



# Our Fish

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## **Submission to the European Commission regarding the Review of the Control Regulation**

Our Fish appreciates the opportunity to comment on the European Commission's proposed policy options for the review of the EU Control Regulation. However, due to a lack of time for preparing our submission, it is very brief and not as thorough as we would wish, had there been a proper public consultation process. We do not believe that this process can be a substitute to the formal consultation procedure that the European Commission has the obligation to organise. According to Article 11 of the Treaty on the European Union, "the European Commission shall carry out broad consultation with parties concerned in order to ensure that the Union's actions are coherent and transparent". Protocol No. 2 on the application of the principles of subsidiarity and proportionality further states that "before proposing legislative acts, the Commission shall consult widely".

These principles are further operationalised in the Better Regulation Guidelines,<sup>1</sup> in which it is clearly explained that for all legislative initiatives accompanied by an Impact Assessment, the European Commission should prepare a consultation strategy, including a mandatory 12 week internet-based public consultation and that this strategy should ensure that stakeholders' views are sought on all key impact assessment questions.

### *With regards to Section C. Control of the Landing Obligation (LO)*

Evidence currently suggests that compliance with the LO is almost non-existent in the Baltic Sea ([Our Fish](#), 2017). The Our Fish report found that discarding continues for all species, and that:

- One of the important requirements of the Common Fisheries Policy (CFP), and of the LO in particular, is to record fishing activity more comprehensively, and consequently improve the quality of data used for scientific stock assessments. Reporting and documentation of discards under minimum size, has been *minimal to non-existent* in the Baltic Sea.
- Monitoring and control are key to the successful implementation of a discards ban, however beyond the dissemination of information to fishers about the LO, Member State Governments have decreased monitoring and enforcement efforts, rather than increasing them.
- The European Court of Auditors concluded that fisheries data collected under the EU Control Regulation was incomplete and unreliable, and combined with the lack of

reporting of discards in the Baltic Sea, can only *increase the uncertainty* in catch reporting since the LO took effect.

- The European Fisheries Control Agency and national control agencies have invested heavily in at-sea inspections with catch profiling (last-haul analysis) to assess the level of compliance with the LO, however, these techniques *cannot be used* by enforcement authorities to prosecute individual fishers for illegal discarding.
- LO compliance can only be directly evaluated at sea. Yet instead of increasing in the Baltic Sea after the LO came into effect, at-sea inspections appear to be *decreasing* from 25% of fishing vessels for 2016 to 9% for the first half of 2017.
- No Member State has attempted to use electronic monitoring to monitor and enforce the LO, despite successful pilot projects and recommendations to do so by researchers and EU enforcement officials.
- Increased refusal rates of at-sea observer programmes are reducing the quality of data available to scientists.

Our Fish recommends that responsible authorities at national and EU level, and for all seas:

- a) Initiate electronic monitoring programmes, starting with demersal mixed trawl fisheries, to improve data collection and compliance rates, and gather evidence of suspected violations;
- b) Continue to assess LO compliance levels via last-haul analysis and at-sea inspections, while ensuring a level playing field between fisheries and sea areas;
- c) Record refusal rates of at-sea observers by fishing vessels and any situation that has prevented an observer to document discards;
- d) Allocate TAC adjustments to national fishing fleets that have high at-sea monitoring coverage or can demonstrate that they are complying with the LO; and
- e) Reallocate quota at a national level to those vessels that can demonstrate they are operating in compliance with the LO. This would initiate a race to the top, so that fishers who practice transparency and follow the rules are rewarded for best practice.

Our Fish believes that while there is room for improvement of the Control Regulation, failure to implement it by Member States is by far the greatest inhibition to its effectiveness. Our Fish has specifically received reports from Member State that an EU level requirement or standard for use of electronic monitoring would assist them greatly in developing and implementing such a system.

With more time and a less rushed process, Our Fish would be interested in making a more substantive contribution to this review, and in engaging other civil society actors and members of the public in this important issue.

Kind regards,



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