



## Letter to Member States, the Commission, the EU Parliament Fisheries Committee and President of the Fisheries Council

23 July 2009

Dear Sir/Madam

### **Further comments from the NSRAC on the proposals for reform of the Control Policy**

The NSRAC thanks the Commission for its constructive reply to the NSRAC comments on the proposed Control Regulation. The NSRAC is pleased that several of its comments have been accepted, and amendments made to the regulation. However, many of the remaining proposals from the Commission will make fishing within the legal limits rather difficult. We are also concerned that some proposals may impose an unacceptable burden upon skippers working at sea under difficult conditions. We hope that the Commission and Council will appreciate those concerns and make amendments to the regulations to ensure that they are operationally workable.

In its response to the original NSRAC letter the Commission did not address all the issues raised. In this letter we have set out those issues which cause us particular concern and which still need to be addressed in an appropriate way. These issues are, in order of priority:

#### **1. Live Weight Thresholds**

When adopting a multiannual plan, a threshold of 15kg live weight is proposed for trans-shipment and for registering quantities of fish on-board, with a threshold of 50kg for those species not subject to multiannual plans. In practice, a threshold of 15 kg will be extremely difficult to comply with. We are seeking a higher threshold.

#### **2. Article 14 and others, Logbooks**

Full recording of all discards is impractical for fishers to comply with under operational conditions at sea. It would involve skippers having to weigh or estimate the weight of all species landed onboard, creating extra work for crew who are already operating

under arduous conditions. NSRAC suggests the Commission develops an alternative proposal which still requires the recording of estimated discards but which reduces the obligation to weigh catches on board, which in many cases is likely to produce unreliable data.

The permitted margins of tolerance in estimates recorded in the logbook of 8 % for species subject to multiannual plans and 10 % for other species is simply not possible to achieve under operational conditions. The NSRAC has previously asked the Commission to demonstrate that such narrow tolerances can be complied with in practice. In addition, the NSRAC has questioned why measurements to such narrow tolerances are required to be made at sea when there is also a requirement for catches to be weighed on shore. The requirement for weighing or estimation to such tight tolerances at sea is superfluous and will place an unacceptable burden upon fishers operating under difficult and dangerous conditions.

The requirement for skippers to submit logbook information as soon as possible and not later than 24 hours after landing is also unduly restrictive and places additional and unacceptable obligations upon the commercial business of fishing. Differentiation between stocks subject to multi-annual plans and those subject to other regimes may not be appropriate. It may be better to refer specifically to those subject to recovery plans.

### **3. Article 39, Transit through Fishing Restricted Areas**

The NSRAC believes that fishing in restricted areas should be dealt with under different legislation, which considers all aspects of fishing in restricted areas, rather than through a regulation concerned solely with control aspects. Indeed, we note that the Commission, in replying to earlier comments from the NSRAC on the Technical Conservation Regulation, proposed that 'the idea is to gather in one regional regulation all the closed areas that restrict fishing activities'. We agree that the gathering of such measures within a regional regulation would be a more satisfactory solution. The current proposals pre-empt decisions on management regimes for restricted areas.

The NSRAC is also concerned that the 6 knot transit speed through a MPA bears no relation to the potential for impacting the site and equally creates issues with regard to enforcement. NSRAC supports broader measures to monitor activities within and around restricted areas for fishing, particularly those which offer additional benefits to fisheries science and management, such as integrated vessel monitoring systems which incorporate camera surveillance technology.

### **4. Article 47, Recreational Fisheries**

The NSRAC recognises the need for better accounting of catches and estimation of socio-economic value from those 'recreational' fisheries where the catches are large and where a commercial business is being operated. However the collection of data from all recreational fisheries would be a daunting, disproportionate, and indeed impossible, task.

The NSRAC would like to see recognition within the regulation of existing artisanal and subsistence fisheries, and closer definition of those fisheries which are truly recreational and those which are not. The current CFP generally ignores recreational fisheries. The NSRAC accepts that the inclusion of this important sector must be addressed through the current reform process. However, the approach in the control policy paper is considered too inflexible. It would be appropriate, once proper accounting for all the recreational fisheries is available and has been analysed, for significant catches to be counted against the quota of the member state concerned but it must be recognised that these catches are already being taken, even though they may not be accounted for currently. A revised system must be developed which allows for the current quota allocations from commercial operators and catches from recreational fisheries to be aligned into a hybrid system which is proportionate, equitable and prioritises the sustainability of those species under quota.

The latest Commission working paper of 3 July defines “fishing vessel”, which is welcomed. It was a source of confusion that the term “vessel” was found not only in Article 47 (recreational fisheries) but also in other articles directed at the commercial fisheries sector. It would be better to define the term “vessel” referred to in Article 47 as it is unclear whether charter boats are subject to Article 47 or a different article. Indeed Article 47(3) refers to “vessels flying their flag and from third country vessels” and this appears to refer to currently “registered vessels” only but we would like the Commission’s reassurance that this is a correct interpretation.

## **5. Article 43, Real Time Closures**

It is not appropriate for issues like trigger levels for RTCs to be dealt with in a control regulation. Much progress is being made in the establishment of RTCs, including voluntary closures by fishers themselves. Agreement has recently been reached with Norway over the process of implementing RTCs. It has become clear however that further experience of RTCs is required before restrictive definitions and controls can be put in place. RTCs are specific measures that will be put in place as and when required; and they often involve voluntary actions by fishers. The imposition of prescriptive rules within this control regulation is premature and heavy-handed. It exemplifies all that is bad in the current proposals. The designation of RTCs should be a simple management tool, agreed with the involvement of fishers themselves.

## **6. Article 82, Serious Infringements**

Although Article 82 does not set out to make high-grading a serious infringement, if other regulations are taken into account that is, in fact, the effect it will have. There are circumstances where discarding and high-grading is a direct consequence of single species quota restrictions. Fishers do not and cannot control what is caught when using specific gear types. If fishing continues after the quota for one species, which may be a minor species in the fishery, has been filled, there will still be occasions when further captures may occur. As it stands an accident of fate can become a serious infringement, incurring severe penalties for the fisher concerned. A sense of proportion has been lost in the preparation of the regulation. The NSRAC wonders whether the Commission has fully considered the ramifications of this part of the regulation. In our opinion, what is required is a strategy that looks at discards on a

fishery by fishery basis, yet is contained within a regional fisheries plan. NSRAC would like to suggest that the issue is deferred and is dealt with within the reform process.

Other issues from the original submission of NSRAC to which we would draw to the attention of the Commission and Council include:

**Article 10** – AIS, as opposed to VMS, is not a control device. It is placed on board vessels to improve safety. AIS should not be used for the cross-checking of other locational systems. Other means for cross-checking should be considered.

**Article 21** – The requirements on landing declarations are unnecessary and over-complicated. Rules imposed upon fishers should be kept simple and proportionate and should not require information which has no purpose or function.

**Article 23** – This article, taken together with other articles, effectively imposes a one-net rule; although that may not be the intention. The implications for vessels carrying more than one net should be taken into account and the measures reconsidered.

**Article 34** – Our earlier comments on designated ports are still relevant and should be taken into account. The restrictions imposed are disproportionate and will impede unduly the efficient operation of legitimate businesses. They will have the effect of restricting the number of ports where species subject to multiannual plans may be landed. The NSRAC proposes that for vessels who carry on board observers and/or integrated VMS the rules on designated ports be loosened, thereby encouraging the uptake of such schemes and reducing the limitations on businesses resulting from the designated ports scheme.

**Article 51** - The provisions on traceability are unworkable and inappropriate to this regulation. The fishing sector has a strong interest in traceability and wishes to operate the same rules as those applying to the dairy and poultry industries. Traceability is not a control issue. Historically, traceability was developed to deal with fish product safety and quality issues, and is increasingly being used to support sustainable management. While NSRAC appreciates that some traceability measures can assist with control, for example the UK's Buyers and Sellers regulations, we have concerns that such systems are being replicated from other sectors where control is not the primary motive.

**Article 63** – The effect of this article will be to turn observers into control inspectors; this will not create the 'culture of compliance' and cooperation with the authorities which is aimed for. There is also concern about the costs, and who will pay.

**Article 71** – The inspection arrangements are too far-reaching, and the role of the inspectors is not subject to sufficient constraint. In some instances greater use could be made of CCTV systems instead of the deployment of observers/control officers.

The NSRAC is concerned that the approach adopted in the proposed regulation is still too prescriptive and heavy-handed. At the Peterhead Conference on Control & Compliance it was concluded that the help of the fisheries sector was essential if control and compliance were to be improved. The solution to making better rules lay with involving professionals

in their development. The NSRAC seeks greater involvement in the discussions taking place on the proposed regulation. Events are moving rapidly and the NSRAC believes that unless the views of the sector are taken into account a regulation will emerge which is ill-thought out, unduly harsh, and which will effectively criminalise legitimate fishing activities. Representatives of fisheries sector of the NSRAC would like to meet the Commission and President of the Fisheries Council, both to express their views and to seek ways of participating in further discussions over these critical and far-reaching proposals which will greatly affect their working lives.

Yours sincerely

A handwritten signature in cursive script that reads "Hugo Andersson".

Hugo Andersson  
Chairman NSRAC Executive Committee