control and monitoring over the last years, showing the indisputable contribution of the Control Regulation to the improvement of the fisheries control system and the compliance with the CFP. Nonetheless, certain flaws have been identified by these bodies, especially concerning the application of certain provisions like enforcement, data exchange, sanctions, traceability and synergies with other policies.

3. Stakeholder consultation

In order to determine how to better simplify the EU system for fisheries control, to make it more effective and efficient, and to ensure full compliance with the CFP, the EC is again consulting stakeholders. The aim of this exercise is to collect their views on the 3 proposed policy options included in the inception impact assessment, as well as on certain specific actions that could be envisaged. The 3 proposed options are the following:

- *Option 1: No policy change. Continue current policy and focus on implementation and enforcement of existing framework*
- *Option 2: Amendment of the Fisheries Control Regulation*
- *Option 3: Option 2 + Amendment of the Fisheries Control System*

As a representative body for fishermen in the EU, Europêche would like to provide feedback on these proposed policy options.

4. General remarks of the industry

First of all, while recognising that some consultation process has already been done in the past, the important topics being discussed for the revision of the EU fisheries control system require a more thorough consultation to be carried out. In order to improve the most serious shortcomings in the control system, the industry is not convinced that a fast revision will aid in the matter. This point of view is in fact shared with all the consulted stakeholders.

Regarding the given policy options, Europêche shares ECA's opinion on the need to improve the EU fisheries control system as adjustments are needed on a number of provisions in the Control Regulation have better and more intelligent control rules and secure high compliance. However, the sector is of the opinion that the Control Regulation should not be considered in isolation and therefore is more leaning towards option 3.

The Control Regulation is essentially concerned with the control and enforcement of other EU regulations relating to the management of the fishing industry. It is designed to ensure that rules are applied to all fisheries in the same harmonised way across the EU, that fishery products can be fully traced through the supply chain and that fishermen operate on a level playing field. In kind, controls are essential but should never make fishing operations less efficient or move costs from the control authorities to the industry. Therefore, the provisions should be more proportional and flexible than the current ones. Also, the lack of harmonised sanctions jeopardises the creation of a level playing field in fisheries by aiming at establishing administrative penalties that are comparable in all MS.

Moreover, rules should indeed be simplified to make them workable and understandable to fishermen and authorities.

Lastly, it must be noted that if we want a global (real and adapted) revision of the Control Regulation, it would be necessary to also carefully consider the items raised by the industry during the previous consultation.

5. Specific remarks

5.1 Enforcement

The success of the CFP is dependent on an effective system of control, inspection and enforcement. Therefore, the sector believes that a culture of compliance with and respect of EU and international rules is essential. However, certain provisions are causing significant problems in the fisheries sector. For instance, there is still no clear definition of '*serious infringements*' adopted by all MS. These different interpretations to what constitutes '*serious*' results in some MS in different consequences for similar behaviours depending on the nationality of the fleet. This may lead to the assignment of penalty points even for small infringements. In view of this, the limitation that the points are only deleted after 3 years is extremely severe.

Furthermore, in some MS, national authorities additionally punish the fishermen for infringements according to their national rules so the vessel owner is penalised twice, or that the vessel owner is punished for infringements of the captain. This is unacceptable, and a harmonised sanction system is the way forward to combat the varied sanctions from one Member State to another.

Moreover, the culture of compliance is likely to come under pressure when the Landing Obligation comes into play in 2019, which is why the revision of the Regulation now more than ever has to address the above mentioned issues. *Europêche* strongly advocates simpler and better understandable rules; compilation of all control regulations and provisions currently set down in various regulations in one legal act; reduction of the period established for the expiration of the points allocated and clear harmonised definitions and accompanying sanctions for serious infringements across Europe. Such improvements and harmonisation of enforcement will create a level playing field and bring back the vital proportionality into the point system. Also, we can reiterate the criticism on the question concerning transferability of points in the event of sale of the vessel. This provision leads to declare it unlawful under Community law (contrary to the European Convention for the Protection of Human Rights) in that the principle of the personality of the sanctions/sentences is violated.

5.2 Reporting and tracking for vessels < 12 m

The EC declared the impossibility to monitor and control vessels below 12m efficiently. While we believe this to be a blunt statement since great progress has been made on this field in several MS, the industry stresses the need to continue promoting a user-friendly cost effective 'light' Vessel Monitoring System (VMS) without making requirements overly complex and burdensome for the industries. Especially, taking into account the nature of small vessels and particularly undecked boats, there is limited capacity for electronic systems onboard, little knowledge of IT tools and it is time-consuming for fishermen. Accordingly, the necessary electronic tools need to be user-friendly, cost-effective, and easy to install on any small vessel.

Furthermore, the purpose of the need to control small fishing vessels has to be clear. For as much as the sector can sympathise with the need for tracking small vessels in cases of effort regime or closed areas, there is disagreement on the need to electronically control and record the landings of these

small vessels as the small quantities of fish taken from the sea do not have a great impact on the stocks.

5.3 Control of recreational fisheries

The control of recreational fisheries has become a matter of increasing priority to commercial fishermen as the marketing of catches by unlicensed, recreational fishers are difficult to control by the authorities. Although the lack of support from the MS considering the huge pool of recreational fishermen in most States, and the difficulties attached to set up a registration system, this issue should be addressed with urgency.

The industry is of the opinion that in fact all technical measures adopted in the multiannual plans should also apply to recreational fisheries. Moreover, consideration has to be taken concerning the impact of recreational angling from the shore and the monitoring should use the opportunity to also look into other aspects more related to who is fishing as well as the frequency of it than just the catches.

Lastly, many licenses have to be provided for sensitive species such as sea bass or blue fin tuna. The registration of all recreational fishermen and their catches may avoid the issuance of all these individual licences. A single permit for all fisheries should be the main goal.

Additionally, reporting on catches of any TAC species should be made compulsory to recreational fisheries and not only on catches relating to sensitive species.

5.4 Weighing, transport and sales

In order to get the most accurate figures as possible for the quota statistics, it is proposed for all fishery products to be weighed on landing prior to the product being held in storage, transported or sold. Europêche believes it is essential that a good weight registration at landing shall be realized to tackle the now occurring flaws in the numerous weighing of the fish. The more frequently it is weighed, the more varied the results are. Namely, as soon as the fish is out of the water, it starts to lose weight and therefore 1 kilo of freshly caught fish will not weight 1 kilo when landed; when being sold at the auction or when arriving at the processing industry. This weight loss can be attributed to blood loss, regurgitation, defecation and in most cases water loss. Moreover, there might be many places to land the fish, but still the auction or the sorting can be far away which will furthermore negatively impact the weight and quality of the fish. Additionally, to re-weigh fish has also some seriously adverse impact on the quality of the product when already weighed and packed onboard, which therefore has to be avoided at all costs.

Consequently, the different numbers of the catches are a source of dispute not just between fishermen and authorities, but also between the fishing industry and the processing industry. Therefore, the sector is in favour of sticking to one good weighing point, which is believed to be best applied when the fish is alive. For some well-equipped vessels this can mean weighing on board, as for others it translates into weighing on landing. To avoid an amplitude in weight, dehydration and to maintain the quality of fish during the entire supply chain, it is of utmost importance to keep the cold chain at all times. In addition, the weighing scales can be paired with sophisticated indicators and software to monitor the catch and waste during seafood processing which is furthermore aiding in traceability and regulatory compliance matters.

5.5 Monitoring of the fishing capacity

As part of the Control Regulation's efforts to control fleet capacity, a continuous monitoring system and transmission of the maximum engine power is proposed. While monitoring engine power may be more appropriate in the effort regimes, it is not of relevance in the quota system, which makes these measures far from efficient and effective. Furthermore, there is a question of what exactly a continuous monitoring system entails as well as the encompassing costs involved.

Besides, although there is some correlation between capacity and engine size, it is not a straightforward one since the propulsion power is strongly related to fishing vessel safety, especially in bad weather conditions. The CFP states that there should be a balance between fishing capacity and fishing opportunities, however fishing capacity is defined by a vessel's tonnage in GT (Gross Tonnage) and its power in kW (Kilowatt). The CFP should also contribute to the improvement of safety working conditions for fishing operators. But, safety and comfort are in conflict with GT as it requires freeboard, enclosed volumes in the upper parts, living and working space, and potential for possible future adaptation to new resource conditions. Not to mention the restrictions that this fishing capacity limitation may lead to in order to adapt a fishing vessel to new technologies and future international regulations. Clearly, Europêche does not believe in using GT and kW as the right measures for fishing capacity, which is why we are carrying out a study on finding alternative measures for expressing fishing capacity which are found to be more appropriate and most importantly reflecting reality.

Even more striking is the impact of the Landing Obligation in relation to volume ceilings (GT). These are blocking the adaptation of the vessels to the discard ban rule. In fact, the Landing Obligation will cause more unwanted catches which need to be stored and processed on board, hereby hampering the possibilities to enhance crew safety and protection as well as comfort.

Nonetheless, crew safety and protection improvements will be reinforced by the Work in Fishing Convention C188 being transposed into EU law, but increasing GT to enhance safety and comfort of the crew is highly restricted or not permitted due to the above-described CFP rule. Consequently, the only possibility to stay within the allowed volume ceiling is building a vessel with a smaller storage capacity. Whilst the catch remains the same, this will result in vessels making more journeys between the fishing ground and ports, stability problems as the fish is stored in unsafe places, using more fuel and increasing their carbon footprint. Not to mention the increasing time crew has to spend on board, all the more need for better working and living conditions. Following the argumentation above, Europêche strongly recommends re-instating and extending the safety tonnage provisions in Article 11.5 of Council Regulation (EC) 2371/2002.

5.6 Control of the Landing Obligation

The EC intends to amend the Control Regulation in order to require the use of remote electronic monitoring tools, including CCTV cameras, on individual vessels and fleet segments according to risk assessment. First of all, Europêche is not anti-surveillance and against improving standards, but this should be done on a voluntary basis and providing an incentive. Not so much because the obvious invasion of privacy or on business confidentiality, but because of the creation of mistrust. When under constant surveillance, there is likely to be hostility and animosity which can even make the most trusted employees to become paranoid and nervous when cameras are documenting their every move. Needless to say, this would negatively affect the efficiency of the crew on board, as well as their comfort. There should be genuinely good and compelling reasons for the 100% coverage of vessels with CCTV, as it risks changing the 'psyche' of the fishery workers and raises moral and ethical issues. Especially, considering the fact that there are fishermen and EU fisheries, such as in the North-East Atlantic, who have achieved MSC levels without the Landing Obligation. Therefore,

there is no need to force them to include CCTV cameras on-board. Consequently, the industry questions whether this is the path to take towards controlling the Landing Obligation and worries if the advances have been too quick to allow a full understanding of all the implications.

In addition, while the EC mentions how the use of remote electronic monitoring tools are widely recognised as the most effective means to promote compliance with and control and enforce the Landing Obligation at sea, the fishing sector questions whether it is truly useful. For instance, it may make sense for pelagic fisheries but there is concern over how effective it would be specifically in mixed demersal fisheries. Also, clarification is needed on who would bear the installation and running costs and how the misuse and abuse of the footage captured by the CCTV cameras can be avoided.

Like any intrusive technology, the benefits must be balanced against the costs and dangers of using it. Moreover, the use of CCTV cameras implies a departure from a risk based approach that focuses enforcement and control on areas and vessels where there is a demonstrable problem. As fishing vessels are living spaces as well as work platforms, there should be looked into alternatives for the invasive CCTV control, especially when otherwise a monitoring technology is to be applied to the industry against its will. In addition, other remote electronic monitoring tools like sensors (e.g. hydraulic and drum-rotation sensors) can also indicate fishing activity, and when combined with the satellite modem and GPS receiver they provide a less invasive solution that is right for fisheries and industry regulators alike.

In light of the current findings, highlighting the limits of the application of the Landing Obligation, a more general reflection on possible adjustments to this measure should be made. The optimization of the management of the stocks to reach the objective of MSY does not require the landing of all the catches, but an accurate documentation of all the catches and discards made, then counted against the quotas. However, this registration must be the responsibility of the skipper, in compliance with the existing regulations on control and available remote electronic monitoring tools at present. Hence, the sector prefers to see a focus first on the implementation of the already existing regulations on control before introducing the use of CCTV cameras on fishing vessels and thereby creating an environment of distrust.

Europêche strongly advocates moving away from this negative focus on the Landing Obligation and rather sees the center of attention given to finding practical ways for the industry to make the Obligation feasible. For instance, the EC could provide technical solutions to reduce unwanted catches by conducting a study in which a fishing vessel has been given full flexibility to use fishing gear to their liking in order to explore and demonstrate what will work best both technically and economically in the context of the Landing Obligation. Accordingly, the discussion should focus on how to adapt, taking a practical, optimistic approach in an area which has been dominated by negative discourse to date.

5.7 Increased synergies with other policies

For the Control Regulation to reach its full potential and result in an effectively functioning CFP, it is paramount that transboundary cooperation and dialogue as well as synergies with other policies occur, such as the market control and food safety. Therefore, Europêche fully agrees with the current system to control the application of the rules of the CFP at all stages. All fisheries products should be traceable at all stages of production and marketing, from the first sale to the retail sale, including transport, this is especially true if we take into account that a vast majority of fish in EU is imported. Subsequently, all measures have to guarantee a level playing field with imported products. Besides, the requirements of traceability could be met if properly aligned with existing food safety traceability systems.

Concerning synergies with the IUU Regulation, Europêche agrees on the need to implement a fully digitalised traceability system. With a core part of the Regulation, namely the Catch Certificate Scheme, being paper-based, it makes it difficult for national authorities to cross-check the documents received by other MS. Processed products are even more challenging, mainly due to splits of consignments, heterogeneous supply chains involving many countries and product conversions. Consequently, when such an essential regulation as the IUU is not digitalised and harmonised across the EU, weaknesses in EU border controls will continue to exist.

5.8 EFCA Founding Regulation

In order to strengthen compliance, combat IUU fishing and ensure that measures adopted by third countries and international organisations dealing with fisheries are strictly adhered to, the role of the European Fisheries Control Agency (EFCA) has to be enhanced. At present, EFCA lacks alignment with the CFP and the common approach on decentralised agencies. Therefore, the sector sees of relevance an increased role for EFCA in the implementation of the international dimension of the CFP. Not only EFCA is seen as the most competent body to support the uniform implementation of the control system in European and international waters, but also to ensure the beneficial MS operational cooperation. This will help safeguarding a level-playing field and the sustainable exploitation of living aquatic resources.

6. Conclusion

The industry is in favour of a revision of the Fisheries Control System to simplify it, to make it more effective and efficient, and to ensure full compliance with the CFP. Nonetheless, Europêche believes that a detailed regulation at the European level would be inappropriate since it would take away the flexibility that is needed to meet such objectives in the highly differentiated fisheries that characterise many MS. It is important to state that the fishing industry is not arguing for less or lower control standards but for the introduction of more proportional measures and harmonised definitions, particularly on serious infringements, which would lead to a level playing field.

Even so, the focus should be more on compliance rather than enforcement. We agree on the need for a general framework applicable across all seas of the EU, however the selection and implementation of control devices should be adopted at a regional level with the assistance of EFCA. This way, the new Control Regulation will create a feeling of empowerment, understanding and involvement of our fishermen, which will ultimately lead to an effective control system to support the CFP.