



**Greenpeace European Unit**

Belliardstraat 199 rue Belliard, B-1040 Brussels  
T +32 (0)2 274 1900 | F +32 (0)2 274 1910  
european.unit@greenpeace.org  
www.greenpeace.eu | @GreenpeaceEU  
EU transparency register: 9832909575-41  
Non-profit registration (vzw/asbl): BE0457563648

**Complementary information to Greenpeace's answer to the  
Commission consultation questionnaire on the evaluation of the  
FISHERIES CONTROL REGULATION**

11 March 2016

**Contact details**

Greenpeace European Unit  
Transparency register: **9832909575-41**

Saskia Richartz, Deputy Director  
[saskia.richartz@greenpeace.org](mailto:saskia.richartz@greenpeace.org) , +32 (0)2 274 19 02

## General comments

The 2009 control regulation significantly improved the EU fisheries control regime, at least on paper. It comprises several important tools to improve compliance with the wider acquis of the Common Fisheries Policy (CFP), provided the tools are correctly implemented.

We consider that the weak and late implementation and enforcement of the control regulation (and to a far lesser extent the IUU regulation) has been the most significant barrier to better control and enforcement. The Commission and member states should now focus on achieving full compliance with the existing provisions of the control regulation, before considering a revision of the Regulation.

We also urge the Commission to establish rules or guidance to improve the transparency of data on compliance and enforcement, at all levels (i.e. at the level of the EU, member states and the level of fishermen/fisheries). In particular, we call for the publication of information on the point system and the register of infringements, and urge the Commission to publish a compliance score board to provide an overview of member state compliance. Moreover, we urge the Commission to revise the mandate/rules of procedures of the expert group on compliance (Art. 37 CFP Regulation) to enable it to formally receive information on substantiated concerns in relation to lack of or weak compliance from stakeholders. This would provide stakeholder with a similar status as watchdogs, similar to the recognition of stakeholder information in the IUU Regulation. The participants, meeting announcements, agendas and minutes of this expert group should also be published online.

## Promotion of a level playing field

- We recognise that a level playing field is an important condition for developing a culture of compliance. However, member states and operators cannot use the absence of a level playing field as an excuse to break or delay the implementation of laws.
- The lack of transparency in relation to the number and scale of infringements prevents an effective evaluation and perception of the progress made in achieving a level playing field. Similarly, a member state compliance scoreboard could help identify the main deficiencies in achieving a level playing field.
- The use of VMS and AIS has great potential to improve the monitoring of vessels' activities and the exchange of information, but the application of this technology and the availability and use of the results for purposes of enforcement, management and improving legislative instruments should be strengthened. In this context, it is paramount to improve the monitoring of potential abuses or misuse of the technologies (e.g. turning off AIS without proper justification) and to sanction abuses, if confirmed.
- The introduction of a mechanism of certification and validation of engine power has not achieved the objective of reducing fishing effort. Greenpeace has repeatedly noted circumstantial evidence, from the field and from data analysis, that fishermen and member states are continuing to under-declare engine power on national vessel registers and the EU fleet register. Engines can be legally certified with a power much lower than their maximum continuous power, due to adjustments to the fuel injection settings, which can easily be reversed once the engine has been certified.
- A combination of inspections at sea and on land are necessary to detect infringements. The control and IUU Regulations place too little emphasis on the specific role of at sea inspections,

which are of particular relevance in specific fisheries and in relation to specific infringements (e.g. high grading, discarding, the illegal setting of driftnets).

- In several coastal member states the level of inspections remains insufficient, not least because of a lack of human resources.

#### Development of a culture of compliance and respect of the CFP rules

- The application of effective and dissuasive sanctions is necessary to develop a culture of compliance, which is likely to increase with the likelihood of infringements being detected and appropriately sanctioned. The EU should increase the transparency on the number, size and recipient of sanctions applied, to facilitate analysis and public perception of their deterrent effect. Naming and shaming repeat offenders will also improve the culture of compliance.
- In this context, the point system for serious infringements and register of infringements are important tools for improving the culture of compliance, in combination with a strong surveillance system, provided member states begin to comply with both fully. Currently, a complete lack of transparency on the application of the point system by member states makes it impossible to assess the effectiveness of this tool. A recent [study](#) commissioned by the European Parliament has confirmed the lack of transparency and emphasised that only very few member states appear to assign points to date. Besides the widespread lack of application, Greenpeace is particularly concerned about the fact that flag states seem to ignore judicial sentences and sanctions applied in other member states, with the result that points are not applied in the case of infringements that were detected in another member state.
- Moreover, the implementation of Article 17 of the CFP could contribute to the development of a culture of compliance, by providing preferential access to fishing opportunities to those operators that have a history of complying with the rules and go beyond the rules in terms of the documentation and transparency of their operations.
- The full implementation of the eligibility conditions of the European maritime and fisheries fund (EMFF) can also contribute to the development of a culture of compliance by refusing access to financial aid to operators who have infringed the rules.

#### New instruments of the Commission to ensure the implementation of the CFP by Member States

- The Commission has the responsibility to ensure the full implementation of the control regulation by the member states. It should promote transparency and tools to make information available more easily accessible in a centralised location.
- The Commission should thoroughly investigate cases of non-compliance, establish strong action plans with Member States and monitor closely the implementation of those action plans. If an action plan is not adequately implemented, the Commission should start an infringement procedure against the concerned Member State.
- The Commission should operate transparently and co-operate with all stakeholders in holding member states and, with the help of member states, fishermen to account. Repeat offenders should be named.
- In fact, we are concerned that the Commission routinely puts forward the view that secrecy and confidentiality, instead of openness and transparency, can facilitate the achievement of the objectives of EU laws. The Commission should appreciate the importance of the EU citizens' expectation to see EU and national institutions comply with the law. In fact, the European Ombudsman has highlighted that compliance with EU law and sincere cooperation with the

Commission cannot be contingent on a Member State's willingness to cooperate, in turn conditional on the Commission's willingness to protect confidentiality. A European Union based on the Rule of Law is not supposed to function in a non-transparent way.

#### Others

The application of the landing obligation presents significant challenges for surveillance and control. Those challenges are linked to the conditions of implementation itself (e.g. implementation by fishery rather than stock) and the significant loopholes and exemptions in the law (allowance for de minimis exemptions). Increased control at sea is required to ensure compliance with the landing obligation.