**Follow up to the European Parliament non-legislative resolution of 30 May
on the Implementation of control measures for establishing the conformity
of fisheries products with access criteria to the EU market**

**2017/2129 (INI)**

**1. Rapporteur**: Linnéa ENGSTRÖM (Greens/EFA/SE)

**2. EP reference number:** A8-0156/2018 / P8\_TA-PROV(2018)0223

**3. Date of adoption of the resolution:** 30 May 2018

**4. Subject:** Conformity of fisheries products with access criteria to the EU market

**5. Competent Parliamentary Committee:** Committee on Fisheries (PECH)

**6. Brief analysis/ assessment of the resolution and requests made in it:**

The resolution touches upon a variety of issues across different policies, such as fisheries, trade, food safety and labour standards.

**Marketing standards**

Under the chapter “*marketing standard*s”, the resolution proposes mandatory consumer information on all fishery and aquaculture products to ensure fair information to consumers and improved traceability.

The resolution requests to add as mandatory consumer information requirement the flag State of the vessel that caught the product.

The resolution also requests that the Commission examine the possibility of creating a label to identify the EU’s fishery products.

**Control**

With respect to the control regime, the resolution considers that the Commission and Member States are failing to strictly implement and enforce the regulations. The resolution lists some shortcomings of the control regime today concerning the infringements, sanctions and the point system, the collections and exchange of data by and among Member states, the traceability of fisheries products, and the control of weighing practices.

The resolution also urges the Commission to use the full set of instruments at its disposal to encourage the Member States to implement the provisions of the control regime fully.

Concerning the revision of the Control Regime, the resolution calls for the powers and the role of the European Fisheries Control Agency (EFCA) to be extended. The resolution also lists the areas where amendments should be proposed: inspections, traceability, data on catches by all operators, common level of sanctions in all Member States, infringements, sanctions and point system. The resolution calls for the IUU Regulation not to be weakened in any way.

**IUU and trade aspects**

With respect the EU policy on Illegal, Unreported and Unregulated catches (IUU) and the implementation to the IUU Regulation, the resolution emphasises the following:

It calls on the Commission to ensure close coordination between the Union’s trade and fisheries policies, including during the negotiation of free trade agreements (FTA) involving fisheries matters. It considers it essential to analyse the economic and social impact of free-trade agreements on Union fisheries products and, where necessary, institute appropriate safeguard measures and treat certain fishery products as sensitive.

It commends the Commission for the way in which it has enforced the IUU Regulation with respect to third countries, demonstrating that the EU can have tremendous influence on global fisheries in its role as a responsible market State. It also urges the Commission to continue to pressure other market States to implement measures to prevent IUU-caught fish from entering their markets.

While it highlights the report recently published by civil society[[1]](#footnote-1), the resolution calls on the Member States and the transit and destination countries to therefore step up their coordination in order to ensure that catch certificates issued for fish imports are examined more carefully. It considers it vital to adopt a harmonised and coordinated European computerised system that can facilitate the process.

It underlines that the Commission and some Member States have failed to implement strictly and enforce all three Regulations comprising the control regime, and that, in addition to applying the IUU Regulation, it is necessary to exercise stricter downstream controls on the marketing of such fish, notably by means of more rigorous audits of the Member States and of enterprises suspected of supplying products originating in illegal fish.

It stresses the need to ensure that when an imported product is rejected in a port of one EU Member State, it cannot enter the EU market through another port in another Member State.

It furthermore insists that the provisions and principles of the IUU Regulation not be altered or weakened in any way, considering the enormous success of this Regulation in its impact on fisheries around the world, and that the inclusion of third countries in the processes of pre-identification, identification and listing of the IUU regulation be without political interference of any kind, and that the delisting be based strictly on the full achievement by the country concerned of the improvements considered by the Commission to be necessary.

Finally, it considers that the role of the EFCA should be reinforced, to involve it in the application of the control and IUU Regulations more fully, including the verification and cross-checking of data along the chain of custody, the planning and coordination of inspections by the Commission and Member States, and the verification of catch certificates.

**Food safety**

With respect to the sanitary standards, the resolution emphasises the following:

There are concerns that the system employed for verification of the phytosanitary standards of imported fishery products does not provide sufficient guarantees that the standards are always observed.

The resolution notes that even the Commission’s own Food and Veterinary Office (FVO) audits show that some countries are falling far short of ensuring that products meet the necessary health standards, at least as concerns fishing and processing vessels and reefers, thus putting EU consumers at risk.

The resolution considers that civil society observations of fishing vessels operating off West Africa over many years have demonstrated the difficulties in ensuring the traceability of products and respect for sanitary standards. It believes that the veracity of the certificates for third country fishing vessels cannot be fully relied upon.

It believes that allowing third countries to delegate to other selected third countries the right to award such certificates, even to a coastal State, is contrary to the concept of flag State responsibility, which underpins the Common Fisheries Policy, including the IUU Regulation.

**Labour**

As regards labour rights of fishers, the resolution recalls that there are numerous international instruments concerning fishers that should be ratified and implemented. It calls on the Commission to initiate procedures for the use of Article 155 of the Treaty on the Functioning of the European Union with respect to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), in order to improve safety at sea in shipping.

**7. Response to the requests in the resolution and overview of the action taken, or intended to be taken, by the Commission:**

**Marketing standards**

The resolution proposes mandatory consumer information on all fishery and aquaculture products to ensure fair information to consumers and improved traceability. The Commission agrees with this and indeed its original proposal for the review of the Common Market Organisation Regulation, published in 2011, provided for mandatory labelling for all fishery and aquaculture products destined to human consumption[[2]](#footnote-2).

Regarding the request to add as mandatory consumer information requirement the flag State of the vessel that caught the product, the Commission considers that at this stage the priority is to take stock of how the current labelling system is working. For this purpose, the Commission is planning to launch a study to assess consumer information on the origin/ provenance of fishery and aquaculture products, which aims to identify what information can best balance consumers’ expectations with the ability to make informed choices when buying fishery and aquaculture products. The findings of the study will feed into the evaluation of the Common Market Organisation Regulation, to be completed in 2022 as part of the evaluation of the Common Fisheries Policy. The evaluation will also look more broadly at consumer information requirements.

The resolution requests that the Commission examine the possibility of creating a label to identify the EU’s fishery products. In this regard, the Commission would like to note that it is doubtful whether such label would have added value compared to the possibility already given to the operators to provide this information voluntarily. Nonetheless, the Commission has taken note of this request and has started discussing it in its expert group for markets and trade in fishery and aquaculture products.

**Control**

The resolution expresses concerns on the implementation of the present control regime by the Commission and the Member States.

The Commission wishes to confirm that it is using all instruments at its disposal to ensure that Member States comply with the provisions of the EU fisheries control system. The Commission performs audit, verifications and if necessary inspections in the Member States. The Commission has set up, and is continuing to set up, specific action plans in order to address shortcomings in the Member States control systems in line with the provisions of Article 102 of the Control Regulation[[3]](#footnote-3). The Commission also recurs to infringement procedures for breaches to the EU law and recurrent and systemic non-compliances by Member States. In addition, the Commission makes use of its powers pursuant to Articles 100 and 101 of the European Maritime and Fisheries Fund (EMFF) Regulation[[4]](#footnote-4), by interrupting or suspending payments in case of non-compliances by Member States.

Concerning the revision of the Control Regime, the Commission has adopted its proposal[[5]](#footnote-5) on 30 May 2018.

The proposal includes a number of changes to the Control Regulation, as well as targeted amendments to the illegal, unreported and unregulated fishing (IUU) and to the European Fisheries Control Agency (EFCA) founding Regulations. The overall objective was to modernise, strengthen and simplify the EU fisheries control system and to increase the level playing field in fisheries controls.

The amendments to the IUU Regulation concern the digitisation of the IUU Catch Certificate and the enforcement chapter, which is aligned to the changes proposed in the Control Regulation. As regards the EFCA founding Regulation, changes concern the Agency's objective and missions, which are fully aligned to the new Common fisheries policy, and the geographical scope of the Agency's inspection powers.

The largest part of the proposal concerns amendments to the Control Regulation:

Firstly, the provisions concerning the enforcement, inspections and sanctions (Title VIII, Annexes III and IV) are amended for the purpose of ensuring a level playing field in the Member States, effective deterrence against the most harmful behaviours, and a fast, effective and more dissuasive response to the serious infringements. The changes concern in particular:

* the list of serious infringements qualified as serious by nature;
* the criteria to qualify as serious certain infringements of the Common Fisheries Policy rules;
* the introduction of mandatory administrative sanctions and minimum levels of fines for serious infringements;
* the strengthening of the point system for licence holders and masters;
* the exchange data on infringements and sanctions;
* and the digitisation of the inspection reports.

Concerning data availability, quality and sharing, the specific objectives of the amendments are to be able to control that fishing activities and fishing efforts of smaller vessels are in compliance with the rules of the common fisheries policy, to obtain complete and reliable catch reporting by operators including catches from smaller vessels. The amendments provide for:

* vessels' tracking systems (no mandatory transmission by satellite) and catch registration to be applied to all vessels including vessels below 12 m;
* all catch data (logbook, landing declarations etc.) to be recorded in a digital way and submitted electronically;
* and a simple and effective system to guarantee accurate weighing at landing for all landings, with the weighing performed by a registered operator.

The proposal includes also an amendment to the provisions on traceability of fisheries and aquaculture products. The specific objective of the new provisions is to allow controls in the supply chain from the first sale to the retail sale, including transport. The traceability information allows linking a specific lot of fishery products to a particular landing by an EU fishing vessel. Information is recorded electronically so that controls in the supply chain within the internal market are more effective and efficient. Finally, imported products are also covered.

**IUU and trade aspects**

The resolution proposes that the EU's trade policy be reinforced, in particular with regard to free trade agreements, in order to further the policy of sustainable fishing. The Commission would like to point out that in the negotiation of free trade agreements the EU insists on the inclusion of a sustainable development chapter, and seeks to negotiate the best conditions possible for development of sustainable trade in fisheries. Those chapters continue to evolve and the most recent FTAs now contain commitments to promote sustainable fishing through active cooperation in Regional Fisheries Management Organisations (RFMO), implementation of agreements such as the UN Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and the agreement on Port State Measures. The sustainable development chapters also now include commitments to fight IUU fishing.

The Commission will continue to work in the WTO to ensure that trade rules are of the highest standard for all areas, including sustainable fisheries, and to follow the issue as discussed in the Trade and Environment Committee, and in other international fora such as FAO and RFMOs in order to further the evolution of sustainable fishing.

The Commission has noted that the resolution expresses disappointment that FTAs are sometimes negotiated with countries that have been pre-identified under the IUU Regulation or the Non-Sustainable Fishing Regulation. It is the Commission's opinion that the double-pronged approach (free trade agreement negotiation as well as IUU scrutiny) can be beneficial and more persuasive than threats of sanction alone. The Commission notes that, even where trade concessions are granted to a third country for fishery products, that country cannot use those concessions to export to the EU if it has been issued an IUU ”red card” which can prove to be a further incentive for exporting countries to make IUU controls more effective. In the end, the IUU Regulation and free trade agreements are two independent instruments, and any decision within the IUU dialogue will be taken regardless of the situation of trade negotiations.

The Commission would like to emphasise that the fight against IUU fishing remains an EU priority. Ensuring that third countries impose trade related measures to prevent IUU fish from entering their markets and that the EU Member States intensify their controls at the border and implementing effectively the EU scheme aiming at preventing, deterring and eliminating IUU fishing is therefore crucial.

The Commission will continue to cooperate with third countries as foreseen by the EU IUU Regulation[[6]](#footnote-6) in order to support the discharge of their duties incumbent upon them under international law as flag, port, coastal or market States by taking actions to prevent, deter and eliminate IUU fishing. In this context and in view of the 2017 adoption of the FAO Voluntary Guidelines on Catch Documentation Schemes, the Commission also strongly encourages other market States to apply measures to prevent IUU-caught fishery products from entering their markets.

Moreover, the Commission is currently working, in cooperation with Member States, for the development of an EU-wide database for the management of IUU catch certificates in support of Member States' risk based controls. This should lead to a reduction of the opportunities of fraudulent imports and ease of the administrative burden for Member States in terms of verifications.

Regarding stricter controls on marketing of fish imported under the IUU Regulation and as informed above, the Commission and Member States are currently developing an IT tool for the development of an EU-wide database for the management of IUU catch certificates in support of Member States' risk based controls. One of the main purposes of this system is to ensure that illegally caught fish does not enter the EU market, neither at the first port of entry, nor at any other port of entry subsequently.

However, the Commission is aware that an IT tool alone does not guarantee the expected improvements by itself. Therefore, it also works intensely with Member States to develop good practices and uniform approaches, in order strengthen efforts in implementation of IUU controls, and to achieve a harmonized and smooth transition to an electronic system.

Strengthened cooperation with and amongst Member States is expected to demonstrate positive results throughout this process, i.e. increased efficiency in IUU-related controls and implementation of the EU IUU Catch Certification Scheme to the benefit of compliant operators.

The Commission expects the first version of this database to be available to EU authorities and EU importers in early 2019.

Regarding the success of the IUU Regulation, the dialogues with third countries and the role of EFCA, the Commission appreciates the recognition of the impact of the IUU Regulation worldwide, but it also recognizes that the fight against illegal fishing must be intensified.

While the Commission has no intentions of weakening the provisions and principles of the IUU regulation, it should also be acknowledged that after more than eight years of implementation there is room for improvement, which the Commission is trying to address, for example, with the setting up of the new IT system as previously mentioned.

With respect to third countries, it should be stressed that the entire dialogue process is based on factual evaluations, and the same goes for de-listings and removal of yellow cards.

EFCA is already working hand in hand with the Commission for the purpose of an effective implementation of the EU IUU Regulation by providing trainings, support to the Commission in its dialogues with third countries as well as for the analysis of catch certificates. It is also fully involved in the development of the IT tool for the EU-wide database for the management of catch certificates and working on the Integrated Maritime Service intended to boost Member States’ capacity to verify and track fishing vessels.

**Food safety**

With regard to the system used to verify the phytosanitary standards of imported fishery products, the Commission underlines that all food of animal origin, including fishery products, is regularly checked at the Border Inspection Posts before entering the EU market. All the containers are subject to a 100% control of the certificates, and around 20% are subject to identity and physical checks in order to verify the compliance with the EU rules, including microbiological tests or tests for verifying the compliance with the legislation for heavy metals of residues of veterinary drugs. It should be underlined that the control plans are under the full responsibility of the importing Member States.

Regarding the audits carried out by the Commission's Directorate-General for Health and Food Safety, the measures taken in case of non-compliance go from a letter to the competent authorities of the third country involved asking for solving the problems until the de-listing of the involved establishment or, in the worst scenario, the delisting of the third country in case of very serious issues with important risks for public health.

The certificates accompanying fishery products are, in the majority of cases, issued via an electronic system (TRACES) under the full control of the competent authorities in the third countries. The EU system is based on the confidence in the competent authorities in the exporting country, confidence evaluated with a compulsory audit for verifying the compliance with the EU rules at the moment of the introduction of the country on the list of authorised countries, and verified on regular basis by the Directorate-General for Health and Food Safety.

The resolution concludes that ”to delegate to other selected third countries the right to award such certificates, even to a coastal State, is contrary to the concept of flag State responsibility which underpins the Common Fisheries Policy, including the IUU Regulation". In fact, there are no possibilities under the EU rules to delegate such tasks. The current legislation merely allows Member States or third countries to delegate only controls on certain vessels, especially factory vessels, to verify the compliance with the EU sanitary rules. However, the delivery of the sanitary certificate falls in any case under the responsibility of the third country competent authorities of which the vessel is flying the flag.

**Labour**

The Commission recalls that the ordinary legislative procedure needs to be followed in order to transpose the labour Conventions or part of the Conventions not yet transposed (STCW-F, Cape Town agreement, C188 enforcement provisions). However, the Commission is raising Member States’ awareness about the need to ratify international conventions related to safety and on-board working conditions (Work in Fishing Convention C188, Convention on Training, Certification and Watch-Keeping in Fisheries STCW-F, Torremolinos/ Cape Town Agreement), and is promoting their ratification internationally. Commissioner Vella and Commissioner Bulc have addressed letters to the Member States in March 2018 and discussions have taken place in the Council in March 2018. The Commission also promotes the ratification of those Conventions through the different Regional Fisheries Management Organisations. Also in the context of the EU’s Ocean Governance Initiative[[7]](#footnote-7) and as presented during the last international *Our Ocean* Conference, organised by the EU in Malta in October 2017, the Commission is committed to promote ratification and implementation of all relevant international Conventions in the international framework.

# The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) entered into force on 29 September 2012, but has only been ratified by 20 countries so far, of which eight are EU Member States (ES, LV, LT, PL, PT, DK, RO and BE). It has not been transposed into EU law, but some provisions on training of fishermen are contained in Directive 93/103[[8]](#footnote-8) on minimum standards on safety and health on board fishing vessels.

The Council Directive authorising Member States to become party to this Convention[[9]](#footnote-9) invites them to ratify, ”if possible”, by May 2017, and requires the Commission to report on the process of accession to the Convention by May 2018.

The Commission however considers that the subject matter of STCW-F does not fall under the areas eligible for an agreement under Article 155 of the Treaty on the Functioning of the European Union. The social partners can always make agreements amongst themselves, but transposition into EU law would then not be possible as an Article 155 procedure (simple Council Directive). The transposition would need to be a stand-alone legal act following the ordinary legislative procedure, including the Impact Assessment process.

It should also be noted that the International Maritime Organisation (IMO) has started a comprehensive review of the Convention. Member States are therefore also encouraged to proactively participate in the relevant works of the IMO.

1. This report analyses the flow of seafood imports into EU countries as from 2010, the year in which the IUU Regulation entered into force, and which shows how shortcomings in controls on imports from third countries to Member States and rules that are not uniform can allow noncompliant products to enter the EU market. [↑](#footnote-ref-1)
2. Proposal for a Regulation of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products – COM(2011) 416 final [↑](#footnote-ref-2)
3. 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, OJ L 343, 22.12.2009, p. 1–50 [↑](#footnote-ref-3)
4. Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund OJ L 149, 20.5.2014, p. 1–66 [↑](#footnote-ref-4)
5. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control, COM(2018) 368 final [↑](#footnote-ref-5)
6. Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, OJ L 286, 29.10.2008, p. 1–32 [↑](#footnote-ref-6)
7. JOIN(2016) 49 and Council Conclusions (7348/1/17) [↑](#footnote-ref-7)
8. Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), OJ L 307, 13.12.1993 [↑](#footnote-ref-8)
9. Council Decision (EU) 2015/799 of 18 May 2015 authorising Member States to become party, in the interest of the European Union, to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, of the International Maritime Organization (Text with EEA relevance, )OJ L 127, 22.5.2015, p. 20–21 [↑](#footnote-ref-9)