

Special Report

## EU fisheries controls: more efforts needed

(pursuant to Article 287(4), second subparagraph,  
TFEU)



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**ABBREVIATIONS**

<b>CFP</b>	<b>Common Fisheries Policy</b>
<b>EFCA</b>	<b>European Fisheries Control Agency</b>
<b>ERS</b>	<b>Electronic Reporting System for the fisheries activities</b>
<b>EU</b>	<b>European Union</b>
<b>FAO</b>	<b>Food and Agriculture Organization of the United Nations</b>
<b>FIDES</b>	<b>Fisheries Information Data Exchange System</b>
<b>FMC</b>	<b>Fisheries Monitoring Centre</b>
<b>GFCM</b>	<b>General Fisheries Commission for the Mediterranean</b>
<b>GT</b>	<b>Gross Tonnage</b>
<b>kW</b>	<b>Kilowatts of engine power</b>
<b>RFMO</b>	<b>Regional Fisheries Management Organisation</b>
<b>TAC</b>	<b>Total Allowable Catch</b>
<b>VMS</b>	<b>Vessels Monitoring System</b>

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## **GLOSSARY**

**DG MARE:** Directorate-General for Maritime Affairs and Fisheries.

**Electronic Inspection Report System:** System developed by EFCA to allow Member States share inspection report data.

**Eurostat:** Statistical office of the European Union.

**Fishing licence:** Official document conferring on its holder the right, as determined by national rules, to use a certain fishing capacity for the commercial exploitation of living aquatic resources. It contains minimum requirements concerning the identification, technical characteristics and fitting out of a Union fishing vessel.

**Fishing authorisation:** Official document additional to the fishing licence entitling an Union fishing vessel to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions.

**Fisheries Monitoring Centre:** Operational centre established by a flag Member State and equipped with computer hardware and software enabling automatic data reception, processing and electronic data transmission.

**Fishing effort:** Product of the capacity and activity of a fishing vessel; for a group of fishing vessels it is the sum of the fishing effort of all vessels in the group.

**Fishing capacity:** Fishing capacity is the amount of fish that can be caught over a period of time by a vessel or a fleet if fully utilized and for a given resource condition. In the framework of the CFP it is measured as the vessel's tonnage in GT (gross tonnage) and its power in kW (kilowatt) as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86<sup>1</sup>.

**Flag State:** State in which a particular vessel is registered.

**National fleet register:** The register which each Member State keeps of all the fishing vessels flying its flag.

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<sup>1</sup> Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels (OJ L 274, 25.9.1986, p. 1).

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**Regional Fisheries Management Organisation:** Subregional, regional or a similar organisation with competence, as recognised under international law, to establish conservation and management measures for living marine resources placed under its responsibility by virtue of the convention or agreement by which it was established.

**Small Vessels:** For the only purpose of this report, vessels under 15 metres long.

**EU fleet register:** Register kept by the Commission containing information on all Union fishing vessels.

**Vessel Monitoring System:** Satellite-based fishing vessel monitoring system that provides data at regular intervals to the fisheries authorities (Fisheries Monitoring Centre) on vessel location, course and speed.

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## **EXECUTIVE SUMMARY**

I. The Common Fisheries Policy (CFP) aims to ensure that fish stocks and the fishing sector are sustainable in the long term. Many stocks are still overfished, so continued efforts are necessary to manage fisheries effectively. The CFP therefore includes measures to restrict fishing fleet capacity and manage fisheries by imposing limits on catches (such as quotas) and fishing activity (such as fishing effort restrictions or technical rules for certain fisheries). The success of the CFP requires the design and implementation of an effective system of control. The CFP's control system was last reformed in 2009, to correct the serious weaknesses present at the time which were identified by the Court's Special Report No 7/2007.

II. The objective of our audit was to answer the question "Has the EU an effective fisheries control system in place?"

III. Since our 2007 audit, and the reform of the Control Regulation, the Member States and the Commission have made progress in several areas. However, we found that due to significant weaknesses in most audited areas, the European Union did not yet have a sufficiently effective system for fisheries controls in place to support the success of the CFP. Member States had not yet fully implemented the EU's fisheries control regulation and certain provisions of the regulation would need modification to enable Member States to effectively control fisheries activities.

IV. The Member States we visited did not sufficiently verify the accuracy of their fleets' capacity and of the information on the vessels in the fleet register. While the Control Regulation specifically provides rules for documentary and physical verifications of engine power, it does not do so for verifications of gross tonnage. We noted that the four Member States we visited did not verify the tonnage of their fishing vessels, and that two of them had not yet performed the required verifications of engine power. Additionally, we found a significant number of discrepancies between the vessel details recorded in the fleet register and those contained in the supporting documents.

V. We found that overall the Member States examined were implementing fisheries management measures adequately. The Member States vessel monitoring systems (VMS)

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using satellite-based tracking technology provided powerful information for monitoring and controlling fishing activities. However, as a result of the application of the rules of the Control Regulation 89 % of the EU fleet were not monitored by VMS, which hindered effective fisheries management in some fisheries and for some species.

VI. The Member States we visited managed well the uptake of the fishing quotas allocated to them. However, when Member State authorities allowed producer organisations to manage quota distribution, they did not always know which criteria were used to distribute the quotas to each of the beneficiaries. This lack of transparency makes it difficult for Member States to know the actual beneficiaries of fishing opportunities and therefore to assess any potential adverse impact on the environment and local economies, and take the necessary corrective measures where appropriate. Moreover, this lack of transparency increases the risk that specific interests of certain economic operators are favoured at the expense of others. It was difficult to monitor compliance with fisheries management measures, especially for vessels not linked to satellite-based vessel monitoring systems. We did, however, see examples of good practice where professional fisheries organisations required their members to comply with additional, but more focused, conservation measures to those required by the Common Fisheries Policy.

VII. Data on fishing activities collected in the framework of the Control Regulation were not sufficiently complete and reliable. Catch data for vessels making paper-based declarations, which represent a significant portion of the EU fleet, was incomplete, and often incorrectly recorded on the Member States' databases. There were significant discrepancies between declared landings and subsequent records of first sale. Two of the four Member States visited did not sufficiently share and trace information concerning activities of vessels from one flag Member State in another. Member States' data validation processes were insufficient. In addition there were significant differences between the overall catch data recorded by the Member States, and that available to the Commission. The Control Regulation requires Member States to send aggregated catch data by stock. However, the fact that it does not require reporting with detail of fishing areas, size of vessels and fishing gears, limits detailed analysis of the European fleet activity.

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VIII. In general, the Member States we visited planned and carried out fisheries inspections well. However, the fact that inspectors did not have real-time access to information about vessels reduced the effectiveness of inspections. Member States had established standardized inspection procedures, but we found cases where available report templates had not been used by inspectors. The inspection results were not always correctly reported in the national databases. We also found that sanctions applied were not always dissuasive. The points system, one of the main innovations of the current control regulation intending to ensure equal treatment of fishing operators, was applied to very different extents across Member States we visited and even within the same Member State. Finally, there is currently no European register of infringements and sanctions, which would allow a better follow-up of points applied, a more effective risk analysis and enhanced transparency among Member States.

IX. We make a number of recommendations to the Commission and Member States, aimed at improving the reliability of information on fishing fleets, the monitoring of fisheries management measures, the reliability of fisheries data, and inspections and sanctions.

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## **INTRODUCTION**

### ***The Common Fisheries Policy***

1. The primary goal of the Common Fisheries Policy (CFP) as most recently revised in 2013 is to ensure that the fishing and aquaculture sectors are environmentally, economically and socially sustainable in the long term. This has been a challenge as historically some fish stocks in European Union waters have declined due to overfishing. The CFP therefore aims to reduce pressure on fish stocks by taking a precautionary approach<sup>2</sup> and setting catch limits based on the best scientific information available on resources; it also aims to balance the fleet capacity with available fishing resources. For this reason the EU has established a ceiling to the European fleet capacity that should be balanced with the available fishing opportunities over time (see **Box 1**) as well as fisheries management measures, to ensure that the fishing sector is sustainable.

#### **Box 1 – Balancing fleet capacity with fishing opportunities**

The EU aims to achieve a lasting balance between fishing fleet capacity and fishing opportunities. The CFP sets a fishing fleet capacity ceiling for each Member State, in both engine power (kilowatts (kW) and gross tonnage (GT)). New fishing vessels may enter the fleet only after the same fleet capacity (in kW and GT) is removed from the fleet. The Member States keep information on the fleets in their fleet registers.

Member States are required to put in place measures to adjust the fishing capacity of their fleets to their fishing opportunities over time. Fishing licences, with information on capacity and fishing gear, are one of the main tools used to manage capacity. In the case of fleet segments with overcapacity, Member States must implement an action plan to reduce capacity to an appropriate level.

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<sup>2</sup> Article 4(8) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22): “precautionary approach to fisheries management”, as referred to in Article 6 of the UN Fish Stocks Agreement, means an approach according to which the absence of adequate scientific advice should not justify postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment.

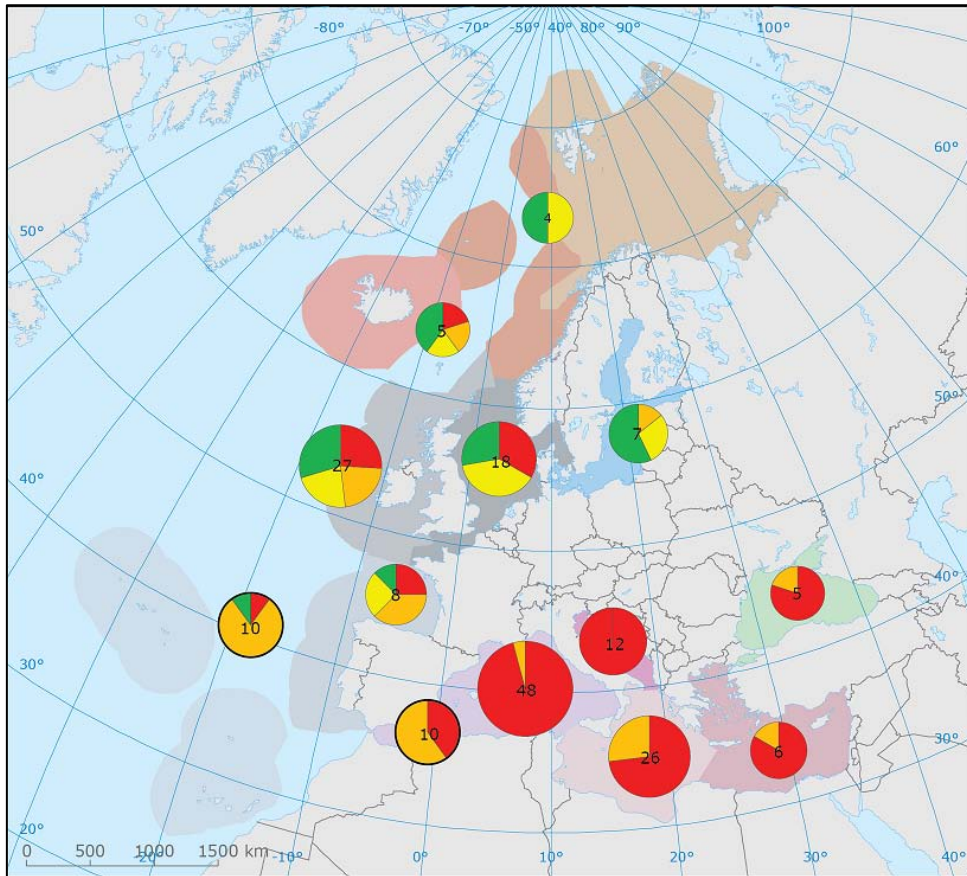
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Member States report on their efforts to balance fishing capacity and fishing opportunities each year. These reports use a series of biological, economic and vessel-based indicators established by the Commission. They are sent to the Commission and are reviewed by the Scientific, Technical and Economic Committee for Fisheries. The Commission draws up a summary report for the European Parliament and the Council each year after considering the Member States reports and the Scientific, Technical and Economic Committee for Fisheries analysis.

2. Nevertheless, the most recent scientific advice shows that, despite some improvements, many stocks continue to be overfished, particularly those in the Mediterranean and the Black Seas. **Figure 1** shows the situation of the different fish stocks by sea basins.

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**Figure 1 – Status of fish stocks assessed from regional seas around Europe, with respect to Good Environmental Status <sup>1</sup>**



Number of stocks that have been assessed : X

Stocks with fish mortality and reproductive capacity ensuring GES

Stocks with reproductive capacity ensuring GES

Stocks with fish mortality ensuring GES

Stocks without GES



- (1) Good Environmental Status (GES) means that the different uses made of the marine resources are conducted at a sustainable level, ensuring their continuity for future generations.

Source: European Environmental Agency website (data provided by the International Council for the Exploration of the Sea for North-East Atlantic and by Scientific, Technical and Economic Committee for Fisheries for the Mediterranean and the Black Sea) 2016 update.

3. The management measures adopted by the European Union can be divided into two main categories (see **Box 2**):

- Output control measures, which mainly consist of limiting the amount of catches from a particular fishery, in particular through total allowable catches (TACs) and quotas.
- Input control measures, which concern the fishing means deployed and include rules on the fleet's activity, such as restrictions on fishing vessels' access to certain waters; controls on the fishing effort to regulate fishing capacity and vessel use; and technical measures governing fishing gear use and the time periods and geographical areas in which fishing is allowed.

## **Box 2 - Main EU fisheries management measures**

### **1. Output control Measures**

#### **TACs and quotas**

TACs or fishing opportunities (expressed in tonnes or numbers) are the maximum quantities of fish that may be taken from a particular fishery, from a given area over a given period. In the EU, TACs are set for most commercial fish stocks. The Commission draws up the proposals every year (every two years for deep-sea stocks), based on scientific advice from advisory bodies. These may include national research institutes, the Scientific, Technical and Economic Committee for Fisheries and the International Council for the Exploration of the Sea. For stocks that are shared and jointly managed with non-EU countries, the TACs are agreed with those non-EU countries.

The Commission's TAC proposals are discussed by several committees and then discussed at the Council of Fisheries Ministers at the Fisheries Council each December. The Council of Ministers, not always in accordance with the Commission's proposals, adopts the TAC for the following year for each species and area.

The TACs are divided into national quotas according to a scale established in 1983 and updated over time as new Member States joined the European Union. But the quotas can be exchanged between Member States during the year. Quotas may be accompanied by additional measures to restrict fishing periods, the use of certain fishing gears or access to certain fishing areas.

## **2. Input control Measures**

### **Fishing effort**

Fishing effort management is a combination of restriction on the fleet capacity and the amount of time the fleet can spend at sea. The EU defines fishing effort as fleet capacity [tonnage (GT) and engine power (kW)] x days at sea. Approaches are tailored to each fishery, taking into account the type of fishing gear used and the main species caught. Restrictions on the fishing effort are normally applied together with TACs. Examples of fishing effort restrictions can be found in the plan for managing the sole and plaice stocks in the North Sea, in the rules on fishing in the western waters or in management plans for the Mediterranean.

### **Technical Measures**

Technical measures are a set of rules which govern gear usage and where and when fishermen can fish. They include fishing gear design and use specifications; minimum mesh sizes for nets; requirements for selective fishing gear to reduce by-catches (where unwanted or non-target species are caught); and closed fishing areas and seasons.

To implement, monitor and enforce these fisheries management measures, the Member States can use tools such as fishing licences and fishing authorisations, fleet registers, vessel detection systems (VMS) and fisheries monitoring centres (FMC) (see glossary), catch and landing information for

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vessels flying their flag, inspection activities and, where necessary, sanctions.



Verification of the mesh size of fishing nets

Source: European Court of Auditors.

### ***The CFP control system***

4. If the CFP is to ensure that fish stocks and the fishing sector are sustainable, an effective control system over the CFP's fleet and fisheries management measures is essential. This includes controls over the capacity and activity of the fleet, over compliance with management measures, and enforcement measures where infringements are detected, and when necessary, sanctions. Moreover a framework is needed to ensure that fleet and catch data are reliable, both to allow appropriate fisheries management measures to be taken and to support the scientific reports.

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5. While the CFP has been operational since the 1970's, the first control systems date from the 1990's. However, they were insufficient to ensure compliance with the CFP. The Court reported on these problems in 2007<sup>3</sup>. Following our report, major reforms to the CFP control system were adopted in 2009<sup>4</sup> by the Council's Control Regulation and in 2011 by the Commission's Implementing Rules.

6. Under the Control Regulation the Member States are responsible for controls and must allocate appropriate resources and establish the necessary structures to carry out controls throughout the production chain. There are specific requirements for fishing fleet control, compliance with management measures, reporting requirements, inspections and sanctions. Key tools for fleet management include the fleet register (which contains all fishing vessels' characteristics, fishing licences, fishing authorisations, etc.) and satellite-based systems to monitor vessel position.

7. The vessel reporting requirements depend on vessel size', ranging from no reporting requirements for vessels under 10 metres long, to electronic reporting requirements for larger vessels (see **Annex I** for further information). **Figure 2** shows the EU fleet's composition.

- Vessels under 10 metres long are not required to record their fishing activities';
- Vessels between 10 and 12 metres long are required to submit paper information on catches and landings;

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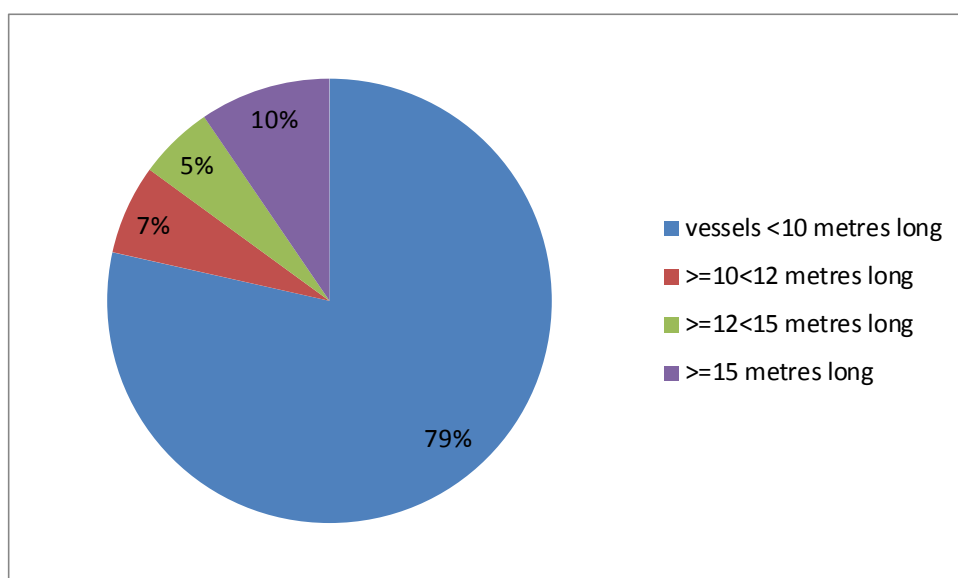
<sup>3</sup> Special Report No 7/2007 on the control, inspection and sanction systems relating to the rules on conservation of Community fisheries resources (OJ C 317, 28.12.2007, p. 1).

<sup>4</sup> 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, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1). 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 (OJ L 112, 30.4.2011, p. 1).

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- Vessels longer than 12 metres are required to submit electronic information on their catches and landing. Vessels between 12 and 15 metres long, however, may be exempted from electronic reporting.

**Figure 2 – EU fleet composition by length category**



Source: European Fleet Register (84.280 fishing vessels at 31.12.2015).

8. The control system should be enforced by surveillance and inspection activities. In case of non-compliance, the Control Regulation provides that the Member States should apply effective, proportionate and dissuasive penalties. Each Member State decides which penalties to apply, in accordance with the principle of subsidiarity. Since 2012, in order to ensure that penalties are applied fairly, Member States have been required to implement a system of penalty points for the holders of fishing licences and for masters of fishing vessels. These points are applied in case of serious infringements of the rules in force for the application of the CFP. Where several serious offences are noted, the accumulated points may lead to the suspension and ultimately the withdrawal of the fishing licence and to the ineligibility for funding from the European Maritime and Fisheries Fund.

### ***The role of the Commission and of the European Fisheries Control Agency***

9. The Commission monitors the overall implementation of the CFP by Member States. It receives relevant data from the Member States, notably on catches, quota use, fishing

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effort and fishing fleet capacity. The Commission can also carry out audits and inspections, and participate in national inspections.

10. When the Commission observes that national authorities are not enforcing fisheries rules properly, it first tries to resolve issues through consultation. It may close a fishery until the issue is resolved. The Commission can also establish an action plan, agreed with the national authorities, to improve the situation. When the Member State does not take adequate action, the Commission can launch an infringement procedure against the Member State concerned.

11. The European Fisheries Control Agency (EFCA) helps to ensure that CFP rules are applied effectively and uniformly through the operational coordination of the Member States' control and inspection activities. The EFCA is also responsible for coordinating joint controls and inspections by Member States<sup>5</sup>. However, these specific aspects were not analysed during the audit.

### **AUDIT SCOPE AND AUDIT APPROACH**

12. We focused on the adequacy of the main requirements of the fisheries control regulation and their implementation by the Member States we visited. We sought to answer the overall audit question: "Does the EU have an effective fisheries control system in place?" The main audit question was further broken down into the following sub-questions:

- (a) *Do Member States have reliable information on their fleet characteristics?* In order to answer this question, we examined how Member States checked the components of fleet capacity (in terms of kW and GT), and whether they kept the fleet register up to date.
- (b) *Are fisheries management measures well implemented?* Under this sub-question, we reviewed how Member States used vessel monitoring systems and how they managed

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<sup>5</sup> Joint controls are organised within Joint Deployment Plans (JDPs) for Specific Control and Inspection Programmes.

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fishing quotas, fishing effort regimes and technical measures. Our review examined overall issues rather than focusing on specific fisheries.

(c) *Is the data needed for fisheries management complete and reliable?* In order to answer this sub-question, we examined how the Member States ensured that catch data and landing declarations were comprehensive, consistent and validated. We reviewed how the Member States shared management information, particularly when vessels from one flag Member State<sup>6</sup> fished in the waters of another. We also examined how the Commission consolidated Member States' data.

(d) *Are inspections and sanctions appropriately planned, performed and applied?*

We examined how Member States planned, performed and reported on their fishing inspections. We also examined whether or not Member States followed up inspections with effective sanctions. To do this, we considered in particular whether or not sanctions were dissuasive, and how the penalty points system was implemented in practice.

13. We carried out the audit between April and October 2016. It included visits to the European Commission and to four Member States (Spain, France, Italy and the UK (focusing on Scotland<sup>7</sup>)). These Member States were selected as they represented more than half of EU fleet capacity and almost half of EU fish catches, and as their fleets were active in the Atlantic and the Mediterranean, which had significant differences as regards fisheries and fleet management measures.

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<sup>6</sup> Member State in which a vessel is registered.

<sup>7</sup> Each country in the United Kingdom has set up their own systems to meet the obligations laid down in the CFP. The audit was carried out in Scotland and our observations and conclusions refer to Scottish systems and procedures. However, catch data was checked for the UK, since the four countries do not communicate individual information to the Commission.

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## **OBSERVATIONS**

### ***Information on fleet characteristics available in the register was not always accurate and verified***

14. To reduce pressure on stocks, the CFP sets compulsory fleet capacity ceilings for Member States and management measures for specific fishing stocks or fisheries. To ensure compliance with both their capacity ceiling and the applicable management measures, Member States require reliable and up-to-date information on the capacity and technical characteristics of their fishing vessels. We therefore examined how Member States verified the kilowatts (kW) and gross tonnage (GT) of their vessels, and monitored the reliability of their fleet registers.

### **Checks on fishing capacity were incomplete**

15. According to the Control Regulation Member States must verify compliance with their authorised capacity ceiling, in kilowatts (kW) and gross tonnage (GT) used by the CFP as indicators of the ability of a vessel to catch fish. The authorised capacity of vessels is recorded in the fleet register.

16. However, although provided for in the Control Regulation, no detailed rules for the fleets' gross tonnage were adopted so far. As a result Member States did not carry out full measurements of their vessels. In contrast, the Control Regulation provides procedures for checking the engine power. It requires Member States to carry out, from January 2012, a risk analysis and select a representative sample, on which they must then carry out an in-depth documentary check; although it does not establish the required frequency of the checks. If the check indicates that a vessel's details might be inaccurate, the engine power must be physically checked<sup>8</sup>. Although physical checks require significant resources, they make it possible to identify any changes in engine power after a vessel and its engine are commissioned. According to the Commission's 2016 report to the European Parliament and Council on Member States' 2014 efforts to achieve a sustainable balance between fishing

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<sup>8</sup> Article 41 of the Control Regulation and Articles 62 and 63 of its Implementing Rules.

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capacity and fishing opportunities<sup>9</sup>, 17 of the 23 European coastal countries had adopted sampling plans to check engine power by the end of 2015.

17. In the four countries we visited, only Spain and the UK (Scotland) had carried out this check based on a sampling plan as required. The details are set out in **Box 3**.

**Box 3 – Verification of engine power carried out in application of the requirements of the Control Regulation**

In Scotland, the physical checks were carried out in 2013 and 2015. The risk analysis used and the sample size for documentary checks were done at national level. Only one of the 24 vessels physically inspected had a higher engine power than that shown in the register.

In Spain, the documentary checks were done on a random sample of 97 vessels and physical checks were carried out in 2015 on 15 vessels from this sample. In seven out of 15 cases, i.e. 7 % of the original sample and 47 % of the vessels inspected, the physical checks revealed that the actual engine power of the vessels was higher than that shown in the register.

In both countries the authorities took the necessary steps to require the vessels to regularise their excess capacity and, where necessary, prohibited them from continuing to fish.

18. France had completed the risk analysis and had begun the documentary checks on engine power. The results were not available at the time of our audit. According to the information received during the audit, Italy had not started the process.

19. According to the Commission's 2016 report on fleet capacity, all the coastal Member States complied with their fleet capacity ceilings (see **Figure 3**). Six states (Bulgaria, Greece, Croatia, Italy, Romania and Slovenia), however, were operating at almost 95 % of their capacity ceiling in terms of kW, and so had a higher risk to exceed the ceilings. At the end of 2015, only Croatia and Bulgaria had adopted sampling plans to check engine power.

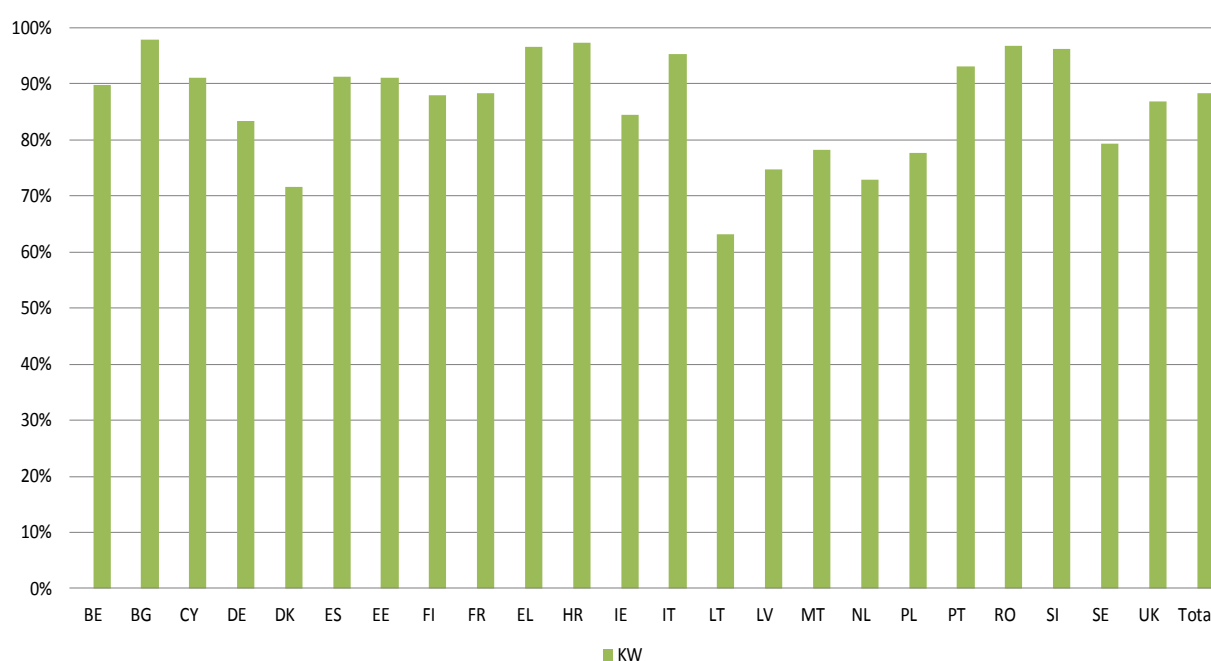
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<sup>9</sup> COM(2016) 380 final of 10 June 2016 "Report from the Commission to the European Parliament and the Council on Member States' efforts in 2014 to achieve a sustainable balance between fishing capacity and fishing opportunities".

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20. While the checks by the Spanish authorities (see **Box 3**) cannot be extrapolated to the rest of the fleet, they do show the importance of a systematic approach to the physical verification of engine power, particularly for Member States approaching their fleet capacity ceilings.

**Figure 3 – Compliance with kW ceilings in November 2015 by Member State (excluding the outermost regions)**



Source: COM(2016) 380 final.

### **The national fleet registers information was not always accurate**

21. Each Member State keeps a national register, i.e. a database in which all fishing vessels flying that Member State's flag have to be registered under EU legislation. The European Commission keeps a register of the EU fleet containing the relevant vessel information, which is provided regularly by the Member States from their national registers. This includes information such as vessel name and registration number, main and subsidiary fishing gears, total length overall, gross tonnage (GT) and engine power (kW).

22. The fishing fleet register is an essential tool for the CFP. It allows fishing fleet capacity ceilings to be monitored for compliance and provides basic data for management measures

such as fishing gear restrictions, vessels' reporting obligations and the vessel monitoring system.

23. We checked the accuracy of the national registers and we identified a significant number of discrepancies between the register and source documents for a sample<sup>10</sup> of vessels in three of the four Member States (see **Box 4**). Unreliable register information reduces the reliance that can be placed on the EU register as an essential tool for managing the CFP.

**Box 4 - Discrepancies noted in the fleet register**

For France, we found discrepancies in different types of data in the fleet register in 45 % of the cases tested. There were discrepancies in engine power in 26 % of cases and discrepancies in length in 16 % of cases.

For Italy, we found that the procedures for managing the national and EU registers were so complex that it took several months for changes in vessel characteristics to be entered in the register, and led to differences between both registers. We found 19 vessels missing from EU register and included in the national and 9 vessels missing in the national register but included in the EU register. Moreover in case of 46 vessels we noted differences between both registers.

For Scotland, we found that in 60 % of cases tested the capacity of the vessels in the fleet register did not correspond to the capacity shown in the vessel registration documents; in most cases the capacity recorded in the fleet register exceeded that shown in the underlying documents, by an average of 30 %.

24. The Member States are required to update the EU register every three months, with additional updates whenever there is a significant change. Based on the comparison of data from national registers with the EU register at the end of 2015, we found that the EU register was generally up-to-date and reflected the information in the national registers, with Italy as the only exception out of the Member States visited.

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<sup>10</sup> Although we requested information for a sample of 20 vessels per port visited in the Member States, we did not always obtain all the information requested. As a result, the size of the sample actually analysed varied between Member States.

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***Fisheries management measures were correctly implemented, but there were significant gaps in control requirements for small vessels***

25. The monitoring of fishing activities is an essential part of any fishery's sustainability policy, and allows to gather information that is used to assist in developing and assessing appropriate fishery management measures<sup>11</sup>. The quality of this monitoring will have an impact on the effectiveness of management measures.

26. The CFP contains a package of fisheries management measures (see paragraph 3 and **Box 2**) including quotas, fishing effort restrictions, and technical measures for specific fisheries. Member States are also required to implement and monitor the fishery management measures set out in national and international law (including resolutions of the regional fisheries management organisations) and ensure that both EU vessels and foreign vessels fishing in EU waters comply with the rules and restrictions in place.

**Vessel monitoring systems provide powerful monitoring information, but exclude a large part of the fishing fleet**

27. The Control Regulation requires Member States to have a fisheries monitoring centre (FMC) to automatically process Vessel Monitoring System (VMS) data from fishing vessels flying their flag. Vessel identification, position, date, time, course and speed details are transmitted by satellite tracking devices fitted on board the vessels (see **Figure 4**).

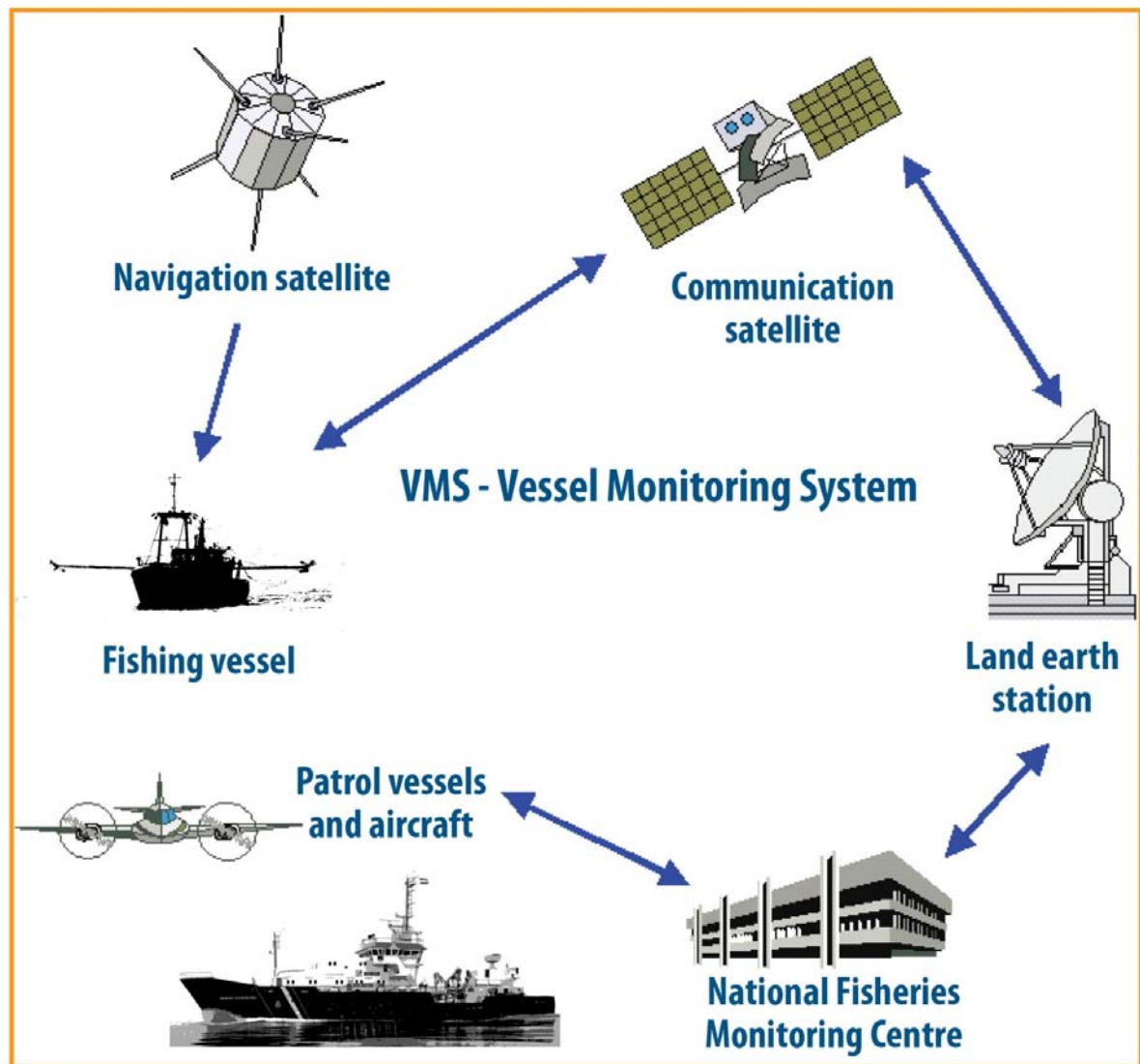
This provides very powerful real-time information for monitoring fishing activities and planning inspections. For example, using the information on speed and position transmitted by a vessel, the FMC can detect if a fishing vessel is fishing in a restricted area. It can then check whether or not the vessel has the required authorisation or the permitted characteristics for fishing activities in that area.

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<sup>11</sup> A Fishery Manager's Guidebook. FAO 2009.

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**Figure 4 – Functioning of the FMC**



Source: DG MARE.

28. In the Member States visited, the VMS systems were generally being correctly used to plan inspections and monitor the fishing activities of vessels linked to the system. However in Italy, unlike the other countries visited, the system did not produce automatic alerts when fishing vessels entered restricted fishing areas, to enable the authorities to check whether the vessel was authorised to fish. Member States sometimes set more stringent conditions than those required by the Control Regulation. For example, in order to better check vessel

activity under the national Mediterranean management plan<sup>12</sup>, Spain required all purse seiners<sup>13</sup> and trawlers<sup>14</sup>, regardless of size, to be linked to the VMS. Moreover some regional authorities in Spain required all vessels fishing in certain protected zones to be equipped with simpler (non VMS) localisation systems.

29. The Control Regulation requires VMS equipment to be fitted on all fishing vessels of at least 12 metres in length. Member States may exempt vessels less than 15 metres long if they only fish in the waters of their flag Member State, or never spend more than 24 hours at sea from the time of departure to the return to port.

30. On analysing the information in the EU fleet register, we found that 2 % of vessels that were over 15 metres long and were licensed to fish had no VMS, contrary to the requirements of the Control Regulation. The Commission had detected this irregularity but it had not been corrected at the time of the audit.

31. Due to the limited requirements of the Control regulation, at 31 December 2015, 89 % of EU fishing vessels included in the EU register did not have VMS equipment on board (see **Figure 5**). Of these, 95 % were vessels under 12 metres long, which are not required to have VMS under the Control Regulation. Most of the vessels between 12 and 15 metres long (79 %) were exempted from the VMS obligation by Member States. We recognise the need to avoid overburdening operators of small vessels with expensive and complex localisation systems. However, the fact that an important part of the fishing fleet is not equipped with VMS represents a significant gap in the fisheries management system, as:

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<sup>12</sup> Article 19 of Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11) requires that Member States adopt Management plans in their territorial waters for certain fisheries.

<sup>13</sup> A purse seiner is a vessel which employs a large wall of netting deployed around an entire area or school of fish.

<sup>14</sup> A trawler is a vessel using as fishing gear a large net called a 'trawl'.

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- when not equipped with VMS, (or other remote systems for detection of location, course and speed of the vessels), vessels entering areas in which fishing is restricted, or fishing at unauthorised times, can only be detected via aerial or marine surveillance (patrol vessels). Restricted areas and closed seasons are important technical measures for stock recovery;
- vessels between 12 and 15 metres long can be exempted from the requirement to install a VMS and from submitting electronic declarations if they spend less than 24 hours at sea or only fish in the territorial waters. With no VMS, however, these conditions can only be checked with difficulty, unless the port authorities require vessels to inform them when entering and leaving the port, as it is the case in Italy;
- vessels authorised to fish under a fishing effort regime can only be checked effectively if they are equipped with VMS, unless they produce other information (electronic or paper fishing logbooks<sup>15</sup> or sales notes with reference to time and area) quickly enough, which is however often not the case (see **Box 5**);
- activity data cannot be cross-checked (species and quantities caught against the catch area communicated via the VMS). This also hinders the automatic quota uptake control.

32. The vessels without VMS are generally under 15 metres long. Although individually they might not catch large amounts of fish, their total catch volume in some fisheries and particularly their impact on some species can be significant. That is particularly the case in the Mediterranean basin, where the majority of vessels were less than 15 metres long and many stocks were in a serious condition (see **Figure 1**).

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<sup>15</sup> The logbook records the fishing activity of a vessel.

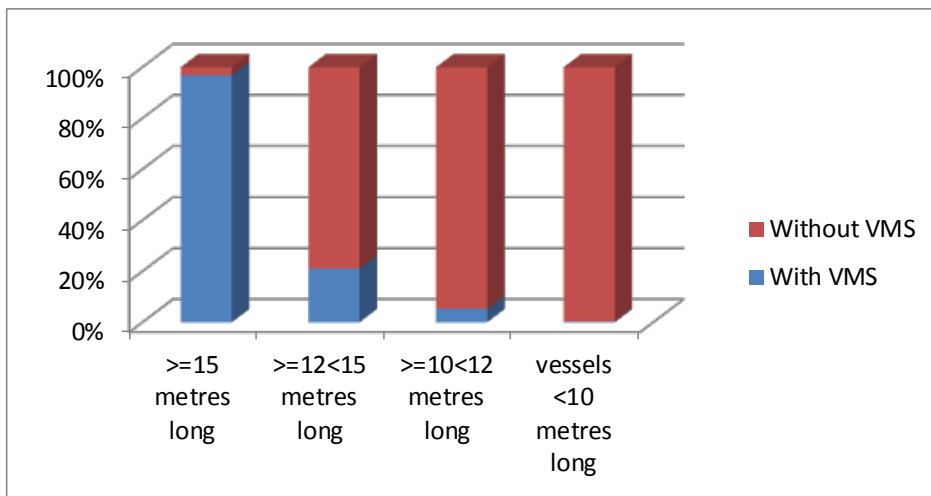
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Mediterranean Port

Source: European Court of Auditors.

**Figure 5 – Proportion of vessels in the EU fleet with and without VMS, by length category**



Source: ECA based on data from the European fleet register.

**Total Allowable Catches, quotas and fishing effort regimes were generally well managed, but it was sometimes difficult to monitor technical conservation measures**

33. As described in the introduction (paragraph 3 and **Box 2**), EU fishery resource management is mainly based on total allowable catches (TAC) or fishing opportunities set for the same stocks, which are then shared between EU countries in the form of national

quotas, fishing effort regimes and technical measures. **Annex II** provides further information on how the Member States we visited implemented quotas and effort regimes. The CFP requires the national quota to be distributed by Member States based on transparent and objective criteria. These criteria may take into account the impact of fishing on the environment (e.g. type of fishing gear or technique used by the vessels), the history of compliance, the contribution to the local economy and historic catch levels.

34. The Member States used different practices that were not fully communicated to the Commission. Some allocated quotas directly to fishing vessels, and some allowed producer organisations to manage the quotas. In the latter case, the Member State did not always know which criteria had been used to distribute the quotas or the amounts allocated to each of the beneficiaries. This was the case in Scotland and France for most of the species. This lack of transparency makes it difficult for Member States to know the actual beneficiaries of fishing opportunities, their fishing gears and characteristics and therefore to assess any potential adverse impact on the environment and local economies, for example, and take the necessary corrective measures where appropriate. Lack of transparent distribution of quotas increases the risk that specific interests of certain economic operators are favoured at the expense of others.

35. Member States are responsible for ensuring that quotas are not exceeded. When the available quota for a given species is exhausted, the Member State must close the fishery and inform the Commission. The Commission provides an information exchange system for use by Member States, which also allows them to manage quotas and transfer limits among themselves. At the end of the year, the Commission compares the allocation (including the transfers received from other Member States) and consumption of quotas by Member State. If the consumption for one or more species was higher than the allocation, the quota for these species is deducted from the following year's allocation for the Member State concerned.

36. We examined the system in place for monitoring quota uptake in the four Member States visited. We found that uptake was closely monitored following specific procedures which required significant administrative effort by Member States (see **Annex II**). For the species subject to quotas these procedures would compensate for the weaknesses found in

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general catch data management (see paragraphs 42 to 71). We compared the Member States' declarations to the Commission regarding the quota uptake for 2015, with the catch data provided by the Member States (for Spain, Italy and the UK from data relating to individual vessels). We did not identify significant differences.

37. The Member States managed the established limits for fishing effort regimes (see **Box 2**) by granting fishing authorisations to vessels that complied with the required conditions (e.g. for vessel characteristics or fishing gear). The maximum number of days of fishing activities was set by considering the total capacity of the authorised vessels. To monitor the use of this fishing effort, the Member States generally calculated the number of days spent at sea by the vessels manually. This information was sometimes difficult to retrieve if the vessels were not equipped with VMS and the Member States then needed to refer to other information allowing them to identify or estimate this duration (logbooks, sales notes). The Member States used different approaches to calculating days at sea<sup>16</sup>. When the regime applies to different Member States this can lead to disparities in the actual time allocated for fishing to vessels by each Member State and to inaccuracies in the calculation of the consolidated effort uptake.

38. There are currently more than 30 regulations containing technical fishing measures (see **Box 2**) applicable to both EU water and non-EU waters in which EU vessels operate. In March 2016 the Commission submitted a proposal for a regulation on technical measures with an emphasis on regionalisation and simplification<sup>17</sup>.

39. Technical measures are particularly important in the Mediterranean where, unlike in the Atlantic, the fisheries management system is not quota-based and fish stocks are not in a

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<sup>16</sup> For instance, in Spain, the fishing effort is calculated in multiples of whole days while in Scotland the number of days is calculated based on the length of the fishing trip.

<sup>17</sup> COM(2016) 134 final of 11 March 2016.

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good environmental status (see **Figure 1**). According to the Commission<sup>18</sup>, an estimated 95 % of the Mediterranean fish stocks assessed are overfished.

40. We found that it was complicated for fishermen to apply the technical measures and for inspectors to control them as so many were applicable in the Mediterranean<sup>19</sup>. This was backed up by the stakeholders<sup>20</sup> we spoke to. Moreover, most of the fishing vessels operating in the Mediterranean were small<sup>21</sup>, and consequently exempt from vessel monitoring system and electronic communication systems. This is another factor hindering fisheries management by limiting the possibilities to control fleet activities and catches.

41. We noted that, particularly in Spain and France, the professional fisheries organisations required their members to comply with additional technical and control measures beyond those required by the EU regulatory framework (e.g. additional stoppages beyond the times imposed by the authorities, larger minimum catch sizes, VMS obligations for smaller vessels, additional peer controls). These measures were more tailored to the specificities of the regions concerned and therefore easier for fishermen to understand and apply. There is scope for capitalising on this awareness and commitment at regional level, particularly in the framework of the future regional decision-making process (see paragraph 38).

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<sup>18</sup> COM(2016) 380 final.

<sup>19</sup> The basis for European fisheries technical measure management is Council Regulation (EC) No 1967/2006. Two regulations complete the general regulatory framework for the Mediterranean: Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44) and Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 (OJ L 252, 16.9.2016, p. 1). Six more EU regulations and other national legislation apply.

<sup>20</sup> Fishermen, inspectors, authorities, etc.

<sup>21</sup> “Small-scale vessels, identified as polyvalent small-scale vessels up to 12 m length overall [...] account for 80 percent of the total number of vessels” [in the Mediterranean and the Black Sea]. The State of Mediterranean and Black Sea Fisheries 2016, GFCM.

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***Fisheries data collected under the Control Regulation was incomplete and unreliable***

42. To achieve the objective of sustainably exploiting fisheries resources, a balance must be found between existing stock levels and fishing intensity. Reliable and comprehensive data on fish catches is very important both in order to scientifically assess stocks, and to take appropriate management measures to conserve or recover stocks. Once the measures have been approved, they must be applied correctly and fleet activity must be controlled.

43. The Control Regulation requires all vessels with an overall length of 10 metres or more to submit a set of documents, electronically (via the Electronic Reporting System (ERS<sup>22</sup>)) or on paper. This includes logbooks, landing declarations, and sales notes for quantities over the set threshold. The provisions of the Control Regulation and the procedures used by each of the audited Member States are set out in **Annex I**.

44. The Control Regulation requires Member States to carry out cross-checks to ensure that their data is of sufficient quality. The cross-checks cover VMS data, data on fishing activities, sales information, details of fishing authorisations and licences, and inspection report data.

45. The information provided by Member States on fishing activities in line with the Control Regulation (landings, catches and efforts) is also used for other purposes. It is the main source of information for meeting the Member States' obligation to provide statistical data on landings in line with the legislation<sup>23</sup>. It also constitutes a source under the Data Collection Framework (see **Annex III**), which was established to support scientific advice in the context of the CFP.

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<sup>22</sup> The Electronic reporting system (ERS) is used to send the competent authority of the flag Member State information on vessels, trips and catches (vessel name, catch date, date of departure from and arrival in port, trip duration, type of gear and mesh size, estimated quantities of each species, discards...).

<sup>23</sup> Regulation (EC) No 1921/2006 of the European Parliament and of the Council of 18 December 2006 on the submission of statistical data on landings of fishery products in Member State and repealing Council Regulation (EEC) No 1382/91 (OJ L 403, 30.12.2006, p. 1).

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46. We analysed the reliability of the relevant catch data available to the Commission obtained from the following sources:

- fishing logbooks or equivalent documents used to record catches;
- landing declarations recording the actual quantities landed; and
- sales notes recording the quantities sold to the first buyer.



Direct sales to the consumer from fishing vessels

Source: European Court of Auditors.

**Member States' catch data for smaller vessels without electronic declarations was incomplete and sometimes incorrect**

47. Reliable comprehensive data on fishing activities is essential for managing fisheries effectively. To enable data to be consolidated and used at EU level, it needs to be comparable across Member States and provided on a timely basis.

48. The Control Regulation does not oblige vessels under 10 metres long to report catches and landings. The Member States must monitor the activities of these vessels in order to ensure their compliance with the rules of the CFP on the basis of sampling plans or requiring

these vessels to submit sales notes or a monthly declaration of their catches. Moreover, Member States can oblige the masters of these vessels to keep a logbook.

49. We noted that France and Scotland required vessels under 10 metres long to complete a simplified form of the fishing logbook. In Spain all sales had to be made through an auction centre, and the sales notes were available.

50. Italy did not collect catch or landing data for vessels under 10 metres long. Moreover these vessels were allowed, in accordance with the Control Regulation (see [Annex I](#)), to sell directly to the consumer with no obligation to declare the sales. However, contrary to the Control Regulation, Italy had not implemented a sampling plan to collect fisheries activity data for this vessel category. Italy used instead the information collected for other purposes<sup>24</sup>, with a different collection method and objectives to those of the Control Regulation, not based on a risk analysis and obtained several months after the fishing activity took place.

51. The proportion of vessels in the Member States visited<sup>25</sup> using paper and electronic data declarations is illustrated in [Figure 6](#). This shows that relatively few vessels used electronic declarations. In Spain and Italy most vessels between 12 and 15 meters long (85 % and 90 % of the vessels respectively) were exempted from electronic declaration.

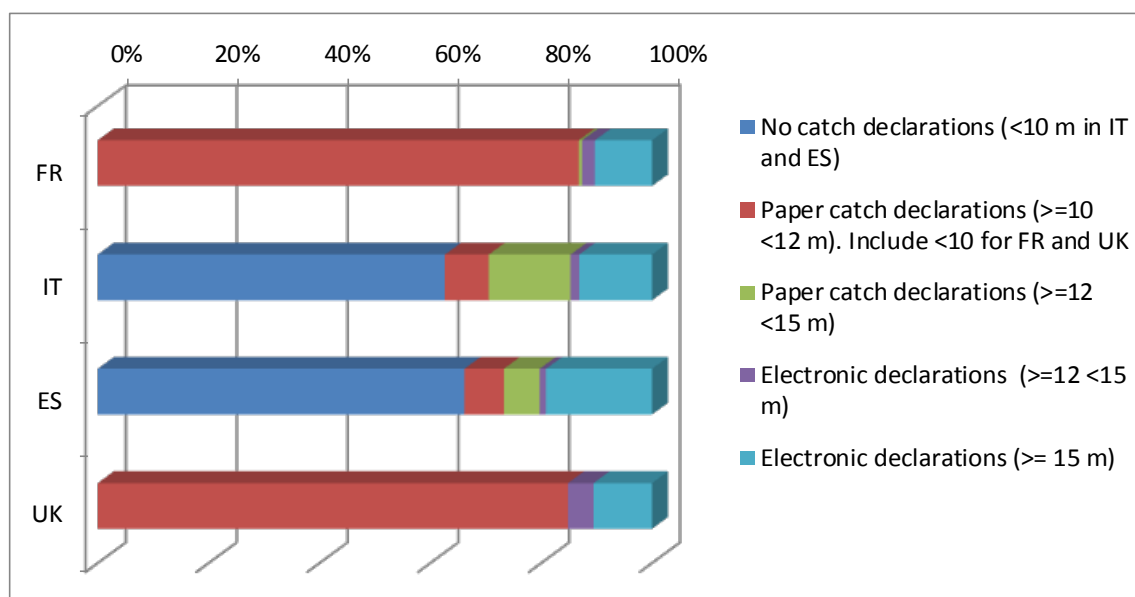
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<sup>24</sup> In the context of the Data Collection Framework regulation.

<sup>25</sup> We do not have this information for the rest of the EU.

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**Figure 6 - Proportion of vessels that register catch and landing data, and data format**



*Source:* Information from the EU fleet register and from the Member States.

52. By their nature, paper-based declarations increase the risk of errors being recorded in the Member States' catch databases. We therefore checked a sample of paper catch and landing declarations against the Member States' catch database entries. We also checked that the vessels appeared as active in the fleet register.

53. The audit work revealed that information was incomplete, there were data transcription errors and in some cases catches were being recorded for vessels shown as inactive in the fleet registers. **Box 5** illustrates the main weaknesses we found.

#### **Box 5 – Errors and system weaknesses concerning paper-based declarations**

In France, the paper-based declaration system is used for 87 % of the fleet, which takes approximately 16 % of catches. The contractor responsible for entering the information from the paper declarations into the database only received full catch information for 45 % of vessels using such declarations. Transcription of this data into the database was delayed by up to six months. Our analysis of a sample of declarations revealed significant differences (more than 50 kg or 10 %) between the physical catch and sales declarations and those saved in the database. As part of the

action plan established with the Commission<sup>26</sup>, France had set quantitative indicators allowing submission rates for paper declarations to be easily followed up by region.

In Italy, when we cross-checked vessels showing catches for 2015 in the electronic catch recording system against the active vessels in the fleet register, we found that 30 vessels declaring catches in the electronic system were no longer active in the register during that year. The system did not block this type of error.

In Spain, we only received information for 60 % of our sample. For the vessels for which information was available, the catch information had been correctly transcribed from paper declarations.

In Scotland, where all vessels were required to submit a catch declaration, only 2 % of landing declarations were missing. Transcription quality was generally good, although 10 % of the reviewed documents showed an incorrect landing date.

54. The catch data is an important source of information for scientific analyses and advice<sup>27</sup>, and for estimating pressure on fish stocks. The reliability of this information is undermined by the gaps in catch data for vessels under 10 metres long and the weaknesses identified in the treatment of paper-based catch declarations. The Commission itself underlined<sup>28</sup> the need for accurate catch data and stressed the importance of the lack of such information from small vessels not subject to catch data reporting requirements.

### **Sales data was not sufficiently comprehensive or consistent with landing declarations**

55. The Control Regulation obliges Member States to cross-check information relating to fishing activities (such as information on catches, landings and sales notes). These measures should improve the reliability of catch data.

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<sup>26</sup> Commission implementing decision establishing and Action Plan in order to correct deficiencies of the French fisheries control system (C(2014) 3594 final).

<sup>27</sup> For example to support the Commission in drawing up of the proposal for annual fishing opportunities for certain species and the annual report on the European fleet capacity.

<sup>28</sup> Report on the fleet capacity for 2016 (see **Box 1**).

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56. We cross-checked landing declarations and sales notes for a sample of vessels (see footnote 11). We found that sales notes were not always available, and that there were significant unexplained differences between landing declarations and the quantities recorded as sold. Considering that Member States subsequently use these information sources for data validation, the magnitude of the differences we found in our sample showed substantial room for improvement. The details are presented in **Box 6**.

**Box 6 – Errors and system weaknesses concerning the cross checks between landing declarations and sales notes**

In France, sales notes were only sent in full by 67 % of vessels included in our sample. For 15 % of vessels, no sales notes were available. When we compared the landing data and sales notes relating to vessels for which all the information was available, we found errors in 2.6 % of cases.

In Italy, sales notes were missing for 17.5 % of the vessels; while landing declarations were only missing for one vessel. When we compared the landing data and sales notes relating to vessels for which all the information was available, we found errors in 29 % of cases (vessels above 15 metres long with both sales notes and landing declarations).

In Spain we noted that for 39 % of landings in our sample the sales notes were missing. That was due to the fact that the autonomous community responsible for sending the sales notes did not have a system for this purpose. Spain was working to address this issue. We did not find any significant differences when we compared the sales notes and landing declarations for a sample of vessels.

In Scotland we found discrepancies between the landing declarations and sales notes in 62.5 % of vessels sampled.

**The information-sharing system between Member States was ineffective**

57. The Control Regulation provides for information-sharing between the Member States, which is important in order to deal with the frequent cases where vessels catch, land or sell their catches in Member States other than their own. The Commission has made available to the Member States an online platform for these exchanges but does not monitor this type of information exchange between the Member States.

58. For the Member States we audited, we cross-checked the landing data for one Member State's vessels against data in the other Member States involved in the audit. We found that France had erroneously declared catches from Spanish vessels landed in the UK and sold in France as "landed in France". We also observed that Italy had not declared as "landed in Italy" any catches landed by Spanish vessels in its ports in 2015. Spain, however, had forwarded landing notifications regarding its fishing vessels to the Italian authorities, who should therefore have been aware of the catches landed by Spanish vessels.

59. The Commission is aware that the Member State's exchange systems are not reliable and result in this type of transmission errors. It has observed that the Member States internal organisation of data storage and transmission systems is often too complex, and IT systems are often incompatible among and within Member States.

60. Scottish inspectors used another online document-sharing system to make available the transportation documents for catches landed in their ports by vessels flying the flag of other Member States. When the catches are transported outside Scotland, this allowed the destination Member State to inspect the lorries transporting the goods, if it considered this necessary, and cross-check the information against other data. Despite this being a positive example of cooperation, it also indicated that the exchange of data and information on the existing platforms could work more effectively.

### **There were weaknesses in the data validation systems and processes**

61. After ensuring that the required data has been recorded in line with the Control Regulation, each Member State must set up its own data validation system, to detect inconsistencies, errors and missing data.

62. We examined whether or not the Member States visited had implemented appropriate validation systems. The main validation weaknesses concerned unreliable validation algorithms and lack of cross-checks between different information sources and databases. These are illustrated in **Box 7**.

63. In addition to the requirements of the Control Regulation, some of the Member States visited had carried out additional checks on the data to further improve its quality:

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- (a) cross-check of vessel ID against the register to ensure the vessel was active. In Italy, the only country where we identified this check was not performed, vessels which were no longer in the fleet register were declaring catches (see **Box 5**).
- (b) check that the catch and landing declarations specified the fishing grounds. In Italy, the only county where we identified the absence of such check, we found that in 2015 a total of 50 576 tonnes of fish were declared as landed without specifying the fishing ground, while 2 774 tonnes of fish were declared as catches without specifying the fishing ground.
- (c) check that the 10 % tolerance<sup>29</sup> per species between the catch declaration and landing declaration was observed. Of the four countries visited during the audit, only Scotland had set up this automatic comparison system.

#### **Box 7 - Weaknesses in data validation in the Member States**

In France, catch, landing and sales data was processed automatically using an electronic application to carry out cross-checks and corrections based on a series of algorithms. We found that the algorithms used were unreliable. They produced numerous cases of duplication, errors in species, and other mistakes. When the catch and landing data differed, or when the catch, landing or sale dates were too far apart, the system selected one value, which could be erroneous, and did not retain the original data history. The authorities had put in place a system to identify and correct anomalies in the framework of the action plan, but further improvement was necessary.

In Italy there were several independent databases containing information about the fishing fleet and its activity (fleet register, licences, catch data, etc.) but the cross-checks required by the Control Regulation had not been carried out. Due to delays in the public procurement procedure and lack of resources, no validation system had yet been implemented.

In Spain the validation system only allowed cross-checks to be carried out on catch and landing declarations. The other information sources set out in the Control Regulation (notably VMS) were not yet used.

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<sup>29</sup> The Control Regulation allows a margin of difference (tolerance) between estimated and actual weight of catches.

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The Scottish authorities used the cross-checks required by the Control Regulation, as well as other checks which they believed provided added value (VMS satellite information was compared to aerial and marine sightings by inspection vessels and aircraft recorded in the Monitoring, Control and Surveillance System; logbook and hailing-in data were compared to ensure that vessels complied with hailing-in requirements and to reveal catch errors in the logbook).

64. Despite the Member States' efforts, at the time of the audit three of the four Member States visited did not comply with all of the requirements. France and Italy in particular still had significant progress to achieve.

**The Commission did not receive comprehensive sets of validated data from the Member States**

65. The Control Regulation requires each flag Member State to notify the aggregate catch data on all stocks or stock groups subject to a TAC or quotas to the Commission electronically before the 15th of the following month. The Member States must also inform the Commission on a quarterly basis of the aggregate quantities of stocks other than those sent on a monthly basis. This information constitutes the Commission's main data source concerning quota use and the fishery activity of the EU fleet. The Commission passes on this data to the regional fisheries management organisations. It is therefore important that the data be reliable so that the right fisheries management decision can be made.

66. The Member States also report catch information to Eurostat, which collates fisheries statistics for the EU.

67. We cross-checked the aggregated catch data available to the Commission (DG MARE and Eurostat) for the four countries visited against the data provided directly by the national authorities. We identified significant discrepancies which are detailed in **Table 1**.

Table 1 – Differences between Member States, DG MARE and Eurostat data

Catches by Member State (1000 tonnes)	Source of data	2013	2014	2015
Spain	Member State data	878	910	870
	DG MARE	483	942	926
	Eurostat	904	1 237	902
	<b>MARE versus MS</b>	<b>-45%</b>	<b>3%</b>	<b>6%</b>
	<b>MARE versus Eurostat</b>	<b>-47%</b>	<b>-24%</b>	<b>3%</b>
France	Member State data	542	537	477
	DG MARE	574	536	436
	Eurostat	529	544	497
	<b>MARE versus MS</b>	<b>6%</b>	<b>0%</b>	<b>-8%</b>
	<b>MARE versus Eurostat</b>	<b>9%</b>	<b>-1%</b>	<b>-12%</b>
Italy	Member State data	76	76	80
	DG MARE	38	28	23
	Eurostat	173	177	191
	<b>MARE versus MS</b>	<b>-50%</b>	<b>-63%</b>	<b>-72%</b>
	<b>MARE versus Eurostat</b>	<b>-78%</b>	<b>-84%</b>	<b>-88%</b>
United Kingdom	Member State data	628	759	708
	DG MARE	911	752	707
	Eurostat	618	752	702
	<b>MARE versus MS</b>	<b>45%</b>	<b>-1%</b>	<b>0%</b>
	<b>MARE versus Eurostat</b>	<b>47%</b>	<b>0%</b>	<b>1%</b>

Source: Member States, DG MARE and Eurostat.

68. There were various explanations for these differences: missing information relating to certain fleet segments or certain stocks, data revision by Member States, or data duplication (see **Box 8**).

#### Box 8 - Problems leading to inconsistencies between data sources

##### Certain stocks and fleet segments were not included in the data sent to DG MARE

For France, the difference between the Member State data and the information sent to DG MARE in 2015 was due to the fact that data concerning catches covered by partnership agreements with non-EU countries was sent separately, in a different electronic format from that requested by the Commission, and was not uploaded to the Commission's system. As France used the same format in 2014, the minor difference in the gross totals must have been due to over-declarations of other data.

Italy did not send information regarding catches from vessels under 10 metres or vessels required to submit paper fishing logbooks. Together, these vessels represented 85 % of the total vessels and at least 23 % of total catches.

*Member States did not always send subsequent corrections to DG MARE*

In Spain, the Commission data for 2014 and 2015 did not include corrections after the deadline established by DG MARE. In 2013, the Member State did not send any data regarding species not subject to TAC and quotas.

*Duplication of data in the Commission database regarding monthly and quarterly declarations up to 2013*

This was the case for the UK in 2013 for some fish species data.

69. While the differences between DG MARE and Eurostat aggregate figures had decreased slightly, tests carried out by DG MARE on a sample of species showed that there were still substantial discrepancies for certain species. As the figures could be higher or lower for different species, this could give an incorrect impression of improvement in the aggregate data. A working group had been set up by both services to improve data quality and resolve discrepancies.

70. The extent of the overall differences raise doubts on the reliability, comprehensiveness and comparability of catch data available to the Commission. This data is also used in the Data Collection Framework, providing information contributing to scientific opinions and fisheries management decisions. The unreliability of the data therefore makes fisheries management difficult and creates a risk that the right choices (e.g. on TACS, quotas, fishing effort or technical measures) might not always be made.

71. Moreover, the Control Regulation requires Member States to send aggregated catch data by stock. However, the fact that it does not require reporting with details of fishing areas, size of vessels and fishing gears limits the possibility to make in-depth analysis of catch data (e.g. impact of a fleet segment on a specific stock).

***The inspection system was functional, but weaknesses in applying sanctions made enforcement less effective***

72. An effective inspection system is one of the key factors in ensuring that fishing activities remain sustainable and the long-term future of the sector is assured. The system must verify compliance with the fisheries management rules (for example functioning of the VMS, submission of declarations, compliance with gear specifications, size of fish, etc.) applicable to all operators in the fishing sector and establish sanctions in case of non-compliance. Member States are responsible for setting up the necessary structures and providing the funding, equipment and staff needed for inspections and sanctions. In carrying out these tasks, account must be taken of the principles of non-discrimination and non-distortion of competition between sectors, vessels and people, as recognised by the Control Regulation. These principles are particularly important due to the inherent cross-border nature of fishing activities, where vessels may be active in other Member States' waters.

**Member States generally planned inspections well, but inspection reports needed to be further standardised and better recorded**

73. If the inspection system is to function properly<sup>30</sup>, Member States must have appropriate structures in place, and carry out risk analyses to identify the risk levels for different fleets, activities and operators. Based on the identified risk, they should draw up an annual inspection plan and allocate the necessary funding, equipment and staff. Member States should create an electronic database to allow them to monitor plan rollout, then analyse and use the inspection results. The database should be kept updated and contain all the inspection and surveillance reports created by their staff. When the fishing vessel inspected is flying the flag of another Member State, a copy of the inspection report must be sent immediately to the country concerned if any infringement is noted during the inspection.

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<sup>30</sup> See Article 5 of the Control Regulation.

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### Inspection activities were generally well planned

74. We reviewed the organisation of inspection activities in the Member States audited<sup>31</sup> and the procedures in place for carrying out risk analyses and drawing up and implementing inspection plans. **Annex IV** explains how inspections are organised in the Member States visited.

75. During the audit, we noted that the risk analysis was carried out in the four Member State we visited and, with the exception of France, it was coordinated at national level taking into account both national and local risks. Following these risk analyses, inspection plans were drawn up. In France the coordination between national, regional and local level were undermined by the complexity of the administrative organisation.

76. We found that Member States' implementation of their inspection plans was sometimes hindered. In France and Spain the inspection priorities were not determined by the authority providing the resources. In France, there was sometimes a discrepancy between the tasks assigned and the resources allocated, so consequently the control teams could not cover all the targeted landings and the number of inspections had fallen in recent years. According to Member States' authorities, external factors could reduce the priority level of fisheries inspections (e.g. the migrant crisis in the Mediterranean required the use of naval resources).

77. The Member States provided the inspectors with a range of IT tools and databases to help them perform and report on their work. With the exception of Spain and one French department, however, the inspectors did not have access to information when on the spot (e.g. via mobile terminals). Instead, they had to call the FMC for information. This represents a problem especially in those cases where inspection cannot be planned in advance, but need to be performed on an ad hoc basis on arrival in port. In these cases, fast access to information would make it possible to target the vessels for inspection more effectively. Moreover, in the absence of real-time access during inspections the inspectors cannot cross-

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<sup>31</sup> In the case of UK we only reviewed the Scottish system.

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check the vessel's identity, permissions and characteristics against the documents on board. This makes it more difficult to spot database errors such as those detected during the audit (see **Box 4**) and unauthorised changes to vessel characteristics. In some port offices in France, it was even very difficult for inspectors to access IT applications from their office, making it impossible to prepare efficiently for inspections.

#### Inspection practices needed further standardisation

78. In order for fishing inspections to efficiently check compliance and to treat fishing operators fairly, Member States authorities should perform similar inspections in a standardised way, and develop suitable inspection protocols and manuals. We examined how inspections on landing were performed in the Member States visited. Inspections used a single national report template (Italy and France) or inspection manuals and templates (Spain and Scotland), apart from the Mediterranean area of France, where the inspectors used different checklists or no checklists during the inspection. The standardisation tools created provided a good framework for ensuring compliance with the non-discriminatory principle for control activities, but were not always used.

79. The European Fisheries Control Agency (EFCA) is responsible for organising operational coordination of control activities between Member States. It provides assistance to the Member States and the Commission, mainly through regional Joint Deployment Plans (JDP)<sup>32</sup>. We noted that in the context of the Mediterranean JDP for bluefin tuna and swordfish, very comprehensive checklists were available for landing inspections. They are however not mandatory and represent only pedagogical support, and in practice they were not used for national inspections in Italy and France despite being a good tool for standardising inspection approaches.

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<sup>32</sup> The JDPs are established for fisheries or areas that are considered a priority by the European Commission and the Member States concerned. They can concern either European waters for which a Specific Control and Inspection Programme is adopted by the Commission in cooperation with the Member States, or international waters under the competence of a Regional Fisheries Management Organisation (RFMO).

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### **Not all inspection activities were reported in the national database**

80. The Control Regulation requires the Member States to keep an electronic database of all inspection and surveillance activities relating to fisheries<sup>33</sup> (including transport and market inspections). When properly maintained, such databases are an effective tool for helping to better plan, perform and report inspections. We found that the inspection databases were not always fully operational and did not systematically include the reports on inspections carried out by all the authorities involved in fisheries activities (e.g. transport, first sale operators; at national or regional level) as illustrated in **Box 9**.

#### **Box 9 - Examples of weaknesses with regard to inspection and surveillance database**

In France, the electronic inspection database was not fully functional in 2015 (slow and not user-friendly). The number of reports entered was therefore low, and the system could not be used to efficiently plan, follow-up and coordinate inspections.

In Spain, the regional authorities could inspect vessels that were also inspected by the Central authorities. In order to coordinate their work, a working group was set up in 2012. By the time of our audit there was no central electronic database showing all inspections by vessel, which would have been a valuable source of information for the various inspection authorities.

### **Sanctions applied were not always dissuasive, proportionate and effective**

81. In order for the inspections to be effective and reduce CFP infringements, they need to be followed by sanctions where necessary. These sanctions set by the Member States must be dissuasive, proportionate and effective<sup>34</sup>. They should take into account the seriousness and potential economic benefit of the infringement.

82. In order to ensure equal treatment of operators regardless of the waters in which the infringement was committed, while maintaining the Member States' right to put in place their own sanction system in line with the principle of subsidiarity, the Control Regulation

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<sup>33</sup> Article 78 of the Control Regulation.

<sup>34</sup> Article 89(2) of Regulation (EC) No 1224/2009.

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laid down a points system for serious infringements regarding the licence or master of a vessel. The points system was applicable as of 1 January 2012. If the total number of points equals or exceeds a certain level, the fishing licence must be suspended or permanently withdrawn.

The sanctions applied did not always prevent infringements from recurring

83. The Member States employed various sanction systems for CFP infringements, as illustrated in **Table 2**.

**Table 2 – Member States sanction procedures**

Member State	Type of sanction
Spain	<p>The administrative procedure was used.</p> <p>The amount of the fine imposed corresponded to an infringement category and depended on the environmental impact, recurrence and seriousness of the infringement. The value of the catch could be added to the total amount of the sanction.</p> <p>Points system only partially used.</p>
France	<p>Administrative and criminal procedures were used, at the discretion of the inspection authority. No information was available at national level on the criminal sanctions applied.</p> <p>Although the national legislation provided for fixed amounts or sanctions proportionate to the economic benefits, in practice each public authority determined the sanctions without taking into account these considerations.</p> <p>No points system used.</p>
Italy	<p>Administrative and criminal procedures were used by inspection authorities.</p> <p>The amount of the fine was decided by the public authority within the interval set by the legislation. There was no correlation between the sanctions and the economic benefit except in a few cases.</p> <p>For the sake of speed, the authorities offered a choice between paying twice the minimum amount of the fine, or a third of the maximum fine corresponding to a given infringement category and an amount decided by the judge.</p> <p>A points system was used for serious infringements.</p>
United Kingdom (Scotland)	<p>Administrative and criminal procedures were used.</p> <p>Fines were rarely applied and preventive measures were implemented more often than actual sanctions. When applied, financial penalties were decided by the public authorities within the interval set in the national legislation, taking into the account the economic benefit.</p> <p>Limited use of points system (not applied consistently and not in all cases of serious infringements).</p>

Source: Legislation, on-the-spot information, and infringement and sanction databases.



84. We found that the requirement to link the sanction to the economic benefit relating to the infringement was applied systematically in Spain. In Scotland it was systematically applied in the few cases where fines were decided. While provided for in certain cases by legislation in Italy<sup>35</sup> and France, it was not generally applied in practice.

85. In order to estimate the dissuasive effect of the sanction, we analysed the list of sanctions in the Member States visited to identify vessels that had been sanctioned several times. The number of vessels with more than five infringements is shown in **Table 3**.

**Table 3 – Fleet, inspections, infringements and recurrence of infringements in the Member States visited in the period 2013-2015**

Member State	Total fleet at 31.12.2015	Total inspections at sea and on landing	Total Inspections resulting in infringements	% infringements of inspections	Total vessels with more than 5 infringements in the three years	% of fleet with more than 5 infringements
Spain	9 396	23 146	4 703	20 %	25	0 %
France <sup>(1)</sup>	6 910	39 515	1 585	4 %	43	1 %
Italy <sup>(2)</sup>	12 316	18 038	3 536	20 %	72	1 %
United Kingdom (Scotland) <sup>(3)</sup>	2 015	16 990	5 150	30 %	169	8 %

(1) FR data includes the inspections carried out by the numerous authorities involved and the commercialisation chain. For 2014-2015 we had only partial data (see **Box 9**).

(2) The responsible authorities for inspections in Italy are also responsible for inspections after the first sale, and also had other responsibilities outside the scope of the Control Regulation.

(3) Total UK fleet was 6 232; 2 015 was the number of vessels in Scotland at the end of 2015 according to Marine Scotland statistics.

Source: Data received from Member States.

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<sup>35</sup> The authorities recently introduced provisions for linking certain serious infringements to the economic value of the fish, but these instances are limited (landing obligation and minimum sizes of fish). As the legislation was adopted after the audit, its application could not be verified.

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86. In Spain, the number of vessels with more than five infringements between 2013 and 2015 was negligible as a proportion of the total fleet. This could be explained by the fact that fines can legally be doubled if the master committed the same infringement within eighteen months, or if any infringement at all was committed within three years of the previous infringement.

87. Scotland had by far the highest proportion of vessels with more than five infringements, with 169 single operators committing more than five infringements between 2013 and 2015. Although the fine is doubled where an infringement previously sanctioned by a fine is repeated, the number of fines applied was very small. In practice, most of the action taken following infringements involved advisory letters and verbal and written warnings. These “soft measures” were applied even in cases of serious infringements (e.g. catching fish after the closure of the respective fishery) and the measures did not seem to prevent recurrence. Even though the inspection efforts and coverage were higher than in other Member States, the recurrence was greater, which indicates that the sanctions are less dissuasive.

88. In Italy the highest proportion of recurrences was for the Navigation Code (marking of vessels, rules concerning the crew), which is not part of the CFP. In France, the auditors could not gain an overview of all the sanctions as the maritime affairs offices (Departmental Directorate of Land and Sea, Inter-Regional Directorate of the Sea and Sea’s Directorate of Sea Fishing and Aquaculture) did not receive any information concerning sanctions applied in court via the criminal procedure. The analysis is therefore incomplete.

#### The points system was not consistently applied

89. We found that the points system for serious infringements required by the Control Regulation<sup>36</sup> was in place in Italy and functioning well. It was partially applied in Spain, inconsistently applied in Scotland and not implemented in France. More details are given in **Box 10**.

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<sup>36</sup> Article 92 of Regulation (EC) No 1224/2009.

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### **Box 10 – Member States’ penalty point systems**

In Spain, the EU penalty points system was applied to a limited number of cases (49 between 2013 and 2015). The system was applied with caution given the socio-economic impact of withdrawing fishing licences. Even without awarding points, licences were in fact temporarily suspended for infringements considered to be particularly serious, and owners and masters were temporarily disqualified from operating.

In Scotland, the EU penalty points system was not consistently applied. Contrary to the principle of non-discrimination contained in the Control Regulation, the authorities adopted different approaches for similar infringements depending on the actions and sanctions that followed. Points were only applied for serious infringements following a conviction in court. No points were added for serious infringements referred to court to enforce fines determined under the administrative procedure, or where only a warning or advisory letter was issued. Points were only applied in seven cases between 2013 and 2015.

In France, the EU penalty point system was not applied. There was a lack of clear national rules and procedures on responsibility for sanctions and points. The Commission has established an action plan with France to address the shortcomings relating to the organisation and implementation of inspections and sanctions. The action plan was not completed by the time of our audit.

90. There was not a level playing field for fishing operators as the Member States did not apply the points system consistently. EU operators who had committed a given serious infringement in different Member States or in different regions within the same Member State might have not received points.

91. Where the infringement takes place in another Member State’s waters, the flag Member State is responsible for applying points. The Member States exchange data with regard to the infringement. However, there is currently no European register of infringements and sanctions, which would allow a better follow-up of points applied, a more effective risk analysis and enhanced transparency among Member States.

92. The EFCA has developed the Electronic Inspection Report System (EIR) that has been offered to Member States to be used as their national database for inspection reports. This tool could be used by Member States to share information on inspections and points.

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## **CONCLUSIONS AND RECOMMENDATIONS**

93. The Common Fisheries Policy requires an effective control system in place in order to be successful in ensuring that fish stocks and the fishing sector are sustainable in the long term. The EU framework of fisheries controls was last revised in 2009 by Council regulation, to address known weaknesses at the time which were identified by the Court's Special Report No 7/2007. It provides the principles and rules to control fishing activities, fisheries management measures, data requirements, and inspections and sanctions.

94. We assessed whether or not the EU had an effective system for fisheries controls in place, by examining the main requirements of the EU's fisheries control regulation and their implementation by Member States. We analysed how Member States checked the components of the fleet capacity (gross tonnage and engine power) and whether or not they kept their fleet register up to date; whether fisheries management measures were well implemented; whether the data needed for fisheries management was complete and reliable; and whether or not inspections and sanctions were appropriately planned, performed and applied.

95. Since our 2007 audit and the reform of the control Regulation, the Member States and the Commission have made progress in several areas. However, we found that due to significant weaknesses in most audited areas, the EU does not yet have a sufficiently effective system for fisheries controls in place to support the success of the CFP. Member States had not yet fully implemented the EU's fisheries control regulation, and certain provisions of the regulation would need modification to enable Member States to effectively control fisheries activities.

96. The Member States we visited did not sufficiently verify the accuracy of their fleets' capacity in terms of gross tonnage and engine power. While the Control Regulation specifically provides a procedure for documentary and physical verifications of engine power, it does not do so for verifications of gross tonnage. We noted that the Member States we visited indeed did not verify the tonnage of their fishing vessels, and that two of them had not yet performed the required verifications of engine power. Where such checks had been performed, they did identify differences between the actual and documented

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engine power. This demonstrates the need to perform such checks, particularly as some Member States are close to their fleet capacity ceilings (paragraphs 14 to 20). During the audit we also identified a significant number of discrepancies between the vessel details recorded in the fleet register and those contained in the supporting documents (paragraphs 21 to 24).

***Recommendation 1 – Improving the reliability of information on fishing fleets***

**In order to improve the accuracy of information of fishing capacity, the Member States should, by 2018**

(a) establish procedures to verify the accuracy of the information recorded in their national fleet registers;

**In the context of any future amendment to the Control Regulation, and in order to improve the accuracy of information of fishing capacity, we recommend the Commission to include in its legislative proposal**

(b) detailed rules for the regular documentary and on-the-spot verifications of both gross tonnage (GT) and engine power (kW) indicators used to calculate fishing capacity.

97. Member States are required to implement fisheries management measures set out in national, European and international legislation (paragraphs 25 and 26). Monitoring and controlling of fishing activities is essential to ensure the sustainability of the fisheries. We found that Member States' vessel monitoring systems (VMS) using satellite based tracking technology provided powerful information for such activities, and that overall Member States were implementing fisheries management measures adequately. However, as a result of the application of the rules of the Control Regulation 89 % of the EU fleet were not monitored by VMS. This hindered effective fisheries management (paragraphs 25 to 32).

98. The Member States we visited invested considerable resources in managing the uptake of the fishing quotas allocated to them, and did this well. However, when Member State authorities allowed producer organisations to manage quota distribution, they did not always know which criteria were used to distribute the quotas to each of the beneficiaries.

This lack of transparency makes it difficult for Member States to know the actual beneficiaries of fishing opportunities and therefore to assess their potential adverse impact on the environment and local economies, and take the necessary corrective measures where appropriate. Moreover, this lack of transparency increases the risk that specific interests of certain economic operators are favoured at the expense of others (paragraphs 33 to 36). The fishing effort regimes were difficult to monitor, especially for vessels not linked to VMS, and Member States used different approaches when calculating days at sea, which is one of the main elements of these regimes (paragraph 37). There were too many technical measures, which were sometimes too complicated to be applied by fishermen and controlled by inspectors. We did, however, see examples of good practice where professional fisheries organisation required their members to comply with additional, but more focused, conservation measures to those required by the Common Fisheries Policy (paragraphs 38 to 41).

***Recommendation 2 – Improving the monitoring of fisheries management measures***

**In the context of any future amendment to the Control Regulation, and in order to improve the monitoring of activities of small fishing vessels, we recommend the Commission to include in its legislative proposal**

- (a) the removal of the VMS exemptions for vessels between 12 and 15 metres long;
- (b) the requirement for the installation of smaller and cheaper localisation systems for vessels under 12 metres long.

**In order to ensure the transparency of the distribution of fishing quotas, the Member States should, by 2019**

- (c) inform the Commission of their quota allocation system in line with Article 16 of the CFP regulation, including how the transparent and objective criteria have been incorporated in the distribution of fishing quotas among stakeholders.

99. Data on fishing activities collected in the framework of the Control Regulation were not sufficiently complete and reliable. Catch data for vessels making paper-based declarations,

which represent a significant portion of the EU fleet, was incomplete. Moreover we found a significant level of error and system weaknesses in the recording of paper declarations in the Member States' databases (paragraphs 47 to 54). We identified significant discrepancies between declared landings and subsequent records of first sale (paragraphs 55 to 56). Two of the four Member States visited did not sufficiently share and trace information concerning activities of vessels from one flag Member State in another, although there were some good bilateral initiatives (paragraphs 57 to 60). We detected weaknesses in the Member States' data validation and cross checking processes which prevent inconsistencies, errors and missing information from being detected (paragraphs 61 to 64). Furthermore there were significant differences between the overall catch data recorded by the Member States, and that available to the various Commission services (paragraphs 65 to 70). Finally, the Control Regulation does not require Member States to send catch data with detail of fishing area, size of vessels and fishing gear, which limits detailed analysis of the European fleet activity (paragraph 71).

### ***Recommendation 3 – Improving the reliability of fisheries data***

#### **1. In order to improve the completeness and reliability of fisheries data,**

##### **The Member States should, by 2019**

- (a) review and improve the process for recording and verification of paper based data of fishing activities;
- (b) ensure that they have reliable data on the activity of vessels under 10 metres long, and that they apply the rules established by the fisheries Control Regulation to collect them;
- (c) complete the validation and cross checking of fisheries activities data.

##### **The Commission should, by 2020**

- (d) establish an information exchange platform to be used by the Member States to send validated data in standard formats and contents, so that the information available to the different Commission services matches with the Member States data;

(e) promote the development of a cheaper, simpler and user friendly system to facilitate the electronic communication of fishing activities for vessels less than 12 metres long;

(f) analyse the remaining problems in data completeness and reliability at Member State level and decide appropriate actions with Member States where necessary.

**2. In the context of any future amendment to the Control Regulation, and in order to improve the completeness and reliability of fisheries data, we recommend the Commission to include in its legislative proposal**

(g) the removal of the Electronic Reporting System and electronic declaration exemptions for vessels between 12 and 15 metres long or the consideration of alternative solutions;

(h) review the catch data reporting obligations of the Member States under Control Regulation, in order to include the details of fishing area, size of vessels and fishing gear.

100. An effective fisheries inspection system is essential to ensure that Common Fisheries Policy rules are observed and that fishing activities remain sustainable (see paragraph 72). We found that in general inspections were planned well. However, the fact that inspectors did not have real-time access to information about vessels reduced the effectiveness of inspections (paragraphs 73 to 77). Member States visited had established standardized inspection procedures, but we found cases where available report templates had not been used by inspectors (paragraphs 78 to 79). Furthermore, the inspection results were not always correctly reported in the national databases (paragraph 80).

101. In order for inspections to be effective, they must be backed up by dissuasive, proportionate and effective sanctions, including a points system for serious cases to ensure that fishing operators are treated equally (paragraphs 81 to 82). We found that the sanctions applied were not always dissuasive (paragraphs 83 to 88). The points system was applied to very different extents across the Member States we visited and even within the same Member State and therefore equal treatment of operators was not guaranteed. Finally, there is currently no European register of infringements and sanctions, which would allow a better follow-up of points applied, a more effective risk analysis and enhanced transparency among Member States (paragraphs 89 to 92).

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#### ***Recommendation 4 – Improving inspections and sanctions***

##### **1. In order to improve the inspections**

###### **The Member States should, by 2019**

(a) when the new Regulation on technical measures will enter into force, develop, in consultation with the European Fisheries Control Agency (EFCA), and use standard inspection protocols and reports more adapted to the specific regional and technical conditions of the fisheries than those provided under Annex XXVII of the Regulation 404/2011;

**In the context of any future amendment to the Control Regulation, we recommend the Commission to include in its legislative proposal**

(b) the mandatory use of the Electronic Inspection report System by the Member States in order to ensure the exhaustiveness and updating of their national inspection results and to share the results of inspections with other Member States concerned.

##### **2. In order to ensure the effectiveness of the system of sanctions, the Member States should, by 2019**

(c) take due account of recurrent infringements or persistent offenders when setting sanctions;

(d) in order to ensure a level playing field for operators, fully implement the point systems and ensure its consistent application in their respective territories.

**In the context of any future amendment to the Control Regulation, we recommend the Commission to include in its legislative proposal**

(e) a provision foreseeing a system to exchange data on infringements and sanctions in cooperation with EFCA and the Member States.

This Report was adopted by Chamber I, headed by Mr Phil WYNN OWEN, Member of the Court of Auditors, in Luxembourg at its meeting of 5 April 2017.

For the Court of Auditors

Klaus-Heiner LEHNE  
*President*

**ANNEX I****FISHERIES DATA - TYPE OF DOCUMENTS REQUIRED IN THE MEMBER STATES VISITED**

<b>Requirements of the Control Regulation</b>	<b>Spain</b>	<b>France</b>	<b>Italy</b>	<b>Scotland</b>
<p><b><u>Fishing logbooks</u></b></p> <p>No obligation for vessels under 10 metres in overall length. The Member States may require these vessels to submit logbooks, sales notes, or monthly declarations of their catches.</p> <p>Member States must monitor the activities of vessels under 10 metres long not subject to that requirement, on the basis of sampling plans, in order to ensure their compliance with the rules of the Common Fisheries Policy.</p> <p>Vessels at least 10 and under 12 metres in overall length must submit catch data via paper logbooks.</p> <p>Vessels at least 12 and under 15 metres in overall length should normally send data electronically, but may be exempted.</p> <p>All vessels 15 metres or more in overall length are obliged to send catch data electronically.</p> <p>The Member States may adopt stricter measures for their vessels.</p>	<p>No fishing logbooks for vessels under 10 metres.</p> <p>85 % of vessels between 12 and 15 metres (6 % of the total fleet) were exempted from the electronic logbook requirement.</p>	<p>Monthly paper "<i>fiche de pêche</i>" for vessels under 10 metres.</p> <p>Only 42 vessels between 12 and 15 metres (1 % of the total fleet) were exempted from the electronic logbook requirement in 2016.</p>	<p>No fishing logbooks for vessels under 10 metres.</p> <p>90 % Italian vessels between 12 and 15 metres (15 % of the total fleet) were exempted from the electronic logbook requirement.</p>	<p>Simplified weekly fishing logbook for vessels under 10 metres.</p> <p>No derogation from electronic logbook requirements for vessels between 12 and 15 metres.</p>
<p><b><u>Sales notes</u></b></p> <p>They must be sent:</p> <ul style="list-style-type: none"> <li>- electronically by registered buyers with a turnover of more than 200 000 euros per year;</li> <li>- on paper or preferably electronically by buyers with a turnover of less than 200 000 euros per year.</li> </ul> <p>The Commission may grant an exception to Member States with an acceptable sampling system:</p>	<p>All fresh fish must be sold at auction.</p> <p>The auctioneer sends the sales notes to the autonomous communities, who send them to the national authorities.</p>	<p>Sale by auction or other. Buyer must be recorded.</p> <p>Sales notes sent electronically using a dedicated system or e-declaration.</p> <p>Sales notes not obligatory for private buyers</p>	<p>For the first sale, fishery products must be transferred to a registered auction centre, registered buyer or producer organisation.</p> <p>Not obligatory for private buyers of</p>	<p>Fish sold at auction or to registered buyers.</p>

Requirements of the Control Regulation	Spain	France	Italy	Scotland
<ul style="list-style-type: none"> <li>○ for the products of vessels under 10 metres;</li> <li>○ for quantities of fisheries products landed not exceeding 50 kg live weight equivalent per species.</li> </ul> <p>Sales notes are not obligatory for private buyers of quantities of less than 30 kg.</p> <p>Member States may exempt small quantities sold directly to the consumer from the fishing vessel from traceability requirements, up to a value of 50 euros per consumer per day.</p>		<p>of quantities less than 30 kg.</p> <p>Small quantities sold directly to the consumer from the fishing vessel exempt from sales notes (up to 50 euros per consumer per day).</p>	<p>quantities less than 30 kg.</p> <p>Small quantities sold directly to the consumer from the fishing vessel exempt from sales notes (up to 50 euros per consumer per day).</p>	

Requirements of the Control Regulation	Spain	France	Italy	Scotland
<p><b><u>Weighing of fishery products</u></b></p> <p>All fisheries products must be weighed using systems approved by the competent authorities unless the Member State has adopted a sampling plan.</p> <p>Weighing must take place on landing, before the products are stored, transported or sold. By way of derogation (exemption) from this rule, Member States may permit fisheries products to be weighed after transport.</p> <p>Weighing derogations may only be awarded where the Member State has adopted a risk-based control plan approved by the Commission.</p> <p>The weighing results are used to draw up landing declarations, sales notes, etc.</p>	<p>All auction centres have the necessary equipment for weighing and labelling. Obligatory weighing on landing. Sampling plan for weighing available, although it excludes certain species which must be weighed 100 %. Auction centres must send the sales notes to the autonomous communities, who then send them on electronically in a standard format by the 15th of the following month (more frequently for species subject to quotas).</p> <p>Weighing following transportation prior to first sale is not authorised.</p>	<p>Catches generally weighed on landing, when the ports possess the necessary weighing equipment.</p> <p>Weighing after transport is authorised. The Inter-Regional Directorates of the Sea are responsible for derogations, but do not employ standard criteria for granting and managing derogations.</p>	<p>Once the fishing vessel master, or a representative, has landed the catch for a series of weighing-at-landing operations, weighing systems are used which have been certified but not approved by the EU.</p> <p>Weighing after transport prior to first sale is not authorised.</p>	<p>Fish sold at auction is weighed on the basis of a sampling plan approved by the Commission. All fish sold to registered buyers is weighed.</p> <p>Catches are usually weighed on landing. Weighing after transport is authorised. Registered buyers or sellers are responsible for the accuracy of the weighing operation.</p>

Source: Information received during audit visits and legislation.

**ANNEX II****QUOTA AND FISHING EFFORTS MANAGEMENT IN THE MEMBER STATES VISITED**

	<b>QUOTAS</b>	<b>FISHING EFFORT</b>
<b>Spain</b>	<p>Quotas are generally allocated to individual vessels.</p> <p>Monitoring is systematic and is even carried out twice daily in the case of species for which quotas can be rapidly used up.</p> <p>Quotas are monitored using data from electronic logbooks and sales notes. In case of discrepancies between the two, the authorities use the higher figure.</p>	<p>Monitoring is based on VMS data; each day on which vessel speed is below five knots is considered a fishing day.</p> <p>The fishing effort for vessels with no VMS is calculated based on the fishing logbooks (paper or electronic).</p> <p>Sales notes are used for vessels under 10 metres, with each sales note considered to represent a fishing day.</p>
<b>France</b>	<p>Quotas are mainly allocated to producer organisations (POs).</p> <p>The POs monitor uptake of the quotas allocated to them according to their management plans, which are approved at national level. The resource management office (BGR) of the Sea's Directorate of Sea Fishing and Aquaculture monitors quota uptake nationwide. The BGR bases its calculations on validated catch data from its system (SACROIS) and cross-checks the data against information received from the POs.</p> <p>The Inter-Regional Directorates of the Sea do not carry out any regional checks to monitor quota uptake monitoring by the POs.</p>	<p>The authorities use manual tables to monitor fishing efforts.</p> <p>VMS data and data on declaration obligations are not always available. The authorities estimate activity based on vessel history but incorrect declarations may go undetected.</p> <p>Fishing authorisations are in electronic form and inspectors are not always able to consult vessel data and activity information online during inspections, so it is difficult for them to check whether the vessel is authorised to catch the species on board.</p>
<b>Italy</b>	<p>The only species subject to quota in Italy is bluefin tuna.</p> <p>Quotas are distributed nationally among the following categories: purse seiners, long liners, traps, recreational fishing and a reserve quota kept as a margin for by-catch.</p> <p>The use of the quota is followed up by the MIPAAF. Authorised vessels must submit daily catch declarations during fishing trips, even when catches are zero. The quota use data received from Italy and the data available to the Commission were the same.</p>	N/A
<b>Scotland</b>	<p>Most of the quotas are allocated to POs (around 97 %) with a small share kept for small vessels under 10 metres long and larger non-sectoral vessels.</p> <p>The central authorities follow up catches of species subject to quota. Based on vessel and catch data, the system automatically calculates quota uptake by fishing vessels in a PO. These reports are sent weekly to all POs that have been allocated quotas. When a specific quota allocated to a PO is exhausted, the information is made available publicly on a government webpage.</p>	<p>Efforts are allocated to individual vessels. Part of the allocated effort is set aside by the authorities, with only 95 % distributed to fishing vessels to leave a safety margin in case the efforts allocated are exceeded.</p> <p>The authorities use information from logbooks to monitor fishing effort uptake and compliance with fishing effort conditions, and include a fishing effort element in their inspections. The number of days is calculated based on the length of the fishing trip for all types of declaration (electronic, paper and weekly).</p> <p>Effort uptake information is generated automatically by the system, taking into account the duration of fishing trips subject to effort regimes and the engine power of the vessels concerned.</p> <p>The efficiency of the automated system for vessels with paper fishing logbooks (around 23.6 % of vessels with authorisations over the past 3 years) depends on the quality of the data entered in the system. Our audit showed a 10 % error rate in landing dates.</p>

## **DATA COLLECTION FRAMEWORK**

The EU has established a framework<sup>1</sup> for collecting, managing and using standardised fisheries data for scientific analysis in the context of the Common Fisheries Policy. Under this framework, Member States are required to collect biological, environmental, technical and socio-economic data on the fishing, aquaculture and processing sectors. Part of this data is data relating the fisheries activities obtained under the requirements of the Control Regulation: VMS information, logbooks, landing declarations, sales notes. This data is sent to and used by scientific institutes as an integral part of the estimates that constitute stock assessments (together with biological data collected under the DCF). It is also essential for science-based management measures and for evaluating management objectives. For example, capacity, effort and landings data is necessary to calculate the catch per unit effort, to enable scientists to identify the top “métiers” to sample for biological data, and to disaggregate economic fleet data so that it can be combined with biological data<sup>2</sup>.

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<sup>1</sup> The EU framework for the collection and management of fisheries data was established in 2000 and reformed in 2008, resulting in the Data Collection Framework (DCF). In 2015, the Commission submitted a proposal for revision (COM(2015) 294 final).

<sup>2</sup> SWD(2015) 118 final of 18 June 2015 “Towards a new Union Framework for collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy” accompanying the document “Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a Union framework for the collection, management and the use of data in the fisheries sector and support for the scientific advice regarding the Common Fisheries Policy”.

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**ANNEX IV****ORGANISATION OF INSPECTIONS IN THE MEMBER STATES VISITED****1. Spain**

In Spain, the General Secretariat for Fisheries (SGP), under the authority of the Ministry of Agriculture, Food and the Environment, is responsible for control and inspection activities up to the first sale, under the jurisdiction of the central government.

The SGP draws up an annual inspection plan (*Plan de actuación general de control e inspección pesquera*) in which the priorities are based on the specific characteristics of the fleet, fishing grounds and fisheries. The local offices draw up their own risk analysis and inspection plan in line with the general framework and priorities. Local resources are made available by the Minister for Public Administration, under the authority of the SGP.

Other authorities (the Autonomous Communities, the army, the Guardia Civil military police) carry out inspections in the areas of maritime fisheries, transport, marketing and processing. These may be independent or in cooperation with the SGP. The Autonomous Communities are responsible for inspections in internal waters, shellfish and aquaculture, health aspects and traceability of all products from the first sale.

**2. France**

In France, various authorities are responsible for fisheries control and inspection:

- At central level, the Ministry of the Environment, Energy and the Sea's Directorate of Sea Fishing and Aquaculture , and the *Centre National de Surveillance de la Pêche* (CNSP), which is the national fisheries monitoring centre.
  - At regional level, the Inter-Regional Directorate of the Sea, which is managed by the inter-regional maritime prefect and operates under the authority of the Sea's Directorate of Sea Fishing and Aquaculture.
  - At local level, the Departmental Directorate of Land and Sea managed by the departmental prefect under the regional prefect.
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- In the overseas departments and territories, the Directorates of the Sea (DM) carry out all tasks covered by the Inter-Regional Directorates of the Sea and Departmental Directorates of Land and Sea in mainland France.

The Sea's Directorate of Sea Fishing and Aquaculture draws up national bi-annual plans based on a risk analysis. This did not take into account the information available from control services relating to the risk areas, follow-up of infringements, etc. The plan covers marketing and transport under the Control Regulation (traceability), and refers to other public bodies that carry out maritime fisheries inspections, such as Maritime Affairs, the Navy, Customs, the Coastguard, the national police services and fraud prevention.

The CNSP coordinates inspections at sea and provides support for landing inspections.

The Inter-Regional Directorates of the Sea draw up their own regional plans in line with the national plans. The regional plans should be based on a detailed risk analysis and their inspection priorities. While the Breton Inter-Regional Directorate of the Sea carried out a very detailed risk analysis (including operators making their first sale and transport), the risk analysis of the Mediterranean Inter-Regional Directorate of the Sea was superficial and defined systemic risks on the basis of observed infringements.

The local plans (Departmental Directorate of Land and Sea) are not based on the regional plans. They are based on risk analysis or targeting coordinated by the CNSP, and with the exception of the Mediterranean region, on risks detected by the control units. This risk assessment has yet to be reflected in the national and regional control plans through a risk management plan and linked with local initiatives.

The Departmental Directorate of Land and Sea and other local inspection authorities provide the resources for landing and post-landing inspections.

### 3. Italy

In Italy, the Directorate-General for Maritime Fisheries and Aquaculture ('DG MFA') of the Italian Ministry of Agricultural, Food and Forestry Policy ('MIPAAF'), is the single competent authority within the meaning of Article 5(5) of Regulation (EC) No 1224/2009 (the Control Regulation).

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To perform its duties, it may use the services of the Harbourmaster's Office/Coastguard Service, as the National Fishing Control Centre (NFCC). Responsibility for the monitoring of fishing, trade and the administration of fishery products, as well as the investigation of infringements, is entrusted, to military and civilian personnel employed by central and decentralised Maritime Authorities, as well as other law-enforcement bodies (Guardia di Finanza, Carabinieri, etc.).

#### 4. Scotland

In Scotland, Marine Scotland is responsible for fisheries control and inspection up to the first sale. The risk assessment is an ongoing exercise, organised every two weeks at regional level for different areas, ports and activity segments. It does not lead to a detailed inspection plan but identifies the main priorities that need to be considered by fisheries offices when planning their activities. Local inspectors belong to Marine Scotland.

In some compliance operations, Marine Scotland works with other government and public sector organisations such as Police Scotland, the Maritime and Coastal Agency, the Health and Safety Executive and Her Majesty's Revenue and Customs.

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# **REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS**

## **"EU FISHERIES CONTROLS: MORE EFFORTS NEEDED"**

### **EXECUTIVE SUMMARY**

I. The objectives of the reformed Common Fisheries Policy (CFP) are to ensure that fishing and aquaculture activities are environmentally sustainable in the long term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies, while applying the precautionary and ecosystem based approaches to fisheries management.

In that context, an effective control regime is crucial to establish the credibility, reliability and effectiveness of the policy. It aims at ensuring that Member States comply with control obligations and operate an efficient control system while ensuring rules are applied in the same harmonised way in the EU. Control rules were reshuffled in 2008, based on the recommendations of the Court's special report No 7 of 2007, in order to tackle the weaknesses identified.

III. The Commission shares the opinion that further to the Court's audit in 2007 the EU fisheries control system was significantly improved through the adoption of Council Regulation (EC) No 1224/2009 (hereinafter Control Regulation) and the accompanying Commission Implementing Regulation (EU) No 404/2011. The Commission also concurs that implementation of this Regulation by the Member States can be further improved and that shortcomings remain.

IV. The Commission confirms that the rules concerning the verification of gross tonnage could improve the control of the fleet capacity.

As regards the discrepancies in the fleet register, the Commission considers that with the adoption on 6 February 2017 of the Commission Implementing Regulation (EU) No 2017/218 on the Union fishing fleet register, the shortcomings identified by the Court should in principle be addressed.

V. The Commission confirms that part of the EU fishing fleet is exempted from the requirement to install a VMS on board. However the 11% of the fleet concerned by this requirement represent more than three quarters of the quantity of fish caught. In addition some Member States equipped their vessels below 12 meters with VMS, even if this is not compulsory under the Control Regulation.

The Commission acknowledges that the use of tracking systems could be further improved as regards small vessels.

VI. Criteria for the allocation of fishing opportunities by the Member States are defined by the Common Fisheries Policy. The Commission considers that the application of those criteria does not affect specifically the control regime and its efficiency.

The Commission shares the opinion that improved transparency in the type of criteria used in the quota allocation which would help to avoid favouring specific interests over others.

VII. The Commission concurs that the transmission of catch data and sales notes is still not complete in some Member States, especially for vessels below 12 meters. The Commission systematically follows-up the situations of non-compliance to CFP rules with the relevant tools at its disposal.

Moreover, the implementation of the control requirements by small scale fisheries is also regularly assessed by the Commission during audits and inspections.

In addition, the EMFF Regulation allows for funding the equipment of fishing vessels with ERS devices, irrespective of the size of the vessels.

Regarding aggregated data, the situation is as follows: Member States always have to send the aggregated catch data with detail on stocks and fishing areas where there are effort regimes. There are also well-defined cases in which they have to send detail of the size of vessels and fishing gear, but this is not the case in general. If detailed catch data are needed, the Control Regulation foresees that the Commission can query the ERS data directly from the Member States. This practice is currently in testing phase.

VIII. The current Control rules require Member States to enter in a national register, all the infringements committed by fishing licence holders and captains. These rules also promote the exchange of information related to infringements between Member States. The Commission has observed that the current differences of the judicial systems of the Member States may impact on the implementation of such provisions across the EU.

The Commission acknowledges that the current Control Regulation does not provide for the establishment of a comprehensive system to exchange data on infringements and sanctions.

In general, the Commission promotes the development of EU standards, of a common approach towards control activities and of shared IT platforms for data exchange, for achieving a solid level playing field.

IX. The Commission takes good note of these recommendations. A decision on reviewing the Control Regulation has not yet been taken. In the meantime, based on these recommendations, the Commission will continue to support and ensure the full implementation of the current control requirements.

The Commission takes note also that some of the recommendations are addressed to the Member States.

## **INTRODUCTION**

1. The Control Regulation establishes a Union system for control, inspection and enforcement to ensure compliance with the CFP rules.

6. Whilst it is the responsibility of the Commission to evaluate the impact of this regulation on the CFP and control the implementation of the rules by Member States, the success of this policy depends on the involvement of all parties concerned. The Commission confirms that the allocation of adequate resources by Member States and the proper development of administrative capacity are vital for achieving the CFP objectives.

7. To limit the administrative burden of Member States and fishermen, the Control Regulation provided for a specific simplified regime for vessels below 10 meters. This regime consists for Member States to establish sampling plans in order to monitor the activities of these vessels, based on a methodology adopted by the Commission in accordance with the Committee procedure.

8. The point system that was introduced under the Control Regulation aimed at creating an equal system across the EU in terms of sanctioning.

The EU legal framework however does not provide for harmonised rules on sanctions for breaches of CFP rules. In the absence of uniform sanction rules at EU level, each Member State is applying its own national laws and procedures. The lack of harmonised sanctions is a reality in many other Union policies, not only in the CFP.

The Commission however considers that a clarification of the control regime concerning sanctions for serious infringements to CFP rules would further improve the effectiveness and the level playing field of the control system.

10. The Commission considers that whenever it was decided to adopt and implement action plans, such tools have proved to be efficient to remedy systemic deficiencies in the Member States.

11. The Commission considers that the role played by the European Fisheries Control Agency (EFCA) in developing and enhancing a harmonized and coherent approach, with compatible systems for reporting, exchange of data, and traceability of fishery products has so far been fundamental.

The evaluation of the Control Regulation however showed that the roles and responsibilities of the Commission, EFCA and Member States may need to be further clarified in order to achieve better synergies.

### **OBSERVATIONS**

16. The Control Regulation provides that detailed rules for the verification of the tonnage of fishing vessels may be adopted. The Commission will continue to ensure that the Member States comply with the existing provisions on the maximum fishing capacity.

#### **Box 3 –Verification of engine power carried out in application of the requirements of the Control Regulation**

Based on the findings of the Commission during the audits conducted in the Atlantic Member States in 2016 for engine power, Spain has only done these checks once (and the verification was not approved by the competent body for engine power verification), while the UK was found to have more of a constant/systematic/system in place for engine verification.

The Commission intends to launch in 2017 a study to be carried out by an external contractor in a selected number of EU Member States on the implementation of the requirements provided for in the Control Regulation concerning the physical verification of engine power.

18. The monitoring of engine power has been part of a cycle of audit missions in all Member States, including France in 2015-2016. The Commission continues following-up this issue to ensure that appropriate measures are taken.

The Commission has been in close contact with the Italian authorities and has been informed that a new sampling plan is planned for 2017.

19. The Commission shares the analysis of the Court. However, it would like to point out that, even if some sampling plans are still not adopted, the Commission is checking if the ceiling is respected on the basis of the EU fleet register and through the annual National fleet reports that Member States have to send to the Commission. Member States are also proceeding to verifications even if they do not have a sampling plan.

20. The Commission considers that with the adoption on 6 February 2017 of the Commission Implementing Regulation (EU) No 2017/218 on the Union fishing fleet register, the risk of exceeding the fleet capacity ceiling identified by the Court should in principle be addressed.

23. A new Regulation on the Union fishing fleet register was adopted by the Commission on 6 February 2017, and will enter into force on 1 February 2018 (Commission Implementing Regulation (EU) No 2017/218). The new Regulation foresees new procedures to ensure that the Union fleet register is updated almost in real time and to ensure the reliability of its information.

#### **Box 4 - Discrepancies noted in the fleet register**

As regards the discrepancies in the fleet register, the Commission considers that with the adoption on 6 February 2017 of Commission Implementing Regulation (EU) No 2017/218 on the Union fishing fleet register, the shortcomings identified by the Court should in principle be solved.

24. With the new Regulation on the Union Fleet Register, the updates from national registers will be done almost in real time. Updating of vessel data will be ensured in two ways: a) through direct submission by Member States of any event per fishing vessel introduced in the national fishing fleet register and no later than at the end of the working day or b) through snapshots. If the content of the snapshot is not readable, complete, accurate or reliable, the snapshot will be rejected and the Commission will notify its observations to the Member State, which will have to make the necessary changes in the national register not later than 5 working days following the notification by the Commission.

Common Commission's reply to paragraphs 25 and 26: The Commission has audited the catch registration systems and data validation systems of most Member States and has systematically followed-up identified deficiencies.

30. The Commission is aware of this irregularity, and is currently addressing this issue with the Member States concerned.

The 2% concerns aquaculture vessels. In the past, the VMS Regulation was exempting from the VMS obligation all vessels "used exclusively for exploitation of aquaculture and operating exclusively inside the baselines of Member States." (See Article 2 of Commission Regulation (EC) No 2244/2003).

In the current Control Regulation this exemption was lifted for >15m vessels, and only remained for <15m vessels (see Article 9(5) of Council Regulation (EC) No 1224/2009). However, Member States did not update the existing data in the fleet register for these aquaculture vessels.

In the new fleet register implementing regulation (entering into force 1 February 2018) there is even no requirement to register aquaculture vessels in the fleet register anymore.

Common Commission's reply to paragraphs 31 and 32: The Commission underlines that the 11% of the fleet concerned by the VMS requirement represent more than three quarters of the quantity of fish caught.

To limit the administrative burden of Member States and fishermen, the Control Regulation provides for a specific simplified regime for vessels below 10 meters, consisting in the establishment of sampling plans by Member States. In addition some Member States equipped their vessels below 12 meters with VMS, even if this was not compulsory.

The Commission considers that most of the vessels representing a high risk for conservation can be tracked and controlled. However it acknowledges that the use of tracking systems could be further improved as regards small vessels.

34. The Commission can confirm that the information that it has received is quite heterogeneous. The Commission would therefore not be yet in a position to provide an overview on how this method is implemented by Member States.

In March 2016, the Commission wrote to coastal Member States requesting information on their quota allocation system in line with Article 16 of the CFP. In addition, Member States were requested to include information on how each Member State is ensuring that the principles set out in Article 17, namely the transparent and objective criteria including those of an environmental, social and economic nature, are being incorporated into the allocation method. From the contributions that the Commission received, the most common feature of allocation systems in the EU is the historic record of catches, when this involves the distribution of catch shares amongst eligible participants in the fishery. Member States indicated a varied set of systems in place for the allocation or access to fishing opportunities, not necessarily involving catch share systems. Most affirmed that social,

economic and environmental criteria are taken into account, which is in conformity with the CFP objectives.

In addition, before the Court of Justice is pending the case C-540/16, Spika and Others which concerns a request for a preliminary ruling on the interpretation of Articles 16 and 17 of Regulation 1380/2013. The answer to this preliminary question would allow a reflection on the underlying rationale of the allocation methods of national quotas.

In addition, in 2015 the European Parliament funded a study on the national quota allocation:

[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540357/IPOL\\_STU\(2015\)540357\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540357/IPOL_STU(2015)540357_EN.pdf)

37. For vessels exempted of VMS requirements, other means of communication are foreseen in the Control Regulation and subject to decisions by legislators.

38. The Commission shares the analysis of the Court and wants to point out that the proposal on Technical Measures is still under discussion with the European Parliament and Council.

41. The Commission shares the opinion of the Court on the fact that measures creating regional requirements for conservation purposes and tailored to regions should be encouraged, as they are in accordance with the principles governing the CFP and in particular its regionalised approach.

48. To limit the administrative burden of Member States and fishermen, the Control Regulation provided for a specific simplified regime for vessels below 10 meters. This regime consists for Member States to establish sampling plans in order to monitor the activities of these vessels, based on a methodology adopted by the Commission in accordance with the Committee procedure.

The Commission would also like to add that the control of the activities of vessels below 10 meters, which are currently exempt from keeping a logbook implementation by the Member States (e.g. control by sampling at the time of landing), could be improved.

50. The Commission agrees with the Court's analysis and considers that the sampling plans, once adopted, should provide catch estimates.

#### **Box 5 – Errors and system weaknesses concerning paper-based declarations**

The Commission is aware that the transmission of catch data and sales notes is still not complete in France. However, it wishes to stress that significant progress has been observed since 2014, especially for small vessels. Regular Commission audits are performed to follow the implementation of the actions in the action plan.

Member States have developed catch registration systems (for the collection, registration and processing of control data) that comply with the Control Regulation and integrate electronic data as well as paper data.

However, the IT systems used by some of the Member States are still not adequate to permit data exchange between them and to guarantee cross check from various data sources.

The Commission will continue to pay particular attention on the catch registration system and follow-up on this.

Regarding Scotland, vessels showed incorrect landing dates. If measured against e.g. sales notes, it is possible that the sales note has the date of sales as opposed to the landing date. This type of discrepancy has been identified in traceability audits to the UK.

56. The Commission shares the conclusions of the Court that there is room for improvement in the transmission of catch data and sales notes, which are still not complete, especially for small vessels, and on the cross-check and validation of data.



However, significant progress has been observed by the Commission in the recent years. The action plans in particular, and the implementation of the related actions, have been an efficient tool in this area.

#### **Box 6 – Errors and system weaknesses concerning the cross checks between landing declarations and sales notes**

The Commission is aware of these deficiencies which therefore are addressed under an action plan.

The Commission considers that in the last years, there have been improvements in the overall level and effectiveness of control activities in Italy. However, the full implementation of the catch registration system still remains a substantial challenge.

The Commission is aware of this weakness on sales notes, which was part of the action plan. Spain recently developed the TRAZAPES tool, which will allow an automatic transmission of sales notes from the Autonomous Communities to the central authority. Progress done by Spain will be reassessed by the Commission in future missions.

60. The electronic system in place in Scotland for documents-sharing of transport documents is indeed not required by the Control Regulation. As allowed by the Control Regulation, this national system goes beyond the minimum provisions foreseen by the Control Regulation. The Commission agrees that an EU electronic system for transport document enabling the sharing of data between Member States would improve the reliability of catch data.

#### **Box 7 - Weaknesses in data validation in the Member States**

The Commission confirms that further improvements are currently being developed in the context of the action plan.

64. Validation of data is part of the on-going action plan with France, which should enable further improvements in this area.

67. The Commission notes that there is a decreasing trend in the discrepancies, in particular in Spain and UK.

71. Member States have to send the aggregated catch data with detail of stocks and fishing areas where there are effort regimes. There are also well-defined cases in which they have to send details on the size of vessels and fishing gear, but this is not the case in general. If detailed catch data are needed, the Control Regulation foresees that the Commission can query the ERS data directly from the Member States. This practice is currently in testing phase.

73. The Commission agrees on the fact that, in accordance with the Control Regulation, Member States must have appropriate structures in place for fisheries control. Under the European Maritime Fisheries Fund the ex-ante conditionality on control was put in place in order to ensure that Member States had the administrative capacity to implement the Control Regulation before granting them any funds under the Fund itself.

79. The European Fisheries Control Agency provides, in cooperation with Member States and the Commission, core-curricula for Member States inspectors and is currently developing an EU-learning platform.

89. The current Control rules require Member States to enter in a national register, all the infringements committed by fishing licence holders and captains. These rules also promote the exchange of information related to infringements between Member States. The Commission has completed an internal study on sanctioning systems of Member States, in which the dissuasiveness, effectiveness and proportionality of the current sanctioning systems in place in Member States were



analysed. The Commission has observed that the current differences of the judicial systems of the Member States may impact on the implementation of such provisions across the EU.

92. The Commission recognises the importance of a systematic use of the Electronic Inspection Report System.

## **CONCLUSIONS**

95. The Commission agrees with the Court's observation that progress was done by the Member States and the Commission since the 2007 audit and the reform of the Control Regulation

However, it needs to be explored whether certain provisions of this Regulation might require a modification to improve effectiveness of the fisheries control system.

### ***Recommendation 1 – Improving the reliability of information on fishing fleets***

(a) The Commission notes that this recommendation is addressed to Member States and will follow it up.

(b) The Commission partially accepts this recommendation:

- Rules for the verification of both gross tonnage and engine power might be useful;
- A decision on reviewing the Control Regulation has not yet been taken and any Commission proposal is subject to better regulation, notably a public consultation and an impact assessment which cannot be prejudged. The Commission will in this context consider the Court's recommendation.

97. The Commission agrees that through the use of VMS and in some cases of other tracking devices, the monitoring of the activity of the fleet improved in EU waters.

The Commission would like to refer to its reply to paragraphs 31 and 32.

98. Criteria for the allocation of fishing opportunities by the Member States are defined by the Common Fisheries Policy. The Commission considers that the application of those criteria is currently not related to the implementation of the Control Regulation. From the contributions received by the Commission from Member States, it appears that the most common criteria used for the allocation of quotas in the EU is the historic record of catches. It appears also that social, economic and environmental criteria are taken into account, in conformity with the CFP objectives. In addition, before the Court of Justice is pending the case C-540/16, Spika and Others which concerns a request for a preliminary ruling on the interpretation of Articles 16 and 17 of Regulation 1380/2013. The answer to this preliminary question would allow a reflection on the underlying rationale of the allocation methods of national quotas.

In addition, in 2015 the European Parliament funded a study on the national quota allocation:

[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540357/IPOL\\_STU\(2015\)540357\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/540357/IPOL_STU(2015)540357_EN.pdf)

For vessels not linked to VMS, other means of communication are foreseen in the Control Regulation for the monitoring of the fishing effort but are not yet fully implemented.

As regards simplification of technical measures, the Commission has already proposed a simplification of the legal framework and simplifying obligations for fishermen. This proposal is currently under discussion at inter-institutional level.

The Commission shares the opinion of the Court on the fact that good practices should be encouraged, in particular those tailored to regions, in accordance with the principles governing the CFP.

### ***Recommendation 2 – Improving the monitoring of fisheries management measures***

(a) The Commission partially accepts this recommendation:

- The withdrawal of VMS exemptions for vessels between 12 and 15 metres long would improve the monitoring and controlling of fishing fleets' activity;
- A decision on reviewing the Control Regulation has not yet been taken and any Commission proposal is subject to better regulation, notably a public consultation and an impact assessment which cannot be prejudged. The Commission will in this context consider the Court's recommendation.

(b) The Commission partially accepts this recommendation:

- The installation of smaller and cheaper localisation systems for vessels under 12 metres long would improve the monitoring and controlling of fishing activities;
- A decision on reviewing the Control Regulation has not yet been taken and any Commission proposal is subject to better regulation, notably a public consultation and an impact assessment which cannot be prejudged. The Commission will in this context consider the Court's recommendation.

(c) The Commission notes that this recommendation is addressed to Member States.

99. The Control Regulation foresees that all the fish caught and landed in the EU are reported by the Member States to the Commission, except for few exemptions such as for quantities sold less than 30 kilogrammes.

The Commission shares the conclusions of the Court of Auditors that there is room for improvement in the transmission of catch data and sales notes, which are still not complete, especially for small vessels.

The Commission, further to audits and verification missions on the catch registration and data validation systems carried out by since 2010, as well as through a systematic following-up of any situations of non-compliance to CFP rules, has however observed significant progress and less discrepancies in the recent years, especially for small vessels.

Member States have developed catch registration systems that comply with the Control Regulation and integrate electronic as well as paper data. However, the IT systems used by some of them are still not adequate to permit data exchange between them and to guarantee cross check from various data sources. The Commission will continue to pay particular attention on this issue.

### ***Recommendation 3 – Improving the reliability of fisheries data***

**1.**

The Commission takes note of the deadline suggested by the Court, and understands it as referring to the implementation of existing rules only.

(a) The Commission takes note that this recommendation is addressed to Member States and has already started monitoring its implementation.

(b) The Commission takes note that this recommendation is addressed to Member States, and has already started monitoring its implementation.

(c) The Commission takes note that this recommendation is addressed to Member States and has already started monitoring its implementation.

(d) The Commission accepts this recommendation. It has already started its implementation through the development of the integrated fisheries data management programme, including the FLUX transportation layer initiative.

(e) The Commission accepts this recommendation.

(f) The Commission accepts this recommendation and will continue its implementation through regular controls and evaluation of the application of the fisheries control rules by Member States.

## **2.**

Common Commission's reply to (g) and (h): The Commission partially accepts these recommendations. A decision on reviewing the Control Regulation has not yet been taken and any Commission proposal is subject to better regulation, notably a public consultation and an impact assessment which cannot be prejudged. The Commission will in this context consider the Court's recommendation.

100. The Commission shares the view of the Court that the results of inspections should be more accurately and systematically reported in the national databases. It confirms that the development of EU standards of inspections, of a risk based management, of a harmonised approach towards control activities and of shared IT platforms for exchange of inspection reports are essential tools for achieving an effective and sound inspection system.

The role played by the European Fisheries Control Agency (EFCA) in developing and enhancing a harmonised and coherent approach, with compatible systems for reporting, exchange of data of fishery products is in this regard fundamental.

101. The current Control rules require Member States to enter in a national register, all the infringements committed by fishing licence holders and captains. These rules also promote the exchange of information related to infringements between Member States.

The Commission considers that all Member States have in place a legal framework for sanctioning CFP infringements. However, it shares the Court's opinion that levels of sanctions are very different from one Member State to another.

The Commission would like to stress that in the absence of legislative action to address the current weaknesses in the EU legal provisions on sanctioning; there cannot be any significant progress in the direction of more effective sanctions against infringements of the CFP rules across EU Member States.

### ***Recommendation 4 – Improving inspections and sanctions***

## **1.**

(a) The Commission takes note that this recommendation is addressed to Member States and will follow it up.

(b) The Commission partially accepts this recommendation:

- The mandatory use of the Electronic Inspection report System would improve the inspections;
- A decision on reviewing the Control Regulation has not yet been taken and any Commission proposal is subject to better regulation, notably a public consultation and an impact assessment which cannot be prejudged. The Commission will in this context consider the Court's recommendation.

## **2.**

(c) The Commission takes note that this recommendation is addressed to Member States.

(d) The Commission takes note that this recommendation is addressed to Member States.

(e) The Commission partially accepts this recommendation. A decision on reviewing the Control Regulation has not yet been taken and any Commission proposal is subject to better regulation,

notably a public consultation and an impact assessment which cannot be prejudged. The Commission will in this context consider the Court's recommendation.

It agrees with the need to reinforce the exchange of information concerning infringement to the CFP rules, in order to ensure a more effective risk analysis and enhanced transparency among Member States.

<b>Event</b>	<b>Date</b>
Adoption of Audit Planning Memorandum (APM) / Start of audit	24.2.2016
Official sending of draft report to Commission (or other auditee)	17.2.2017
Adoption of the final report after the adversarial procedure	5.4.2017
Commission's (or other auditee's) official replies received in all languages	3.5.2017

This report examines the effectiveness of the EU's fisheries control system – a key element in safeguarding the sustainability in the long term of fish stocks and the fishing sector. We found that the Member States were not yet carrying out all the required controls, and that the control system itself needed to be updated. There were weaknesses with the verification of the accuracy of their fleets' capacity, with the control of small vessels, with the reliability of reported catch data and with the equal treatment of fishing operators in the application of sanctions. We make a number of recommendations both to the European Commission and to the Member States to improve fisheries controls.



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