



The role of Member States to ensure control and enforcement of the landing obligation

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Background

- The LO is a core element of the reformed CFP.
- Intention was to improve the selectivity of fishing activities by *gradually eliminating discards*.
- Introduced on 1 Jan 2015 on a phased basis, fully in force since 1 Jan 2019.
- The LO requires that catches be:
 - *brought and retained on board the fishing vessels,*
 - *recorded,*
 - *landed and*
 - *counted against the **quotas** where applicable.*



Member States' responsibilities

- MS have an obligation to adopt appropriate measures to ensure control, inspection and enforcement of all activities within the scope of the CFP...including the LO.
- Some important terms:
 - “**Ensure**” means: *to make certain that (something) will occur or be the case* (Oxford English Dictionary).
 - “**Control**” is defined as: *‘control’ means monitoring and surveillance;* (Art 4(3) CR).
 - “**Enforcement**” is defined as: *‘enforcement’ means any actions taken to ensure compliance with the rules of the common fisheries policy;* (Art 4(26) CR).
- The duty of MS to ensure control applies regardless of any presumptions of compliance.



Legal basis for MS to ensure control and enforcement

- The obligation for MS to ensure control and enforcement of activities within the scope of the CFP has a broad legal basis.
- Some of these predate the LO and include:
 - *Council Regulation (EC) No 1224/2009* (the “**Control Regulation**”) - Art 5(1), (3), (4) and Art 109(2).
 - *Regulation (EU) No 1380/2013 of the European Parliament and of the Council* (the “**CFP Regulation**”) - Art 15(13) and Art 36(3).
 - *Council Regulation (EC) No 1005/2008* (the “**IUU Regulation**”) – Art 1(2).



The control and enforcement challenge

- Traditional control measures such as inspections at sea/landing, aerial surveillance and data analysis are **ineffective** in the context of the LO.
- Traditional controls cannot effectively control illegal and unreported discarding during fishing activities at sea.
- Some form of continuous monitoring is necessary - **REM** or observers.
- REM (incorporating CCTV) has been demonstrated as the most practical, cost effective and scalable means to control the LO.
- REM is being increasingly used for control purposes in fisheries around the world.



Voluntary compliance and drivers of discarding

- Powerful drivers of non-compliance - “choke”, “high grading”, on board stowage/handling issues and limited market outlets for unwanted catches.
- Highly unrealistic to expect voluntary compliance in the absence of meaningful control → widespread illegal and unreported discarding.
- Discarding may also happen unintentionally/through negligence, as a result of burst nets or overfilled RSW tanks (unsorted pelagic/industrial fisheries).
- Member States have a duty under existing Union legislation to ensure control and enforcement of illegal and undocumented discarding.



Consequences of failure to ensure control and enforcement

- Reduced efforts by operators to avoid unwanted catches by means of spatio-temporal changes in fishing patterns and use/development of more selective fishing gears.
- Without effective control, and the deterrent effect of sanctions, illegal and undocumented discarding will be widespread, but not detected.
- Such undetected IUU activities may benefit from EMFF/EMFAF funds.
- Inaccurate registration of catches (discards) resulting in poor catch data, with repercussions on flawed stock assessment.
- Illegal discarding results in greater undocumented fishing mortality which threatens the sustainability objectives of the CFP.



Intervention by the European Commission

- The European Commission is aware of the failure by MS to adopt the necessary measures to ensure control and enforcement of the LO.
- The Commission takes this very seriously. Infringement procedures have been launched against 5 MS as a result of a 2020 audit series. Audits are likely to resume.
- A legal basis for the mandatory, risk based use of REM is included in the proposal for a revised Fisheries Control System (Art 25a, COM(2018)368). The proposal is currently with the co-legislators.



Conclusions

- The LO is an ambitious policy that the EU collectively signed up to.
- Without effective control and enforcement by MS, the LO will not be successfully implemented.
- Conventional controls at sea are generally ineffective.
- REM technology is advancing rapidly and offers the best means to control the LO and promote compliance.
- Failure to control and enforce the LO jeopardises the credibility and objectives of the CFP → potential loss of markets and overfishing.





European
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Thank you

