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1. Introduction and background

Council Regulation (EC) No 1224/2009[1] ('the Control Regulation') provides for an EU fisheries-control system to ensure compliance with the rules of the common fisheries policy[2] (CFP). Together with the regulation on illegal, unregulated and unreported (IUU) fishing[3] and with the Regulation on the sustainable management of external fleet[4], the Control Regulation lays down rules and measures for control, inspection, and enforcement based on a global and integrated approach.

Stakeholders involved in the governance and implementation of the fisheries-control system comprise the Member States, the European Commission, the European Fisheries Control Agency (EFCA)[5] and commercial operators. The Control Regulation applies to the whole chain of fishing activities from the net to the plate.

This document responds to the legal obligation for the Commission to report to the European Parliament and the Council on the application of the Control Regulation in the Member States every 5 years (Article 118(2)).

In 2017, the Commission adopted the first report on the implementation and evaluation of the Control Regulation covering the first 5 years (2010-2014) since its entry into force[6]. The evaluation showed that the Control Regulation is essential for achieving the CFP's objectives and for enforcing conservation and management measures. The principles and provisions of the Control Regulation tackle issues that have in the past led to extensive overfishing and poor compliance with fisheries rules. The analysis in the first report also showed that Member States had implemented the main provisions of the Control Regulation but due to the complexity of the rules and the time needed for adaptation, implementation of some of the provisions was in some cases delayed. The report also concluded that, although the Control Regulation helped to improve both the fisheries-control system and compliance with the CFP rules, it was not entirely fit for purpose (see Section 3.1). To address the identified shortcomings, the Commission adopted a proposal in 2018 to revise the EU's fisheries-

1 OJ L 343, 22.12.2009, p. 1–50

2 OJ L 354, 28.12.2013, p. 22–61

3 OJ L 286, 29.10.2008, p. 1–32

4 OJ L 347, 28.12.2017, p. 81-104

5 https://www.efca.europa.eu.

6 COM(2017)192 final

control system[7]. This proposal is currently under negotiation with the Council and European Parliament.

This second report provides an overview of the application of the core provisions of the Control Regulation for the period 2015-2019.

The information presented in this document relies on: (i) the data reported by Member States under Article 118 of the Control Regulation[8]; (ii) Commission observations derived from audits, verifications and inspections carried out according to Title X of the Control Regulation; (iii) information from following up on these audits, verifications and inspections; (iv) discussions held as part of the expert groups on fisheries control and on compliance; and (v) other dedicated activities (e.g. workshops, meetings).

2. Implementation of the Control Regulation by Member States

Member States are responsible for ensuring the correct implementation of the fisheries-control system. In 2015-2019, Member States continued to improve implementation of the Control Regulation. Improvements were made in areas where shortcomings had been identified in the previous reporting period, notably: (i) the sanctioning and point systems; (ii) monitoring of small vessels; (iii) reporting of catch data from small vessels; and (iv) exchange of data. Although these improvements are welcome, the digitisation of fisheries data remains incomplete, and more efforts are needed in this field. Similarly, although there were improvements in Member States' sanctioning systems (including by the establishment of point systems), more needs to be done to ensure the effective and equal application and enforcement of these measures. Greater detail on these points is provided in the sections below.

2.1. Conditions for access to waters and resources and control of fleet management

To ensure that fishing activities are undertaken in line with the rules of the CFP, these activities require a **fishing licence** and, when specific conditions apply, a **fishing authorisation**. The total number of valid fishing licences reported by Member States decreased slightly in 2015-2019, from almost 96 000 valid fishing licences in 2015 to about 91 000 in 2019. During this period, Member States reported more than 1 500 fishing licences being temporarily suspended and more than 1 100 permanently withdrawn. The number of fishing authorisations increased from 30 500 in 2015 to more than 38 500 in 2019, with 154 being temporarily suspended and 187 permanently withdrawn.

To ensure effective control, Member States must operate a **vessel-monitoring system (VMS),** and fishing vessels with a length overall (LOA) of 12 metres or more must be equipped with a device enabling competent authorities to automatically locate and identify them. However, some vessels might be exempt from this requirement if they: (i) are between

[7] COM(2018)368 final

[8] An extensive and detailed summary of data reported by Member States is provided in the Synopsis Report of data reported by Member States according to Article 118 of the Control Regulation, available at Circabc (europa.eu) together with the original reports submitted

12 metres and 15 metres LOA and operate exclusively within the territorial seas of the flag Member State; or (ii) never spend more than 24 hours at sea from the time of departure to the time of return to port. Analysis of reported data by Member States suggests that although this derogation is still widely applied, VMS coverage for vessels between 12 metres and 15 metres LOA increased from about 35% in 2015 to 40% in 2019.

The **control of engine power** is a key element of the EU's fisheries-control system. Engine power and the gross tonnage of fishing vessels are the two capacity indicators regulated through the entry/exit scheme[9]. They are also the two capacity indicators for which the CFP sets ceilings. For these reasons, the management of fleet capacity, including the entry/exit scheme for the EU's fishing-fleet register[10], depends on accurate and reliable recording of these two parameters. The accuracy of declarations of engine power by Member States is crucial for ensuring that the capacity limits of their fleets are not exceeded and therefore the EU's fleet capacity remains consistent with a fishing effort that avoids overfishing of stocks. In 2019, the Commission published a study on the verification of engine power in 15 Member States[11]. The study revealed non-compliance to be widespread across all Member States, areas, and vessel types included in the study. The findings raise questions about the overall compliance of Member States with the fishing-capacity ceilings and with the entry/exit scheme. The study also confirmed that the current provisions on the control of engine power are not entirely fit for purpose. Furthermore, the physical testing of engine power is expensive and cumbersome, both for authorities and for operators. This physical testing is also often ineffective, as the engine output may be discreetly altered during or after testing. Therefore, it seems appropriate to move to a system of 'continuous engine monitoring' at least for certain fleet segments. Moving to such a system was already proposed by the Commission in its proposal for a revised fisheries-control system.

To better monitor fleet data and fleet capacity at EU level, the Commission updated the EU's fleet register[12,13]. The register includes a database that is partly publicly available.

2.2. Catch reporting tools, weighing and traceability

To facilitate effective monitoring, EU fishing vessels of 10 metres LOA or more are obliged to keep a **fishing logbook**. For vessels of 12 metres LOA or more this must be in electronic form (e-logbook), although an exemption may permit certain **vessels between 12 metres and 15 metres** LOA to use a paper-logbook[14]. The data show a general trend of decreasing use of

9 OJ L 169, 30.6.2017, p. 1–7

10 OJ L 34, 9.2.2017, p. 9–177

11 https://publications.europa.eu/en/publication-detail/-/publication/a867cbac-8e90-11e9-9369-01aa75ed71a1/language-en/format-PDF/source-99423821.

12 For the general public, an excel file with data from the application was regularly posted on Europa since June 2018. The web application visible today was released in December 2019.

13 https://webgate.ec.europa.eu/fleet-europa/index_en.

14 Member States may exempt vessels of between 12 metres and 15 metres LOA that: (a) operate exclusively within the territorial seas of the flag Member State; or (b) never spend more than 24 hours at sea from the time of departure until their return to port.

the paper-logbook, although its use is still widespread. The number of vessels above 12 metres LOA that had an e-logbook rose from 4 800 in 2014 to almost 8 700 in 2019. This increase is thanks to the increased coverage of e-logbooks in vessels of between 12 metres and 15 metres, where e-logbook coverage increased from 30% to 40%. In addition, the percentage of vessels between 10 metres and 12 metres LOA that used e-logbooks rose from roughly 2% in 2014 to 11% in 2019.

Monitoring of catches for **vessels below 10 metres LOA** must be carried out by sampling plans, paper-logbooks, or sales notes. The proportion of vessels subject to each of these monitoring methods was quite stable across the reporting period, with a few percentage points in variation across the years. Sampling plans was the most frequently used type of monitoring method. In addition to these forms of control, some Member States introduced e-logbooks, and while the reported numbers of such vessels are admittedly quite small, they increased from about 100 in 2015 to 450 in 2019.

Because paper reporting is considered to be ineffective and to generate extensive administrative burden[15], the Commission's proposal for a revised EU fisheries-control system aims to fully digitise reporting across all fleet segments, in line with the EU digital strategy[16]. The measures proposed in this field at EU level are in line with available technologies. The proposed measures also aim at avoiding distortions to the level playing field that might arise if Member States adopt these new technologies unilaterally. In this context, in December 2018, the Commission organised a workshop on **digital tools for small-scale fisheries**[17]. The workshop covered: (i) digital tools for vessel monitoring; (ii) digital tools for catch reporting; and (iii) a session focused on the European Maritime Fisheries Fund (EMFF) as a funding mechanism. The workshop provided an opportunity to share: (i) knowledge; (ii) best practices; and (iii) trends and developments on digital solutions for monitoring and controlling small-scale fisheries. Overall, participants in the workshop were in favour of technological innovation, although they raised reservations about costs and economies of scale in equipping a larger proportion of the EU fleet with digital tools. On this issue, the Commission proposal for the European Maritime, Fisheries and Aquaculture Fund (EMFAF) 2021-2027[18,19] supports the purchase and installation of equipment for compulsory vessel tracking and electronic reporting systems on small-scale coastal fishing vessels[20] with a 100% aid-intensity rate.

Concerns remain about **traceability**, even though there has been progress in this area and Member States have sought different solutions to ensure the traceability of fisheries products.

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15 SWD(2018)280 final

16 Shaping Europe's digital future | Shaping Europe's digital future (europa.eu).

17 https://ec.europa.eu/oceans-and-fisheries/news/workshop-digital-tools-small-scale-fisheries-brussels-4-5-december-2018-2018-11-30_en

18 COM(2018)390 final

19 https://ec.europa.eu/oceans-and-fisheries/news/commissioner-sinkevicius-welcomes-provisional-political-agreement-european-maritime-fisheries_en

20 Small-scale coastal fishing is carried out by fishing vessels below 12 metres LOA and not using towed fishing gears.

There are gaps in the information chain due to the continued use of both paper and electronic information as well as the lack of harmonised data standards. These gaps have not yet been resolved. Implementation of the existing traceability rules under the Control Regulation has proved to be a challenge for many Member States. This has been due to: (i) the lack of coordination between different authorities in charge of controls in the supply chain; (ii) the differing interpretations of the applicability of traceability provisions; and (iii) confusion over the traceability provisions of the General Food Law[21]. These findings confirm the outcome of the previous evaluation of the Control Regulation, which attributed the shortcomings in its implementation to the lack of clarity in the current legislative framework. These findings are also further confirmation of the relevance of the Commission proposal to revise the fisheries-control system. To help tackle these issues, in October 2019, the Commission organised a **workshop on the traceability of fisheries and aquaculture products**[22]. The workshop covered: (i) the proposed changes to the traceability requirements in the ongoing revision of the Control Regulation; and (ii) presentations of different systems and technologies currently being implemented by Member States and industry in the area of fishery-product traceability. Key discussion points raised in the workshop included the importance of interoperability between systems and how to ensure efficient implementation for the benefit of all concerned, i.e. authorities, operators and final consumers.

Quota management is one of the main pillars of fisheries management under the CFP. The accurate weighing, registration and traceability of fishery products is essential: (i) for control purposes; (ii) for the monitoring of quota uptake; and (iii) to ensure the long-term sustainability of fishing activities. Commission audits and verifications, conducted in selected Member States[23], have highlighted significant shortcomings in the **weighing, registration and traceability** of catches. These deficiencies have: (i) undermined the level playing field in the application of rules between Member States; (ii) facilitated overfishing; and (iii) resulted in the underreporting of catches. All three problems jeopardise the objectives of the CFP. The Commission has taken action to address the identified shortcomings (see Section 3.3) and will continue to evaluate Member States' application of the rules on weighing, catch registration and traceability.

21 OJ L 31, 1.2.2002, p. 1–24

22 https://ec.europa.eu/oceans-and-fisheries/news/traceability-fisheries-products-know-what-you-buy-2019-10-10_en

23 Denmark, Ireland, Belgium and the Netherlands.

2.3. Specific control inspection programmes (SCIPs)

The **specific control and inspection programmes** (SCIPs) adopted by the Commission for five EU sea basins[24] have been implemented by Member States at national and regional level. The EFCA has assured operational coordination of inspection activities at regional level through the joint deployment plans (JDPs). The total number of inspections carried out as part of the JDPs almost doubled from 2015 to 2019, with more than 32 000 inspections carried out in 2019. The percentage of suspected[25] infringements for both sea-based inspections and land-based inspections also doubled in the same period, with averages across years and sea basins ranging from 2% to more than 24%[26]. The large majority of the suspected infringements identified during the JDP sea- and land-based inspections related to misreporting of catches and non-compliance with rules on technical measures[27]. In 2019, suspected infringements related to misrecording accounted for more than 40% of the total number of detected suspected infringements in the Black Sea and North Sea. Misrecording infringements reached almost 60% of suspected infringements in the Baltic Sea, and rose to 75% in the JDPs for the 'western waters'of the North-East Atlantic. In the Mediterranean JDP, suspected infringements related to non-compliance with rules on technical measures accounted for 30% of all infringements, while misrecording accounted for 25%, and the remaining 45% of detected suspected infringements related to non-compliance with management rules or traceability.

In recent years, intelligence in fisheries control has benefited from the use of **new technologies**, such as earth-observation technologies. In 2019, the EFCA used **satellite remote sensing** for vessel detection, target identification, and other specific monitoring tasks.

2.4. Control of the landing obligation

The **landing obligation**, which came fully into force in January 2019, is one of the core parts of the reformed CFP. Since its phased introduction began in January 2015, Member States have made little progress in controlling and enforcing its application. The Commission has conducted a number of audits to evaluate the measures adopted by Member States to: (i) ensure control and enforcement of the landing obligation; and (ii) ensure the accurate documentation of all catches. The findings of these audits (in conjunction with other reports such as: (i) compliance evaluation reports prepared by the EFCA in cooperation with regional control expert groups[28]; (ii) Member State reports; and (iii) reports from environmental non-governmental organisations all point towards a poor level of compliance with the landing obligation. The findings also indicate that there is extensive, illegal and undocumented

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24 The Eastern Atlantic and Mediterranean Sea; the Black Sea; the Baltic Sea; the North Sea and ICES division IIa; the Western Waters of North Eastern Atlantic.

25 The term 'suspected infringements' refers to infringements detected by an inspector and reported in the inspection report, before a decision is taken by the competent authority or by a judge.

26 https://www.efca.europa.eu/sites/default/files/EFCA%20Annual%20Report%20for%20year%202019.pdf.

27 OJ L 198, 25.7.2019, p. 105–201

28 https://www.efca.europa.eu/en/content/compliance-evaluation.

discarding of catches in several sea basins. The success of the landing obligation depends, among other things, on Member States introducing appropriate measures to ensure control and enforcement of fishing activities at sea. Such measures would promote compliance and incentivise the fishing industry to avoid unwanted catches in the first place – an objective of the CFP. Remote electronic monitoring (REM), incorporating closed-circuit television and sensors, has been demonstrated as the most cost-effective means for Member States to ensure control and enforcement of fishing activities at sea. For this reason, the Commission's proposal to revise the EU's fisheries-control system provides a legal basis for the mandatory, risk-based use of REM, as the most effective and cost-efficient means to control the landing obligation at sea. In 2019, the EFCA developed, in cooperation with Member States, technical guidelines and minimum specifications for REM[29].

2.5. Inspections and enforcement

The number of **people authorised by Member States to perform fisheries inspections** rose from about 12 750 in 2015 to almost 14 400 in 2019, with inspectors ranging from about 4 to 5 000 full-time equivalents per Member State. Comparing the ratio of full-time and part-time fisheries inspectors, about 1 in 3 inspectors has control of fisheries as their main task. It is difficult to assess any real increase in staff numbers dedicated to fisheries control because the powers of inspectors vary across Member States[30]. Nevertheless some Member States highlighted that they suffered from understaffed inspectorates, which may compromise the effectiveness of their control systems.

Member States reported a total of about 450 000 **inspections** in 2015-2019. Comparing the ratio of inspections across the four principal locations, 48% were performed in port/at landing, 26% on the market, 22% at sea, and 4% during transport.

Member States reported 1 147 patrol vessels used for fisheries inspection in 2015, rising to 1 256 in 2019, with a total of almost 100 000 patrol days at sea over the 2015-2019 reporting period, compared to the 56 000 patrol days at sea reported for 2010-2014. In addition, Member States also reported an increase in surveillance aircraft dedicated to fisheries control and surveillance, rising from 72 in 2015 to 76 in 2019, with a total of almost 30 000 surveillance hours carried out in 2015-2019. There has also been an increase in the use of new technologies for fishery surveillance. In 2015, 2 Member States reported the use of drones, with a total of 8 drones used, while in 2019, 7 Member States used drones, with a total of 39 devices in operation.

In 2015-2019, Member States identified in total more than 65 000 **suspected infringements**, with an annual figure which oscillated between 12 000 and 14 000. The number of **serious infringements** showed a general upward trend, rising from about 3 000 in 2015 to 3 500 in 2019. On average, around 1 in 10 inspections identified infringements.

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[29] https://www.efca.europa.eu/en/content/technical-guidelines-and-specifications-implementation-remote-electronic-monitoring-rem-eu.

[30] A variety of national agents can be considered inspectors, ranging from specialised fisheries inspectors to police and agents working as custom officers.

The most commonly suspected infringements are traceability infringements (28%), followed by fishing-logbook and landing-declaration infringements (22%), and infringements of control rules contained in multi-annual plans[31] (20%). For the least frequently suspected infringements, Member States reported no infringements – or almost no infringements – of: (i) monitoring of price and intervention arrangements; (ii) common organisation of markets; or (iii) weighing after transport.

In 2019, the Commission launched a study on Member States' **sanctioning systems**[32]. The objective was to provide an in-depth analysis and assessment of the functioning of national sanctioning systems, and in particular on the sanctions applied by Member States for infringements between 2015 and 2019. The results of the study indicate that the necessary legal framework in the Member States is mostly complete and that many Member States have improved their legal framework in the last 5 years. At the end of 2019, all but one Member State had in place a point system for licence holders and masters of fishing vessels. Nevertheless, in some Member States the implementation of the **point system** has been delayed or is not yet operational. Moreover, there are significant differences between countries in the duration of the proceedings for the sanctioning process and in the level of sanctions imposed. These findings show that although the situation improved in 2015-2019 compared to 2010-2014, more should be done to ensure a level playing field. They also show that more should be done to ensure the effectiveness, dissuasiveness and proportionality of sanctions applied in each Member State. Among its primary objectives, the revision of the fisheries-control system proposed by the Commission in 2018 aims to remove current regulatory obstacles that hinder equal treatment of operators and fair competition across the EU.

2.6. Data and information

Member States are regularly reporting **catch and effort data** to the Commission. This makes it possible to monitor total allowable catches and quota consumption. Ensuring data quality is a key element of the work by Member States and the Commission to improve quota monitoring, with data quality ensured by appropriate data validation and crosschecking. On the obligation to set up an automated **crosscheck and data-validation system,** 22 out of 23 Member States report having set up such a system, but only 12 of these 22 have already automated their systems. An additional 6 Member States plan to implement automation by 2021. More delays in automation are still observed in 4 Member States. A few Member States report the implementation of automated crosschecks as a major achievement in 2015-2019.

To improve the effectiveness and efficiency of data exchange, the Commission in 2016 set a binding timetable for Member States to introduce the **FLUX** (fisheries language for universal exchange) **standard for fisheries data management**[33]. With the FLUX standard, regional

[31] https://ec.europa.eu/oceans-and-fisheries/fisheries/rules/multiannual-plans_en

[32] Study on the sanctioning systems of Member States for infringements to the rules of the Common Fisheries Policy', https://op.europa.eu/en/publication-detail/-/publication/dfb452c8-c4df-11eb-a925-01aa75ed71a1

[33] http://www.unece.org/uncefact/unflux.

fisheries-management organisations and countries around the world can for the first time use a single, universal code to automate the collection and dissemination of their fishery catch data. The standard is also harmonised with standards used for taxes and food traceability. During the past 5 years, the level of progress in the implementation of FLUX has varied among Member States and across domains. The exchange system FLUX Transportation Layer (FLUX TL) is now operational in the Commission and in 22 out of the 23 Member States concerned. All exchanges of fisheries data take place via a central data-exchange platform hosted by DG MARE, and this platform can be used to send validated data and content in standard formats to the Commission. Data exchanges in these formats are either in place or progressing well in most Member States for the following categories of data: fishing activity, sales notes, vessel position, fleet data, and aggregated catch data.

3. Implementation by the Commission

The Commission played a key role in helping the Member States to implement the Control Regulation and in monitoring their compliance with the Regulation. In particular, the Commission: (i) enabled the exchange of fisheries data by developing the necessary IT infrastructure; (ii) carried out numerous audits and verifications and followed up on these audits and verifications; (iii) assisted the Member States in interpreting the legislation; and (iv) organised many expert groups on fisheries control. All these activities, together with the operational coordination offered by the EFCA, have substantially helped to improve the implementation of the Control Regulation during the reporting period.

3.1. Legislation and policy development

In 2017, the Commission adopted the report on the implementation and evaluation of the Control Regulation[34]. In line with Article 118(3), the report assessed the implementation of the Regulation and its impacts on the CFP 5 years after its entry into force. As part of the 2015 regulatory fitness and performance programme (REFIT)[35], the report also assessed whether the Control Regulation was still fit for purpose, thus focusing on simplifying and reducing regulatory burden. The results showed that, although the Control Regulation had helped to improve the fisheries-control system and increase compliance with the CFP rules, it was not entirely fit for purpose. The report highlighted a number of key challenges that the EU and its Member States needed to address to ensure: (i) sustainable fisheries; (ii) a level playing field among operators; and (iii) better synergies with other policies notably on the environment and markets. A special report of the European Court of Auditors[36], a Resolution

[34] COM(2017)192 final

[35] Regulatory Fitness and Performance Programme (REFIT) State of Play and Outlook 'REFIT Scoreboard', SWD(2015)110 final

[36] Special report 'EU fisheries controls: more efforts needed' https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=41459.

by the European Parliament[37], and an opinion of the REFIT platform[38] have also shown that the EU fisheries-control system has its faults and is overall not fit for purpose.

The Court of Auditors in particular raised concerns about the following issues: (i) the accuracy of Member States' fleet registers (on engine power and gross tonnage); (ii) the high dependence on unreliable paper-based catch-reporting systems; (iii) the lack of effective monitoring of the small-scale fleet; (iv) the need to set up a data-exchange platform to facilitate the sharing of fisheries data between Member States; (v) the lack of standardised fisheries-inspection protocols; and (vi) the need to implement a system to exchange data on infringements and sanctions between Member States.

In June 2017, the Commission launched a political initiative to revise the EU fisheries-control system. As part of this initiative, in October 2017 the Commission published an inception impact assessment, followed by targeted stakeholder consultations in November and December 2017. This resulted in the Commission adopting in May 2018 a **proposal to revise the EU's fisheries-control system**[39]. The proposal aims at: (i) strengthening the enforcement provisions; (ii) ensuring better quality and better sharing of fisheries data and information, in particular for small-scale and recreational fisheries; (iii) filling the gap with the CFP in control of the landing obligation; (iv) reducing administrative burden; and (v) enhancing synergies with other policies. The current analysis of the Control Regulation implementation for the period 2015-2019 shows that all these issues are still relevant. The proposal is currently undergoing the ordinary legislative procedure and being examined by the European Parliament and Council. The objectives of the revision are fully in line with the European Green Deal[40], using the benefits of the digital transformation to support ecological transformation. It is also part of Commission's 'farm to fork' strategy[41], insofar as the revised fisheries-control system will fight against food fraud and help food sustainability through an improved traceability system.

The REFIT evaluation highlighted the importance of the SCIPs. SCIPs are considered by all stakeholders to be indispensable for effective inspections and for strengthening cooperation among Member States in EU and international waters. In 2017, in collaboration with the EFCA and the Member States, the Commission began working towards a new approach that would: (i) streamline the existing SCIPs[42]; (ii) extend their geographical coverage and scope, in line with the reformed CFP; and (iii) reduce the administrative burden. This resulted in the 2018 adoption by the Commission of new SCIPs[43], covering all EU sea basins and all the fisheries covered by EU fisheries-conservation and fisheries-management measures in those

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37 https://www.europarl.europa.eu/doceo/document/TA-8-2016-0407_EN.html.

38 https://ec.europa.eu/info/sites/info/files/xiv3acontrol_of_eu_fisheries.pdf.

39 COM(2018)368 final

40 https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en.

41 https://ec.europa.eu/food/farm2fork_en.

42 OJ L 350, 20.12.2012, p. 99–108; OJ L 170, 22.6.2013, p. 66–75 , OJ L 175, 27.6.2013, p. 61–70 OJ L 85, 21.3.2014, p. 15–26 ;

43 OJ L 317, 14.12.2018, p. 29–46

sea basins. This also improved the JDPs as a platform for coordination. A harmonised methodology for risk assessment was also drawn up to provide for: (i) a coherent approach to control and inspection programmes within a sea basin; and (ii) a level playing field for fisheries of different Member States. The harmonised methodology[44] was drawn up by the EFCA in cooperation with the Member States, and is based on possible threats of non-compliance with the rules of the CFP.

3.2. Data and information

Since 2015, the Commission has devoted considerable resources and efforts to develop the necessary IT infrastructure to enable Member States to exchange fisheries data in the UN/FLUX format. In line with the Court of Auditors' recommendation[45] to improve the completeness and reliability of fisheries data, in 2015-2019 the Commission focused on the development and implementation of the FLUX Transportation Layer (FLUX TL)[46] . This project proved challenging, because early versions of FLUX TL were not able to handle the growing volume of data exchanged. With each new release, the FLUX TL software became more capable. The most recent updates meet the required needs and offer more technical advantages such as a monitoring page. The Commission also played a decisive role in proposing implementation documents which contain the detailed rules for data exchanges. These documents are agreed with the Member States through the ERS and Data Management expert group.

The Commission also developed standardised formats to exchange data on fishing authorisations and inspection reports. The LICENSE system for exchanging fishing authorisations between Member States, third parties and the Commission became operational in December 2020. It is expected that the LICENSE system will be expanded to enable the exchange of inspection reports by mid-2021.

At the request of the European Parliament, the Commission launched a pilot project in November 2019 to develop and test a 'control scheme for recreational catches of sea bass'[47]. An external contractor has developed an integrated IT tool to allow recreational fishers to quickly inform national authorities about their daily catches by registering those catches. A web-based platform was developed to receive those catch data (RecFishing.eu), and will be further expanded to due to the positive results of the pilot project. The results were presented in the webinar 'Monitoring and control of recreational fisheries' in December 2020[48].

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44 https://www.efca.europa.eu/sites/default/files/Risk%20Assessment%20Methodology.pdf.

45 Recommendation 3 of the special report No 08/2017 'EU fisheries controls: more efforts needed' https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=41459.

46 FLUX TL is the software used for exchanging fisheries data between Member States, the European Commission, and the EFCA.

47 https://op.europa.eu/fr/publication-detail/-/publication/01f3d94d-4019-11eb-b27b-01aa75ed71a1/language-en/format-PDF/source-180378385.

48 https://ec.europa.eu/oceans-and-fisheries/news/webinar-recreational-fisheries-monitoring-and-control-2020-12-04_en

3.3. Verification and enforcement activities by the Commission

Member States must ensure they have effective fisheries-control systems in place. The Commission is responsible for overseeing and enforcing the correct application of the Control Regulation and the CFP rules by the Member States. To verify the effectiveness of their control systems and the compliance with CFP rules by Member States, Commission officials carry out verifications, autonomous inspections and audits. During the period 2015-2019, around 150 in-field visits were carried out by DG MARE in Member States, most of which were **audits**. Particular emphasis was devoted to: (i) the proper functioning of catch-registration procedures; (ii) weighing procedures; (iii) measures put in place to control the landing obligation; (iv) monitoring and control of the external fleet; and (v) verification of engine power.

Verification missions and audits have been also carried out to check the implementation of control measures for specific fisheries where issues came to light and urgent action was required, such as for bluefin tuna in the Mediterranean Sea, cod and salmon in the Baltic, and pulse fishing in the North Sea. Checks were carried out to investigate alleged breaches of EU fisheries law notified through complaints. In addition, efforts were made to tackle deficiencies identified in the proper implementation of the sanctioning provisions and the point systems.

Between 2019 and 2020 the Commission required two Member States to launch **administrative inquiries**. The first inquiry was to investigate weaknesses detected in weighing and control measures for pelagic fisheries and bluefin-tuna recreational fisheries[49]. The second inquiry was to investigate deficiencies in the control system for bluefin-tuna farming[50].

In many cases, findings from audits and verification missions were successfully addressed by Member States as part of informal bilateral dialogues (also known as **EU pilot files**). Between 2015 and 2018, the Commission opened 7 EU pilot files for 6 Member States, of which 1 is still ongoing. Those pilot files concerned: (i) the implementation of an action plan; (ii) the implementation of the point system in two Member States; (iii) control of the fleet operating in NEAFC; (iv) catch reporting; and (v) the control of engine power in two Member States. In 2019, the Commission launched 24 EU pilot files covering a total of 17 Member States. Of these, 8 related to the control of the Member States' external fleet, 15 to the control of engine power, and 1 to the sanctioning and point system. In addition, in 2020 the Commission launched 3 more EU pilot files covering 3 Member States, 2 of which related to the caging of bluefin tuna and 1 to the control of the external fleet.

If the Commission identifies shortcomings in the Member States' control systems that require more effort and time for Member States to address, the Commission draws up **action plans** for those Member States. In the period 2015-2019, the Commission drew up 9 new action

[49] Ireland.

[50] Croatia.

plans[51], while in the same period 6 of the 8 action plans launched before 2015 were closed[52]. At the end of 2019, 11 Member States were under an action plan[53], and 4 new action plans were opened in 2020[54]. The 15 ongoing action plans address: (i) deficiencies identified in the catch-registration system; (ii) the sanctioning systems; (iii) the risk-management process; (iv) the computerised data-validation/automated-crosscheck systems; and (v) the traceability requirements.

Finally, in 2015-2019, the Commission opened three **infringement procedures** against Member States. These procedures related to: (i) the control of the fleet in NAFO waters[55]; (ii) the implementation of the point system[56]; and (iii) compliance with the exclusivity clause and control of the fleet fishing in West Africa[57]. Two of these procedures were closed in 2019 and 2020[58], while 1[59] is still ongoing. One infringement that was launched in 2014 on compliance with the catch-registration and weighing system is still open[60]. In 2020, the Commission launched 3 additional infringement procedures: 1 on the control of farms in bluefin-tuna fisheries[61], and 2 on the catch-registration and weighing system[62].

One of the infringement procedures led to an *ex-ante* suspension of EMFF control funds, while the verification missions on the salmon fishery in the Baltic led to a payback implementing decision[63] for one Member State.

4. Fisheries control and implementation of the CFP and EMFF

The Control Regulation is one of the main pillars in the implementation of the CFP because it lays down the rules for reporting catches. These rules are essential for verifying compliance with annually adopted catch limits. During the period 2015-2019, the Commission streamlined the legal process for operating quota transfers. In addition to improvements in the resources devoted by Member States to reporting, this streamlined legal process meant the quota-transfer system became more transparent and efficient. Nevertheless, more work is needed to improve the reporting on transfers and deductions in the context of international agreements, as this reporting sometimes suffers from inconsistencies.

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51 Belgium, Croatia, Cyprus, Estonia, Finland, Greece, Italy, Malta, the Netherlands.

52 Bulgaria, Italy, Latvia, Malta, Romania, Spain.

53 Belgium, Croatia, Cyprus, Estonia, Finland, France, Greece, Italy, Malta, the Netherlands, Portugal.

54 Bulgaria, Romania, Slovenia, Sweden.

55 Portugal.

56 Ireland.

57 Italy.

58 Italy and Portugal.

59 Ireland.

60 Denmark.

61 Malta.

62 Belgium and the Netherlands.

63 OJ L 56, 27.2.2020, p. 1–3

The implementation of an EU fisheries control system is supported through the EMFF[64]. Under the EMFF, Member States collectively allocated EUR 567.9 million for control and enforcement operations in the period 2014-2019. By the end of 2019, Member States had committed EUR 375.8 million to be spent[65], which amounts to 66.2% of the total planned EMFF budget for these measures. Amongst the many types of investment, the top three were: (i) purchase, installation and development of technology; (ii) modernisation and purchase of patrol vessels, aircraft and helicopters; and (iii) operational costs. These three types of investment together attracted 70% of total commitments. It should be noted that, although the EU priority under which control falls (Union Priority 3, 'Fostering the implementation of the CFP') has the highest absorption rate of all fisheries funds, the absorption rate of 46.8% is still low in absolute terms, and the Commission hopes for better implementation of both the current EMFF and the new EMFAF for the period of 2021-2027. In this context, guidelines have been provided for EMFAF programming[66], and potential budget expenditures have been allocated for 'improving enforcement and control of fisheries and the provision of data', including the development and implementation of effective and innovative fisheries-monitoring technology[67].

5. Coordination with Member States, the EFCA and third partners in international fora

The effective and efficient application of the fisheries-control system requires constant interaction and collaboration among the Member States, the Commission and the EFCA. It also requires cooperation at international level with non-EU countries and regional fisheries-management organisations.

The Commission regularly discusses the implementation of the Control Regulation with the Member States and the EFCA in the **Expert Group on Fisheries Control**. Enforcement issues are discussed in the **Expert Group on Compliance,** while IT developments and implementation are discussed in the **ERS and Data Management Expert Group**.

At EU level, **the Commission and EFCA** closely collaborate to ensure correct implementation of the fisheries-control system, exchanging information and data as well as participating in various fisheries-control meetings. The Commission in particular engages in: (i) the activities organised by the regional control expert groups and the EFCA to implement the JDP; and (ii) the working group on electronic inspection and surveillance reports.

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64 OJ L 149, 20.5.2014, p. 1–66

65 https://ec.europa.eu/oceans-and-fisheries/news/eu-funding-fisheries-aquaculture-and-processing-sectors-how-have-member-states-used-it-2020-12_en

66 SWD(2020) 206 final - Annex

67 Suggested investments in enforcement and control include: (i) control and monitoring of the landing obligation; (ii) control of weighing; (iii) maritime water surveillance; (iv) traceability and monitoring and control of the small-scale fleet; (v) and engine verification. Other suggested investments include REM, including: (i) CCTV; (ii) automatic recognition software; (iii) drones; (iv) high-resolution satellite imagery; (v) blockchain technology; (vi) handheld ERS; and (vii) devices and systems for continuous monitoring of engine performance.

As a global leader in ocean governance and a front-line fighter against IUU fishing, the EU is active in promoting better ocean governance, including control measures. In line with the international ocean-governance agenda[68], the **Commission works closely with partners from around the globe**, such as regional fisheries-management organisations[69] and international organisations[70]. The Commission also works bilaterally with non-EU countries that have engaged with the EU in fishing agreements[71] and with non-EU countries under IUU dialogues[72] to: (i) ensure fisheries compliance; (ii) apply the latest standards for fisheries control and data exchange[73]; and (iii) ensure proper follow-up of cases of non-compliance.

6. Conclusion

The control of fisheries is essential for achieving the objectives of the CFP as well as for ensuring a level playing field among operators. During the period 2015-2019, Member States made progress with their implementation of the Control Regulation. Improvements included: (i) more modernised methods of control, including an increased use of VMS and ERS for monitoring, control and reporting of fishing vessels; and (ii) automated cross checks of fisheries data. Member States also made efforts to improve their sanctioning systems, although the level of implementation of these sanctioning systems is not equal across Member States, and this creates an unlevel playing field. The Commission and EFCA helped Member States to: (i) develop new IT tools; (ii) harmonise their methodologies for risk assessment; and (iii) coordinate at an operational level. In addition, the implementation of the EMFF provided financial support for control by aiding the purchase, installation and development of technologies and the modernisation of control methods in Member States.

Despite significant improvements, shortcomings remain in the application of the Control Regulation. These shortcomings can be found in: (i) provisions on the control and verification of engine power; (ii) weighing; (iii) landing obligations; (iv) control of the external fleet; and (v) sanctioning. In the coming years, the Commission will focus on further implementing these measures. The Commission will also continue working on enforcement and full implementation of the CFP and on effective control and enforcement in line with the mission letter of President von der Leyen to Commissioner Virginijus Sinkevičius[74]. In addition, the

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68 https://ec.europa.eu/oceans-and-fisheries/ocean/international-ocean-governance_en Action 7 of the Agenda calls on 'Fighting illegal fishing and strengthening the sustainable management of ocean food resources globally'. https://ec.europa.eu/oceans-and-fisheries/ocean/international-ocean-governance_en

69 https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/regional-fisheries-management-organisations-rfmos_en

70 https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements_en

71 https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas_en

72 https://ec.europa.eu/oceans-and-fisheries/fisheries/rules/illegal-fishing_en

73 Thanks to EU efforts, NEAFC adopted the FLUX standard for data exchanges in November 2018. The Commission has also started negotiations on the introduction of the UN/FLUX standard in various bilateral fora, including with Norway and the Faroe Islands.

74 https://ec.europa.eu/commission/commissioners/sites/comm-cwt2019/files/commissioner_mission_letters/mission-letter-sinkevicius-2019-2024_en.pdf.

Commission will: (i) verify the application of traceability provisions, in line with the ‘farm to fork’ strategy; (ii) verify the control of fishing-effort regimes; and (iii) promote the testing and development of smart technologies applied to control, in line with the European Green Deal. Finally, together with the EFCA, the Commission will work further to: (i) develop methodologies for assessing compliance with the landing obligation; and (ii) harmonise methodologies used in the implementation of sampling plans for weighing. On the revision of the fisheries-control system, the Commission will continue to work alongside the Council and Parliament to strengthen, modernise and clarify current rules.