



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2014)

Opinion

Title

DG MARE – Impact Assessment on a proposal for a revision of Council Regulation (EC) No 1006/2008 concerning authorisations for fishing activities outside community waters and access of third country vessels to community waters.

(draft version of 19 December 2013)*

(A) Context

The main objective of the CFP is to provide for the sustainable exploitation of living aquatic resources and of aquaculture taking account of the environmental, economic and social aspects in a balanced manner. One of the instruments of the CFP to guarantee the fulfilment of this objective is provided by the Fishing Authorisation Regulation (FAR) which establishes a general EU system for the authorisation of all fishing activities of EU fishing vessels outside EU waters and for the access of fishing vessels flying the flag of a third country to EU waters. In its 2011 Communication on the External Dimension of the Common Fisheries Policy, the Commission indicated that it would propose a revision of the FAR with a view to modernizing and simplifying the existing framework while considering any problem posed by repetitive reflagging and the fact that private fishing arrangements of the EU fleet outside EU waters currently fall out of scope. The initiative also falls under the scope of the REFIT programme.

(B) Overall opinion: NEGATIVE

The report should be significantly strengthened in a number of important respects. First, it should much more clearly set out the main problems to be addressed, focussing on the concrete consequences of the identified legal weaknesses and should provide further evidence to demonstrate their magnitude. Second, the report should further strengthen the baseline and clarify the legal basis for the proposed social provisions. Third the report should better explain the content of the policy options under consideration and the way in which they would tackle the identified issues. Fourth, the report should demonstrate the REFIT content of the proposal and provide a more in-depth assessment of its impacts on the administrative costs associated with the additional eligibility criteria, as well as the impacts on job quality, job creation, and the competitiveness of EU fishing enterprises.

Given the nature of these concerns, the IAB requests DG MARE to submit a revised version of the IA report on which it will issue a new opinion.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

(C) Main recommendations for improvements

(1) Better define the nature and magnitude of the problems. The report should provide a more concise and a clearer presentation of the main problems to be addressed, and present further evidence from the stakeholder consultation or otherwise to demonstrate the extent of problems caused by the identified legal weaknesses. For instance, as regards the poor or incomplete information on fishing authorisations received by the Commission from Member States, the report should better explain the extent of the information gap, and identify for which Member States in particular there is a deficit of information or incomplete/ inadequate information. It should then provide at least anecdotal evidence to demonstrate that the absence of eligibility criteria for private fishing authorisations has led to legal entanglements which are hindering the operation of EU fishing vessels in the waters of third countries, or to the improper sanctioning of operators by third country authorities. It should be clearer on how many private agreements and how many EU vessels are likely to be concerned and whether SMEs are among these operators. Where non-compliance by EU operators with internationally agreed social standards has been a cause for the detention and inspection of vessels by third countries, this should be clearly demonstrated with examples, and the frequency of such occurrences clarified. As regards reflagging practices, the report should provide evidence demonstrating the extent and scale of this problem, and explain to what extent this phenomenon is hindering the capacity of EU vessels to fish sustainably outside of EU waters. It should clarify in which segments of the EU fleet this is primarily a problem. Finally, the report should explain how EU regulatory provisions would be applied in the waters of third countries which are non-members of an RFO and non-signatories to any bilateral fisheries agreement.

(2) Strengthen the baseline and clarify the basis for EU action. The report should demonstrate the REFIT potential of the proposal more clearly by presenting under the baseline the tangible impacts of the current regulatory complexity and compliance costs for operators and public authorities. Where possible these compliance costs should be quantified for operators and public authorities. It should also clearly explain what adhoc solutions have been put in place by some Member States and by Commission services in order to bypass sections of the current regulation which are unclear, or ambiguous. The report should then be clearer on the subsidiarity principle and the EU right to act in this domain and clarify the legal basis for the proposed social clause.

(3) Provide further information on the content of the policy options and the ways in which they would tackle the problems. The report should provide a more transparent presentation of the concrete content of the policy options, clarifying for the non-expert reader the way in which the various measures are meant to address the problems caused by the identified legal shortcomings and specifically how an EU legal act can affect the behaviour of the EU fleet in third country waters and that of third country authorities towards the EU fleet. The report should also explain more concretely under option 1, how the different provisions of the fishing authorisations regulation will be amended in order to align it with the Lisbon Treaty. It should then elaborate further on how precisely the existing regulation is to be modified under option 3 with regard to the provisions concerning the eligibility criteria, the time for the granting of a fishing authorisation, and the provisions on the reallocation of fishing quotas between Member States. Under option 4, the report should explain much more clearly how the scope of the Regulation is to be enlarged, and within the main text, the substance of the new provisions. It should justify as regards the provisions aimed at preventing reflagging strategies, why a period of 24

months, during which operators are unable to apply for a fishing authorisation, has been chosen. It should also clearly explain which criteria listed in Annex 3 would be included in the Regulation, and under what circumstances they would apply to operators. It should explain within the main text what the additional requirements placed upon operators would concretely be (i.e., the need to obtain documentation demonstrating compliance with the ILO convention etc.).

(4) Strengthen the assessment of the impacts. The report should provide a more in-depth and quantitative assessment of the impacts across the economic, environmental and social areas, and more extensively present stakeholders' views throughout the analysis. The report should also more transparently identify the REFIT component of the proposal. To do this end, it should be clearer on the administrative costs for operators and Member States, associated with the need to comply with additional eligibility criteria, as well as the implications of establishing a system for the monitoring of private licences and reflagging strategies. These costs should be quantified where possible in order to more clearly demonstrate the cost savings potential in comparison to the baseline. As regards the proposed social clause, the report should fully assess the impacts that such a provision may have on job quality, on job creation, and on the operating costs of fishing enterprises. The report should also assess the impacts on the competitiveness of EU vessels brought about by the new authorisation requirements as well as on sustainable fishing practices and fishing stock levels. On the basis of a strengthened analysis of the impacts and relying on an improved presentation of the links between problems, objectives and measures, the report should more clearly assess the effectiveness, efficiency and coherence of the proposed regulatory revision and additional eligibility criteria in terms of simplifying fishing authorisation procedures for operators and third country authorities, and preventing legal entanglements or the improper use of sanctions.

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

The report should be shortened to respect the page limit. For that purpose some sections could be presented in a more concise manner (e.g. problem definition, affected parties, objectives). The report should also be made more accessible to the non-expert reader. A glossary of terms and a list of abbreviations should be added. Stakeholder views should be systematically presented throughout the text in relation to the problem definitions, and policy options.

(E) IAB scrutiny process

Reference number	2011/MARE/048
External expertise used	No
Date of IAB meeting	22 January 2014