

SPANISH COMMENTS on the questionnaire on the three options on the revision of the EU Fisheries Control System

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POINT OF VIEW ON THE THREE OPTIONS:

Spain has fully implemented the requirements of the Regulation and we can see that it has brought about an improvement in national control. However, we do not consider option 1 convenient, since the experience of the application of the regulation has revealed difficulties of application in some cases, which have made necessary to modify some aspects and give some flexibility to the measures for the artisanal fleet. Within the European Union there are very varied kinds of fisheries at a regional level, which must be attended to with different approaches.

The Spanish Administration considers that it is necessary to find a good balance between the proportionality of the measures and the security of maintaining the necessary control, fundamentally in relation to elements such as the size of the vessels and the knowledge of associated fisheries.

Therefore the best option would be a combination of 2 and 3, maintaining the main aspects and content of the current regulation, adding the necessary measures to adapt it to the new requirements of the CFP but taking on board the experience gained during the last decade since the adoption of the Control Regulation.

It is convenient to look in some cases for tailor made solution, that respect the spirit of everything well done in the past years. Spain believes that there are issues that are interrelated, so we must also take into account issues of traceability and IUU to address them together.

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 Member States agree with the description of the problem?

Yes. Spain has a strong commitment in fighting IUU, and in ensuring a high level of compliance with the CFP. The Spanish authorities themselves have put important efforts in ensuring the enforcement including the point system, as required by the Control regulation.

Nevertheless, this has led to some tensions with the sector, as the industry considers that they are over controlled, and over sanctioned, by comparison to other MS. They are therefore very concerned with the situation in other MS, where it seems that point systems are still not applied, and ask the Commission to ensure a level playing field in this area.

To face these concerns, it is important to:

- a) Ensure an equitable treatment of CFP infringements by MS
- b) Achieve more uniformity and effectiveness of national sanctions procedures
- c) Clarify and simplify current enforcement rules at the UE level Common rules on administrative sanctions (Spain is willing to share our experience).

Do Member States 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 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.

YES. It is necessary to define unequivocal criteria to establish the seriousness of the infractions in different degrees: for example, minor, serious and very serious infractions.

2. Clarify and revise the current Control Regulation obligations to apply immediate enforcement measures (or preventive measures) in case of serious infringements.

YES, also taking into account the guarantees of the natural or legal persons.

3. Maintain the common list of points to be attributed for serious infringements (it already exists).

Partially yes, the common list of points can be maintained but an allocation model must be established according to the severity of the infractions to guarantee the proportionality principle

4. Clarify that points must apply in addition to the main sanction(s).

Yes, but it is necessary to ensure that the points system is equally applied by all the member states and in all the infractions established in the annex of the control regulation.

5. Establish common/minimum rules for the masters' point system.

Yes, it is necessary establish common 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).

Yes. In line with the previous point, it is necessary to exchange information on the allocation of points to both licenses and masters among the Member States, with the coordination of the EFCA.

7. Digitalisation of inspection reports through use of an Electronic Inspection Report System (ECA request).

Yes, Digitalisation of inspection reports through use of an Electronic Inspection Report System (ECA request) must be launched to improve the communication between the member states and with operators.

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 Member States agree with the description of the problem?

Do Member States 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).

We agree with the description of the problem.

ERS and VMS, which are very expensive, can not be imposed, but there are Smartphone possibilities for landing declarations, something which is already being done at the regional level.

Spain believes that VMS for small vessels is not necessary and is too expensive. Spain is very interested in this concept of Smartphone applications.

In conclusion, it is important to include vessels under 12m length in digital systems, but they have to be simplified, without VMS.

Regarding the vessel location system (VMS) and the Electronic Logbook, it is considered necessary to establish an exception so that some vessels bound to this devices may go to sea during a period of time in the event of a breakdown. It is proposed that this measure can be applied to small size vessels, with daily fishing trips, which suffer a huge economic damage due to not being able to leave for days until the devices are repaired, or vessels with a high compliance record. Of course this exceptionality should have a very limited margin over time and logically during this period the vessels would transmit the information of their activity and location by alternative means, as they currently do when the damage occurs at sea.

2. Control of recreational fisheries

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

Do Member States agree with the description of the problem?

Do Member States 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.
4. Who must authorize recreational fishing: flag State, coastal State or port State?
5. In case of species subject to fishing quotas (or to other protection measures), Spanish law demands another additional authorisation. Who must issue it: flag state, coastal state or port state? To which State quota does it apply?

Spain understands the need for the application of Article 55 of the Control Regulation because of the importance of evaluating the catches of recreational fishing.

Spain agrees with the Commission on the need to include this type of fishing in the control regulation, and shares the concern of other MS about the difficulty of controlling both activity and catches of these vessels.

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 Member States agree with the description of the problem?

Do Member States 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. Define requirements for weighing systems

2. All weighing activities are conducted by authorised/permited "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).

We agree with the description of the problem.

Regarding to Article 60 and the weighing of catches, point 5 must be clearly modified. It is not possible that the sales note considers the weight of the catches according to the weighing that has been made in the port of landing, mainly in those transportations that take several days and hundreds of kilometers. We have detected important discrepancies when the weighing is done in port by sampling and then it is transported and sold over in Spain, where all the catches are weighed again.

We understand that it is necessary to maintain the exception of Article 61 through a control plan or common control program, as the case may be, for transport within the MS or towards other MS.

The electronic management of transport documents could be very useful in the establishment of these plans or programs.

Regarding to article 68 and transport documents, experience clearly shows that the responsibility for the issue and transmission of transport documents can not fall on the carrier, normally a non-specialized operator in the fishing sector and with no knowledge of the specific regulation.

In Spain, when a fishing product is landed in a Spanish port, the transport document is issued by the auction centre or authorized first-sale establishment of the port of landing, and this establishment or auction centre, provides a copy to the carrier and sends the information to the Competent Authority.

The responsibility of issuing and transmitting the Transport Document to the Competent Authority falls on the registered auction and authorized establishment, not on the shipowner or the carrier. The responsibility on the transport rests indeed with the carrier, this should be the only responsibility to which the Regulation must refer.

The electronic management of transport documents for the transmission of documents in real time could be very useful to allow the circulation of fish products at EU level.

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 Member States agree with the description of the problem?

Yes, in fact, Spain proposed to the Commission the possibility to carry out a specific working group in order to evaluate the Control and Verification of the engine power, not only power but also the vessel tonnage.

The fact that a vessel has to be built within a given volume of tonnage leads to a limitation on the design of the vessel. Therefore, with the noble intention of obtaining the greatest benefit possible, the fishing companies want to have the biggest relation possible between cargo space/ rest of spaces need on board, so that many other areas of the vessel are directly affected by this measure. Most of the times the design of the working on board areas suffer the lack of space, as are the ones affected by the limitation of tonnage, this leads to worse work conditions, as “windows” and “roofs” are built in order to reduce the total tonnage, with the risk that this design involves for the crew.

This situation can be seen at the stern of the vessels, where the gears are established and most of the times are outdoor.

Do Member States 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.

We need to know which systems exists right now

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.

Which systems exists? How much are they? Will there be any kind of EU funds to adapt the vessels?

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

We would rather change the way the EU establishes the capacity of the vessels, using new procedures like QUOTA, Days at sea, Fishing Days, measure of the real hold storage capacity

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 Member States agree with the description of the problem?

Do Member States 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 Member States agree with the description of the problem?

Do Member States 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.

We also understand that the Control Regulation should establish the legal basis for the use of these possible control tools at the level of the European Union.

In addition to the control measures, it is very important to have management facilities for unwanted catches and catches below the minimum conservation reference size. It would be also necessary to clearly determine what the destination of these catches should be for control purposes, other than direct human consumption, which should be left out of by-product legislation.

D. Increased synergies with other policies

It is important to strengthen the coherence and synergies between with:

- IUU fishing regulation:

a) Improving sanctioning system (defining and possible graduation of sanctions); possible common rules on administrative sanctions, ensure level playing field in this area.

b) EU position against criminalization of IUU fishing activities (agreed on the Fisheries Working Party on September 2017). IUU fishing and transnational organized crime have a distinct legal regimes and remedies under international law applicable. Given that there are possible connections between transnational organized crime and illegal fishing in certain regions of the world, partnership with the United Nations Office on Drugs and Crime on transnational organized crime in the fishing industry and other key players (Norway, Indonesia, etc) could be explored.

- Regulation fishing regulation: the REGULATION (EU) No 508/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on the European Maritime and Fisheries Fund:

a) Admissibility of applications: link between the admissibility conditions and the serious infringement under Article 42 of Council Regulation (EC) No 1005/2008 (21) or Article 90(1) of Regulation (EC) No 1224/2009;

b) Annex XXX: ensure non-discriminatory treatment in the application of points listed in points 1, 2, and 5 of Annex XXX to Regulation (EU) No 404/2011.

1. Environment

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

Do Member States agree with the description of the problem?

Do Member States 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.
3. Additional provisions would be defined at national or regional basis.

We agree with the development of additional provisions at regional basis.

The adaptation of the Control Regulation has to be carried out in the broader context of transversability within the framework of the initiatives for the promotion of Blue Growth, one of which is the 2014 Maritime Security Strategy of the European Union (EUMSS). This Strategy includes as objective the sustainable exploitation of natural and marine resources in the different maritime areas and on the high seas, the control of illegal, unreported and unregulated (IUU) fishing.

We agree with the EC proposal to increase synergies with environmental regulations in order to boost the efficiency of the control system. We believe it is appropriate to include marine protected areas along with restricted fishing zones within the scope of Article 50, and it would be good to leave open the possibility of further development at the national / regional level. Fishing limitation measures in these cases must be those established in the conservation measures or management plans to enforce in each area.

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 Member States agree with the description of the problem?

Do Member States 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.

Market control and traceability

It is necessary to clearly address the objective of traceability by virtue of the application of control of the CFP.

We aim to establish a system of transmission or access to information through electronic means by the operators, in a way, that each operator has the obligation to establish the system and provide the information to the Competent Authority when it is required.

We support the Commission in the absence of a centralized traceability system, although we do consider the interoperability of the systems necessary, both within each Member State and between Member States.

We support the equality of conditions for Community and imported products from third countries, and therefore, they must have the same traceability requirements along the commercial chain.

Regarding the specific redaction of the Regulation on traceability, and taking into account the confusion that arises in its various sections, we consider it necessary to establish a specific working group on the subject of traceability. Some of the issues that should be addressed are:

- Lotting and lot mixing.
- Information that must be transmitted throughout the chain and its level of detail.
- Format of the information and marking.
- Information registration terms.
- Systems interoperability.

We also find it interesting to use sensors based on the Internet of Things (IoT) in the fishing and aquaculture sector.

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 Member States agree with the description of the problem?

Do Member States 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).

Food legislation

The relationship between control of the CFP and food legislation is being assessed.

In terms of traceability, it should be noted that there is a traceability, under the prism of food safety, whose goal and system is different from the control section of the CFP. However, there are synergies between them and they can be treated in the working group requested in the previous section.

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).

Enforcement rules

Do Member States 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 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.

Yes. We agree with this approach as proposed in option 3

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 Member States 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 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 Member States agree with the description of the problem?

Yes. That is why the digital certification system is being implemented. This system must be ambitious to achieve total traceability of the product. When the certificate is digitized we understand that traceability can be checked. Currently with the paper certificate, there are many deficiencies that require the Administration to request additional information to check the traceability of the product.

Do Member States 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.

We also propose: Amend the IUU Regulation to:

Article 2: definitions:

Fishing vessel: carrier vessels will be considered as fishing vessel if one of these conditions apply:

- Vessel is registered in a RMFO.
- Vessel is listed as an approved exporter to EU by DGSANCO.
- Vessel has been engaged in fishing operations in the last year.
- Vessel currently carrying fisheries products

Article 5 Designated ports

1. Exception to enter designated ports to Fishery Vessels (Catch and Carrier) transporting commodities different than fishery products. (prenotification still applies, but we can grant acces to a no designated port if the documentary checks indicates no IUU possible activity)

Article 6 Prior notice

1. Masters of third country fishing vessels or their representatives shall notify the competent authorities of the Member State whose designated port or landing facilities they wish to use at least three working days before the estimated time of arrival at the port, of the following information:

f: the quantities of each species retained on board with a margin of tolerance equivalent to Community fishing fleet or, where appropriate, a negative report;

h: the quantities for each species to be landed or transhipped with a margin of tolerance equivalent to Community fishing fleet.

New point 5:

5. If the Member State has the control capacity to grant access before the three working days covering all IUU controls to ensure no IUU activity has been conducted by the vessel, the access to port grant can be issued before the 3 working days.

Article 18: refusal of importation

In the event that the importation of fishery products is refused pursuant to paragraphs 1 or 2, Member States may confiscate and destroy, send back to country of origin, dispose of or sell such fishery products in accordance with national law. The profits from the sale may be used for charitable purposes.

Article 21: Re-exportation

1. The re-exportation of products imported under a catch certificate in accordance with this Chapter shall be authorised through the validation by the competent authorities of the Member State from which the re-exportation is to take place of the section 're-export' of the catch certificate prior to departure of the consignment, or a copy thereof where the fishery products to be re-exported are a part of the products imported.

2. Validation described in point 1, will be mandatory in case the consignment returns to the territory of the Community.

ANNEX III Flag State notifications

1. Content of flag State notifications pursuant to Article 20

"The Commission shall request flag States to notify the names, electronic mail, addresses and official seal prints of the public authorities situated in their territory which are empowered to:"

We understand that these modifications and the coordination of both Regulations (1005 and 1224) is important. Additionally, if Regulation 1005 was finally incorporated, it would be necessary to take advantage of this to assess the problem of reefers: definition of a fishing vessel and its implications for merchant ship port access obligations (authorized ports and pre-notification 3 days in advance). In this regard, the control regulation and the IUU Regulation should be unified in the definition of a fishing vessel.

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 Member States agree with the description of the problem?

Do Member States 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, SPFAs 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).

EFCA must focus its efforts on achieving a uniform application of the regulation of control throughout the entire European territory. It is in interest of the system's credibility to achieve the same level of application throughout the EU.

The budget of the EFCA should be geared towards helping the MS to comply with their control requirements (for example in the chartering of ships to transfer it to the MS that does not manage to carry out the committed sea days).

The control of the fishing is one of the functions of coastguard, and as such it is included in the Regulation of September 14, 2016, on the European Guard of Borders and Coasts, that intensifies the collaboration between EFCA and other two agencies of the EU dedicated to Maritime Safety: EMSA and FRONTEX. However, this inter-agency collaboration does not have to be mirrored in the distribution of competences at national level that could divert us from our priority objective of controlling the CFP (fishing problems will always be "minor problems" comparing to immigration problems or smuggling).

ADDITIONAL COMENTS TO THE QUESTIONNAIRE

Spain proposes the following discussion elements for the modification of the Regulation. The use of the "taylor-made" formula, given the experience acquired in almost 10 years of application of the Regulation, would achieve a better and more effective application of it:

DECLARATION OF CATCH AND LIMIT OF TOLERANCE:

Regarding the Article 14.3, it has been demonstrated that the margin of tolerance established horizontally in 10% is not adequate in certain fisheries. Vessels are sanctioned for not complying with it, without a clear intentionality on the part of the skippers (especially in those cases linked to the obligation to fulfill the Electronic Logbook before entering to port). It is proposed that this % should be modified only for some fisheries such as artisanal bluefin tuna (with individual catches), large-scale fisheries such as tropical tuna or large specimens or by-catches (white halibut in NAFO), or either by increasing the margin of 10%, or by simultaneously establishing a number of kg in volume.

In the case of mixed fisheries in the Mediterranean (where very small catches of many species in the same fishing trip is the most common situation) we propose an exemption from mandatory declaration of catches in Mediterranean fisheries not subject to TACs or quotas, with fishing trips not longer than 12 hours, even if the vessel's length exceeds 15 meters.

In the case of the Mediterranean fisheries, we understand that the effort is perfectly controlled through the communication of the start of the fishing trip and return to port, the declaration of the fishing zone and the declaration of landing. In 90% of the cases, declaration of catches of more than 50 kilos are made immediately before entering port or directly at port when the fish is being classified. For all these reasons, we suggest the elimination of the mandatory declaration of catches when these exceed 50 kilos of a species for the modalities that comply with these requirements.

PRIOR NOTIFICATION:

With regard to article 17 and prior notification, there are some difficulties:

- Definition of the affected fleets, since in the Spanish version of the Regulation the term "vessels engaged in the fishing of stocks subject to a multiannual plan" poses difficulties in vessels carrying out varied fisheries, even with the same fishing gear, throughout the year
- Period in advance to make such prior notification. A shorter period of time than the current 4 hours term established should be taken in consideration, at least for many artisanal fleets that operate very close to the coast and the landing ports, so they wouldn't have to wait at sea the established time, avoiding security risks. The possible elimination or flexibility of this obligation is proposed for vessels that operate within 12 miles of the territorial sea, have a certain length and when their catches do not exceed a certain volume of the indicated species

- The responsibility of the flag State in sending the prior notification through the ERS system has caused in some cases problems to the fleet. Even if the vessels have transmitted properly through its Electronic Logbook, they still depend on the proper functioning of the Flag State's FMC and the correct functioning of its transmissions to the Port State.

LANDING CONTROL AND SALES NOTES OF FROZEN PRODUCTS:

Regarding the frozen products, Spain addresses the issue of the temperature during the freezing process both as a health issue and a fishing control matter. Registering the type of freezing process (-9 and -18°C) during the fishing operations facilitates the later work to the Health Administration.

MARGIN OF TOLERANCE FOR THE THIRD COUNTRY FLEET:

The regulation does not establish any margin of tolerance for the third country fleet that arrives in EU territory, which can be understood in two ways:

- The quantities declared upon arrival at port must be the same as those landed.
- Since there is no margin of tolerance, it can be understood that they can declare a quantity and then land a different amount, regardless of the difference.

The fact that the inspection services can apply the two criteria would cause a difference in the application of the regulations with the problem that this entails.