



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

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Opinion

Title **DG MARE - Impact Assessment on EU trade-related measures for the conservation of fish resources**

(draft version of 21 June 2011)

(A) Context

The UN Convention on the Law of the Sea as well as the UN Fish Stocks Agreement require coastal states and states fishing for such stocks on adjacent high seas to cooperate in responsibly managing straddling and highly migratory fish stocks in order to ensure their long-term sustainability, either by direct consultation amongst each other or via the appropriate Regional Fisheries Management Organizations (RFMOs). Disagreement on the management of straddling and highly migratory stocks may occur: arriving at useful arrangements requires a willingness to cooperate by all parties concerned, the EU and coastal states and third countries. It is not infrequent that one or more of the third countries lacks good will and chooses to fish at a unilaterally established high intensity. Such behaviour may lead to considerable depletion of the fish stock in question even if other parties engage in moderating their fishing rates. The EU however does not have a mechanism allowing for fast implementation of trade restrictions that would convince the third country in question to abandon the problematic behaviour.

(B) Overall assessment

While the report contains a considerable amount of proportionate analysis to support decision making, it should be improved in various respects. Firstly, it should clarify the scope, content and timing of follow up (implementing) measures, and should provide greater clarity on the practical application of the envisaged trade measures, including details on the decision-making process inside the EU. Secondly, the report should strengthen the assessment of effectiveness of the analysed measures, particularly with respect to the risk of countries circumventing the potential EU import ban. Finally, the assessment of impacts in the EU such as on the fish-processing industry and consumers should be improved.

In its written exchange with the Board DG MARE accepted to revise the report in line with the recommendations of this opinion.

(C) Main recommendations for improvements

(1) Clarify how the envisaged measures would work in practice. The report should explain how the envisaged regulatory instrument would work in practice, including details on the envisaged internal EU decision mechanism and timing. It should clarify to what extent the instrument resembles mechanisms applied by the EU and/or third countries in similar cases and should discuss in greater depth its compatibility with existing WTO rules. If implementing measures are foreseen, the report should be clear about their scope, as compared to the scope of the Regulation, and the envisaged timetable for further impact assessment work. For option 5 ("counter measures"), an indicative set of concrete measures should be outlined e.g. for the mackerel case, in order to allow its impacts to be shown in an illustrative way.

(2) Strengthen the analysis of effectiveness of the analysed measures and the comparison of options. The risk of countries circumventing the potential EU import ban should be assessed in more depth. This can be done by providing examples of how easy or difficult it is for the targeted third country to change the product nature of its exports to the EU, for instance by switching to highly processed products that would be more difficult to trace. In this context, the feasibility of introducing new traceability requirements in the EU should be discussed. Finally, all options should be compared to a clear baseline scenario of continued non-cooperative behaviour of Iceland and the Faroe Islands in addition to the 'desirable scenario'.

(3) Strengthen the analysis of potential impacts in the EU. When discussing the mackerel case, the report should clarify the dependence of the EU fish processing industry on this fish species and should briefly discuss impacts on the relevant product markets including on consumers. The report should also assess the likelihood of third countries applying similar measures with respect to EU fish stocks. For this purpose the IA report should specify the circumstances that would need to occur to trigger such a reaction, and the role of Regional Fisheries Management Organizations (RFMOs).

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation.

Further effort is needed to avoid the impression that measures are analysed with respect to one target country only. Graphs should be adequately titled and numbered. The objectives should be presented in terms of general, specific and operational ones. The executive summary should be expanded to cover all points as required in the IA guidelines (annex 4).

(E) IAB scrutiny process

Reference number	2011/MARE/042
External expertise used	No