Briefing
Initial Appraisal of a European Commission Impact Assessment

European Parliament

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# Fisheries technical measures

*Impact Assessment (SWD (2016) 57, SWD (2016) 56 (summary)) of a Commission proposal for a Regulation of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 1224/2009 and Regulations (EU) No 1343/2011 and (EU) No 1380/2013 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (COM (2016)134)*

## Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's Impact Assessment (IA) accompanying the above proposal, adopted on 11 March 2016 and referred to the Parliament's Committee on Fisheries.

The Common Fisheries Policy (CFP) provides for technical measures for fisheries conservation. According to Article 4 of the CFP regulation[1], technical measures regulate 'the composition of catches by species and size and the impacts on components of the ecosystems resulting from fishing activities by establishing conditions for the use and structure of fishing gear and restrictions on access to fishing areas'. These technical rules define 'where, when and how a fishing enterprise can exploit and interact with marine resources and the wider marine ecosystem' (IA, p. 77). There are currently 31 regulations in force for technical measures[2] that can be grouped under the following categories:

- Measures that regulate the operation of the gear (such as prohibition of certain gears);
- Measures that regulate the design of the gear (such as minimum mesh sizes);
- Minimum landing sizes[3];
- Spatial and temporal controls (such as closed areas to protect juvenile or spawning fish);
- Measures mitigating the impacts of fishing gears on sensitive species (also known as nature conservation measures) (IA, p. 5).

The regulatory structure of the technical measures has become highly complex, and, according to the Commission, the technical measures have failed to achieve the objectives of the previous CFP laid down in Regulation 2371/2002 on fisheries resources (Explanatory Memorandum of the proposal, p. 3). Among the 31 regulations currently in force, there are three main, detailed regulations that define mainly technical measures for specific sea basins in the waters of the European Union, such as the North-East Atlantic, the outermost

[1] Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC.
[2] For more details, see EPRS briefing of 18 March 2016, Overhauling fisheries technical measures.
[3] The CFP Regulation No 1380/2013, however, changed minimum landing size to minimum conservation reference size instead, and the IA appears not to have followed up on this terminology change.


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regions and the Black Sea[4], the Mediterranean, and the Baltic Sea, whereas detailed rules on the construction of fishing gears are set out in specific Commission acts. Therefore, the proposal is offering 'a radical change in the governance structure of the technical measures', according to the IA, by bringing together the technical measures into one regulation (IA, p. 30). In addition to defining the general technical measures at EU level, the new proposal would also enable the development of technical measures at regional level by the Member States, under the so-called regionalisation approach established by the new CFP. According to the Commission, regionalisation 'gives scope to limit the need for detailed technical measures adopted by the European Parliament and the Council of Ministers under co-decision'. The new regionalisation approach is also examined as a 'driver for the achievement of sustainable fisheries rather than simply as restrictive and coercive measures complementing fishing opportunities and effort restrictions' (Expl. Mem., p. 6). The reform of the technical measures was included in the Commission's 2015 work programme as part of the REFIT programme to which it 'will contribute through the simplification and deletion of a number of existing regulations and specific measures' (Expl. mem., p. 6). The EU fishing fleet will be the most affected by potential changes to the technical measures regulations. According to the IA, the fleet is comprised of 82 047 vessels and employs 98 500 full-time equivalents (FTE)[5]. Almost 98% of the fishing fleet are micro-enterprises employing fewer than 10 persons with an annual turnover and/or total annual balance sheet not exceeding EUR 2 million (IA, pp. 20-21).

## Problem definition

The IA identifies the following five problems in need of action at EU level:

1) Sub-optimal performance of the technical measures;
2) Difficulties to measure the effectiveness of the technical measures;
3) Prescriptive and complex rules;
4) Lack of flexibility in the management framework;
5) Insufficient involvement of key stakeholders in the decision making process (IA, pp. 12-18).

Problem 1: Regarding **sub-optimal performance of the technical measures**, the causes/consequences are the following: loss of revenue for fishermen (because the current mesh size results in loss of marketable catch, for example in the North-East Atlantic and Mediterranean); discards of both undersized and marketable fish species due to fishing gear which is unselective for other species caught during the same fishing operations; discarding fish below minimum landing size (mls) or in excess of the permitted catch composition (CC) (for example, in order to meet the catch composition requirements for that day); and limited effectiveness of nature conservation measures (for example, continuous incidental catches of cetaceans in gillnet and pelagic fisheries[6]) (IA, pp. 13-14).

Problem 2: Regarding **difficulties to measure effectiveness**, the IA claims that it is difficult to quantify the effectiveness of the technical measures due to several reasons, including the absence of any defined metrics with which to measure success, and the fact that comparative analysis of collective fisheries measures is not possible as they are often part of 'an overall package of complex input and output controls (including fishing effort and total allowable catches[7]' (TACs)). According to the Commission, some technical measures (such as mesh sizes, restriction on specific gears and closed areas) are agreed through political negotiations, which risk diluting the rules, thus making them sub-optimal (IA, p. 15).

[4] Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms. More details on the implementation of this Regulation can be found in the corresponding EPRS implementation appraisal of September 2015

[5] Data from the Scientific, Technical and Economic Committee for Fisheries (STECF) Annual Economic Report on the EU Fishing Fleet of 2013.

[6] For more detailed explanation of fisheries technical measures, as well as fisheries terminology, see the EPRS in-depth analysis of October 2015 Understanding fisheries technical rules.

[7] The maximum biomass of fish that can be caught from a given stock in a given year (IA, Glossary).

Problem 3: Regarding **prescriptive and complex rules**, the IA maintains that the technical measures are seen as input tools (meaning, for example, mesh sizes or restrictions on fishing gears), which results in controlling too heavily the technical aspects of fishing operations instead of focusing on the desired outputs (for example, specific catch profile or level of fishing pressure). This gives fishermen an incentive to circumvent the technical rules. Another issue is the control and enforcement of measures, which are sometimes difficult and costly to introduce; for example, average control costs constitute around EUR 33 million per Member State (such as land-based, sea- or air-borne inspections and administrative costs) (IA, pp. 16-17).

Problem 4: Regarding **lack of flexibility in the management framework** the IA claims that the ordinary legislative procedure 'is a complex, lengthy and politically-driven process which is not well suited to defining detailed technical rules that may need frequent updating'. According to the IA, this has been evident, for example, when the Commission's proposals on the technical measures for the North-East Atlantic failed in 2002 and 2008 due to political disagreements. It suggests that there is, on the one hand, a lack of the flexibility needed to react to emergency situations and adapt the technical measures accordingly, while, on the other hand, stakeholders complain about temporary technical measures being used to actually impose long-term restrictions. Moreover, the nature conservation measures to protect sensitive habitats are also suffering from inflexibility (IA, pp. 17-18).

Problem 5: Regarding **insufficient involvement of key stakeholders in the decision making process** the IA explains that successful use of the technical measures depends largely on their acceptance by fishermen. However, it suggests that as the fishermen and other stakeholders generally feel alienated from the decision-making process on technical measures, they see them as impractical, contradictory, or unrepresentative of actual fishing practices. As a result, these key actors are not keen to comply.

The presentation of the perceived problems could have been improved; for example, both problems 1 and 2 explain sub-optimal performance. The problem of the performance of the technical measures could also have been better explained to clarify if indeed the problem lies only in the rules themselves, or perhaps also in non-compliance among fishermen and enforcement difficulties (for example, because the fishermen see the gear operation and design rules as a way to restrict their activities and would like to avoid losses of revenue (IA, p. 13)). Political negotiations are repeatedly mentioned as a problem; the IA does not discuss in any detail, however, how far this alleged 'problem' will be solved by the new proposal.

## Objectives of the legislative proposal

The *general* objectives of the initiative aim to contribute to:

1) bringing all European fish stocks to a state where they can produce the Maximum Sustainable Yield (MSY) by 2015 or 2020 at the latest;
2) reducing unwanted catches and eliminating discards in fisheries subject to catch limits by 2019;
3) achieving Good Environmental Status (GES) by 2020, as established under the Marine Strategy Framework Directive (MSFD) (IA, p. 23).

The IA claims that the *specific* objectives are aimed at developing a regulatory structure for the technical measures that:

1) leads to an improvement in the effectiveness of the technical measures;
2) defines clear objectives, targets and success criteria for the technical measures;
3) eliminates over-regulation and simplifies the current technical measures;
4) creates a more flexible legal framework and acts as a vehicle for regionalisation of the technical measures;
5) promotes a transparent and participatory approach to the definition and specification of the technical measures (IA, p 23).

Seven *operational* objectives are identified and linked to the specific objectives. However, the new Better Regulation Guidelines stipulate that operational objectives – which are defined there in terms of the deliverables of policy actions - ought rather to be defined for the preferred option only.

## Range of options considered

The IA presents three options and a sub-option to solve the defined problems:
Policy Option 1 – Consolidation of the common rules under one regulation (IA, p. 28)
Policy Option 2 – Framework Approach (IA, p. 30)
Policy Option 2.1 – Framework Approach without baselines (IA, p. 32)
Policy Option 3 – Elimination of the technical measures (IA, p. 32)

The IA explains that '[T]he different options largely present different governance structures for the specification and implementation of the technical measures. Changes to the substance are primarily restricted to deletion or simplification of existing measures or the establishment of baselines based on existing rules' (IA, p. 36).

**Policy Option 1: Consolidation of common rules under one regulation**
Under this option, the technical measures would be split among common rules and regional rules. The common rules for all fisheries in all areas (for instance generic prohibitions of a certain fishing method) would be brought together and consolidated in one regulation (under co-decision) (IA, p. 28). Regional-specific rules would remain in place under this option in the existing regulations, adopted by the Commission through delegated acts. There was little support for this approach from Member States, the catching sector and the Advisory Councils (ACs)[8], as they saw this as a re-working of the proposal tabled in 2008[9] by the Commission, which attempted to simplify and overhaul the technical rules, but failed in the Council. Indeed, 'Most advocated a complete overhaul of the regulatory structure of the technical measures rather than a simple consolidation that does not depart too much from the status quo or link directly to regionalisation' (IA, p. 29).

**Policy Option 2: Framework Approach**
Under this option, the technical measures are brought into one regulation with the following structure: general provisions (such as scope and objectives), technical provisions, nature conservation measures, baseline standards by region, and regionalisation. This new regulation 'would recast the structure (one regulation instead of the numerous regulations in place) and it would give a new orientation to the technical measures (clear standards, results orientation instead of prescriptive top-down approach with a large number of derogations) with regionalisation being the main tool to provide flexibility' (IA, p. 30). The baseline s would be used to enable the Commission to adopt delegated acts based on joint recommendations from the Member States (for example, containing detailed technical measures as part of multiannual plans or, in the absence of such plans, temporary discard plans). The catching sector, Member States and NGOs favoured this approach, covering all sea basins (IA, p. 31).

**Sub-option 2.1: Framework Approach without baselines**
Under this option, the structure of one single regulation would remain the same as under Option 2. Such structure would establish 'measures that regulate the design and operation of fishing gears, closed areas, minimum conservation reference sizes and other specific measures required regionally to meet the objective of the CFP through delegated acts as part of the discard and multiannual plans'. Other baseline measures, such as mesh sizes, minimum conservation reference sizes (mcrs)[10] and closed areas would be omitted (in contrast to Option 2). This sub-option takes into account some doubts expressed by certain members of the catching sector, who questioned the necessity of baseline measures (IA, p., 32).

[8] The Advisory Councils were established under the CFP to promote a balanced representation of all stakeholders (IA, Glossary).
[9] Proposal for a Council regulation concerning the conservation of fisheries resources through technical measures (COM/2008/0324 final).
[10] The size of a living marine aquatic species taking into account maturity, below which restrictions or incentives apply that aim to avoid capture through fishing activity; such size replaces, where relevant, the minimum landing size (IA, Glossary).

**Policy Option 3: Elimination of technical measures**

Under this option, all the existing technical measures regulations would be immediately repealed with the exception of essential nature conservation measures for the protection of sensitive habitats and species. Specific objectives or targets for the technical measures would be defined in the multiannual plans; longer term technical measures would be developed regionally as part of such plans (IA, p. 32). The achievement of the general and specific objectives would be dependent on Member States and on changes in the behaviour of fishermen: 'it would strongly rely on peer pressure and self-regulation to ensure that unselective fishing does not prevail and clean fishing becomes the daily norm'. Some representatives of the catching sector supported this approach (e.g. EUROPECHE, EAPO, LIFE), whereas several Advisory Councils, as well as Member States and NGOs, did not (IA, p. 33).

The IA presents a comparison of all three options and the sub-option against the no-change scenario in respect of the criteria of effectiveness, efficiency, coherence, acceptability, as well as risk assessment (such as speed of regionalisation, risk of non-compliance and incentive for change, uneven playing field and uneven implementation). According to the Better Regulation Guidelines, another key criterion for comparing the policy options is the principle of proportionality, which has to ensure that 'the policy approach and its intensity match the identified problem and objective'[11]. This aspect is missing in the IA.

**Option 2 is the preferred option,** scoring the best on the basis of the above criteria (IA, pp. 64-67).

No discarded options are mentioned in the IA. However, it is not clear why Option 1 was retained for further analysis as the IA explains that this option 'is not likely to enhance the contribution of the technical measures to the achievement of the general objectives of the CFP', and since it would only partially address the specific and operational objectives (IA, p. 62). Moreover, Option 1 is not supported by the Member States, the ACs, NGOs, or the catching sector (IA, p. 64). Retention of sub-option 2.1 for analysis is similarly doubtful, as the IA explains that '[P]artial de-regulation will introduce uncertainty and create a legal vacuum' (IA, p. 52). Not all options appear to have been analysed in equal depth, with the description of Option 2, the preferred option, being more detailed than the other options.

## Scope of the Impact Assessment

The IA provides a largely qualitative and rather superficial assessment of the ***economic, social and environmental impacts***, as well as of ***simplification, administrative burden*** and ***costs and impacts on SMEs*** *(see relevant sections below)*.

Regarding ***economic impacts***, the IA assesses the contribution to the achievement of the MSY[12] objectives and the reduction of unwanted catches under the landing obligation, as these two core elements would have a huge impact on the future economic viability (growth and investment), sectorial competitiveness and stability of SMEs (IA, p. 36). According to the IA, the short-term economic impact[13] under Option 1 would be negative, constituting, for example, economic losses from reductions in marketable catches. In the long-term[14] the catching sector would have to bear adaptation costs for their fishing gear. The IA provides a table of cost calculations for purchasing and rigging the selectivity devices into existing gears[15] (IA, p. 43). Under Option 2, economic impacts are claimed to be positive after a transitional period when Member States start to introduce

[11] Better Regulation Guidelines, Tool 3, p. 24

[12] The largest yield that can be taken from a species' stock over an indefinite period, so that a renewable source can sustain without impairing its natural growth and reproduction.

[13] Up to 2019, corresponding to the full implementation of the landing obligation.

[14] Up to 2022 and beyond when the CFP is due to be reviewed.

[15] For example, total costs of the catching sector for the North-East Atlantic and North Sea region would be EUR 16.4 million (0.9 % of the annual value of their landings).

the process of regionalisation (the same would apply to sub-Option 2.1). The '[i]ntroduction of discard reduction strategies could lead to significant increases (10-40%) in retained and sold catches of some species currently subject to significant discarding depending on the fishery' (IA, p. 48). Short-term economic impacts are claimed to be significant and negative in the Mediterranean for those fleets that target the overfished stocks (IA, p. 49). Under options 2.1 and 3, short-term impacts would be negative 'as a result of partial "de-regulation"' and since 'widespread overfishing could lead to the total closure of a fishery with significant economic consequences' (IA, p. 52). In order to adapt the fishing gear to the new measures under regionalisation, the European Maritime and Fisheries Fund (EMFF) would be used as regards all options.

Regarding ***social impacts***, the IA assesses the contribution of the technical measures to employment in fisheries and their impacts on wages and working conditions (IA, p. 36). Under all options, there would be a short-term negative impact on employment with potential improvement in the long-term as regionalisation is gradually introduced. Under Option 2, the IA claims that 'the average wages under the new CFP will nearly double in comparison to what would happen in the absence of reform as a result of fishing at MSY' (IA, p. 50). However, it is not clear how relevant the social impacts are to the purpose of the proposal, namely to conservation of fishery resources and protection of marine ecosystems.

Regarding ***environmental impacts***, '[t]echnical measures relating to Natura 2000 sites could be adopted under Article 11 of the CFP' (IA, p. 32) for all options. 'Environmental sustainability is assessed in terms of protecting biodiversity, preserving the quality of natural resources and fostering the sustainable use of resources'. The indicators used include biological impacts on fish stocks and vulnerable species, such as marine mammals and seabirds, and physical impacts on the seabed (IA, p. 37). Option 2 is the only option with positive environmental impacts through the reduction of overfishing and the introduction of measures for sensitive species and habitats (IA, p. 57).

The IA does not detail whether certain Member States/regions will be more affected by the proposal than others, or indeed how, especially as the IA claims, under Option 1, that regionalisation would be likely to increase costs in various fishing regions (see below).

## Subsidiarity / proportionality

Provisions on the conservation of marine biological resources fall under the exclusive competence of the EU according to Article 3(1d) of the Treaty on the Functioning of the European Union. Therefore, the subsidiarity principle does not apply for those provisions (IA, p. 22). Under regionalisation, objectives and targets for managing fisheries will be set centrally, whereas the detailed rules needed to achieve these objectives will be set regionally by Member States (IA, p. 22). The IA does not contain a dedicated section on proportionality and, as mentioned above, nor does it appear to be assessed elsewhere in the text. This is presumably because the Commission considers that the proposal 'is amending measures which already exist; therefore no concern on the proportionality principle arises'[16], although the reasoning behind this conclusion is perhaps open to question.

## Budgetary or public finance implications

The IA explains that the public bodies impacted by budgetary and administrative burden are national research institutes, the Scientific, Technical and Economic Committee for Fisheries (STECF), the International Council for the Exploration of the Sea (ICES), and national administrations of the Member States (IA, p. 37).

Under Option 1, there would be additional short-term costs for developing temporary discard plans (estimations given are EUR 80 000 to 120 000 for a development plan) (IA, p. 46). The move to regionalisation is likely to increase costs, depending on the fishing region; for example, the IA claims that the increase of costs for France[17]

[16] Explanatory memorandum of the proposal, p. 7.
[17] France is involved in fisheries in the North-western waters, South-western waters, North Sea and the Mediterranean.

under this option is estimated at 20 to 50%. Costs for controlling technical measures will remain high (IA, p. 47). Administrative costs for the Member States would increase in the short term under Option 2, but control costs would be reduced due to simplification. However, 'costs for enforcing the remaining technical rules at sea will remain and will be significant'. Costs for regionalisation, as well as costs and changes in workload for the STEFC and ICES, are claimed to be the same for all options (IA, p. 51), although they are not even mentioned under Option 1. In the long-term, the results-based approach and the use of Joint Deployment Plans (JDP)[18] could reduce the control costs. For example, for the Member States in the North-East Atlantic, savings are estimated at EUR 10.2 million (IA, p. 51).

Under sub-Option 2.1, additional costs for the Member States would be caused by the need to put in place accurate catch reporting systems, as only common technical provisions and essential conservation measures would remain (IA, p. 54). Option 3 would entail the deletion of multiple regulations, which would have obvious benefits for the Member States in cutting red-tape; however, costs associated with the need for accurate catch reporting would arise. The IA looks at the control costs for all options, identifying neutral impacts under Option 1, neutral or positive under options 2 and 2.1, and positive or negative under Option 3.

## SME test / Competitiveness

The impacts on SMEs are very briefly analysed under each policy option, and are mainly related to the administrative burden and costs associated with regionalisation, under which SMEs are claimed to have more say in the decision-making process (IA, pp. 37, 47-48). A more thorough assessment of the impact on SMEs would perhaps have been desirable, especially given that 98% of the fishing fleet are microenterprises. Impacts on SMEs are described as both negative and positive under Options 1 and 3, and positive under Options 2 and 2.1 (IA, p. 58). Impacts on competitiveness are neutral under Option 1, positive under Options 2 and 2.1, and both negative and positive under Option 3 (IA, p. 57).

## Simplification and other regulatory implications

Simplification is the very goal of the proposal, which replaces six co-decided regulations, partially repeals or amends three others, repeals up to ten supporting Commission regulations, and provides 'a direct route to regionalisation' (IA, p. 50). Apart from the simplification part of the table summarising the policy options, which lists the amended or repealed regulations (IA, p. 35), the IA does not further detail how those regulations would be affected in practice and what would happen to the remaining 31 regulations.

## Relations with third countries

Article 2 of the proposal stipulates that the Regulation shall also apply to 'fishing vessels flying the flag of, and registered in, third countries when fishing in Union waters'. The IA states that the following third countries fishing in EU waters would be indirectly affected by the proposal: Norway and the Faroe Islands in the North-East Atlantic and Turkey, Morocco and Ukraine in the Mediterranean and the Black Sea (IA, p. 21). The analysis of impacts briefly mentions third countries as stakeholders, citing Option 2 as the most favourable for the North-East Atlantic because of increased fishing opportunities (IA, p. 49).

## Quality of data, research and analysis

The Commission has relied on several reports and studies in drafting the IA, namely: the IA report accompanying the Commission's proposal for the new CFP[19]; an external retrospective and prospective evaluation[20], which

[18] A plan for coordinated joint deployment of national means (inspection vessels, surveillance aircraft, mobile mixed inspection teams, etc.) to monitor and inspect fishing activities that fall under the rules of the CFP (IA, Glossary).
[19] SEC(2011) 891 final, Impact Assessment accompanying Commission proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy [repealing Regulation (EC) N° 2371/2002].
[20] Study in support of the development of a new technical conservation measures framework within a reformed CFP, 18/07/2014.

included consultations with the representatives of the fishing industry, national administrations and the research agencies of some Member States; the Green Paper on the Reform of the CFP, as well as the reports from STECF (IA, pp. 1 and 13).

It is regrettable that the problem definition section is at times rather inconsistent and confusing to the reader. For example, under problem 4 the examples given appear contradictory: the description of the ordinary legislative procedure as a complex, lengthy and politically-driven process, is illustrated by the example of the case where it took nine months for the co-legislators to decide on technical measures for the North-East Atlantic. Similarly, the potential benefit of regionalisation is illustrated by an example where it took three years for the Member States and North Western Waters Advisory Council (NWWAC) to agree on an emergency solution to protect juvenile haddock in the Celtic Sea and for the Commission to adopt it. Although the IA explains that the assessment of impacts of different options is based on the limited experience gained thus far regarding regionalisation (IA, p. 36), the added value of the regionalisation aspect in general in the new proposal could perhaps nevertheless have been better analysed and presented. The analysis of impacts appears to be rather superficial and generally qualitative; moreover, the main cost calculations are illustrated by existing examples without attempting to forecast the costs for the various options. Some inconsistencies regarding the presentation of administrative costs render the IA at times confusing: for example, it claims to have analysed costs for the research institutes and scientific bodies (STEFC and ICES), yet such costs are not found in the assessment of the various types of impacts.

## Stakeholder consultation

The IA clearly states that the stakeholders concerned by the proposal are the catching sector of the EU (EU vessel owners, operators and crew), fishing regulators (national, regional and local bodies regulating fishing), and the sector's research community (scientific research bodies and NGOs advocating sustainable management of fisheries) (IA, p. 20). Indirectly affected are also the processing and marketing sector, consumers, dependent business and communities and third countries fishing in Union waters (IA, p. 21). A public consultation took place between 24 January and 16 May 2014, resulting in a total of 59 written contributions received from fifteen Member States, five of the seven ACs, industry representatives covering more than 80% of the catching sector, eleven fisheries NGOs, consumer protection groups and the general public (IA, pp. 3 and 77). The Commission also held many workshops, consultations and meetings from 2011 to early 2015 with the key stakeholders (Member States, EP, ACs, the catching sector and NGOs) (IA, p. 4). It should be noted that stakeholder views are well represented throughout the IA, and especially in the description of policy options.

## Monitoring and evaluation

The IA includes a chapter on monitoring and evaluation (IA, p. 68), in which environmental, economic, social and compliance indicators are proposed to measure the achievement of the targets of the proposal. For example, environmental indicators include the evolution of catch profiles, incidental catches, and the protection of sensitive habitats, social — employment and crew wages per FTE, compliance — number of infringements, and at-sea patrol days. Data will be provided by a data collection framework (DCF), ICES, control agencies and the European Fisheries Control Agency (EFCA) (IA, pp. 68-69). An ex-post evaluation of technical measures should be carried out by 2022, which would directly feed into the retrospective evaluation of the CFP to begin in 2022 (IA, p. 69). The EPRS implementation appraisal of Regulation 850/98 indicates concern over possible negative impacts of regionalisation on cross-border activities and enforcement. The costs of the latter are discussed in the economic impacts section of the IA.

## Commission Regulatory Scrutiny Board

The Commission's Regulatory Scrutiny Board (RSB) delivered its first, negative opinion on a draft version of the IA, dated 19 June 2015, indicating three main shortcomings which needed improvement. The RSB's second, positive opinion, adopted on 30 October 2015, highlighted the need to clarify in more detail the three following

aspects: the content of the options (for example, better explain the difference between Options 1, 2 and sub-Option 2.1), the assessment of impacts (the analysis is criticised as rather hypothetical and based on anecdotal examples), and the effectiveness of the options (how regionalisation would tackle the effectiveness problems of the current technical measures). Similar criticism was expressed in the first, negative, opinion (IA, pp. 2-3). Despite this, the IA does not appear to have fully dealt with these shortcomings in the final version.

## Coherence between the Commission's legislative proposal and IA

The Commission's legislative proposal appears to follow the recommendations of the preferred policy option expressed in the IA, especially regarding regionalisation. Article 27 of the proposal establishes control and monitoring measures in coherence with those identified in the IA.

## Conclusions

The main strengths of the IA are its use of wide-ranging and apparently sound information from the external studies, meetings and consultations, as well as the cogent presentation of the stakeholder views and the results of the public consultation throughout the report. The IA appears to be well-illustrated by examples; however, they do not always facilitate a better understanding of the current issues due to their sometimes inconsistent and rather confusing presentation. The analysis of the various impacts on stakeholders and fishing regions is rather weak. In particular, the analysis of impacts on SMEs is brief, qualitative and very general, and might have merited a more in-depth approach. It is unclear why Options 1 and 2.1 were retained for further analysis since it is claimed that they would only have a limited contribution to solving the problems of enforcement of the technical measures. A more detailed analysis is provided for Option 2, which is the preferred option, in comparison to the other options, which might suggest that the apparent choice of options is not as broad as it may appear. Finally, the IA could have given greater insight into how the remaining technical measures regulations and the Commission acts would be affected in practice as a result of this proposal.

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