

WORKSHOP ON THE EU FISHERIES CONTROL SYSTEM

Brussels, 16 November 2017

STAKEHOLDER CONSULTATION

This document has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The information transmitted is intended only for consultation with Member States and stakeholders in the context of the revision of the EU Fisheries Control System.

Stakeholder consultation on the policy options proposed in the [inception impact assessment](#)¹ in order to tackle the shortcomings identified by the evaluation of the EU fisheries control system.

Stakeholders should express their views on the 3 proposed policy options. Stakeholders are also invited to express their opinion on certain specific actions that could be envisaged in Options 2 and 3 as outlined in this document.

Option 1: No policy change. Continue current policy and focus on implementation and enforcement of existing framework

The continuation of the current situation is taken as baseline to assess the impacts of the other proposed policy options.

Option 2: Amendment of the Fisheries Control Regulation

This option foresees amendment of the provisions of Control Regulation to: 1) increase effectiveness and coherence of rules, in particular as regards sanctions and point system, follow up of infringements, data exchange and data sharing, traceability, recreational fisheries, monitoring and catch reporting tools for vessels below 12 meters; 2) simplify the current legislative framework, including by clarifying provisions prone to different interpretations that resulted in problematic and uneven implementation and by addressing the numerous derogations and by addressing the numerous derogations; 3) bridge the gaps with CFP, in particular with the landing obligation; 4) promote the use of harmonised and/or interoperable (at national level) IT tools; 5) increasing synergies with other policies, notably the fight against IUU fishing, environment, markets and security, and 6) align the text with the Lisbon Treaty.

Option 3: Amendment of the Fisheries Control System

This option includes all the elements indicated in option 2, any related amendments of specific provisions in relevant legislation, the alignment of EFCA's mission and tasks to the changed needs of the new CFP and of the revised Control Regulation and adaptation of EFCA procedures and working practices to take into account the Common Approach on decentralised agencies as adopted in the 2012 Joint Statement of the European Parliament the Council of the EU and the European Commission.

Firstly, we want to stress Oceana's position outlined in a joint statement submitted together with several other environmental organisations on the online feedback platform on 30 October 2017. In this joint position we highlight our serious concerns regarding the proposed fast-track

¹ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-4808152_en

revision process of the Control Regulation, and particularly the Commission's intention to skip a standard and open stakeholder consultation and substitute it instead by "targeted consultation", in clear contradiction with the European Commission's own Better Regulation Guidelines.

Oceana believes that the intention to fast-track the consultation process is not only in breach of Article 11 of the Treaty on the European Union, but it also jeopardises the integrity of the Control Regulation itself. The Control Regulation is an important and wide-ranging piece of legislation. We therefore believe that any revision of this text should be conducted without unnecessary haste and should allow all stakeholders to express their opinions within a reasonable timeframe. The Commission has an obligation to respond to these submissions when drafting its proposal. We therefore call on you to follow due process under the Better Regulation initiative.

Having said this, we take the opportunity to also provide below our comments on the stakeholder consultation document. We hope the European Commission will reconsider its timeline for the revision of this Regulation so that we are able to provide more specific recommendations at a later stage.

We agree with policy option 3, under the condition that a public consultation is held and the revision is not executed under an accelerated timeline. In addition, for the targeted amendment of the IUU regulation, Oceana would like to note that, as part of group of NGOs, we have been pushing for the digitisation of the catch certificate system under the EU IUU Regulation for the last 4 years, we support the European Commission's ambition to achieve this through the revision of the Control Regulation.

However, we are also quite fearful of this process. The targeted amendment of the IUU Regulation in conjunction with the revision of the Control Regulation, is extremely ambitious given the current, speedy proposed timeline, and we worry that this might open door for broader amendments of the Regulation in Parliament, which we have seen happen before. We therefore urge the European Commission to be very cautious and take the time to have a well thought out strategy. If such a strategy is not in place we would prefer to proceed with option 2 and add the revision of the EFCA mandate, without a targeted revision of the IUU Regulation.

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.*

The whole enforcement system is very complex with provisions scattered between the Control Regulation and the IUU Regulation, creating confusion for its application.

The levels of sanctions are very different from one Member State to another. The current point system for serious infringements is not applied by Member States with even criteria.

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

We do not agree that the lack of an effective sanctioning system is due to a complex system. The control system is not confusing. It is clear what a serious infringement is, the level of points

that need to be allocated, as well as the links between the definitions of serious infringements in the Control and the IUU regulation. The problem is that Member States are not implementing the provisions. This is not a problem of complexity but of political will. Very few Member States sanction infringements in an effective and dissuasive manner. In most Member States the impact and the fines of sanctions are too low. The future control system would need to create a system that avoids this situation as a key priority.

The disparity of sanctions that currently exists cannot continue in the future. The creation of unequivocal criteria to define the gravity of infringements will help to hold Member States accountable that fail to effectively sanction their fleet and Oceana agrees that these should be established.

To hold Member States accountable consolidated and reliable data needs to be made public on fisheries control and sanctions, as was done before the Control Regulation. This will help to align sanctions between Member States and help overcome inequalities of treatment of vessels depending on the waters the infringement took place. In addition, Oceana agrees that immediate enforcement measures should be strengthened or established.

In their 08/2017 report the Court of Auditors suggest the EU to create a register of infringements and sanctions, which would allow for a better follow up of the points applied, a more effective risk analysis and enhanced transparency among member states.

In addition to an EU wide register of sanctions, we urge the Commission to propose that this EU wide database on infringements as suggested by the Court of Auditors and as mentioned in point A.6 becomes public. Aggregated information on sanctions should be made available publicly. Making information public on the total number of inspections of vessels at sea and in ports is also supported in the Fisheries Transparency Initiative standards (B1.8) “implementing countries must publish a record of convictions for major offences in the fisheries sector, indicating the name of the company or vessel owner, the nature of the offence and the penalty imposed. The record must be up-to-date and include information on convicted offences at least for the last five years”.

Oceana agrees with point 1 – 7. In addition, we urge the EU to make sharing inspection reports with other Member States mandatory through an Electronic Inspection Report System.

Amend the Control Regulation to clarify the current enforcement rules (Title VIII) and ease and improve the exchange of information among the Member States involved in case of infringements(Costal State, Flag State, Member States whom national committed infringement)

1. Lay down unequivocal criteria to define the gravity of the infringements.
2. Clarify and revise the current Control Regulation obligations to apply immediate enforcement measures (or preventive measures) in case of serious infringements.
3. Maintain the common list of points to be attributed for serious infringements (it already exists).
4. Clarify that points must apply in addition to the main sanction(s).
5. Establish common/minimum rules for the masters' point system.

6. Establish an EU system to exchange data on infringements and sanctions in cooperation with EFCA and the Member States (ECA request).
7. Digitalisation of inspection reports through use of an Electronic Inspection Report System (ECA request).

In addition, inspectors should have access to real time data during their inspection, as highlighted by the Court of Auditors report. It is key that an electronic database that is accessible for both regional and national authorities is operational in all Member States, with information on vessel level. Inspection protocols and reports should be standardised, while still allowing for regional and technical variation.

EFCA or another body should play a coordinating role between the authorities responsible for awarding serious infringements or the administrative or criminal proceedings between member states, as there is currently no exchange of best practises or level playing field.

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 12meters efficiently.*

Do stakeholders agree with the description of the problem?

Oceana agrees to remove the exemption and derogation for small scale vessels and to find a small, cheap, and effective localisation system for vessels of under 12 meters, so that a full coverage of Member States' fishing fleets is achieved. An appropriate solution should therefore be found to include small scale vessels in, for example, the provisions of article 9.2, 9.5, article 14 and 15 of the current Control Regulation. We agree with point 1 and 2 below. We agree with point 1 and 2 below.

The Court of Auditors report 08/2017 shows that 89% of the fleet are not monitored by VMS. Vessels of under 10 meters are also not required to record their fishing activity. This is of particular concern to the severely overfished Mediterranean Sea and Black Sea fisheries, where similarly, about 80% of the EU vessels are less than 10 m long and therefore not covered by the rules on registering catches (STECF 2016).

The Court of Auditors also noted that Italy does not collect catch or landing data for vessels under 10 meters long, but do allow their catches to be sold directly to the consumer, with no obligation to declare the sales. Such situations should be avoided in the future regulations.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation and extend monitoring and reporting of catches to all vessels.

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

2. Control of recreational fisheries

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

Do stakeholders agree with the description of the problem?

Oceana agrees on the description of the problem. Recent Scientific studies² have estimated that marine recreational fishing represents 2-72% of total catch, depending of the stock. Despite the importance of this activity, it is poorly monitored and controlled.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation introducing fishing licenses, vessels registers and reporting of catches for certain types of recreational fisheries.

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).
2. All vessels used for recreational fishing are registered.
3. Further control measures can be applied at national/regional level.

Oceana agrees with point 1 to 3. Regarding action 1, Oceana considers that all sensitive species are to be defined as proposed by the European Commission in the EU Regulation on the conservation of fishery resources and the protection of marine ecosystems through technical measures³: “*a species whose conservation status, including its habitat, distribution, population size and population condition is adversely affected by pressures arising from human activities, including fishing activities. Sensitive species, in particular, include species listed in Annexes II and IV of Directive 92/43/EEC, species covered by Directive 2009/147/EC and species whose protection is necessary to achieve good environmental status under Directive 2008/56/EC*” and to add to this definition the marine species listed under national Red Lists or the European Red List compiled by IUCN.

We also strongly believe that additional actions aimed at integrating the control and monitoring of recreational fisheries in the scope of the Control Regulation would significantly improve the level-playing field between commercial and recreational fishermen, and above all allow Member States to fully scrutinise and understand the fishing activities occurring under their jurisdictions.

Such additional actions should make the best use of available technologies to require Vessels Monitoring Systems (or similar cheap technologies), and to require the registering and reporting of catches. Finally, we also propose to include an obligation for all recreational fishermen to have a licence certifying that masters have knowledge about fishing rules and responsible behaviour. Easy technological solutions are available (such as geolocalisation and reporting by mobile phone) that would allow both positioning and catches of recreational fisheries to be

² Hyder, K, Radford, Z, Prellezo, R, Weltersbach, MS, Lewin, WC, Zarauz, L, Ferter, K, Ruiz, J, Townhill, B, Mugerza, E, & Strehlow, HV, 2017, Research for PECH Committee – Marine recreational and semi-subsistence fishing - its value and its impact on fish stocks, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels

³ COM(2016) 134 final 2016/0074(COD)

available to national Fisheries Monitoring Centre and for stock assessments purpose. This would allow for a more accurate and complete picture of the likely (and cumulative) fishing efforts and impacts of fishing on the wider marine environment.

3. Weighing, transport and sales

Problem: Existing provisions related to post landing activities do not ensure that each quantity of each species landed are correctly accounted for by weighing and that the results are always recorded in mandatory catch registration documents. This jeopardises quota uptake monitoring (thus the sustainability of the stock), undermining the legality of the fishing activities and subsequent data analysis.

Do stakeholders agree with the description of the problem?

In addition to problems with weighing of catches there is also an issue with live-weight conversion factors.

In 2015 Oceana commissioned an internal report on live-weight conversion factors. The draft report is attached to this document. The report has not been peer-reviewed nor checked or edited by Oceana, and its conclusions only provide an indication of the issue and an estimation of the possible scale of the problem. The report has not been published by Oceana for this reason and Oceana does not subscribe to any of the conclusions. **We ask to keep the report confidential, and to use the information only as an indication of a potential problem, not as scientifically or peer-reviewed proven conclusions.** Oceana advises the European Commission to carry out further research to investigate live weight conversion discrepancies in more detail.

In addition to the actions listed by the European Commission below we ask that greater consistency and clarity be provided in how adjusted weights (e.g., live weights) should be calculated and how these values are defined, when included on catch registration documents. A standardised set of live-weight and stowage conversion factors should be provided, and use of these factors should be required.

The live-weight conversion factors are an essential tool that can assist in monitoring fisheries quota uptake. Catch data is provided in live-weight while often landings and import/export data are measured in dead-weight - often processed fish both in port and on board of the fishing vessel. The commissioned report sought to estimate the magnitude of the existing range in live-weight conversion factors. Especially the analysis on conversion factors on tab 3 of the excel document that provide an overview of the different conversion factors in the EU.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to revoke exemptions that undermine the accurate weighing and registration of each quantity of each species landed and transported.

1. Each quantity of each species landed is weighed on approved systems, recorded in weighing records.
2. All weighing activities are conducted by authorised/permitted "registered weighers" and that the results of weighing are used to complete landing declaration and transport documents.
3. All quantities sold/dispensed for private consumption, to non-registered buyers, are recorded in landing declarations.

4. Weighing of primary, bulk weighing of unsorted landings of small pelagic species for human consumption and industrial species can follow a two-step procedure. (Weighing of all unsorted catches immediately at landing followed by a secondary weighing to account for each quantity of each species of by-catch present. For small pelagic species this may entail weighing after transport and sorting at the receiving premises. For industrial landings this shall entail sample weighing, immediately at landing, according to a Commission approved sampling plan).
5. Requiring that Member States conduct a documented annual review of weighing practices and shall, as necessary, introduce additional measures to ensure that each quantity of each species is accurately accounted for by weighing.
6. Clarify responsibilities and accountability of operators at all process stages.
7. Simplify the reporting procedure of documents from operators to competent authorities (flag state, state of landing, state of sale).
8. Impose registration of post-landing operators (same register used in the food law – thus also increasing synergies with food law and reducing the administrative burden).

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 the 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.*

Do stakeholders agree with the description of the problem?

Oceana agrees with the problem as described above, as set out in the Court of Auditors report, and agree with the 3 proposals below.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to mandate continuous monitoring and transmission of the maximum power developed by the engines when the vessels are active.

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

5. Data management and sharing at EU level

Problem: *Major shortcomings in the exchange of fisheries data between Member States, and limited access of the Commission to disaggregated fisheries data (resulting in difficulties for the Commission to assess the accuracy of the Member States' catch reporting).*

Do stakeholders agree with the description of the problem?

As shown in the Court of Auditors report, Member States do not sufficiently share and trace information concerning activities of vessels from one flag Member State in another. In addition, a significant difference was found between the overall catch data recorded by Member States and that available to the Commission.

Oceana agrees with the Court of Auditors and the European Commission that an EU Fisheries data centre should be set up, that is managed by EFCA. This should facilitate tracking vessels that move from the flag of one member state to another, as well as standardised catch data on gear, fishing areas and species level.

On action 1, Oceana urges the catches of the small scale fleet as well as recreational fishers to be included in the data system, so to remove the derogation for vessels under 12 m. In addition, we ask to make key data assembled by the FCDC publicly accessible.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to complete the digitalisation of the data system, and enhance availability and exchange of data.

1. Complete the digitalisation of the control data system (e.g. electronic reporting of the vessels <12m).
2. Establish an EU-Fisheries Control Data Centre (FCDC) for an integrated European information system for fisheries management.

C. Control of the landing obligation

Problem: *Conventional controls, such as inspections at sea are not effective to control and enforce compliance of the landing obligation.*

In the current system there is no legislative basis requiring the use of remote electronic monitoring tools (e.g. CCTV), widely recognised as the most effective means to promote compliance with and control and enforce the landing obligation at sea. Member States are unwilling to install those systems on-board of their fishing vessels in absence of any regional consensus on the harmonised use of CCTV across all Member States.

Do stakeholders agree with the description of the problem?

Oceana has the following recommendations on CCTV:

1. EU-wide rules are needed that are valid for all fisheries. CCTV should by default be mandatory, including the full range of possibilities of REM (Remote Electronic Monitoring) relevant for the purpose such as sensors and automatic recognition software.
2. We urge the European Commission to look at best practice from other regions around the world that have implemented CCTV and REM, such as Canada, Australia and Chile. Also lessons from other sectors such as traffic monitoring
- 3 We urge the European Commission to find ways to ensure that Member States invest adequately in control and enforcement. Market incentives could be used, as well as incentives such as additional TACs or higher EMFF co-funding.

4 We urge for better use of EMFF funding, so authorities use the ringfenced funds that are allocated to control measures.

5 Part of the answer is connected to CCTV, automatic recognition software. These technologies can drastically improve the collection of data.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to require the use of remote electronic monitoring tools, including CCTV, on individual vessels and fleet segments according to risk assessment.

1. 100% coverage of those vessels with an inherent highest risk of non-compliance and those with the potential to discard high quantities of fish in a short period of time (factory vessels, freezer vessels, refrigerated seawater tank vessels, vessels otherwise equipped to pump fish in bulk).
2. For the remaining vessels coverage levels should be determined per fleet segment in accordance with the regional risk assessment and in cooperation with EFCA.
3. Within the fleet segments determined as the highest risk, Member States should determine which individual vessels to be equipped with CCTV on a dynamic basis, according to risk. Member States should be required to annually compare reference data such as the catch composition reported from those vessels which are equipped and those which are unequipped with CCTV, within a certain fleet segment, and incorporate the results of such analyses into the risk assessment.

D. Increased synergies with other policies

1. Environment

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

Do stakeholders agree with the description of the problem?

We slightly disagree with the description of the problem, in the sense that the biggest issue is actually the lack/poor implementation of current environmental legislation in relation to fishing activities in the first place. For instance, implementation of management plans in marine protected areas or enforcement of provisions related to protected and sensible marine species/habitats, which are competence of environmental authorities, often falls short of achieving these objectives. Reasons for this are multiple, but include national integration and coordination issues between authorities, however in principle the legal framework is clear.

Nevertheless, should the Control Regulation be revised, some additional measures to better align it with EU environmental legislation could be envisaged, as suggested below. Action 1 on expanding the scope of Art 50 is obviously very necessary as 'fishing restricted area' as currently defined does not comprise certain types of areas which also require fisheries enhanced control and monitoring (e.g. all types of EU marine protected areas for instance). The definition should therefore be revised and expanded to include all types of closed or restricted areas as well as other spatial conservation measures pursuant to Article 11 of Regulation (EU) No 1380/2013.

Similarly, stronger reference to the Marine Strategy Framework Directive 2008/56/EC could be made to align the scope of the Control Regulation adequately. When it comes to additional national/regional provisions, several aspects could also be strengthened such as control and monitoring in Fishing Restricted Areas, as well for broader existing technical measures aiming at reducing fishing impacts on the seabed or on bycatch of sensitive species.

Similarly monitoring and control of recreational fisheries in MPAs (incl. small scale fisheries) should be envisaged, as currently there is no framework applicable and the impact of this stype of users is hard to evaluate on spatial closures. Finally, alignment with the Mediterranean Regulation No 1967/2006 (especially Article 4 on protected habitats) could be beneficial as we know the legal provisions are poorly implemented and enforced. But again, it's important to note that revising the Control Regulation alone is not going to solve the issue of synergies with environmental legislation in itself.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to extend the control of fishing restricted areas to all marine protected areas (listed under RFMOs, Birds Directive, Habitat Directive).

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

2. Market control (and traceability)

Problem: *Traceability of fishery products is not effective and the type and level of implementation is uneven across the Member States. In addition, the current system is exclusively designed for EU fishery products, and does not allow the use of certain data on imported fishery products from Third Countries.*

The 5 major causes of inefficient implementation of the rules are: 1) lack of clarity in the provisions and clear indication of the objectives of traceability; 2) paper based system; 3) lack of systematic, consistent and coherent collection of EU wide data , in particular from the catch event to landing/entry into the EU market; 3) different technical solutions applied by Member States for data collection and exchange, resulting in national systems which are not compatible nor interoperable; 4) current derogation for some information on imported products, available in the catch certificate, and lack of such information across the traceability chain for market related control purposes.

Do stakeholders agree with the description of the problem?

Oceana agrees with the description of the problems and on most of the major identified causes of inefficient implementation on traceability, except for 1) as we believe traceability objectives and provisions on fish product are clear enough (whether from EU Food Information to Consumers Regulation No 1169/2011, the Common Market Organisation regulation 1373/2013, or the Control Regulation), some aspects could be improved, but the main weakness is uneven implementation and too limited controls.

The current regulatory framework for seafood labelling is rather good overall, and we do not believe traceability objectives should be different for market control purposes vs information

to consumers. The information on product should follow lots closely, and being disclosed to consumers at all the appropriate stages.

However, we agree that there are some issues with the scope of application (derogations), such as the exclusion processed products (e.g. canned and processed fish / imports), as well as consumer information in restaurants and caterers. This has led to several cases of mislabelling in the EU (e.g. a few studies⁴⁵⁶). On top of the economic fraud, fish substitution is an environmental problem as illegal fish and/or threatened and protected species can enter the market. Additionally, it can carry a health risk for consumers since non-traceable fish may not have been subjected to regular health and sanitary checks. This type of fraud is not consistently recognised by Member States, as it often does not pose direct threats to human health directly (only economic fraud), and therefore inspectors do not necessarily control fish authenticity nor have the mandate/means to do so. Consequently, the Control Regulation should expand some of the control and inspection requirements to cover species authentication and establish effective seafood authenticity monitoring programs that incorporates DNA testing (in line with CMO), as well as establish harmonised and dissuasive sanctions to effectively help deter seafood fraud.

Nevertheless, most of the labelling provisions entered into force in December 2014 (CMO) and are still in the early implementation phase. The issue is not so much about products having insufficient labels as labels means nothing if there is a weakness in the supply chain and fraud is occurring. Too much label information actually gives a false sense of security sometimes. It is crucial to address implementation issues on controls of seafood labelling provisions at all stages of the supply chain and to make sure competent authorities are mandated for such species compliance checks and have the means to do so (EC audits).

Another identified weakness is that consumers are encountering an increasing number of fish species and an escalation in commercial designation, often applied to the same species. Commercial names are sometimes vague (e.g. “white fish”), ambiguous (when commercial names refer several species), or too generic (e.g. shrimps, tuna). The latter does not allow proper identification at species level which is problematic for traceability purpose. Mislabelling of species belonging to the same genus is one (rather common) consequences, as reported for example for tunas (bigeye tuna (*Thunnus obesus*) labeled as Yellowfin tuna (*Thunnus albacores*)) or other species (Japanese anchovies (*Engraulis japonicas*) labelled as European anchovy (*Engraulis encrasicolus*). Other examples include Red mullet (*Mullus barbatus*) labelled as Striped red mullet (*Mullus surmuletus*). The use of multiple species in one processed product – therefore more susceptible to frauds – is an issue too often only the dominant species is identified on the label. This poses transparency and possibly health problems in the case of the remaining unidentified species.

Another issue often found relate to missing or incomplete scientific names, as reported through investigations. This appear to be particularly serious for certain species groups that face higher risks of mislabelling such as cephalopods and crustaceans, or imported species. Several national lists of accepted commercial designations do not contain commonly imported fish species in the country (e.g. Pangasius in Belgium, webfoot octopus in Italy). One of the reason may be because they are simply outdated (e.g. the Belgian one dates back from 1996!). Similarly, because national lists are updated regularly they may not reflect the latest taxonomic knowledge on commercial species descriptions. A standardised database of commercially accepted names

⁴ <https://doi.org/10.1016/j.foodcont.2017.09.005>

⁵ <https://doi.org/10.1016/j.foodcont.2015.06.024>

⁶ <https://doi.org/10.7717/peerj.1891>

and corresponding scientific names across EU (all languages) would help traceability across borders and allow better controls.

Oceana agrees with the 3 proposals below it would bring in an integrated electronic traceability system that would reduce the risks raised above. Additional measures are suggested above as well.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to clarify the provisions and establish an EU wide based system.

1. Clarify definitions and provisions, including the objective of traceability and its use (market control purposes vs information to consumers). Add requirement of unique trip identifier.
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.
3. An EU – wide system is established.

3. Food and feed safety

Problem: *Some definitions (e.g. risk management or audit) and general principles (cooperation rules, responsibility of operators) are not aligned with the food law, thus creating confusion and posing problems to the authorities when enforcing the fishery and the food and feed control legislations.*

Do stakeholders agree with the description of the problem?

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the Control Regulation to better align it to the principles of the food law.

1. Align the terminology and principles of Control Regulation with the food law;
2. Introduce minimum cooperation rules and procedures between Member States and define the responsibilities of the food chain operators (using the same register as under food and feed law, see point B.3.4 above).

POLICY OPTION 3: AMENDMENT OF THE FISHERIES CONTROL SYSTEM

Policy option 3 builds upon policy option 2, considering all the approaches proposed in the policy option 2 plus the following (not implementable in policy option 2 as they need amendment of IUU Regulation and/or EFCA Founding regulation).

We agree with policy option 3, under the condition that a public consultation is held and the revision is not executed under an accelerated timeline. In addition, for the targeted amendment of the IUU regulation, Oceana would like to note that, as part of group of NGOs, we have been pushing for the digitisation of the catch certificate system under the EU IUU Regulation for the

last 4 years, we support the European Commission's ambition to achieve this through the revision of the Control Regulation.

However, we are also quite fearful of this process. The targeted amendment of the IUU Regulation in conjunction with the revision of the Control Regulation, is extremely ambitious given the current, speedy proposed timeline, and we worry that this might open door for broader amendments of the Regulation in Parliament, which we have seen happen before. We therefore urge the European Commission to be very cautious and take the time to have a well thought out strategy. If such a strategy is not in place we would proceed with option 2 and add the revision of the EFCA mandate, without a targeted revision of the IUU Regulation, and not support option 3.

Enforcement rules

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Taking into account the comment made on option 3 above, Oceana agrees with the creation of a common list of definitions of serious infringements as well as the suggestion to introduce common rules on administrative sanctions for infringements of the CFP (or IUU Reg) rules are needed. This would provide clarity on how sanctions to nationals (including nationals that are supporting IUU fishing - logistics and other service providers, insurance providers and other financial service providers) should be set - including minimum levels set in EU rules. Also, more clarity of concepts such as 'economic benefit from the infringement' would be helpful.

Amend the Control Regulation and the IUU Regulation to clarify, simplify and streamline the current rules. Move enforcements rules from the IUU Regulation to the Control Regulation to ensure one single enforcement system.

1. Establish a common list of definitions of serious infringements of the CFP by ensuring EU international obligations in this respect.
2. Introduce the obligation to treat infringements of CFP under administrative law (not excluding criminal law).
3. Introduce common rules on administrative sanctions for infringements of the CFP rules either:
 - a. by setting at EU level types and ranges of sanctions (*e.g.* in monetary terms or as % of economic revenue/benefit from infringement, % of value of the illegal catches);
 - b. or by obliging MSs to set national sanctions, including their ranges, in accordance to clear benchmarks or minimum levels set in EU rules.
4. Define concepts such as "economic benefit from the infringement" or "value of the prejudice to the fishing resources and the marine environment" (not necessary if point 3.a is chosen).

Increased synergies with other policies

Market control (and traceability)

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Taking into account the comment made on option 3 above, Oceana agrees with the two proposals below. See also our answer on 2. Market control (and traceability) for more information.

Amend the Control Regulation so to apply it to products from Third Countries

1. Remove derogation for products from Third Countries*.
2. As a result need to also digitalise the IUU catch certificate (see next point).

* This can also help EU operators and administrations to comply with possible Third Countries' import requirements.

IUU

Problem: *The IUU Catch Certification Scheme is paper-based and as a result it would not be compatible with a fully digitalised traceability system extended to imported products.*

Do stakeholders agree with the description of the problem?

Oceana, as a group of NGOs that have been pushing for the digitisation of the catch certificate system under the EU IUU Regulation for the last 4 years, we support the European Commission's ambition to achieve this through the revision of the Control Regulation.

However, we are also quite fearful of this process. The targeted amendment of the IUU Regulation in conjunction with the revision of the Control Regulation, is extremely ambitious given the current, speedy proposed timeline, and we worry that this might open door for broader amendments of the Regulation in Parliament, which we have seen happen before. We therefore urge the European Commission to be very cautious and take the time to have a well thought out strategy. If such a strategy is not in place we would proceed with option 2 and add the revision of the EFCA mandate, without a targeted revision of the IUU Regulation, and not support option 3.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the IUU Regulation to digitalise the IUU catch certificate.

1. Mandate the use of an EU-wide IUU IT system (already under development) for the electronic submission and collection of catch certificates and processing statements.

EFCA Founding Regulation

Problem: *Lack of alignment of the Founding Regulation with the Common approach on decentralised agencies, alignment with the CFP (LO, role of EFCA as regards the external dimension), alignment with the proposed amendments in the Control Regulation, need to follow-up on recommendations of the Administrative Board.*

Do stakeholders agree with the description of the problem?

We would like to see an increase of EFCA's role and a wider mandate given by the European Commission in their work and operations related to the international dimension of control activities, namely operational campaigns (SCIPs/JDPs) for RFMOs and focused on fight against IUU fishing, capacity building and training activities for third country inspectors and control authorities as well as mission in site in third countries with SFPAs. This could be particularly useful in the context of implementation of FAO PSMA.

Core elements of the external dimension of the CFP, such as dialogue held by the EU with third countries in relation to SFPAs or fight against IUU fishing, as well as participation of EU in RFMOs, should be coherent and compatible with the EU Cooperation for Development Policy. We recommend that the DG MARE of the European Commission provide to EFCA an adequate mandate to channel this closer cooperation with DG DEVCO, being a good example its participation and involvement in PESCAO project to improve regional fisheries governance and fight IUU fishing in West Africa.

We understand that one of the main constraints for a more prominent role of EFCA in the international dimension is the lack of human and financial resources that could also be addressed by participating in such programmes. In this regard, the increased tasks and budget attributed as a result of the creation of the European Coastguard Force should be of assistance, together with the increasing participation in EU funded projects related to improving regional fisheries governance.

We would like to support an amendment of the EFCA's founding regulation to ensure that the provisions on the international dimension are fully incorporated into its activities.

Oceana therefore supports point 2, 4, 5 and 6 of the activities mentioned below.

Do stakeholders believe that the following possible specific actions could address the above mentioned problem? Do they believe that additional actions should be envisaged and/or that certain actions would not be adequate to achieve the objectives?

Amend the EFCA Founding Regulation to:

1. Align it to the Common approach on decentralised agencies.
2. Clarify EFCA's mission and tasks as regards the external policy, and align them fully with the CFP. This would include: a) empowering EFCA to carry out inspections beyond international waters, upon mandate/request by the Commission, limited to activities in the context of RFMOs, SFPAs and fight against IUU; b) allowing EFCA to coordinate among MS certain control schemes in RFMOs; and possibly c) clarify the future EFCA's coordination role when it comes to regional control measures in the framework of the landing obligation (see also point on landing obligation).
3. Clarify the tasks of the Advisory Body and review the tasks of the Administrative Board.
4. Revise current rules for the adoption and participation to the Joint Deployment Plans, and provide for more flexible working arrangements to ease the participation of Third Countries under the coordination of EFCA.
5. Follow-up on ECA recommendation by requiring EFCA to set up an EU-wide system to exchange data on infringements and sanctions –and this beyond JDPs. Data accessibility will have to be designed carefully taking into consideration data confidentiality rules at EU/national level.
6. Possible role of EFCA in the EU-Fisheries Control Data Centre (FCDC) (see also policy option 2 point B.5 on data management and sharing at EU level).