

EU FISHERIES CONTROL COALITION



NGO Response to the Presidency Progress Report on the Fisheries Control Regulation

Please find below the reaction from the EU Fisheries Control Coalition to the Presidency Progress Report¹ on the EU Fisheries Control Regulation (1224/2009) from 29 June 2020.

In brief - How the Council of the EU can work towards fully documented and transparent EU fisheries:

Exemptions in the Fisheries Control Regulation have allowed 89% of the EU fishing fleet to fish without location trackers, devices that are currently only required for vessels over 15 metres in length. Fishing vessels under 10 metres, of which there are more than 59,000 in the EU, also do not have to declare their catches. The Council should support the proposal to require vessel tracking and catch reporting for all EU vessels.

A significant proportion of fisheries data lacks sufficient detail and is vulnerable to mis-recording. Without reliable and timely catch data, fisheries managers remain without a true picture of what is being removed from the sea, making it difficult to ensure the effective and sustainable management of EU stocks. The Council should ensure that Remote Electronic Monitoring (REM) of vessels, including on-board CCTV, is required on all large-scale vessels (over 12 metres) and on small-scale vessels that are at high risk of non-compliance with the rules of the Common Fisheries Policy.

Making seafood products traceable from point-of-catch to point-of-sale is necessary to combat illegal fishing and achieve healthy fisheries. As the world's leading seafood market, importing over 60% of its seafood, the EU has a responsibility to strengthen its ability to verify that the sources of seafood available in its market are both legal and sustainable. We ask the Council to support improved and digitised seafood traceability for all products, rather than the current paper-based systems.

EU decision-makers (including Member States) do not have the information necessary to assess whether the Control Regulation is effectively implemented in all EU Member States. This lack of transparency creates a culture of mistrust and the potential for misinformation and mismanagement. We therefore urge Member States to consider publishing on an annual basis aggregated data on monitoring, control and enforcement activities.

Fishers across the EU rightly feel that they are treated unfairly, as sanctions for infringements of the Common Fisheries Policy differ greatly between Member States. We ask the Council to create a level playing field across the EU by introducing a mandatory administrative action and listing the activities that are considered serious infringements.

¹ Document drawn up under the responsibility of the Croatian Presidency, 'Informal Videoconference of the Ministers of Agriculture and Fisheries, 29 June 2020 - Presidency Progress Report', <https://www.consilium.europa.eu/media/44694/20200629-progress-report-control-regulation.pdf>.

1. Requiring vessel monitoring, electronic logbook and landing declarations for all EU vessels (Articles 9, 14, 15 and 23)

Article 9 - Vessel monitoring systems

Article 9.4 makes it mandatory for public authorities to automatically share vessel position data with the Member State where the vessel will likely land its fish, or will continue fishing. We recommend to maintain this requirement. The Impact Assessment² of the Commission proposal for the future Control Regulation notes that the data exchange between Member States is at present “cumbersome and inefficient”. It is therefore crucial that in the future Control Regulation, vessel position data is automatically transferred to the coastal Member State, as well as the Member State whose ports the vessel will likely use or where the vessel will continue to fish.

Article 9.7 empowers the European Commission to adopt delegated acts to establish the technical rules to monitor fishing activities and fishing effort. We urge Member States to maintain this possibility to harmonise such technical rules. Moreover, and taking into account the technological advances that have been made in the past years, we also request **not to delay vessel monitoring for vessels under 10 metres**. The proposal by the European Commission already includes a transition period of two years before the future Control Regulation would enter into force. Nowadays, simple tracking systems exist that are able to transmit a vessel's position, course and speed to control authorities, either by satellite or cellular networks. These systems can be easily installed on any vessel, independently of its size. Vessel monitoring benefits fishers regarding their safety at sea and it allows for efficient fisheries controls and inspections.

Article 14 - Completion of the fishing logbook

Article 14.4, as proposed by the European Commission, allows for a 10% margin of tolerance in the estimated quantities (of kilogrammes of fish retained on board) recorded in the fishing logbook, with the exception of fisheries which are landed unsorted. Noting that the two active infringement procedures against Ireland and Denmark on their failure to implement the Control Regulation relate to the inadequate control of pelagic or unsorted landings, we urge Member States **not to allow and introduce new margins of tolerance of 10% for each species for small pelagic species and species for industrial purposes**.

Article 14.8a, introduced by the Council, sets a 24-month transition period for vessels below 10 metres to report their catches electronically in a logbook. The proposal by the European Commission, however, already includes a transition period of two years before the future Control Regulation would enter into force. Considering that electronic reporting can easily take place through apps installed on mobile phones, we urge Member States to take into account the technological advances that have been made in the past years and to not delay reporting of catches. The advantages of these systems are clear. Most of these new apps are designed to be user-friendly, menu-driven, with images of fish species and some fields are automatically pre-filled. Such systems would make catch reporting much simpler for fishers, it would provide evidence of their fishing activities and possibly even increase their access to fishing opportunities as well as improve traceability.

² COMMISSION STAFF WORKING DOCUMENT (2018) 'IMPACT ASSESSMENT Accompanying the document PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL', SWD(2018) 280 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0280&from=EN>.

Article 15 - Electronic submission of the fishing logbook

Article 15.2 requires fishing vessels under 12 metres in length to electronically submit the logbook after the last fishing operations and **before entering into port**. The Council is proposing to amend this obligation so as to allow vessels below 10 metres in length to electronically report their catches **after entering into port** (but before weighing). **We recommend to Member States to maintain the requirement to submit the logbook before entering into port**. Many examples exist today showing that electronic reporting can easily take place through apps installed on mobile devices. Most of these new apps have a user-friendly design, are menu-driven, provide images of fish species and some fields are automatically pre-filled. Data can thus be entered at practically any time with little effort, ensuring that fishers are not required to undertake any activity when it may be unsafe to do so. These advances also allow for data to be captured even on smaller boats with no shelter or deck.

Article 15.4 requests public authorities to accept the electronic reports received from the flag Member State. We urge the Council not to remove this obligation. Moreover, and as stated above for article 14.8a, we also urge Member States **not to further delay the requirement to electronically submit the logbook for smaller vessels**.

Article 23 - Completion of the landing declaration and article 24 on electronic transmission of landing declaration

On articles 23.4 and 24.4a, we urge Member States to take into account the technological advances that have been made in the past decade and **not to delay the requirement to report a logbook for vessels under 10 meters by 24 months**.

2. REM (Article 13)

In article 13.2, we urge Member States to take note of developments overseas and to **not limit the mandatory introduction of REM to fleet segments 'which pose a serious risk of non-compliance with the landing obligation'**. After two decades of extensive testing, REM (including cameras) has become a vital and irreplaceable monitoring tool that now underpins effective management in numerous fisheries worldwide. However, whilst the footage collected by REM will be hugely valuable in monitoring and preventing illegal discarding practices, it is important to remember that REM is more than a surveillance tool. Already today in Australia, Canada and the United States, it is helping scientists and fisheries managers better understand the status of fish populations and the impact of fishing activities on the bycatch of sensitive species (e.g. cetaceans and seabirds). This has not only revolutionised regulatory decision-making, but has also strengthened relationships between managers and fishers, as there is now a robust and shared understanding about what is happening on the water. Therefore, for the EU to install REM on board such a limited proportion of its fleet would not only be entirely contrary to its ambition to be seen as a global leader in fisheries governance, but would also needlessly deny regulators data which can ensure that future management decisions deliver on the overarching objectives of the Common Fisheries Policy.

Similarly, **we strongly disagree with the proposal in article 13.2 to limit the obligation to install REM to certain categories of vessel over 24 metres in length**. Doing so would leave us without verified compliance

and catch data for over 96% of the EU's fishing fleet,³ whilst also undermining wider efforts to create a level playing field among fishery operators. With REM having been successfully used on vessels of all sizes and gear types, and in almost every major fisheries zone in the world, there is no technological justification for such a limitation. Meanwhile, increased staff efficiencies and technological developments continue to reduce the cost of camera systems year-on-year, meaning that rolling out REM across all EU vessels over 10 metres would carry an annual cost amounting to less than 1% of the total revenue of the EU fleet.⁴ This is a small price to pay for ensuring that fishing, and the marine environment upon which it depends, is protected for generations to come.

We urge Member States to follow our recommendations by supporting the phased implementation of REM (including cameras) on board all EU vessels over 12 metres in length, alongside an additional percentage of small-scale vessels that are at a high risk of breaching the rules of the Common Fisheries Policy. Without this, we would continue to lack the data that we need to secure the long-term sustainability of European fisheries.

3. Recreational fisheries (Articles 55)

While **we commend Member States for maintaining the general principle of introducing a registration and digital reporting system for recreational fisheries, we are concerned with the Council's intention to leave it to Member States to devise separate rules at Member State level.** This runs the risk of disparate measures and uneven implementation. The current Council compromise removes the delegated authority to the Commission to adopt secondary legislation on a number of items, such as the tracking of vessels and the control and marking of gears used for recreational fishing (Article 55.5) without specifying that Member States must include these considerations in their national programmes.

As studies show, there are currently significant data gaps for recreational fisheries in Europe which result in insufficient grounds for assessments and management of the stocks targeted by recreational fisheries.⁵ The current compromise text would miss the mark as it would not introduce a harmonised registration and licensing system.

4. Traceability (Articles 56–58)

The Commission proposal introduces a number of key advances on seafood traceability. Among the most important are that a) seafood traceability is made mandatory and is digitised, b) that traceability will apply to both EU-caught products as well as imported products and to frozen/fresh products as well as preserved/processed products, and finally, although it is not covered in the current compromise proposal, c) IUU catch certificates are made digital and the CATCH database for catch certificates becomes mandatory for EU Member States.

3 Eurostat, 'Fishing fleet by age, length and gross tonnage', https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=fish_fleet_alt&lang=en, accessed 21.9.2020.

4 WWF (2017) 'Remote Electronic Monitoring. Why camera technology is a cost-effective and robust solution to improving UK fisheries management', https://www.wwf.org.uk/sites/default/files/2017-10/Remote%20Electronic%20Monitoring%20in%20UK%20Fisheries%20Management_WWF.pdf

5 Hyder K. et al. (2017) 'Recreational sea fishing in Europe in a global context—Participation rates, fishing effort, expenditure, and implications for monitoring and assessment', *Fish and Fisheries*, Vol. 19 (2), <https://doi.org/10.1111/faf.12251>.

Firstly, **the current Council compromise proposal removes the requirement for seafood traceability to be digital in all instances (Article 58.2). This undermines the ability to trace the provenance of the product in question further than just one step back in the supply chain**, which, given the often intricate production and transportation of seafood, is not sufficient.

Secondly, the Council compromise proposal significantly weakens the traceability of preserved and processed products (deletion of products falling under heading 1604 and 1605 from Article 56.6). This category of food products often has a particularly complex supply chain with products being transported, stored, combined, split etc. - all of which increases the risk of potential IUU-caught products being mixed with legal products. However, the Council proposes to remove the lot-based scrutiny of this category of seafood in Article 56a.

This **general weakening of seafood traceability represents a tilted playing field when certain products do not need to adhere to the same standards as others. Additionally, it also runs counter to the Farm to Fork strategy which emphasises that food systems should be fair, healthy and environmentally friendly, foster competitiveness and promote fair trade**. This cannot be achieved when certain products are exempt from being properly traceable.

5. Weighing (Article 60)

The Commission's evaluation of the impact of the Control Regulation⁶ notes that current weighing rules leave room for misreporting. Indeed, the existing derogations from the general rule to weigh fish on landing may still lead to fish being unaccounted for.

We therefore **request that Member States consider the Commission's proposal to replace the derogations by a simple and effective system of weighing at landing performed by a registered operator**. The reintroduction of derogations and the removal of the registered weigher, as considered by the Council in the progress report, would not guarantee accuracy and would continue the incompatible implementation of weighing derogations and plans across Member States that undermine effective controls.

6. A transparent and standardised enforcement regime (Titles VIII and XII)

Neither the enforcement provisions (title VIII) nor the provisions on the exchange of data and information (title XII) are included in the Council's progress report. It is nevertheless worth emphasising the importance of a transparent and standardised enforcement regime for the creation of a level-playing field across European fisheries and a culture of compliance among European fisheries.

Currently, fishers feel that they are treated unequally and unfairly in the EU, and rightly so. The European Commission and the European Court of Auditors observed that the application of sanctions differs greatly throughout the EU, that sanctions are not always dissuasive, proportionate and effective, and that the points system is not consistently implemented. We therefore urge Member States to consider the Commission's proposal to standardise enforcement measures by, among others, obliging administrative action and listing the activities that are considered serious infringements.

Moreover, EU decision-makers (including Member States), fishers and civil society do not have the information necessary to assess whether the Control Regulation is effectively implemented in all EU Member

⁶ COMMISSION STAFF WORKING DOCUMENT (2017) 'REFIT Evaluation of the impact of the fisheries regulation Accompanying the document', SWD(2017) 134 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0134&from=en>.

States. This lack of transparency creates a culture of mistrust and has the potential for misinformation and mismanagement. We therefore **request that Member States consider publishing on an annual basis aggregated data on: (a) total budget allocated to fisheries control; (b) number and type of inspections and controls performed; (c) number and type of suspected and confirmed infringements, including serious infringements and (d) the type(s) of follow-up actions to confirmed infringements (simple warning, administrative sanction, criminal sanction, immediate enforcement measure, and/or number of penalty points administered).**

A standardised and transparent enforcement regime would go a long way towards creating a culture of trust, collaboration and compliance in implementing the Common Fisheries Policy.