



31st May 2016

Consultation response from the Ministry of Environment and Food of Denmark to the Commission consultation document

“Evaluation of Regulation (EC) 1224/2009 on Fisheries Control”

1. Introduction

The Danish AgriFish Agency has already contributed to the evaluation process on Regulation (EC) 1224/2009, the Control Regulation, in several ways:

- By submitting a report on the application of the Control Regulation, cf. Article 118 (1)
- By meeting with a consultancy selected by the Commission to carry out a study on evaluation of the impact of the Control Regulation and
- By meeting bilaterally with the Commission to discuss the evaluation of the Control Regulation.

The Danish response to the public consultation will be a synopsis of these contributions.

The Ministry of Environment and Food will play an active role in future work following the evaluation of the Control Regulation to adapt this regulation as required according to the results of the evaluation.

2. General remarks

The Ministry finds that the Control Regulation has proven to be a comprehensive framework for the renewal of the Union control system albeit with some inconveniences. The reform of the fisheries policy in 2013 has brought new elements. Amongst others the introduction of the landing obligation and regionalisation that has led to changes in many parts of the management of the fisheries and to some changes to the Control Regulation. More may be needed to fully embrace the reform and update existing legislation.

The Ministry is however of the opinion that focus should be on a stable development and adaptation of the Control Regulation rather than introducing new and more radical amendments to the control system. It is important to dedicate effort to ensure and stabilise a full implementation of current legislation during the coming five-year period.

It is key that the right balance is struck between regulatory intervention and creating working conditions for the industry that are not unduly costly/unpractical to operate under for the fishing industry. New instruments to promote and obtain compliance should be developed and tested. Some Member States have suggested looking for ways to support a more industry driven compliance, giving industry a more active role in achieving compliance. This should certainly be explored.

As regards regulatory framework, it has to be carefully evaluated how the balance should be between the EP and Council Regulation and the implementing rules. For the future, the Ministry considers that flexibility to adapt the legislation to the activities of the operators will be important thus pointing towards a more overarching general regulation.

Simplification and cost efficiency of measures are high priorities for the Ministry and a careful review of all the provisions of the Control Regulation and its implementing regulation remains a highly recommendable exercise.

3. Specific remarks

3.1 Promotion of level playing field

The Ministry recognises the inherent contradiction between level playing field and regionalisation. Nevertheless, the Ministry is supportive of having a set of basic rules that is common for all waters.

3.1.1 Transport documents

The rules on transport documents are not clear and are not giving added value for the fisheries inspectors as they are formulated. Rules are difficult to enforce because the responsible operator, the driver, is not amongst the normal customers of the fisheries control. Having this information ex post also limits its use in the risk management. Information should be available to both landing state and marketing state. Given the difficulties with this document, it should be assessed whether it would not be better to remove this obligation from the Control Regulation.

3.1.2 Traceability

There is an issue with traceability and ensuring that this information is flowing across borders. Danish exporters of fish to other member states claim that their customers do not demand traceability data. This contributes to demotivate their effort to collect and pass these data on.

Handling traceability data, operators have to manage large amounts of data. Normally this leads to the introduction of electronic systems to take care of this. The Control Regulation is not very clear on this compared with for example the logbook data. It appears that there is a need for a clearer indication whether the traceability system is foreseen to be an electronic system. The legal base should be clarified if an electronic system is the political objective.

3.1.3 Sanctions

The Ministry finds that sanctions is an important tool to promote compliance. This is however a matter of national competence and should remain so. Introducing further harmonisation is not considered a way forward. The general principles of sanctioning in the Control Regulation can the Ministry adhere to.

3.2 Development of a culture of compliance and respect of the Common Fisheries Policy rules

3.2.1 Risk management

The responsibility for risk management should be clarified to underline that the primary responsibility lies with the flag member state for its operators. Input for the flag state risk assessment may of course be received from inspecting member states and/or coastal member states. Third country vessels might be a responsibility of EFCA supported by member states and shared with coastal states. Clarifying this is considered to be a precondition for working with regional risk analysis and exchanges data on risk analysis.

Definition of risk should be revised as it only includes likelihood. In risk theory, risk is the product of likelihood and impact. Impact should also be included in the definition. This would be helpful for the work with risk management at the practical level.

3.2.2 Benchmarks for inspections

The Ministry thinks that the Control Regulation is too focused on targets for inspections based on input of inspection means. This should be reoriented towards the output of the broad palette of measures used to improve compliance.

For this reason, the Control Regulation should not establish any absolute benchmarks. The benchmarks should be set in the risk management and should be flexible.

3.3 Simplification and reduction of administrative burden

3.3.1 Recording of species in logbook when keeping fish on board in bulk

The Ministry has experienced that a master's obligation to record quantities of species kept on board in bulk goes beyond what it is feasible and at the same time complying with the tolerance for recording the quantity of each species in the logbook. A revision of this rule is therefore considered necessary. A proposal was already forwarded to the Commission for consideration.

3.3.2 The landing declaration

For the fishermen, the landing declaration in most situations appear to be an administrative burden providing no or little added value as the information in this document will be submitted again by the first receivers/buyers of the catches landed. Reducing the obligation only to apply in cases where this information is not provided in close connection with the landing by the first receivers/buyers will be conceived as a major contribution to simplification.

3.3.3 Automatic link between multiannual plans and control measures

The Control Regulation establishes a fixed set of control measures for all species under multiannual plans. With the growing number of species managed under multiannual plans, it appears that more flexibility is needed to determine which measures are required for the individual species as not all species under multiannual plans necessary are priority species seen from a risk assessment perspective, eg. plaice in the North Sea. A cost efficient use of control means should reflect this and not just the regulatory framework.

3.3.4 Implementation time

One lesson learned during the first 5-years of Control Regulation is that implementation time especially for IT related projects takes longer than expected and that the projects cost more than budgeted thus delaying achieving the foreseen gains in economy and quality.

3.4 Others

3.4.1 Official webpages

The present chapter on member states official webpages should be updated as the present wording in the Control Regulation does not reflect how this should be done with the technological tools available today.

3.4.2 One single control regulation

The Ministry attaches importance to ensuring that the Control Regulation remains the main control regulation. Dealing with proposal for new regulations for specific fisheries it is becoming more and more common that additional control provisions are added. This is a bad habit. If there is a real need for new control provisions these should be included in the Control Regulation to keep this regulation as the single control regulation.

4. Conclusions

The Ministry

- supports that effort should be dedicated to ensure the full implementation of the present Control Regulation,
- thinks that emphasis should be on development of the present Control Regulation,
- requests the Commission to consider the specific issues raised in point 3 with a view to proposing solutions,
- supports further initiatives are taken to regionalise the application of the Control Regulation provided that a sufficient basic set of rules is maintained at the general level,

- considers that it should be well assessed whether the regulatory framework be adapted in a way to ensure sufficient flexibility to allow the adaptation of the control legislation to the activities of the operators and
- insists that simplification and cost efficiency for all stakeholders and the authorities are given proper attention during the revision process.