



Submission to the European Commission regarding the Review of the Control Regulation (1224/2009)

January 2018

The Pew Charitable Trusts (Pew) would like to reiterate the position outlined in a joint statement submitted with several other environmental organisations on the online feedback platform 30 October 2017¹. In this joint position we highlight our serious concerns regarding the proposed expedited revision process of the Control Regulation, and particularly the European Commission's intention not to follow a standard and open stakeholder consultation and substitute it instead by "targeted consultation". This is in clear contravention of the European Commission's own Better Regulation Guidelines and does not allow sufficient time for relevant stakeholders to properly consult internally in order to provide comprehensive and robust advice.

Pew believes that the intention to fast-track the consultation process is not only in breach of Article 11 of the Treaty on the European Union², but it also jeopardises the integrity of the Control Regulation itself. The latter is an important and wide-ranging piece of legislation and we, therefore, believe that any revision should be conducted with due process, allowing consolidation of advice and concern from stakeholders within a reasonable timeframe. The European Commission has an obligation to respond to these submissions when drafting its proposal. We therefore urge you to follow your approach advocated under the Better Regulation Guidelines³.

Having said this, we take the opportunity to provide a set of preliminary, general recommendations for how the Regulation's high standards can be maintained or even strengthened.

¹ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-4808152/feedback/F7437_en

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012M%2FTXT>

³ The Guidelines clearly explain 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. <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>

Proposed policy options

Pew agrees with policy option 3, 'Amendment of the Fisheries Control Regulation'⁴, under the condition that the public consultation process will be done as per standard procedure, without any unnecessary haste and in full respect of the Better Regulation Guidelines.

Digitisation, data management and sharing at EU level

Pew strongly supports the full digitisation of control, data and traceability systems, including the introduction of an EU-wide digital database that would facilitate data exchange and sharing.

Pew, together with our NGO partners, has been advocating the digitisation of the catch certificate (CC) system under the EU IUU Regulation for the last 4 years.⁵ The current paper-based practice of processing 250,000 certificates annually across the EU is archaic, counterproductive and is proven to be open to fraud, for example by allowing the photocopying of CC which in turn could be used to blur traceability.⁶ Full digitisation has the potential to provide both a decisive means to improve productivity of fisheries controls, checks, harmonisation and Member State cross-checks and bring added transparency into supply chains in a cost effective manner. We support the European Commission's ambition to address this through the revision of the Control Regulation.

We recommend the European Commission prioritise fleets and areas of introduction in order to accelerate the launch of the above mentioned framework no later than 2020. Pew further suggests the European Commission explore best practices and IT tools, including those already in place by some Member States, as well as the development of a system that, if needed, could in the future communicate with similar ones in third countries.

Implications for the IUU Regulation

Pew is concerned that the combination of the ambitious timeline proposed and the potential for broader amendments of the IUU Regulation as it passes through the European Parliament may have unintended consequences. This has happened before and is a risk to the integrity of the IUU Regulation.

We therefore urge the European Commission to be very cautious and take the time to develop a comprehensive strategy in order to effectively restrict any amendment of the IUU

⁴ In this document, numbered options refer to the three proposed policy options as presented in DG MARE's 'Workshop on the EU Fisheries Control System - Stakeholder Consultation' document, dated 16 November 2017 and circulated to stakeholders on 8 and 20 November 2017. Namely, these are: '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: Amendment of the Fisheries Control System'.

⁵ <http://www.iuuwatch.eu/catch-certificate-scheme/>

⁶ <http://www.iuuwatch.eu/wp-content/uploads/2016/07/Modernisation-FINAL.pdf>

Regulation only to those areas specified in the stakeholder consultation document, as shared by the Commission ahead of its workshop on the EU fisheries control system, in Brussels on 16 November 2017. If such a strategy is not in place we would favour option 27.

Enforcement

We agree that the current enforcement system is complex and fragmented. Experience, as well as analysis⁸ carried together with our partner NGOs, has shown that the current system is characterised by inconsistencies and uneven implementation by Member States.

It is imperative that the sanctioning rules, including definition of serious infringements, point system criteria and measures are consolidated in a single document and become more detailed, specific and harmonised (for example through the establishment of common and/or minimum rules) across all Member States. In this regard, we welcome the findings of the European Court of Auditors (Special Report No 08/2017)⁹ including that “there is currently no European register of infringements and sanctions, which would allow a better follow-up of points applied, a more effective risk analysis and enhanced transparency among Member States.”

Pew agrees with all European Commission suggestions listed under the Enforcement paragraphs of the consultation document. We urge the European Commission to apply common standards, avoid fragmentation by regionalising control rules and provide a framework that facilitates even implementation. Furthermore, we strongly support the inclusion of transparency clauses which would allow the publication of aggregated data in relation to EU-wide infringements, sanctions and vessel inspections.

Reporting and tracking for vessels <12m; Control of the landing obligation and the introduction of remote monitoring tools (e.g. CCTV)

We support extending remote electronic monitoring (REM) and reporting of catches to all vessels, irrespective of their size. Centralised VMS is an essential tool for fisheries monitoring and management and increasingly for combating IUU fishing. With the adoption and implementation of effective rules and data-sharing among appropriate authorities, vessel monitoring systems can help to detect, deter, and eliminate illegal fishing.

It would also help rectify the current situation where “89% of the EU fleet were not monitored by VMS [which] hindered effective fisheries management”, according to the European Court of Auditors report.¹⁰

⁷ As above.

⁸ <http://www.iuuwatch.eu/member-state-implementation/>

⁹ https://www.eca.europa.eu/Lists/ECADocuments/SR17_8/SR_FISHERIES_CONTROL_EN.pdf

¹⁰ Ibid., 8, 26, 52.

In regards to CCTV, while we see great potential especially in improving compliance, we also acknowledge the sensitivities around its introduction. We encourage the Commission to explore current practice and IT tools in place, such as in Australia, Canada, Chile and New Zealand.

For such measures to succeed, it is imperative that the European Commission consults closely with small scale fishers and other relevant stakeholders, including the wider industry and Member States. We also propose the drawing of a robust package that would include incentives for those fishers, market players and Member States who invest in CCTV and other types of REMs. The design of a realistic, cost and labour-effective package that would keep installation, running and maintenance costs to a minimum (such as automatic recognition software) should be at the core of the European Commission's effort.¹¹

Weighing, transport and sales

We agree with the European Commission's description of the problem. We would also like to highlight the relevant findings in the European Court of Auditors report and recommendations.¹² We recommend establishing a system which facilitates the collection of quality data, enabling accurate metrics and well-documented and reliable assessments. We also propose a framework allowing public access to these data or, at the very minimum of high level datasets, enabling public scrutiny and meaningful third-party research/analysis.

Notwithstanding our reservations about the speed of the current proposal, Pew stands ready to provide its expertise as needed. 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 to help enhance this very important regulation.

¹¹ Further recommendations on VMS costs, access to and sharing of data as well as key elements of effective VMS rules can be found at <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/05/tracking-fishing-vessels-around-the-globe>.

¹² European Court of Auditors Special Report 08/2017, 36-37, 38-42, 54-55.