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# WWF response to Commission's public consultation on the Evaluation of the Fisheries Control Regulation

WWF welcomes the opportunity to reply to the European Commission's public consultation on the evaluation of the fisheries Control Regulation. The present response does not comment on all the questions listed in the Commission's communication, as WWF does not have experience in some aspects of the consultation that are more oriented to those with direct responsibility for guaranteeing proper implementation *ie* Member States control authorities. However, drawing on field work and expertise gathered across the EU and at international level, WWF is able to contribute to some key elements of the consultation on how improved compliance with the rules of the Common Fisheries Policy (CFP) might be achieved.

## **Improved governance and real commitment from Member States**

The reformed CFP (including the new technical conservation measures regulation) provides the regulatory framework for fishing practices in the EU, with the Control Regulation establishing the systems for control, inspection and enforcement for ensuring compliance to these regulations by EU fishing vessels. WWF believes that with this suite of legislation, the EU has all the basics of good management, monitoring, control and surveillance (MCS) in place. What is urgently needed is a real commitment from Member States and fisheries stakeholders to effectively implement and enforce the requirements of the CFP and to work actively to improve compliance with the rules.

We believe a more participatory approach and sense of ownership by fishers to the management of the fisheries they operate would improve levels of compliance. This

requires development of, and commitment to a more participative approach from key stakeholders to the fisheries, alongside clear guidance from managers and control officials. Taken together with robust scientific advice underpinning this should ensure that the right measures are adopted by the main actors (fishers, managers, scientists, civil society organisations, local/regional authorities, other seafood chain actors) in order to deliver the objectives of the key building blocks of the CFP Basic Regulation. This process would ideally result in a Multi Annual Plan that ensures the suitability of the management measures over time, and provides guidance for the proper application of the enforcement and control rules.

WWF has long advocated the need for improved fisheries governance and this principle lies at the heart of our fisheries field work in many EU Member States and beyond. While not perfect, there are a number of models of stakeholder engagement in place across the EU. In Scotland, UK for example, a broad range of fisheries stakeholders come together under the guidance of government officials. Here, management decisions are taken based on best evidence with an understanding of the Regulatory requirements and what options are available.

Other examples of co-management and monitoring committees for small scale and coastal fisheries can be found in Spain, e.g. fisheries for “sonso” (sand eel, *Gymanammodytes cicerelus* and *G. semisquamatus*) in Catalonia<sup>1</sup>, “jerret” (*Spica smaris*) and “jonquillo” (*Aphia minuta*) in Balearic Archipelago<sup>2</sup> and “chanquete” (*Aphia minuta*) in Murcia regions<sup>3</sup> in the Mediterranean sea. In the Atlantic, e.g. Os Miñarzos and Cedeira are co-managed Fishing Reserves in Galicia<sup>4</sup>. The potential to replicate this co-management approach must not be underestimated in terms of building up a culture of compliance and more effective MCS, as these and other examples provide valuable examples of good practice that can be applied to all types of fisheries in the EU. A participatory approach, transparency and accountability (reversal of burden of proof) should be at the heart of the CFP implementation and applied across the European Union.

### **Promotion of the level playing field**

A level playing field is critical to guarantee that the same control standards apply to different fisheries and fleet segments, in different Member States and in different maritime regions. The new CFP tries to address the diversity of fishing operations across the EU through a regionalised approach to its management providing for a flexible approach by Member States, with the overall goal of delivering the centrally set conservation goals agreed in the regulation. While management can be adapted for regional variations, the fisheries still need to be subject to common standards and formal processes of control, so they can be equally accountable across the EU. For example, it is crucial that actions taken following infringements must be applied equally to vessels flying under an EU flag and vessels flying under a third country flag, thereby preventing discrimination and unfair

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<sup>1</sup> Leonart J., Demestre M., Martín P., Rodón J., Sainz-Trápaga S., Sánchez P., Segarra I., Tudela S. 2014. The co-management of the sand eel fishery of Catalonia (NW Mediterranean): the story of a process. In: Leonart J., Maynou F. (eds), *The Ecosystem Approach to Fisheries in the Mediterranean and Black Seas*. Sci. Mar. 78S1: 87-93. doi: <http://dx.doi.org/10.3989/scimar.04027.25A>

<sup>2</sup> <http://www.caib.es/eboibfront/ca/2013/8204/525138/decret-44-2013-de-4-d-octubre-pel-qual-s-estableix>

<sup>3</sup> <http://www.boe.es/doue/2013/217/L00028-00029.pdf>

<sup>4</sup> [http://www.academia.edu/23323565/Fact\\_or\\_fiction\\_Assessing\\_governance\\_and\\_co-management\\_of\\_Marine\\_Reserves\\_of\\_Fishing\\_Interest\\_in\\_Cedeira\\_and\\_Lira\\_NW\\_Spain\\_](http://www.academia.edu/23323565/Fact_or_fiction_Assessing_governance_and_co-management_of_Marine_Reserves_of_Fishing_Interest_in_Cedeira_and_Lira_NW_Spain_)

competition. It is vital that administrative requirements, such as the transmission of position data at regular intervals and the electronic completion and transmission of fishing logbook data, are also met by third country fishing vessels as they apply to EU vessels.

With the new requirements under the CFP and in particular that of the Landing Obligation there will be an even greater need for effective compliance and monitoring at sea. WWF believes that the introduction of modern technologies can be effectively deployed to address this challenge and in doing so greatly contribute to the harmonisation of control procedures, providing the much needed level playing field and at the same time providing valuable information and data for both science and compliance purposes.

WWF has recently published the report entitled '*Electronic Monitoring in Fisheries Management*' (please refer to document attached) as a contribution to the ongoing discussions surrounding the introduction of new CFP regulations, including the Landing Obligation, highlighting the need for these to be monitored and controlled effectively in order to support continued progress towards sustainable European fisheries. The report looks at how Member States might monitor and control the implementation of new requirements introduced by the reformed CFP (using the UK as the case study), reviewing traditional means of monitoring and comparing these to Remote Electronic Monitoring (REM) systems. It compares the costs and effectiveness of the different methods and concludes that REM with cameras offer the most efficient and proportionate cost effective means of monitoring activities on the water, which is where any potential problems are likely to arise. This technology will also be capable of generating data that can be fed into stock assessments and increase confidence in quota setting (where this applies). The cost effectiveness is enhanced by the reduced need for potentially large parts of traditional monitoring methods – such as for example, at sea vessel and observer activities, as well as elements of quayside monitoring - as these could be replaced by REM.

Some EU companies and fleets have also fully implemented REM schemes in their long distant fisheries, using for example electronic video<sup>5</sup> and image technologies for tropical tuna. The data is analysed, including by-catch and discards, and used by scientists for two purposes: verification of good practices protocols and research.

There are clear opportunities to be gained from the new measures and in particular the Landing Obligation, the most obvious of which is more fish in the sea which in turn means a more resilient, profitable industry and greater food security. But if implemented inadequately the Landing Obligation carries clear risks. Chief amongst these is the potential for unreported mortality and the effects on stock development and assessment. This is a concern shared by many across Europe. With respect to control of the Landing Obligation in the Mediterranean Sea and in some Atlantic fisheries, namely small scale fisheries (including coastal trawlers), the potential increase of black markets for juvenile specimens has been identified by experts as a real threat. Therefore, it is essential that multi-annual plans and MCS schemes fully take into consideration these potential risks. WWF believes that Member States need to address this concern effectively at the outset in order to avoid undermining much of the good work done to improve the sustainability of fisheries to date. We believe

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<sup>5</sup> <http://ldac.chil.me/download-doc/66135>

that effective monitoring will play a key role in this and that a level playing field needs to be created across Member States in a manner that supports tailored adaptive management.

In addition to providing assurances of effective monitoring of activities at sea, technology can also be a supportive management tool to all responsible operators working under challenging set of circumstances. REM technology can be used, for example, to demonstrate best practices as illustrated above, and even document and substantiate potential implementation problems.

As the bulk of the European fleet is made up of small (under 10m) boats, this undoubtedly presents important challenges to the roll out of such technology but these can be overcome with specialised systems designed specifically for smaller vessels - for example, by using a cheap and streamlined version that could be battery/solar powered and deployed on vessels with outboard motors only. Where vessels are able to operate full REM systems, different levels of monitoring can be applied to elements with different levels of risk - for example, 10 % and upwards CCTV footage analysis for higher risk elements of the fleet and 5 % or lower for medium and low risk elements.

Application of a risk assessment is essential for the small scale fleet to identify those vessels, fisheries and/or fleets which carry the highest risk for infringements. WWF believes that small scale fisheries are not necessarily a synonym for low impact fisheries, and their operations need to be properly assessed, monitored and controlled to guarantee that their impact is adequately accounted for. Due to the nature and dispersal of small scale fisheries (especially in the Mediterranean or Macaronesia islands), realistic approaches to MCS, which take into account the realities of small scale fisheries (i.e. % of discards, vessel sizes, income, insularity etc.) should be developed, in collaboration with enforcement agencies, scientific organizations, civil society organizations and the small scale fisheries sector. Furthermore, a culture of compliance needs to be developed in conjunction with necessary capacity building and knowledge regarding the scientific basis of fisheries legislation (e.g. many fishers do not understand the basis behind minimum landing sizes because of lack of knowledge regarding fish sex changes at certain age and length).

### **Good Practices in Small Scale Fisheries in the EU**

In terms of technological tracking devices to monitor and control small scale fisheries activities as noted above there are other options to develop based on *ad-oc* good MCS examples in the EU, such as the use of low cost “green boxes” ([SLSEPA](http://www.juntadeandalucia.es/organismos/agriculturapescaydesarrollorural/areas/pesca-acuicultura/slsepa.html))<sup>6</sup>: a GPS linked to electronic navigational chart/plotter. These are mostly used in the fisheries controlled by the Andalusian Government, Spain. The use of incentives including for data collection and compliance schemes has encouraged most of the region’s small scale fleets to apply such systems in the Atlantic and Mediterranean. Green boxes are mandatory in fishing reserves and for specific fisheries. As in industrial fisheries this system is used by the Government of Andalucía for enforcement and data collection purposes. Tracked data is cross-checked with spatio-temporal measures in place, landings and market’s figures. Such scheme is already in place but could be adapted in line with the new Landing Obligation for the enforcement of discards plans.

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<sup>6</sup> <http://www.juntadeandalucia.es/organismos/agriculturapescaydesarrollorural/areas/pesca-acuicultura/slsepa.html>

Vessel Monitoring System (VMS) or “green boxes” are excellent tools to control efforts in terms of “time at sea” and areas. For fisheries using traps, there are also good examples of ways to limit the number of traps deployed as it is the case of the Galician octopus fishery. In the Xunta de Galicia management plan, the number of traps at sea is controlled using an identification trap label in a fleet of around 1000 active vessels under 14 metres. This simple measure has made the identification, control and location of illegally set traps easier<sup>7</sup>.

The examples listed above give a clear indication that there are strong and effective tools and efforts being developed and implemented to guarantee the MCS of the small scale fisheries. It is critical that Member States can (continue to) exchange these best practices among themselves and decision makers, fishers, and other key stakeholders to work together to find and agree the best way to ensure maximum adherence to the rules.

WWF encourages an integrated, more holistic and inclusive approach to fisheries governance through projects such as MINOW - Science, Technology and Society initiative to minimize unwanted catches in European Fisheries<sup>8</sup> (Horizon2020 project), in Southern EU. The project encourages stakeholders’ participation with the aim to minimise unwanted catches through the adoption of fishing technologies and practices that reduce discards, while avoiding damage to sensitive marine species and habitats. The project combines the use of tracking tools (e.g. identification of juveniles or spawners aggregations by time and area) with a participatory approach by all stakeholders involved in collection of data, the research, discussion, and identification of solutions and monitoring of the fishing activity.

Successful co-surveillance and more holistic schemes have been developed for all type of fisheries across EU and abroad, often based on low cost technologies and resources. Means to facilitate the exchange of the results of these successful practices should be made available in a common EU database.

### **Recreational fishing**

Concerning recreational fishing, very few qualitative and quantitative assessments have been undertaken, especially in terms of the socio-economic importance and environmental impacts, and this is particularly true for the Mediterranean Sea region<sup>9</sup>. Despite the lack of systematically collected data, recreational fishing in the Mediterranean is estimated to account for more than 10% of the total fish catch. An analysis of 15 coastal marine protected areas in Spain, France, Italy and Turkey showed that total recreational fishing catches in some coastal areas can represent between 10% and 50% of the total catches of small-scale fishing (excluding trawls and seines)<sup>10</sup>. WWF recommends that recreational fishing licensing should be a solid process that ensures that recreational

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<sup>7</sup> [http://www.xunta.es/dog/Publicados/2015/20150603/AnuncioG0165-260515-0009\\_es.html](http://www.xunta.es/dog/Publicados/2015/20150603/AnuncioG0165-260515-0009_es.html).

<sup>8</sup> <http://minouw.icm.csic.es/>

<sup>9</sup> Plan Bleu, 2014. Economic and social analysis of the uses of the coastal and marine waters in the Mediterranean, characterization and impacts of the Fisheries, Aquaculture, Tourism and recreational activities, Maritime transport and Offshore extraction of oil and gas sectors. [pdf] Technical Report, Plan Bleu, Valbonne.

Available at: [http://planbleu.org/sites/default/files/publications/esa\\_ven\\_en.pdf](http://planbleu.org/sites/default/files/publications/esa_ven_en.pdf)

<sup>10</sup> Font T., Lloret J., Pianté C., 2012. Recreational fishing within Marine Protected Areas in the Mediterranean. [pdf] MedPAN North Project. WWF-France.

Available at: [http://www.medmpaforum2012.org/sites/default/files/medpan.rec\\_fish\\_-\\_english\\_web\\_version.pdf](http://www.medmpaforum2012.org/sites/default/files/medpan.rec_fish_-_english_web_version.pdf)

fishermen are well aware of the legislation (as well as the scientific rationale behind it). This should take place in parallel with effective MCS schemes. Furthermore, more research and regular monitoring should be undertaken to better understand this fast-growing activity. On the basis of the above, new regulations may be needed for minimum landing sizes, gears and catch limitations, restricted areas and times, and these should be effectively enforced. Consequently, recreational fishing effort needs to be included in all fisheries resource management schemes.

In few cases, partnerships among researchers, recreational fishers and civil society have encouraged better practices, such as encouraging no-death fishing, tracking and tagging research or Marine Protected Areas management. In France, the adoption of a simple measure such as cutting the tail of seabream caught by recreational fishers who're partners in one of these partnerships, may help to distinguish themselves from those "recreational" fishers that in reality have the intention to sell their catch, enter it into the black market, resulting in an unfair competition and a barrier in many areas for a sustainable management. Fish labelling and traceability enforcement, inspections at restaurants, good practice among buyers, and consumer awareness should be encouraged at different levels to help undermine a key driver of lack of compliance in recreational fisheries.

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

WWF fully agrees with the opening remark of the consultation document *"The success of the Common Fisheries Policy (CFP) depends very much on the effective implementation of control system requirements"*. The regionalised approach to the new CFP allows for a more participatory approach to fisheries management but this comes with responsibilities for Member States to participate effectively in the process. As stated in previous sections, such an approach would improve the chances of strong adherence to the rules and at the same time contribute to a more result based (tailored) fisheries management. It is fundamental for all the key actors to feel committed to comply and respect the CFP rules. WWF is not able to assess where changes in behaviour has occurred since the Control Regulation came into place but it is our view that there is still much to do to guarantee that the CFP objectives are not undermined.

The Mediterranean Sea, where 93% of assessed fish stocks are estimated to be overexploited, represents a clear example of a region where effective enforcement and control mechanisms have failed greatly. This is mainly due to the lack of political will and the lack of a culture of compliance. In order to address this challenge a level playing field is essential. Unless all fleet segments are equally monitored, i.e. using measures and tools with equal effectiveness, fisheries with higher levels of monitoring will feel discriminated. This has become clear in various discussions with industry representatives in the Advisory Councils. For this reason WWF suggests to treat all fleet segments and vessels equally, using equally effective monitoring and control methods throughout all fleet segments according to the fisheries operations and their characteristics. This needs to change and Member States need to alter their attitude towards chronic non-compliance. EMFF should not be available to Member States with poor compliance records.

Another concrete example that clearly shows the lack of compliance and respect for CFP rules, on the landing obligation concerns the implementation of the landing obligation in the Baltic Sea, in place since 2015. WWF has learned from reliable sources that for various reasons the Landing Obligation is not being adhered to by many vessels. There are several reasons for this, the lack of control and enforcement being the major one. As a result, unwanted fish are still discarded. Practice seems to be, that all vessels fishing alongside of each other report comparable levels of unwanted catches in their e-logs. We have had confirmation from at least one Member State that vessels currently more or less uniformly report 2% of undersized cod bycatch, where 10 to 40 percent undersized cod was reported before the landing obligation came into force. This implies, that vessels communicate with each other on what to report. It is likely, that as a result, vessel owners who would work by the books are subject to social pressure in order for others to continue with the now illegal practise of discarding.

In the first instance there need to be clear incentives for compliance but where this fails, effective deterrents need to be in place. In cases of lack of compliance and where serious infringement occurs, there must be a system that penalizes wrong doers effectively and thus provide this strong deterrent effect. The definition of serious infringement must be clear and interpreted equally across the Union, and sanctions applied in a uniform way across Member States and third parties. As noted above with the advent of the Landing Obligation the risks are even higher with the potential for illicit behaviour increasing on the water, potentially less data being made available, meaning less confidence in assessments. The Commission must monitor the implementation of the landing obligation closely and be ready to act where Member States are not meeting compliance commitments effectively.

### **Compliance with international obligations**

It is imperative that full coherence is ensured between the various Regulations that relate to EU's international obligations as detailed in question 34 of the consultation along with all the commitments under the Lisbon Treaty. These range from the reformed Common Fisheries Policy Regulation to the Control Regulation to the measures to be adopted under the new Fishing Authorisations Regulation and the IUU Regulation.

Also key to success is political will on the part of the EU institutions to take the necessary measures and to ensure their implementation if the EU is to deliver on its ambition to lead on good fisheries governance at global level. As Guardian of the Treaties, the Commission has a duty to monitor implementation by Member States and take the required action when they fail to ensure a level playing field in terms of control, enforcement and sanctions towards their vessels and nationals. Stakeholders must also be willing to play their role in this with the full and active support of Member States.

### **Main strengths of the fisheries control regime**

The concept of setting stricter requirements for the control of fishing restricted areas (e.g. frequency of data transmissions to be at least once every 30 minutes, see article 50 Control Reg) needs to be retained. This provision is proving to be an essential conservation tool in light of the emerging number of Member States drafting

recommendations based on article 11 of the CFP Basic Regulation, with a view to drawing up fisheries restrictions in marine Natura 2000-sites and/or protected sites according to Article 13 of the Marine Strategy Framework Directive (MSFD). Due to the spatial distribution of features in need of conservation, transmission intervals will have to be tightened up and alarm zones be introduced.

### **Main weaknesses of the fisheries control regime**

- relies on self-reporting without sufficient levels of cross-checking;
- different control tools only cover small percentage of fleet – ie lack of consistency;
- large parts of control methods mainly have deterrent effects when in direct sight of fishing vessel;
- insufficient to properly control the Landing Obligation at sea without losing quality on data;
- Interpretation of serious infringement should be harmonised across the EU

Currently and in the past, a significant proportion of discard estimation was deduced from electronic self-reporting of vessels owners in their e-logs. Although there is space in the E-logs and logbooks for the reporting of discarded fish, and a legal requirement to document discards of over 50 kg's for certain species, these are seldom, completed. This is likely to change under a Landing Obligation with fishers required to declare and land fish that they would have legally discarded in the past. However, as stated earlier, this can be and WWF believe is being manipulated. This is increasingly problematic, as the enforcement methods currently applied mainly have deterrent effects once in sight of the vessel, so only temporal adjustments in behaviour are achieved and acquired data is verified on the basis of a very limited percentage of the vessel activity. As a result, data on actual discard amounts is piecemeal from underestimated amounts gathered from E-logs and estimates from small sampling units from scientists. Electronic logbooks are verified via at-sea surveillance, but the reviewed percentage is rather small. For example in the UK, only approximately 0.3 % of the days spent at sea were inspected by the Royal Navy<sup>11</sup>. In Sweden, onboard observer inspections at sea within the Swedish cold-water shrimp fishery in 2013 only amounted to 0.5 % of actual fishing effort. Such a small percentage of actual observer coverage and at sea-inspections increases the risk of continued illegal behaviour. In conjunction this significantly reduces the quality of the discard data, endangering not only stocks, but also the quality of stock assessments. This is why WWF is convinced of the need to see effective at sea monitoring technology adopted across fleets.

### **How to address the mentioned weaknesses**

As mentioned earlier, WWF believes that greater political will is required from Member States and EU institutions in order to deliver effective implementation of, and compliance with the new CFP requirements. What constitutes serious infringements must be clarified by the Commission since its interpretation is now at the mercy of individual Member States and creates an unbalanced level playing field. Finally, the conditionality of

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<sup>11</sup> WWF Report. *Electronic Monitoring in Fisheries Management*. 2015

funding from EMFF must be applied with Member States held accountable with penalties including lack of access to EMFF.

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