



## FISHERIES CONTROL AND ENFORCEMENT

Fisheries control and enforcement aims to ensure the correct application of regulations regarding fisheries and to impose compliance with these rules where necessary. In this respect, competences and responsibilities are shared among Member States, the Commission and the operators. Member States which do not comply with these rules can have infringement proceedings taken out against them.

### LEGAL BASIS

Articles 38 to 43 of the Treaty on the Functioning of the European Union (TFEU).

Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006. The regulation has been amended in part by Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy and Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 as regards the landing obligation.

Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of the abovementioned Council Regulation, amended in part by Commission Implementing Regulation (EU) 2015/1962 of 28 October 2015.

Regulation (EU) 2016/1626 of the European Parliament and of the Council of 14 September 2016 amending Council Regulation (EC) No 768/2005 establishing a Community Fisheries Control Agency.

### OBJECTIVES

The control policy seeks to ensure:

- That only the authorised quantities of fish are caught, and that data for managing fisheries is collected;
- Timely execution of the respective roles of Member States and of the Commission;
- Application of the rules to all fisheries, with harmonised sanctions across the EU;



- Traceability throughout the supply chain, ‘from net to plate’.

The adoption of the measures falls within the competence of the Union, while individual Member States are responsible for implementing the measures and applying sanctions in cases of infringements in geographical areas that fall under their jurisdiction.

## ACHIEVEMENTS

The current system was laid down in the Control Regulation which entered into force on 1 January 2010, thoroughly modernising the EU’s approach to fisheries control. In particular, it has brought the system into line with the rigorous measures which the EU adopted in 2008 to combat illegal fishing. The successive reforms of the Common Fisheries Policy (CFP) (from Regulation (EC) No 2371/2002 to Regulation (EU) No 1380/2013) also brought new changes aiming at overcoming longstanding deficiencies. Measures have included, over time:

- a.** Greater cooperation in enforcement and creation of a Joint Inspection Structure (JIS), ensuring the pooling of EU and national inspection and monitoring resources through the European Fisheries Control Agency (EFCA, see below)
- b.** Progressive clarification of competences of the players in the fisheries sector
  - Member States are responsible for the implementation of CFP rules on their territory and in their waters, and also by the vessels flying their flags operating outside these waters.
  - The Commission must ensure that Member States fulfil their obligations equally in terms of equity and effectiveness. It regularly draws up an evaluation report to Parliament and the Council on its action on the application of the CFP rules by Member States.
  - The operators involved in all fisheries activities from catching to marketing, transporting and processing must comply with the specifications of domestic law at each stage of production.
- c.** Better compliance and harmonised application of the rules

Whereas sanctions within Member States have diverged, putting a constraint on the uniform achievement of a common level of compliance, the Commission compiles the CFP Compliance Scoreboard to improve compliance by raising public awareness of how well Member States are performing in their control and enforcement activities.

A list of serious infringements has emerged as grounds for effective, proportionate and dissuasive sanctions in national legislation: since 2012, Member States have been required to introduce a points system for serious infringements for licences linked to specific vessels, to be extended to masters of vessels.

- d.** Checks now carried out at every point in the chain

Fishing vessels cannot leave port without a licence to fish. For every shipment of fish, information must be provided that proves that the fish was caught legally. This system applies to all fishing activities in EU waters, and to all EU fishing vessels and EU nationals, wherever they fish. It also applies to recreational fishing on sensitive fish



stocks and aquaculture, in so far as these are covered by rules at EU level — for instance, to fishing for eel or to certain recreational fisheries for bluefin tuna.

e. Modern technologies applied to monitoring and control have been progressively combined with traditional inspections

They now include the electronic reporting system (ERS or 'e-logbook') used to record data on catches, landings, sales, etc. and to report such data within Member States.

Member States are mandated to exchange data concerning fishing operations (fishing logbook, transshipment declaration, landing declaration etc.). In particular, when a Member State vessel conducts fishing operations in the waters of another Member State, the vessel flag state must, upon request, forward the mandatory data to the latter. This information must be recorded, safely stored and made available to all Member States. Moreover, the data exchange and transmission format is based on the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) P1000 standard.

The vessel monitoring system (VMS) is a satellite-based system providing data at regular intervals on the location, course and speed of vessels (both systems are now compulsory for vessels of over 12 m in length). Non-EU vessels of the same size are obliged to have an operational satellite tracking device installed on board whenever they are in EU waters. The Automatic Identification System (AIS) is an autonomous and continuous vessel identification and monitoring system used for maritime safety and security, gradually extended to all EU fishing vessels of over 15 m in length.

## THE EUROPEAN FISHERIES CONTROL AGENCY

This Agency was set up in 2005 as a key element to improve compliance with the CFP rules. It has improved uniform and effective enforcement by pooling EU and national means in the control, inspection and monitoring of fishing activities and their coordination (via Joint Deployment Plans (JDPs) as its main instrument). The Agency controls target vessels over 12 m in length<sup>[1]</sup>. This operational coordination, as the Agency's core task, has helped tackle the shortcomings in enforcement which resulted from the disparities in the means and priorities of the control systems in the Member States.

With the adoption of Regulation (EC) No 1224/2009, new powers were assigned to the Agency in order to enhance its effectiveness. Its operations are funded by three sources: the EU budget, payment for services provided to the Member States, and income from publications, training and other services that it provides.

In the run-up to the launch of the newly reformed CFP in 2014, the EFCA has focused on new developments to enhance a culture of compliance and a level playing field across the fisheries sector. Particular tools that will allow for new impetus towards this objective include:

- Regional JDPs: the vehicle through which the Agency organises the deployment of the national human and material means of control and inspection pooled by the Member States. JDPs promote the cost-effective use of human and material

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[1]OJ L 343, 22.12.2009, p. 9.



resources of Member States in a coordinated way, and the Agency has started to extend JDPs to include regional and multispecies joint deployment plans (NEAFC, NAFO and pelagic species in western waters). The EFCA envisages an extension to regional, multispecies and permanent fisheries in the very near future.

- Discard ban control strategies: to be implemented preferably through the regional JDPs, enabling strategic decisions to be taken at steering group level, whereby EFCA will help monitor them effectively. Depending on the characteristics of the fishery, different methods will be applied and available tools will be used and tested. This is essential to accompany the new CFP.
- Cost-effectiveness and compliance evaluation focus groups: setting-up of two focus groups to evaluate compliance and cost-effectiveness in control operations.
- Core curriculum: a core curriculum for the training of the fisheries inspectorates of the Member States will for the first time ever contribute to and apply the CFP in a uniform manner.
- EFCA ICT Systems: designed to complement individual national systems. These are unique systems developed by the Agency and made available to Member States to support control of the CFP at EU level. These electronic tools allow for a continuous real-time exchange of data and intelligence, thereby restricting possibilities of manipulation of information and helping to limit non-compliant behaviour.

Since October 2016, in line with Regulation (EU) 2016/1624 of the European Parliament and of the Council establishing the European Border and Coast Guard, EFCA's mission also includes cooperation with the European Border and Coast Guard and the European Maritime Safety Agency, each within its mandate, with the aim of increasing the efficiency of coastguard functions<sup>[2]</sup>. This cooperation arrangement supports national authorities providing common information, surveillance and training services, and planning and implementing multipurpose operations in the maritime surveillance domain.

The European Border and Coast Guard in turn aims to ensure, among its other duties, the collecting and sharing of information relevant to fisheries control, detection of pollution and compliance with maritime regulations.

The European Maritime Safety Agency provides Integrated Maritime Services, based on ship reporting systems (e.g. VMS) and other surveillance tools, to the European Border and Coast Guard and EFCA. These information services include detection, identification and tracking of vessels, monitoring of departure points and anomaly detection, which also facilitate the identification of illegal, unreported and unregulated (IUU) fishing.

An important step towards tackling IUU fishing was taken in June 2016 with the entry into force of the Port State Measures (PSM) Agreement, shepherded by the Food and Agriculture Organisation of the United Nations (FAO) since 2009 and signed by more than 30 nations, including the EU on behalf of its 28 Member States. The PSM

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[2]Coastguard functions may include: maritime safety, security, search and rescue, border control, fisheries control, general law enforcement and environmental protection.



Treaty is the first ever binding international treaty that focuses specifically on illicit fishing, establishing requirements and interventions undertaken by port States, which a foreign fishing vessel must comply with or is subjected to as a condition for use of ports within the port State. These include prior notification of port entry, use of designated ports, restrictions on port entry and landing of fish, documentation requirements and port inspections, as well as related measures such as IUU vessel listing, trade-related measures and sanctions.

## **IMPLEMENTATION OF THE NEW LANDING OBLIGATION**

Since 2014, the CFP has included the obligation to land all catches, putting an end to the wasteful practice of discarding marketable fish back into the sea, starting progressively from 2015. The Common Fisheries Policy Regulation, amended by Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 as regards the landing obligation, regulates a number of technical conservation measures (how and where fishermen may fish, details on types of fishing gear used, closed areas and other measures to protect the marine environment). The current Control Regulation takes account of the landing obligation, including the provisions governing reporting and storage of catches, as well as the establishing of rules for the use of remote electronic monitoring systems (REM) and the carrying of observers on board to monitor compliance.

## **ROLE OF THE EUROPEAN PARLIAMENT**

Parliament has been co-legislator within the ordinary legislative procedure (OLP) since the adoption of the Treaty of Lisbon, playing a central role in the definition of the CFP and its Control Regulation.

Its Committee on Fisheries (PECH) scrutinises the control and enforcement measures of the policy, considering that effective and non-discriminatory implementation of the rules must be one of the fundamental pillars of the CFP; respect for the rules and a coherent approach to control constitute the best way to protect the interests of the fishing sector in the long term. In this regard, acknowledging the existence of substantial differences in the application of the Control Regulation in the Member States, on 25 October 2016 Parliament adopted a [resolution](#) on how to make fisheries controls in Europe uniform. Among the recommendations to ensure compliance with fisheries regulations and the uniformity of control practices are: improving cooperation between Member States by exchanges of inspectors, control methods and data; strengthening the mandate and resources available to EFCA; implementing a uniform curriculum for the training of fisheries inspectors; standardising control procedures and sanctions in the Union; and establishing mechanisms to highlight best practices so as to increase compliance. On 30 May 2018 Parliament adopted a [resolution](#) on the implementation of control measures for establishing the conformity of fisheries products with access criteria to the EU market.

Parliament also reviews EFCA's annual report and approves the discharge of its budget.

*Research for PECH Committee:*

— [Social and Economic Impact of the Penalty Point System \(2016\)](#);



- [The CFP – Infringement Procedures and Imposed Sanctions throughout the EU \(2014\)](#);
- [Illegal, Unreported and Unregulated Fishing: Sanctions in the EU](#).

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