

Department for Environment, Food and Rural Affairs

Summary of responses to the consultation on Commission on the Review of the Control Regulation – 5 May 2009 to 24 July 2009

1. Background

1.1 In 2005 the Commission published a plan for the simplification of the CFP, which identified review and modernisation of the Control Regulation as a key workstream. The problems identified with the current Regulations were grouped into 3 main components:

- A control and inspection framework which has not kept pace with changes in fisheries management, and remains disproportionately focused on activities at sea;
- A low detection rate and lack of effective deterrent sanctions have not encouraged a culture of compliance in a world where too many vessels are chasing too few fish;
- The Commission lacks the powers it needs to exercise full control over the Member States' implementation of CFP rules, and to intervene when necessary to ensure a level playing field.

1.2 In 2008 the European Court of Auditors published a report on the European Commission's management of the CFP and controls applied by Member States to meet its objectives. The report concluded in particular that:

- fishing data collected in Member States are unreliable and incomplete, and are inadequate as a basis for setting Total Allowable Catches (TACs);
- national inspection procedures to detect and prevent infringements are ineffective; and
- the penalties imposed by national authorities when infringements are detected are not sufficiently onerous to act as a deterrent

1.3 As a result of these criticisms the Commission proposed to take a more focused approach to address each of the problems listed above by introducing concrete measures to correct current failings. On the 14th of November 2008 the Commission proposed a new Council Regulation which would replace the existing Control Regulation.

2 Main Elements of the Proposed Regulations:

2.1 Proposed changes to the existing control regime included:

- extending the use of VMS and ERS to all over 10 metre vessels;
- reducing the margins of tolerance when recording catches in the logbook;
- requiring Member States to use Automatic Identification System and Vessel Detection System technology to supplement their monitoring of fishing activity;
- controls on recreational fishing activity;
- a harmonised system of administrative sanctions;

- the introduction of penalty points system for fishing licences, similar to that in use for driving licences;
- giving the Commission greater powers to close fisheries where Member States fail to act;
- giving the Commission power to suspend financial assistance to Member States if they fail to comply with their control obligations;
- extending the scope of the Community Fisheries Control Agency to allow it to assess Member States compliance with their control obligations;
- all vessels to give 4 hours prior notification of arrival in port;
- all fish to be sold through auctions

2.2 In December 2008 the proposed Council Regulation was sent out to stakeholders for comment. Officials in Defra have also been involved in series of discussions and meetings with various stakeholder groups in England since the proposal was first published. Feedback from respondents including views from fisheries officials across the UK formed the basis of the UK's negotiating position in Brussels.

2.3 An Impact Assessment of the proposal was prepared by the Department. This was issued for consultation on 5 May 2009. Below is a summary of the responses.

3. Analysis of responses

3.1 **31 responses** were received to the consultation on the Impact Assessment. Respondents simultaneously commented on both the Impact Assessment and the Commission proposal. Breakdown of responses is as follows:

- **2** from the Sea Fisheries Committee (Northumberland and Kent and Essex)
- **12** from fishing organisations
- **1** from Retail organisation
- **9** from individual fishermen
- **5** from the Angling Society
- **2** from Government Bodies

Out of the responses received to the main consultation, **24** commented specifically on different aspects of the proposed Control Regulation. Of the remaining 7, **2** of the letters received were irrelevant to this consultation as they focused on other fisheries consultation exercises carried out in the Department. The remaining **5** commented on the proportionality of some aspects of the costs that have been estimated to be imposed by the proposed Regulations. These comparisons were made in relation to the current costs incurred from implementing the existing Control Regulations.

Out of the 31 responses received, **5** openly agreed in principle with the proposed Regulations. These were the Environment Agency, Food and Drink Federation, Thorpe Bay Fishing Organisation, SWFPO and The Worshipful Company of Fishmongers (Fishhall). Some respondents partially agreed with some aspects of the proposed Regulation while others felt that the proposed Regulation would increase admin burden levels on both businesses and Fisheries Administrations.

4. Brief summary of views of respondents

- Respondents generally felt that the new proposal gave some message of hope for the future management of fisheries around the coasts of the UK. There was a view that the proposed measures will be beneficial to all stakeholders not just the commercial and the RSA.
- The proposed Regulation would ensure complete accountability and traceability of fish landing data in terms of effort reporting.
- The proposed introduction of electronic reporting systems would create additional administrative and funding difficulties on the industry.

Article	Comments
<p>Article 4: Definitions</p>	<p><i>Proposed Regulation</i></p> <p>Respondents felt that some individual definitions in the proposed Regulation such as ‘fishing in restricted areas’ needed more clarity. Their opinion was that the current definition in the proposal could potentially lead to misinterpretation.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 9: Vessel Monitoring System</p>	<p><i>Proposed Regulation</i></p> <p>There was a mixed reaction about this provision. Some respondents felt that the provision could have financial implications on vessels concerned as they might have already fitted various electronic gadgets to their vessels. The addition of VMS terminals would therefore increase the number of transmissions on vessels and the costs of operating the various systems. Others suggested that the provision should be extended to include all licensed fishing vessels including the under 10s.</p> <p><i>Impact Assessment</i></p> <p>Respondents felt that the IA only considered costs associated with communications and not costs for maintaining and insuring the equipment. Several respondents felt that the Government should provide funding for the equipment to ease the financial burden on</p>

	businesses.
Article 10: Automatic Identification System	<p><i>Proposed Regulation</i></p> <p>Majority of respondents were in support of this proposal but felt that the costs of installing AIS will be a big problem. Others who supported the measure in principle had few misgivings on issues like:</p> <ul style="list-style-type: none"> • training of the skippers and crew to use and become familiar with the IT system <p>Only one respondent opposed the proposal and said that AIS was not necessary as vessels already had satellite monitoring on board.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
Article 14: Completion and Transmission of the logbook	<p><i>Proposed Regulation</i></p> <p>Respondents commented that the 15kg rule for species subject to Management Plan was too excessive and should be increased to 50kg. Some said that the proposed 5% margin of tolerance to be permitted was not enough as discrepancies in figures could still occur. Others wanted the definition of discards to be made clearer. Their opinion was that registering their discards with the Competent Authority will constitute a significant administrative activity.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
Article 15: Electronic completion and transmission of logbook data	<p><i>Proposed Regulation</i></p> <p>Majority were not in favour of this proposal. Their opinion was that the provision would only have a direct benefit to Fishing Administrations by making information much easier for them to collect and collate. Only one respondent approved of this provision in principle. His support was based on the principle that any IT system to be provided should be made user friendly.</p> <p><i>Impact Assessment</i></p>

	<p>Respondents felt that the £1.5-2million savings calculated in the IA was quite impressive; however, the evidence on which this assumption was based (the SHEEL trial) should be made publicly available.</p> <p>Some said that electronic data captured from fishroom weighing machines would increase efficiencies and reduce human error; Others said that manually typing data from notes taken in the fishroom into a database will not constitute any real time saving when compared to writing the data onto a paper logbook.</p>
<p>Article 17: Prior Notification</p>	<p><i>Proposed Regulation</i></p> <p>Many respondents felt that this provision would mean greater burden for inshore fishing boats. This was because fishermen could sometimes finish their working day literally two miles from the harbour and this would make it impossible to comply with the 4 hours notification obligation.</p> <p>Other problems which were also identified were inconsistent weather change which might mean an earlier return to harbour than envisaged or unexpected problems with gear e.g. tearing nets.</p> <p>Some said smaller boats could still be fishing close to port and might not be able to provide accurate prior notification information. They suggested that the four hours prior notification be reduced to two hours to enable coastal vessels to comply with the rules. Others proposed that all vessels should be allowed to record their catch by electronic logbooks.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 18/19: Transshipment and Transmission operations</p>	<p><i>Proposed Regulation</i></p> <p>Respondents were generally content with these provisions but worried about the unavailability of inspectors to monitor the activities of fishermen at sea.</p> <p><i>Impact Assessment</i></p> <p>SEAFISH commented that this proposal</p>

	<p>might mean extra trips by vessels for the purpose of transshipment into ports. This could lead to increase in Carbon and other Environmental impacts of the IA.</p>
<p>Article 21/22: Landing declaration and requirements</p>	<p><i>Proposed Regulation</i></p> <p>Respondents felt that the under 10m vessels might not be able to comply with these proposed provisions when it is imposed on them in future.</p> <p>They suggested that a uniform consistent procedure for reporting should be applied across the UK to avoid future discrepancies and a weakening of the UK effort reporting process.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 27: Closure of Fisheries by the Commission</p>	<p><i>Proposed Regulation</i></p> <p>Only one organisation commented on this provision. They wanted clarity from the Commission about the criteria that it would use to conclude that fishing opportunities have been exhausted by a Member State.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 30/31/32:Fishing Capacity/Engine Power</p>	<p><i>Proposed Regulation</i></p> <p>The Sea Fishery Committees were the only respondents that commented on these proposals. They were in support of them and said that the provisions would address minor problems associated with fishermen who have 2 engines and operate both for fishing without having the appropriate licence entitlement. They said that any measures applied across the UK to increase enforcement of engine rating would improve compliance.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 33: Monitoring of Multiannual Plans/Transshipment in port</p>	<p><i>Proposed Regulation</i></p>

	<p>There was a general concern that this provision would incur additional costs on vessel owners. Respondents commented that though the Commission had made efforts to reduce the burden on the pelagic fishing fleet, the restrictions in the provision would increase financial burden on vessel owners.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 34: Designated Ports</p>	<p><i>Proposed Regulation</i></p> <p>Respondents were not in support of this provision. They felt that specified restrictions on designated ports would reduce the number of places where species subject to Multiannual Plans will be landed. They felt that this would eventually lead to increase in fuel costs for vessel owners looking for the appropriate port to land their stocks. One respondent suggested that the MFA should carry out a scoping exercise to assess whether there is sufficient capacity at designated ports to allow landing of those species that might be affected.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 35: Separate Stowage of recovery species</p>	<p><i>Proposed Regulation</i></p> <p>Respondents felt that this provision would lead to additional costs for the industry. This was because recovery species would have to be stowed separately from other fishery. This could reduce the carrying capacity of vessels involved in this fishery as well as create costly fishing trips</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 39/40: Fishing in Restricted Areas</p>	<p><i>Proposed Regulation</i></p> <p>On these provisions, funding and maintenance were the 2 main problems for most respondents. Respondents believed</p>

	<p>that if the Government had agreed to fund VMS for all over 10m vessels then similar provisions should be made for all under 10m vessels who would equally be affected by the provisions.</p> <p>Others were concerned about the proposed minimum transit speed of 6 knots. They felt that this could cause navigational as well as safety problems for crew members especially if some vessels were unable to reach and maintain the proposed 6 knots speed.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 41/42: Registration of discards/Logbook checks (DELETED)</p>	<p><i>Proposed Regulation</i></p> <p>Some respondents were concerned as to why these provisions were deleted since accurate recording of discards was vital to the data on fish stocks. Others believed that keeping these provisions would increase fish waste.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 43/43a: Real Time Closure of Fisheries</p>	<p><i>Proposed Regulation</i></p> <p>Some respondents felt that these provisions would be effective if all fishing sectors were bound by these arrangements.</p> <p>SFCs said that the proposed provisions in 43a would not be appropriate within inshore fisheries. This was because variations occur in seabed type, in terms of the abundance of fish in different areas. Smaller vessels would therefore find it impossible to comply with the proposed provision.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 44: Real Time Closure by Member States</p>	<p><i>Proposed Regulation</i></p> <p>The SFCs advised that this provision should be carefully considered. They were concerned about the measures that would be taken by the Government to inform fishermen about these closures in circumstances where they were still fishing at</p>

	<p>sea. They were concerned about the communication methods to be used and how long a vessel would be asked to wait for. They wanted the safety of the crew to be considered as well.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 47: Recreational Fisheries</p>	<p><i>Proposed Regulation</i></p> <p>There was a mixed reaction across the spectrum of respondents. Some wanted a clearer definition about RSA as there was confusion in the definitions for different fishing for non-commercial purposes in the UK.</p> <p>Some were concerned that the charter boat industry which was worth significant amounts and was the main economy of the coastal regions could be adversely affected by an imposed ruling from the Commission.</p> <p>Some were worried about how the catch composition will be monitored. The SFCs in particular felt that it would be useful to include clear and workable definitions of 'marketing of catches'.</p> <p>The commercial sector in general vigorously opposed to recreational catch being counted as part of commercial fish quotas.</p> <p>Seafish Organisation wanted the UK to draw up guidelines that would ensure that any share of the quota taken away from commercial sector was done in collaboration with Fishermen's Organisations. They believed that this would minimise any damaging consequences to commercial fishing and those involved.</p> <p>Others wanted the detailed rules on the application of this proposal to take account of catch-and-release in RSA fisheries. This was because of the reduced survival rate of the released fish.</p> <p><i>Impact Assessment</i></p> <p>Respondents were interested to see the administrative costs that this provision would bring on the Government. They felt that the costs that would be incurred from authorising the licences and recording the catches for RSA vessels involved in stocks subject to</p>

	<p>multiannual plan should be made public. Respondents also felt that there would be costs associated with data collection and this should be reflected in the IA</p> <p>There was also the general opinion that some charter boats could be decommissioned due to reduced participation in RSA. Such decommissioning should be subject to the same compensation scheme that has been given to the commercial sector. The cost for decommissioning the boat should again be reflected.</p>
<p>Article 48: Principles for the Monitoring of Marketing</p>	<p><i>Proposed Regulations</i></p> <p>Respondents felt that this provision would be workable for fish sold in auction markets alone. However, the proposed provision would be impractical for the large percentage of fish sold through merchants.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 52-56: Post Landing Activities</p>	<p><i>Proposed Regulation</i></p> <p>These provisions created a mixed reaction across the board. Some respondents felt that the provisions were impractical particularly in circumstances where fish were landed into whole sale markets. Some were in support of the weighing of fish and the submission of sales notes as this was crucial to achieving full accountability of catches. Others like the NFFO welcomed the extension of time limit from two hours to six hours for electronic submission of sales notes.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
<p>Article 58: Transport Documents</p>	<p><i>Proposed Regulation</i></p> <p>Respondents felt that the Commission should make clear the definition of a transporter as either a registered buyer/seller or an agent of a fishing vessel.</p> <p><i>Impact Assessment</i></p>

	No comments
Article 81-85: Enforcement	<p><i>Proposed Regulation</i></p> <p>Respondents were generally content with proposed provisions but suggested that careful planning needed to be made if they were to work in the UK. This was because no one rule is implemented in the same way across the different parts of the UK. Others presumed that though some sort of scale would apply, in the interests of a level playing field the same principles should be applied across all Member States.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
Article 95/96: Financial Measures/Closure of Fisheries	<p><i>Proposed Regulation</i></p> <p>Respondents felt that the industry would be deprived of support if financial assistance was withdrawn by the Commission. There were general concerns about the effect that the closure of a fishery would have on other Member States.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
Article 97: Deduction of Fishing Quotas	<p><i>Proposed Regulation</i></p> <p>Respondents commented that POs already did this therefore no intervention was required from the Commission.</p> <p><i>Impact Assessment</i></p> <p>No comments</p>
Article 101: Emergency Measures	<p>All respondents were in support of this provision as they felt that conservation and preservation were important to sustainable fisheries.</p>

5. Government Position

5.1 Discussions between the Commission and Member States have continued more or less non-stop and concluded on the 23rd of October. During these negotiations, the UK has been able to secure a number of significant improvements to the proposed Regulations. In particular we have been successful in arguing for:

- the threshold for the use of VMS to be increased to 12 metres
- significant changes to Article 47, dealing with recreational fishing. As a result of this, there is no longer to be a full blown licensing and management regime;
- no extension of the powers of the CFCA to do the Commission's job of monitoring Member States Compliance;
- removal of the requirement for all sales to be conducted through auctions.

5.2 The proposal was adopted by Fisheries Ministers on 20 October 2009. Further valuable concessions were achieved at that meeting, including:

- adoption of a single, 10%, margin of tolerance for all species
- removal of the requirement for recreational catches to count against quota; and
- removal of a proposed harmonised minimum level of penalty for serious fisheries infringements

6. Next Steps

6.1 The proposed Regulation will enter into force on 1 January 2010. Detailed rules must however be adopted before many of the provisions can be implemented. These will be the subject of further consultation with stakeholders in the coming months.

6.2 If you have any queries about this summary of responses please contact Eileen Ashamu on 0207 238 4437 or email Eileen.Ashamu@defra.gsi.gov.uk Further information about the consultation can be found at <http://defraweb/corporate/consult/fisheries-control/index.htm>.