

**European Commission**  
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Our reference: 1516/PAC 17  
Subject: Position paper on the evaluation of the control regulation

Dear Ms Musella,

I am pleased to submit to you a position paper on the evaluation of the Control Regulation prepared by the Focus Group on Control and Technical Measures. Please note that this document does not present a recommendation endorsed by the Executive Committee, but merely a starting point for further discussions.

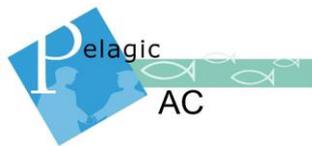
In case you have any questions please do not hesitate to contact the secretariat.

Yours sincerely,

A handwritten signature in black ink that reads 'Ian Gatt' with a small flourish below it.

Ian Gatt  
Chairman Pelagic AC





## Position paper on the evaluation of 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

### Introduction

The Pelagic AC appreciates the opportunity to provide a position paper on the evaluation of the Fisheries Control Regulation. The reform of the Common Fisheries Policy (CFP) and particularly the introduction of the landing obligation make a thorough, transparent, straightforward and above all equitable control system inevitable.

### Level-playing field

New technologies such as the Vessel Monitoring System (VMS), the Electronic Reporting System (ERS) and the Automatic Identification System (AIS) have improved the level of compliance over the last number of years. Looking forward, the Pelagic AC believes that additional reporting requirements, like fish size information, could enhance the current level of compliance.

One of the most important tools to ensure compliance with the CFP is the establishment of a level-playing field, both between EU vessels and between EU and third country vessels fishing in EU waters. This holds also true in regards to control. It is therefore crucial that actions taken following infringements must be applied equally to vessels flying under an EU flag and vessels flying under a third country flag, thereby preventing discrimination and unfair competition. Administrative requirements, such as penalty points, the transmission of position data at regular intervals and the electronic completion and transmission of fishing logbook data, must be met by third country fishing vessels to the same extent as is obligatory for EU fishing vessels.

The Pelagic AC also believes that ERS reporting requirements should also be mandatory on all 12-15 m vessels. Member States have taken different approaches to the application of this non-binding legislation, so by making this mandatory it will ensure a level playing field is applied across European fleets.

### New technologies

The collection of gramme sizes on a haul by haul basis in pelagic fisheries offers a real-time monitoring tool that can be rapidly implemented without much effort. Pelagic vessels usually fish in close proximity to each other and catch the same stock. Consequently, reported gramme sizes should not vary significantly between vessels in the same area. It is a cost-efficient, yet highly effective tool and should therefore be considered as a new control and enforcement tool to be incorporated into the discards plans proposed by the Member States and also in a revision of the Control Regulation.

In discussions with control experts from the Scheveningen Group it turned out that the Vessel Detection System (VDS) has never been used, because it is not suitable from an operational point of view. If this is indeed the case and if there is no indication that this tool becomes relevant in the future, then focus should be given to other tools that do offer control support, such as the mandatory collection of gramme sizes.

## Culture of compliance

Achieving a culture of compliance depends to a large extent on the buy-in of those affected by the CFP and related regulations. As long as anomalies and contradictions exist between different regulations the culture of compliance will be negatively affected. Not only will there be a lack of respect for these regulations, but also uncertainty in regards to what rules apply and how they apply. Ensuring a culture of compliance requires a regulation that is enforceable, doable and understandable.

## Administrative sanctions

Administrative sanctions are closely related to the level-playing field and to achieving a culture of compliance. As long as administrative sanctions are not applied in a uniform way across fisheries and countries, fishermen will not feel that they are treated equally and hence not develop respect for the regulations. There is also the question of how administrative sanctions apply to third country vessels, which at the moment seems to be a very grey area.

## Role of the European Fisheries Control Agency (EFCA)

Members of the Pelagic AC have been generally very supportive and appreciative of EFCA and especially the initiatives taken by EFCA in regards to discussing control of the landing obligation. It is important that EFCA play a central role in convening discussion forums between regional control experts groups and the Advisory Councils, especially during the initial implementation stage of the landing obligation. However, the role of EFCA should be strengthened, also when it comes to international waters in e.g. the NEAFC area where EFCA should have its own patrol vessels available.

## Simplification of regulations

The current Control Regulation, despite an aspiration for simplification, falls short on several accounts. While it has combined various other regulations into one legal document it is nevertheless very complex and too prescriptive to allow a flexible approach which, certainly under the new CFP, is urgently needed. The introduction of the landing obligation, regionalization and the interplay with the Marine Strategy Framework Directive all represent profound changes to the previous EU fisheries management system calling for an adaptable framework. The details of such a framework should be laid down in a Commission implementing regulation rather than an EU regulation allowing maximal flexibility where necessary while at the same time paying full respect to regional specifics.

## Reduction of administrative burden

While there has been a general downwards trend in the administrative burden under the current Control Regulation, this burden increased again by the introduction of the landing obligation with its mandatory documentation and registration provisions. The need to further reduce the administrative burden by simplifying regulations continues to exist (see above).

## Stakeholder consultation

Stakeholder consultation, especially the consultation of Advisory Councils, should be a priority for the Commission when revising the Control Regulation. Many aspects of the day-to-day fishing operation are complex and require thorough knowledge of the practical implications any regulation would have on the operational processes affected. Advisory Councils are excellently suited to advise on these effects given the expertise represented.

In this regard it should be highlighted that the Commission failed to consult stakeholders in relation to Commission Implementing Control Regulation (EU) 2015/1897 of 21 October 2015. This is especially unfortunate since this regulation would have provided an opportunity to amend some of the anomalies in Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy. It is important that such a lost opportunity will not occur again.

## Request for a stakeholder meeting

If it is decided to revise the Control Regulation it will likely take several years before a new Control Regulation enters into force, given the usual timeframe of the co-decision process. However, there are many issues in the current Control Regulation which are no longer compatible with the CFP and which need to be addressed urgently. Therefore, it is requested that the Commission convenes a stakeholder meeting as soon as possible to go through the Control Regulation step by step and identify all issues that need either revision or clarification or both. Some of the issues requiring immediate attention relate to the margin of tolerance, transport documents, landing declarations and the penalty point system. However, there are many more items that have to be dealt with, hence the request for the Commission to convene a stakeholder meeting as soon as possible.