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Impact Assessment

Accompanying the document

**Commission proposal for a Regulation of the European parliament and of the Council
on certain measures directed to non-collaborating countries for the purpose of the
conservation of fish stocks.**

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

1. SECTION 1: PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Identification:

This Impact Assessment results from the need to respond, by using trade-related measures, to situations where third countries fail to cooperate in the management of stocks of common interest and put in jeopardy their sustainability. This need has become particularly evident following the requests made by the EU Institutions and by all stakeholders to use all possible means, without excluding trade sanctions, to solve the ongoing dispute between Iceland and Faroe Islands and the EU on the joint management of the stock of North East Atlantic mackerel. For action on these countries to be effective and timely, it is required an *ad hoc* legal instrument, for which an impact assessment is required.

It has been inserted in the Agenda Planning under the reference 2011/MARE/042

1.2. Organisation and timing:

The decision to start this initiative was the result of a process that started at the Fisheries Council of 25 October 2010, when Member States asked the Commission to take immediate action and use all possible means to convince Iceland and the Faroe Islands so they should abandon their perceived extreme and unsustainable positions during the consultations on mackerel management. Since then several meetings among the services concerned took place exploring different options and finally it was agreed to launch the

process to prepare a Commission proposal for a legal instrument allowing to prohibit, in an effective manner, the imports from countries whose non-cooperating behaviour (such as Iceland and the Faroe Islands in the case of mackerel) put the management of stocks of common interest in jeopardy. The ban on imports would cover fish products related to the species concerned. This decision was taken without prejudice to continuing the exploration of different avenues.

The first step taken by DG MARE to honour this decision was to draft a Roadmap and nominate an Impact Assessment Steering Group (IASG). Members of this group were nominated by the following DGs: MARE (lead DG), TRADE, ELARG, ENV, SJ, SG and the EEAS. The first meeting of IASG took place 14 March 2011 to present and preliminarily discuss the Roadmap and the consultation document. Subsequent meetings of IASG took place 20 May and 16 June 2011.

The elaboration of this IA report was done transparently, involving preliminarily all the pertinent services of DG MARE and maintaining afterwards regularly updated the Commission services represented in the IASG.

1.3. Consultation of the IAB

This report was presented to the Impact Assessment Board (IAB) 21 June 2011. The IAB Secretariat issued a detailed IA Quality CheckList (IAQCL) by 15 July 2011 and the IAB delivered its opinion 22 July 2011. In essence, the IAB opinion contained suggestions to improve the report on the following fields:

- 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.

The present report addresses the suggestions made by the IAB and the technical comments made in the IAQCL.

1.4. Consultation and expertise:

The dispute about mackerel was discussed with Member States, the EP and stakeholders in several occasions, especially during 2010.

The Committee on Fisheries of the European Parliament held on 30 September 2010 an exchange of views, with the participation of the Commission and of stakeholders, on the dispute with Iceland over significant increases in their catches of mackerel. During the debate the majority of participants expressed deep concern by the unilateral decision by Iceland to increase its mackerel catches called for a strong response from the EU and also advocated long-term and multilateral solutions.

Meetings with stakeholders, in particular economic operators involved in the fishery of the mackerel stock of common interest with Iceland, have been held throughout the negotiations with Iceland, Norway and the Faroe Islands on the management of the aforementioned mackerel stock. Their general view was that the Commission should take action against Iceland and Faroe Islands in all possible fields, including trade and bilateral fishing agreements.

In the context of this Impact Assessment, it was decided to launch a new consultation focused on the core problem: how to use trade restrictions to deal with situations like the one found for mackerel.

Rather than an open public consultation, a targeted one was chosen. This was mainly due to the highly specialised fields of work associated to the dossier: management of straddling and highly migratory stocks and international trade rules, on which the awareness of the wide public is supposed to be very low. The target groups were those represented in the main consultation bodies for the common fisheries policy: the Advisory Committee for Fisheries and Aquaculture (ACFA), the seven Regional Advisory Councils (RACs), and the authorities of Member States.

The Advisory Committee on Fisheries and Aquaculture (ACFA) provides a forum for ongoing dialogue with the industry. Its 21 members represent the main branches of the industry – production, processing and trade, in both fisheries and aquaculture as well as consumer groups and organisations dealing with environmental protection and development.

ACFA operates through four working groups, which deal with:

- fisheries resources and management
- aquaculture
- markets and trade policy
- general questions, including economics and the condition of the sector.

The Regional Advisory Councils (RACs) were created as part of the 2002 reform of the Common Fisheries Policy. They were established to give stakeholders (fishermen, vessel owners, processors, traders, fish farmers, women's fisheries groups, environmental and consumer organisations and others) a vehicle through which to feed recommendations into CFP policy developments. RACs must include stakeholders from at least two Member States. They each have a general assembly and an executive committee. The fisheries sector has two thirds of the representatives on each body, and other interests one third. In addition to five geographical RACs, two others have been established for pelagic stocks and the high seas fleet.

- Baltic Sea RAC
- Long Distance RAC
- Mediterranean Sea RAC
- North Sea RAC
- North-western waters RAC
- Pelagic stocks RAC
- South-western waters RAC

The consultation was opened 22 March 2011 and the last contribution was received and accepted on 30 May 2011, which makes the whole consultation period close to 10 weeks. A consultation document (copied in the appendix to this annex) was distributed to the

target groups. It contained an explanation of the basic problem, a brief analysis of the possible approaches and several closed and open questions allowing a complete feedback. The Commission's minimum standards for consultation¹ have been fully met and the Guidelines on organisation of stakeholder consultation in DG MARE² have been followed. The Commission had the opportunity to present and explain the consultation document to the two RACs more directly affected by the problem: the LDRAC and the PELRAC during the meetings of the Executive Committees of these RACs.

Results of the consultation:

A summary of the replies received and the main conclusions are given in **Annex I**. It could be concluded that, generally speaking, there is ample support for the way the Commission has initially approached the problem and for the use of a regulatory instrument banning trade of the fish products affected by the dispute and even going beyond these measures in the framework of "countermeasures". Attention should be paid to the effects on the processing industry in particular and to the possibility of using a combination of actions.

1.5. Consultation of the Legal Service

DG MARE requested the advice of the Legal Service on a number of questions pertaining to a possible legal instrument allowing to prohibit imports in an efficient manner in cases like the mackerel dispute. The questions covered 1) structure and legal basis for the instrument, 2) compatibility with GATT, 3) compatibility with other agreements, 4) counter-measures and 5) other possible suggestions.

The reply from the Legal Service can be summarised as follows:

- The legal basis should be article 207 TFEU (common commercial policy)
- The structure of the proposal should preferably be a basic act adopted under co-decision (with criteria and procedures) with the empowerment of the Commission to adopt specific trade measures (probably as implementing acts under article 291 TFEU).
- The best ground to possibly justify trade restrictions for certain fisheries products from countries that refuse to cooperate and that threaten conservation, would be under Article XX(g) GATT, subject to the requirements of the so-called “chapeau” of that provision (including a predictable process with the right to be heard, balance between limitations of trade and those applied to domestic fishermen, comparable treatment for situations being in comparable circumstances). This does not exclude that also Article XX(b) could be invoked to justify the measure in case of WTO litigation.
- Compatibility with EEA Agreement can be justified on the basis of its Article 13 if the principle of proportionality is respected. Similar conditions apply to the bilateral agreements in the case of Iceland and Faroe Islands.

¹ Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission.

² Note to Directors – Adonis No D 00166 of 6.01.2010

- The option of "countermeasures" would raise complex issues under international law, which still need further scrutiny.

In sum, the result of the consultation of the Legal Service did not invalidate any of the options contemplated in this IA. More importantly, its response provided very detailed guidance on what conditions should be met for the trade measures to be compatible with existing law and will be very useful at the time of drafting the intended legal instrument.

2. SECTION 2: PROBLEM DEFINITION

2.1. What is the issue or problem that may require action?

The UN Convention on the Law of the Sea³ as well as the UN Fish Stocks Agreement⁴ require coastal states and states fishing for such stocks on adjacent high seas to cooperate in managing responsibly 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 the willingness of all parties concerned, the EU, the EU and coastal states and third countries, to cooperate. It is not infrequent that one or more of the third parties lack such a good will and choose to fish at a unilaterally established high intensity for a number of years before consultations are concluded successfully. 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 is now suffering the consequences of too long and unsuccessful consultations and negotiations, both between the North-East Atlantic coastal states and in the framework of the North-East Atlantic Fisheries Commission (NEAFC), before agreement was finally reached on the management of the North-East Atlantic stock of blue whiting. In order to satisfy the unrealistic demands of some of the countries fishing for blue whiting and lacking instruments to convince these countries to lower their aspirations towards more reasonable positions, TACs were fixed at levels well above (doubling, in some years) the levels advised by fishery scientists. This has resulted in disastrous consequences for the status of this stock and therefore for certain EU fleets which target it. Furthermore, the rebuilding the stock to sustainable levels in the medium term has become difficult. In fact, the protracted disagreement led to a very grave depletion of this stock which meant that the Total Allowable Catch (TAC) for this species had to be set for 2011 at 40,100t, which represents less than 7% of the level for 2010 (540,000t). Such outcomes run contrary to the fundamental objectives of the EU's Common Fisheries Policy (CFP).

At present the EU faces a similar problem with the stock of North-East Atlantic mackerel. In this case the lack of agreement among coastal states, mainly due to Iceland and Faroe Islands maintaining inflexible and unrealistic negotiating positions, is compounded by Faroe Islands and Iceland's setting of autonomous catch limits at very high levels, not supported by any objective argument either on the basis of historical

³ [United Nations Convention on the Law of the Sea](#) of 10 December 1982.

⁴ [The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks](#) (in force as from 11 December 2001)

rights or stock distribution. These levels of fishing, according to scientific advice, may threaten the sustainability of the stock.

A more detailed description of these two specific problems is given in **Annex II**, together with a list of other stocks for which problems might arise in the future. It should be emphasized that these occur in particular in situations where there is no regional fisheries management organization (RFMO) in charge of the management of the stocks in question. In these cases, fisheries management rely only on “understandings” and “arrangements” made among the fishing countries that have little legal binding value. This is the main reason why recourse to trade measures is often the only means to deal with alleged misconduct of one of the parties.

The EU cannot remain idle in these situations and must be able to induce third countries to abandon harmful unilateral behaviour and show the necessary good will to achieve an arrangement for the management of migrating fish stocks (such as mackerel). Furthermore, to maintain the offer of a lucrative market as destination of the mackerel caught by Iceland or the Faroe Islands remains not only a political contradiction but also a stimulus for these countries to continue its intensive over-exploitation of the stock. Following this situation, there were clamorous requests by all stakeholders that the EU should prohibit imports from these countries of, at least, the species in question.

The use of import prohibition or restrictions in the broad field of conservation of natural resources and, specifically, in fisheries management, is not uncommon. There are legal frameworks for this such as the CITES Convention⁵, transposed into EU legislation by Regulation (EC) No 338/97⁶, certain recommendations made in the context of RFMOs⁷ and the IUU Regulation⁸. Furthermore, a number of cases exist in the international scene where coastal States have adopted import restrictions on their own for conservation purposes⁹ with various degrees of success.

However, none of the existing legal instruments available to the EU for adopting an import restriction or prohibition is appropriate in cases such as the ones described above for mackerel and blue whiting. For instance, and taking the case of mackerel fisheries, i) the mackerel stock is not in such a danger as to fall under the criteria to have it listed in

⁵ [Convention](#) on International Trade in Endangered Species of Wild Fauna and Flora

⁶ Council Regulation (EC) No [338/97](#) of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein. OJ L 61, 3.3.1997, p. 1–69

⁷ See, for example, [Recommendation No 2009-11 of ICCAT](#) amending Recommendation No 8-12 on an ICCAT bluefin tuna catch documentation programme

⁸ [Regulation \(EC\) No 1005/2008](#) of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999.

⁹ Such as the [shrimp/ turtle](#) case, where in 1989 the USA prohibited imports of shrimps from countries that did not have mechanisms to protect turtles from by-catch as efficient as those implemented in the USA. This prohibition had been challenged by a number of countries, which filed suit with the WTO, but at the end the US could maintain the prohibition and the process helped to establish case law for future application of WTO rules. Other cases were the [tuna/dolphin](#) issue, whereby the US banned imports of tuna caught with fishing techniques that led to a high associated mortality of dolphins, and the [Chile-swordfish](#) case, whereby Chile prohibited the landing and transit in Chilean ports of certain fish species, in particular swordfish caught by EU vessels. These measures were also challenged by the exporting countries and led to a better understanding of how and when import restrictions can be used for conservation purposes. .

the CITES appendices¹⁰; ii) mackerel fisheries by Iceland and the Faroe islands are mostly carried out in their economic exclusive zones (EEZs) and hence not subject to the competence of NEAFC, the RFMO in charge of management of mackerel in international waters of the North-east Atlantic, and iii), mackerel fisheries by Iceland and Faroe Islands are carried out under domestic law and as such, they are not illegal and therefore cannot be covered by the IUU legislation.

The only means left for the EU to implement a ban or restriction of imports to Iceland and the Faroe Islands in the above-mentioned case would either non-regulatory action (e.g. by the use of market forces) or through a newly created legal instrument adopted by the ordinary legislative procedure (co-decision), which may take no less than one year. This is not fast enough.

The problem can then be summarized as the lack for the EU of an appropriate mechanism to adopt effectively and timely any kind of trade restriction in case its use could be justified to protect fish stocks from situations such as those described for mackerel and blue whiting. The clear response to this problem is to creating a framework allowing the EU to address this and future cases timely and efficiently.

To sum up, the issue requiring action can be seen from two points of view:

The general problem: When facing situations of unwillingness by any given third country to cooperate on the management of a straddling and highly migratory fish stock in which the EU shares an interest and, more importantly, where the attitude of such country poses a risk of overfishing that would require subsequent sacrifices by all parties in order to rebuild the stock to sustainable levels, there is a need to use all possible means to convince the country in question to abandon that risky attitude. A clear option would be to implement trade restrictions, but the EU does not have a fast mechanism allowing their implementation in useful timeframes.

Specific problems: The above-mentioned problem is not a purely theoretical one. At present the EU faces the immediate threat of overexploitation of the stock of mackerel due to what is perceived as an irresponsible attitude of Iceland and Faroe Islands. It is also possible that similar situations could also occur in the short term due to a lack of cooperation by other parties which would create a risk of over-exploitation for other shared stocks of the North Atlantic. In addition, similar situations cannot be excluded in other areas where the EU shares fisheries with other states.

2.2. What are the underlying drivers of the problem?

The main driver of the problem is the high demand for fish which creates a lucrative market. In the case of blue whiting and mackerel, this demand is both for human consumption, especially in developing countries, and for fish meal as a constituent of fish feed for aquaculture or fodder for other farm animals. It is this demand that is at the root of non sustainable fishing practices from certain third countries. Secondary drivers are:

- The high technological development of the industrialised fleets exploiting most straddling and highly migratory fish, allowing very intensive exploitation at relatively low cost and increasing the risk of overexploitation,

¹⁰ Furthermore, listing North-east Atlantic mackerel in the CITES appendices would also affect EU exports, which is not desirable for the intended scope and effects of the import restriction.

- The large lobbying power of fishing firms exploiting these stocks, who are capable of convincing governments to disregard long-term conservation goals in favour of short-term advantages.
- The lack of effective instruments within the EU to deter third countries from deviating from the principles of good cooperation on the management of stocks of joint interest.

2.3. What are the main problems which this initiative will address?

The present initiative aims at providing the EU with a mechanism to effectively implement trade-related measures for products from stocks that are in situations such as those described above for blue whiting and mackerel. These measures would mainly aim at promoting conservation of the stocks concerned by inducing a reduction of the intensity of fishing of the third parties concerned, this without prejudice to the need to continue consultations to conclude a durable arrangement for the management of these stocks.

This mechanism would complement, but not overlap with, the measures adopted under the IUU Regulation. The action that is being explored in the present context does not target illegal fisheries strictly speaking, but fisheries not conducted within a legal framework guaranteeing sustainability.

2.4. Who is affected, in what ways, and to what extent?

The problem of overfishing as a result of certain irresponsible attitudes of third countries and the lack of appropriate instruments by the EU to avoid that situations is to be seen in the short, medium and long terms. The expected effects would be:

- For the fishing industry: in the short term, increased competition for the limited market and a possible decreased income as a result of price flexibility; in the medium to long term, decrease of yields due to scarcity of the resource and the need of drastic management measures. This will lead to important economic and job losses.
- For the processing industry: increased availability of supply of raw material at low prices in the short term, coupled with perhaps increased temporary jobs. In the medium to long term, just the opposite effect resulting on the need to find alternative sources of supply at presumably higher prices.
- The consumers will not likely benefit from the increased supply in the short term; the effects in prices will probably be neutralized by increased earnings and jobs in the processing and distribution industries. They will, in turn, feel the effects of decreased supply in the long term by paying higher prices.
- The EU and national administrations would be seen, both in the short and long terms, as incapable of dealing with the problem. Lack of confidence in public institutions will be reflected in opinion polls and this may have important repercussions in other policy fields.

The setting up of an instrument enabling the EU to implement trade restrictions would *per se*, even with no implementation in a concrete case, have a deterrent effect on third countries subject to the temptation of behaving as in the case of mackerel described above.

Where the legal instrument would be used in a concrete case, then the list of actors affected would depend very much of the type of fish products that would be subject to import restriction. As an indication, the following actors will be most likely affected in the short term:

- The fleets of third country concerned exploiting the stock in question would have the EU market closed to their products. This may decrease their interest to fish for that stock. The extent to which they would be affected would depend on whether they land their catch directly in the EU, or in other countries (including their own country) and, in this case, on the part of the catch landed that was destined to the EU.
- The EU processing firms that rely on raw material from the stocks and countries concerned will have to give up using that material and find out alternative sources or solutions. The extent to which this may constitute a real problem cannot be anticipated except on a case-by-case basis.
- Where the third country was exporting directly to EU markets for human consumption (mainly supermarkets), the population affected would be both these markets and, ultimately the consumers. Again, the extent to which distribution firms, supermarkets and consumers would be affected depends highly on the type of product and the possibilities to find alternative products to satisfy the demand.
- Where the products were introduced in the EU as fish meal, either combined or not with other substances to constitute animal feed, then a prohibition or restriction of imports could affect the fish, pig or poultry farms using those feeds to an unpredictable extent, which would depend –again- on the availability of alternative sources.
- In cases where the imports would concern raw or elaborated material for other industries (e.g. shark liver oil used in cosmetics), then these firms would need to adapt to the new situation looking for alternative sources.

In all cases, where the proposed action achieves its objective to contribute to a sustainable exploitation of the stocks concerned, then all the above-mentioned actors will be winners in the medium-to-long term.

2.5. How would the problem evolve, all things being equal? N.B. Scenario(s) should take into account actions already taken or planned by the EU, Member States and other actors.

Taking the case of mackerel as an example, without an instrument dissuading Iceland and Faroe Islands from continued fishing for mackerel at the present very high levels, there is no way to avoid that the stock will rapidly be depleted to levels from which recovery may take very long and difficult periods of very low catch. The EU fishing industry, and more particularly the pelagic fleets, mostly constituted by large and sophisticated vessels that required large economic investment, will not be able to stand such a situation.

Even in case where an arrangement could be found on mackerel, there are no guarantees that any of the countries neighbouring the EU would start taking autonomous decisions to satisfy short-term demands by parts of their fishing industry that might endanger the sustainability of other fish stocks of common interest. The power of NEAFC to put together North-east Atlantic coastal states in managing fisheries is limited to the NEAFC Regulatory Area, beyond the respective EEZs of contracting parties, and there will be an

increasing need to adopt *ad-hoc* arrangements between coastal States on the management of straddling and highly migratory fish.

It has been claimed that the case of mackerel was originated by climate change which in turn induced a change in the migration patterns of this fish, making it increasingly abundant in Faroe Islands and Iceland. Horse mackerel being a species ecologically similar to mackerel, it could be likely candidate for a shift in distribution and for future problems of joint management. Other widely-distributed stocks of the North-east Atlantic which are not entirely free from such as situation are Atlanto-Scandian herring, redfish, Greenland halibut and deep-water stocks. It is clear that there is no reason to believe that these problems will certainly occur, but it is also true that the lack of an instrument as the one foreseen following this impact assessment is on its side an additional incentive for countries or fleets to fail to cooperate.

The analysis of the options presented in Section 5 of this report includes the assessment of the effects of Option 1, "taking no action", which illustrates, in the case of mackerel, how the problem would likely evolve without specific action. All impacts (environmental, economic and social) are negative and substantial.

2.6. Does the EU have the right to act and is EU added-value evident?

2.6.1. Legal basis and subsidiarity

The ultimate purpose of the intended instrument is to avoid overexploitation of fish stocks and to promote a responsible management framework for certain straddling and highly migratory stocks, i.e. the conservation of certain marine biological resources, but the intended instrument (restriction or prohibition of imports) falls under the competence of the common commercial policy. The Legal Service has however concluded that it is Article 207 TFEU (which refers to the common commercial policy) which should be used as legal basis (see Section 2.5) if a legal instrument is to be adopted in this context. That instrument would fall under the exclusive competence of the EU and should follow the ordinary legislative procedure.

Given the exclusive EU competence for the intended instrument, the principle of subsidiarity does not apply in this case.

2.6.2. Fundamental rights limits

None of the fundamental rights as defined in the EU Charter of Fundamental Rights is affected either by the problem or by the intended instrument. The right of the EU to exert its exclusive competence is not therefore limited by these fundamental rights.

3. SECTION 3: OBJECTIVES

3.1. What are the general policy objectives?

The general policy objective of this initiative is to contribute to the conservation of fish resources, which is the main objective of the common fisheries policy, as defined in Article 2 of the basic CFP Regulation¹¹:

The Common Fisheries Policy shall ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions

Here "sustainable environmental conditions" means specifically the conservation (sustainability) of fish stocks. This objective responds to the general objectives of the agriculture and fisheries policy as set out in Article 39(1a) TFEU and in particular to their first objective:

To increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour.

This objective should, in accordance with Article 38(1) TFEU, be understood having regard to the specific characteristic of the fisheries sector. In the fisheries sector, where the natural productivity of the sea cannot be artificially increased, the terms "increase agricultural productivity" should be understood as maintaining fish stocks at their maximum sustainable yield (MSY). This objective is furthermore consistent with the objectives and principles of various international fishery management instruments¹².

3.2. What are the more specific/operational objectives?

The CFP has all the necessary instruments to aim at the above-mentioned general objective as far as EU-exclusive fish stocks are concerned. For stocks which are shared with third countries, the CFP also has the appropriate instruments as long as formal international cooperation frameworks have been consolidated, as it is the case of RFMOs and fisheries agreements with third countries.

However, in the case of shared stocks in areas not covered by a RFMO, the EU depends too heavily on the good will of other coastal states and has no efficient means to force

¹¹ [Regulation \(EC\) No 2371/2002](#) of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy. OJ L 358, 3.12.2002, p. 59

¹² Among these international agreements, the most relevant in this context is the UN Fish Stocks Agreement (see footnote No 6). Article 5 makes particular reference to MSY:
"In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:
(a) *adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;*
(b) *ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global"*

non-cooperative coastal states towards agreeable management solutions (see cases described under Section 2 above).

The operational objective of the initiative covered by this IA is therefore to provide the EU with a trade-based instrument to contribute to the general objective of maximizing fish yields of stocks shared with third countries by deterring them to adopt measures that run against fish stock conservation principles and forcing them to cooperate with the EU on the management of the stocks concerned.

Secondary operational objectives, derived from the above-mentioned one, would be securing the competitiveness, income and jobs of the different sectors of the fishing industry in a long-term sustainable basis.

3.3. Consistency of these objectives with other EU policies

The general objective

The general objective of conservation of fish stocks and maximizing their yields is fully compatible with all other EU policies. Perhaps the EU policy more directly related to this objective is the environmental policy. In this context, it is worth noting that the initiative covered by this IA not only is compatible with the objectives of the environmental policy as defined in Article 191(1) TFEU, but contributes very substantially to two of them: prudent and rational utilisation of natural resources and promoting measures at international level to deal with regional environmental problems. Furthermore, compatibility is also evident with specific objectives of some instruments of the environmental policy, such as, for example, the Marine Strategy Framework Directive (MSFD)¹³, whose objective is to achieve good environmental status for European seas and for which one of the descriptors of this status is maintaining fish stocks at levels producing maximum sustainable yield¹⁴.

The extent to which conservation of fish stocks contributes to other EU policies is developed in detail in a Communication from the Commission to the Council and the European Parliament "Implementing sustainability in EU fisheries through maximum sustainable yield"¹⁵.

Furthermore, the general objective of conservation of fish stocks is fully consistent with the Biodiversity Strategy¹⁶ and other wide-ranging policies such as the Sustainable Development strategy¹⁷ and the 2020 Strategy¹⁸. It contributes in particular to the 2020's flagship initiative "resource Efficient Europe"

¹³ [Directive 2008/56/EC](#) of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) OJ L 164, 25.6.2008, p. 19–40

¹⁴ [Commission Decision](#) of 1 September 2010 on criteria and methodological standards on good environmental status of marine waters (2010/477/EU), OJ L 232, 2.9.2010, p. 14

¹⁵ [COM \(2006\) 360 final](#)

¹⁶ [COM\(2011\)244 final](#). See in particular target n°4.

¹⁷ As reviewed in 2009: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Mainstreaming

The operational objective

Any trade-related instrument for use within the CFP should be fully consistent with all other EU policies. As a matter of principle, this consistency could be seen as problematic in the field of the EU commercial policy, which is designed to contribute to the progressive abolition of restrictions in international trade (Article 206 TFEU) and in particular as regard the respect for international trade agreements.

In this context it is to be noted that most international trade agreements by which the EU is bound have incorporated rules (general exceptions) granting the possibility to adopt trade restrictions for reasons of conservation of natural resources. It is important therefore to design the intended instrument carefully to guarantee that the trade restrictions foreseen fall unequivocally within the general exceptions of these agreements.

It is particularly important to analyze the general exceptions granted within the GATT¹⁹, because these would be of universal application within the intended instrument. Article XX of this Agreement stipulates (only the text that is relevant has been copied below):

"Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(...)

(b) necessary to protect human, animal or plant life or health;

(...)

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption; (...)"

The trade restrictions foreseen in the intended instrument can never be taken as "a disguised restriction on international trade" because they will be explicit restrictions. But care should be taken that they must be:

- Non discriminatory: should apply to all countries where the same conditions prevail and
- Necessary to protect animal life or health or/and
- Related to the conservation of exhaustible natural resources. In this case, the EU should have adopted restrictions on domestic production and consumption.

It is to be noted that, although fish is strictly speaking a natural renewable resource, in the context of GATT it has been considered in previous cases an exhaustible resource.

Conditions for the respect of other applicable agreements should be examined at the time of implementing the instrument for a given stock and country. As an example, where it

sustainable development into EU policies : 2009 Review of the European Union Strategy for Sustainable Development. [COM/2009/0400 final](#).

¹⁸ http://ec.europa.eu/europe2020/index_en.htm

¹⁹ [General Agreement on Tariffs and Trade](#).

were decided to apply an import ban of mackerel products from Iceland and the Faroe Islands, this should be made under conditions compatible with the bilateral commercial agreements existing between the EU and each of these countries and, for Iceland, with the EEA Agreement.

4. SECTION 4: POLICY OPTIONS

The consultation document mentioned five different policy options, as follows (further details on each of them are given in section 5):

1. To take no action;
2. to take measures in the form of non-legislative instruments, such as mechanisms of the type "blame and shame", sustainability labels or diplomatic démarches in different forms;
3. to provide the common fisheries policy with a regulatory instrument allowing a quick response to the problem by imposing a ban on trade on fish products derived from the relevant fish stock and that have an origin in the country concerned;
4. to impose limited trade restrictions including only easily identifiable fish products;
5. to issue a regulatory instrument providing for "counter-measures" in response to an "internationally wrongful act" committed by another State.

From the analysis of the opinions of the target groups consulted, and following internal reflection within DG MARE after having consulted the IASG, it has been decided not to discard any option for the analysis. Furthermore, the consultation document requested from the target groups consulted to give an opinion on possible additional options to include in the analysis. Among the replies received, just two really new options were mentioned: the use of the ITLOS mechanism and the banning of all fishmeal imports irrespectively of its species composition. Several target groups mentioned also that a combination of options is perhaps a good solution. While it would be possible to consider the combined approach, and this will be done in the analysis below, the two new options suggested (ITLOS and fishmeal) were not retained. In first place, the ITLOS mechanism is too lengthy and does not respond to the imperatives of short-term risk of overfishing; in second place, the ban on all fish meal products is a disproportionate approach that in addition will be difficult to implement. Further comments on the problems associated with fishmeal are given in the analysis of option 3.

5. SECTION 5: ANALYSIS OF IMPACTS

The impact of each of the options mentioned from an economic, environmental and social perspective would depend very much on many factors, such as the nature of the dispute in question, the countries involved, the species concerned, the volume of trade concerned and so on. For that reason, a theoretical analysis of the impact can only be made taking a known case as a basis. Since it is the mackerel dispute the one that triggered the present exercise, it is natural that the analysis be done taking it as a basis. In any case, the analysis will also incorporate theoretical reflections on effects that do not

apply specifically to mackerel. It must be underlined that the effects commented in this IA are highly speculative and apply just in the case of mackerel as it is known at the date of drafting this IA. It is possible that for other stocks the effects could be either magnified or attenuated, depending on the population dynamics of each stock, the relative sharing among the parties, the flows of trade, the economic value, etc.

Methods:

There is no standard methodology to analyze similar situations. What follows is a methodology chosen *ad hoc* for this case, based on current practice in fisheries science and on reasonable assumptions concerning the behaviours of third countries' authorities in response to one or another option.

Biological assessment

The environmental effects, i.e., the consequences on the evolution of the stock, are calculated with a spreadsheet designed specially for this case. The data source are copied from the results of the assessment carried out by ICES²⁰, namely from the 2010 report of the Working Group on Widely Distributed Stocks (WGWIDE). The recruitment²¹ in 2011 and successive years is taken as the one assumed by ICES, based on the geometric mean of recent values, since ICES did not find any means to predict the coming recruitments.

The forecasts have been conducted for a period of twelve years, in order to obtain theoretical long-term values. However, it should be noted that the catch predictions should be taken with great precaution when they extend for more than two or three years; going further ahead would yield results too heavily dependent on recruitment values that cannot be predicted with any accuracy. Furthermore, the assessment done by ICES is not free from error –in fact ICES warns about the little precision of the results of the assessment, and on the other hand, the assumption of a constant value for recruitment at the current high values is perhaps overoptimistic. In any case, the theoretical values obtained for the long-term under an assumption of constant recruitment are still valid to compare the different management strategies.

The economic effects are calculated on the basis of current price of about 1€/kg quoted in the market for human consumption, according to the most recent report from STECF²². This price is consistent with those found from several other sources (e.g. Eurostat).

To better assess the consequences of each of the options, a baseline needed to be chosen. Since the *status quo* is not an option, it was preferred to build up a theoretical scenario on the basis of what could be taken as the desirable scenario. This was made assuming the following conditions on the management of the stock:

- The 2011 TACs would remain unchanged (it is already too late to change them)

²⁰ [International Council for the exploration of the Sea](#). All ICES reports quoted in this IA can easily be retrieved from this website.

²¹ The number of new individuals becoming available to the fishery each year as a result of reproduction.

²² The 2010 Annual Economic Report on the European Fishing Fleet
<https://stecf.jrc.ec.europa.eu/reports/economic>

- For 2012 and successive years, an arrangement is approved by all Coastal States to follow the 2008 management plan and to allocate the resulting catch according to the following proportions: EU: 52.49 %; NO: 23.95 %; ICE+FI: 17.02% and NEAFC RA (Russian Federation): 6.54%. These figures were chosen as representative of what a hypothetical agreement could have been concluded for 2011 where the figures could have been:

EU: 401 000t; NO: 183 000t, as agreed;

ICE + FI: 130 000t, a round figure reflecting shares for each country close to but below 10%. The relative sharing between these two countries is controversial and unneeded for this exercise.

NEAFC RA (Russian Federation): 50 000t, a round figure close to the value approved for 2011.

- This would result in the following shares: EU: 52.49%; NO: 23.95%; ICE+FI: 17.01% and NEAFC (RF): 5.34%

These figures are merely chosen for the purpose of this exercise, without prejudice for the EU to consider this as an acceptable solution.

The benchmarks used to assess the performance of one or another option are the following:

1. A **spawning stock biomass²³ (SSB) of 1.7miot** is taken as the lowest desirable level for the spawning stock biomass. According to ICES, this is the lowest observed value and below it the dynamics of the stock are unknown. It is taken as the value to avoid with high certainty. In terms of fisheries management, such level is commonly referred to as SSB_{lim} or, simply, B_{lim} . This value also corresponds to level which, according to the NO-EU agreement, would trigger drastic management measures.
2. A **SSB of 2.2miot** has been agreed between Norway and the EU as the level below which the rate of fishing should be decreased in order to rebuild the stock. According to ICES, this is the size of the stock that would produce maximum sustainable yield.
3. A fishing mortality²⁴ of **F=0.22** is taken as target value in the long term. This is based on the long-term management plan agreed between Norway and the EU, which advocates a target F between the values of 0.20 and 0.22. ICES has assessed the value of F=0.22 as compatible with the precautionary approach, since it ensures a very small probability for the stock to fall to the B_{lim} level. ICES has also estimated that a rate of fishing at the level of F=0.22 would lead the stock to the level producing maximum sustainable yield.

The results of the desirable scenario can be seen in any of the Options below for which assessments and catch forecasts have been conducted. In few words,

²³ The weight (biomass) of the part of the stock constituted by sexually mature individuals.

²⁴ An expression of the rate at which fish are removed from the stock by fishing activity.

- For 2012, the EU catches would decrease from current levels, due to the rather lower fishing mortality chosen. But soon the expected catches would be stabilized at the long-term value of around 302 000t.
- The SSB would soon stabilise at about 2.450mio t, safely above the level of 2.2mio t.
- With this management strategy, the risk for SSB falling below the limit of 1.7mio t would be negligible (<5%, according to ICES).

Estimation of the administrative burden

The administrative burden has been calculated using the *ad-hoc* tool provided by the Secretariat General website "Better Regulation"²⁵. The calculation is based on the determination of the type of obligations generated by a given measure (such as production of new data, reporting, inspection, checking, etc), the target groups that carry the burden of this work (port authorities, import-export firms, etc) and the number of times every obligation needs to be executed. The tool then applies standard rates and calculates the costs in euros. The details on the calculation can be seen summarized in the spreadsheets of **Annex III**. The net results are shown under each of the options below.

Option 1: Take no action

Description of the action

This would be equivalent to continue as in recent months:

1. There would be no agreement for catch limitations of mackerel for 2011;
2. The next round of consultations for 2012 will take place in the autumn; since there will be no pressure on Iceland and Faroe Islands to lower their aspirations other than what can be transmitted verbally during the consultations, it is likely that both countries continue their excessive demand and there would be no agreement either for 2012.
3. The behaviour of each of the parties in fixing their management goals for 2012 and successive years would mimic that observed for the 2011. Iceland and Faroe Islands will continue to fix, at least for 2012, an autonomous catch limit at levels similar to the one adopted for 2011. While it is difficult to guess the precise figures, one can assume that these countries will modulate their decision by the ratio between the catch forecasted by ICES for 2012 and that forecasted for 2011 if the 2010 management plan were followed²⁶. In other words, if the catch forecasted for 2012 were 550 000t, this represents 85% of the catch forecasted for 2011 (646 000t). Iceland, who set a TAC for 2011 of 154 825t, would then set a TAC of $154\ 825 \times 0.85 = 131\ 601$ t. The other Coastal States would apply the same scheme.

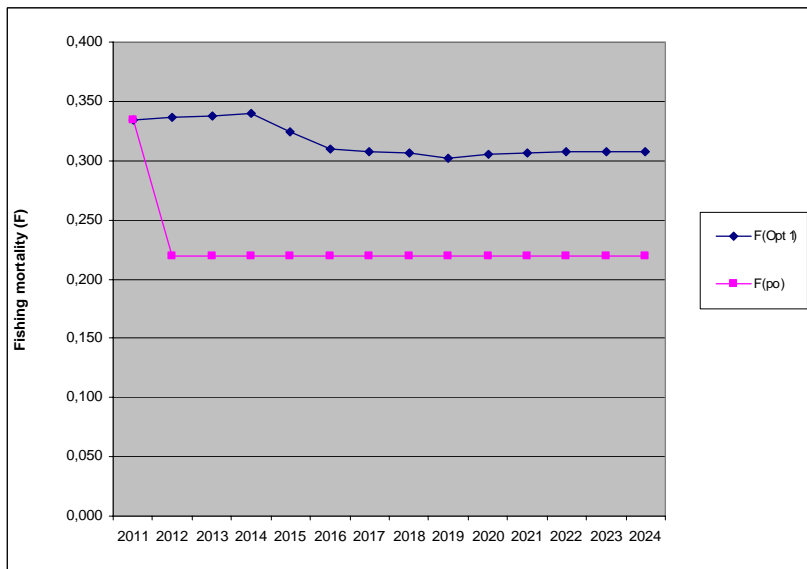
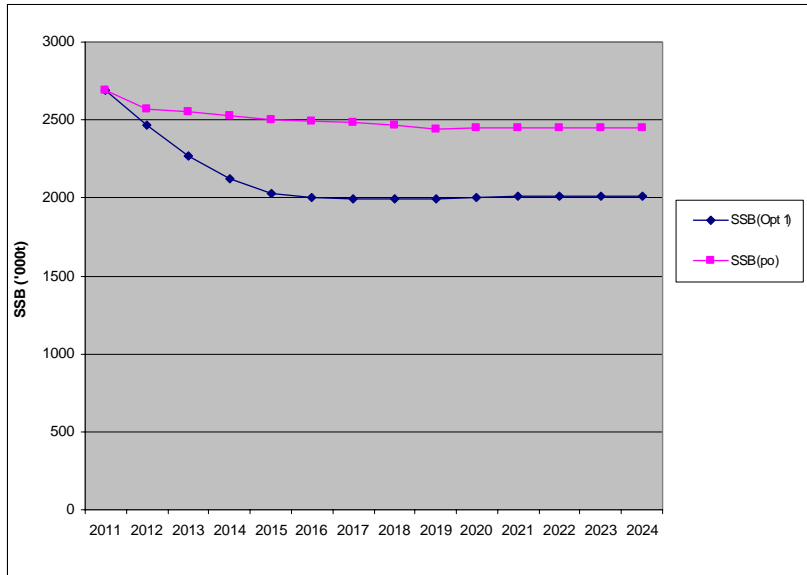
²⁵ <http://adminburden.sg.cec.eu.int/calculator.aspx>

²⁶ This was the basis for Iceland setting the 2011 TAC: the TAC adopted for 2010, multiplied by the ratio of the catch forecasted by ICES for 2011 and 2010.

- The trade into the EU would follow the trends observed in since 2008, i.e., the year when Iceland started the fishery in its EEZ.

The environmental effects

The following graphics show the forecasted evolution of SSB and F (po stands for desirable scenario)

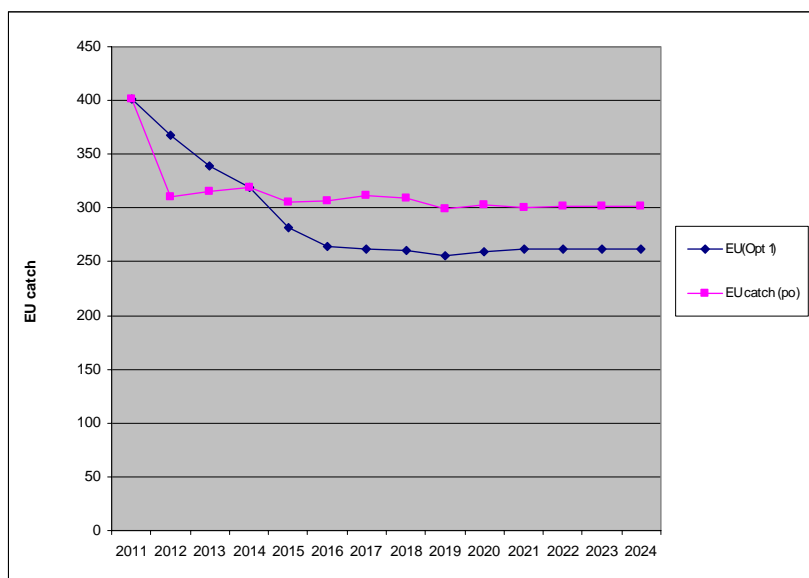


The expected effects of this option are therefore that fishing mortality will remain at values slightly above $F=0.3$, more than 40% above the value decided in the management plan, and that the SSB will rapidly decrease to about 2milot, a value decidedly below the alert level of 2.2milot, this despite the fact of assuming a continuation of the high recent recruitment values.

It should be noted that any strategy based on these levels of fishing mortality ($F=0.3$) was excluded by ICES in its evaluation of 2008 because it was non-precautionary, i.e. it led to a high probability of the SSB falling in the mid term below 1.7milot, the lowest admissible value for this stock. The ICES estimate is that at these levels the probability for SSB to reach that critical value would be higher than 21%

The economic effects

The following graphic shows the results of this simulation in terms of the expected evolution of the EU catch:



- Comparison with the desirable option would hence lead to the following conclusions for Option 1:
 1. This option would appear to give increased yields for a two consecutive years, but these would decrease afterwards to stabilize at values of 260 000t, which represents a long-term loss of potential yield of 14% annually, compared to the desirable option value of 302 000t.
 2. Losses in yield are traduced immediately in economic losses for the catching sector. In absolute figures these can be evaluated as 40mio€ per year. Losses in yield also imply a lower supply to the processing industry, which would be forced to search for alternative sources, which always imply an additional cost. This last aspect is controversial because under this scenario the catches by Iceland and Faroe Islands would remain high and therefore can increase their supply to the EU market if EU prices increase due to the increased demand.
 3. Furthermore, and very importantly, most EU mackerel fisheries are certified by the Marine Stewardship Council (MSC)²⁷ and can therefore exhibit the MSC label, which gives a preferential access for certain markets. Option 1, clearly unsustainable by all standards, might lead to the loss of the MSC certificate and therefore to the loss of access to markets based on sustainability criteria. Neither Icelandic nor Faroese mackerel fisheries are MSC-certified.
 4. The long-term economic loss would be greater than the 14% loss in yield because, by fishing at a fishing mortality 40% above the value for the desirable option, the fishing effort and hence the fishing costs would be assumed to also be

²⁷ <http://www.msc.org/> Up to eight EU mackerel fisheries are MSC-certified, for a production of more than 364 000t in 2009.

40% higher. Consumers would perhaps pay their part to alleviate these losses through increased prices.

5. According to ICES, for a value of fishing mortality $F=0.3$ like the one under this Option, the risk that SSB would fall below the value of 1.7m_{iot} is above 21%, far too high, compared to the need to avoid that value with a probability higher than 95%. Achieving those SSB values would oblige to adopt very drastic TAC reductions when not a total ban on fishing, which would imply dramatic consequences for the fishing industry.
6. The mackerel fishery is now the most economically important in the EU. Losses for the industry associated to mackerel will also mean an important economic underperformance of the EU fishing industry as a whole.

The social effects:

These are difficult to predict due in particular to lack of data on the precise structure of the pelagic fishing industry, which is in addition very different among Member States. However, it is important to note that the low long-term economic performance of this option would always have a social repercussion. Furthermore, low yield or low economic revenues obtained at higher fishing effort (which includes workforce) would inevitably result in either lower wages or increases in efficiency leading to unemployment, or both.

The social consequences of this option can also be assumed to be more severe in fleets operating very labour-intensive fishing techniques, such as hand-liners. These fleets are particularly important in south-west England (small-scale vessels operating in the mackerel box²⁸) and in the northern Iberian peninsula.

The administrative costs:

This option does not entail any additional administrative costs

Option 2: the non-legislative instrument.

Measures under this option could be:

- Guidance to markets and consumers towards products caught sustainably and according to good management practice. An informed consumer could restrict its choices only to products that are caught within a framework of agreed and sustainable management practice. This guidance can be provided by either the fishing industry, public authorities or NGOs, in the form of transparent information on what is going on about the management of straddling and highly migratory stocks. For it to be efficient, guidance should be accompanied by a detailed labelling system enabling consumers to determine the origin of the products.
- A particular case in the context of guidance can be the use of eco-labels. In the case of mackerel, the MSC label (see under the economic analysis of Option 1) allows the consumer to be sure that a given product satisfies the MSC standards (see comments

²⁸ The mackerel box is a large area around the Cornwall peninsula where juvenile mackerel usually concentrate and where pelagic trawling is forbidden. A specialised fleet of hand-liners operates here.

on MSC under Option 2 below)²⁹. For eco-labels to be effective, they should also provide Chain of Custody standards for traceability. MSC possesses these standards.

- Diplomatic action can also be included in this context. For it to be effective, it should be widely known by the public and put in adequate contexts. In the case of mackerel, for example, any diplomatic communication made to Iceland referring to its non-sustainable fishery, will be embarrassing for a country so proud of its standards in fisheries management.

It should be noted that this option received a very weak support from the fisheries industry (mostly catching sector). Only one organization representing the fish processing industry showed certain sympathy for this approach. Member States were neither hostile to it nor manifestly in favour.

Environmental effects:

This option has no direct environmental effects. The expected effect of this type of measures, in particular eco-labels, is an indirect one, i.e. the promotion of good environmental practices through the forces of the market, by guiding the demand towards products having certain environmental advantages. However, according to a recent study³⁰, eco-labels in the fisheries domain do not work as well as in other domains in promoting more sustainable production practices:

"(...)The results revealed that there is a large variation in the purchase of ecolabelled products across the 18 countries considered. Sweden, Denmark, Austria, and Luxembourg are the leading countries in the purchase of ecolabelled products, whereas consumers in Eastern and Southern European countries tend to buy the fewest ecolabelled products.

Yet, neither the involvement of the state nor the multitude of the ecolabels had a strong effect on the purchases of ecolabelled products. Instead, market supply and demand seem to be the most important drivers of the consumption of ecolabelled products."

It should be noted that the main consumers of mackerel are southern countries (Spain, Portugal and Italy) and an eastern country (Poland).

It is therefore paradoxical that most EU fleets fishing for mackerel have requested and obtained MSC certification for their products, for a market which do not appear as "demandeur" of eco-labelled products. This can be explained by the fact that, rather than consumers, it has been the large retailers that, driven by pressure from environmental NGOs, have committed to sell only certified products. The paradox becomes more evident if one examines the results of the consultation for this IA, where virtually all fishing organizations representing the catching sector qualified Option 2 as either "a last resort" or "ineffective".

²⁹ The MSC standards for sustainable fishing are based on the FAO criteria for eco-label certification, and are related to both the environmental status of fish stocks, the management system attached to it and the environmental effects of fishing practices.

³⁰ Koos, S. (2011) Varieties of Environmental Labelling, Market Structures and Sustainable Consumption across Europe: A Comparative Analysis of Organizational and Market Supply Determinants of Environmental-Labelled Goods. *Journal of Consumer Policy*. 34:127-151.

It should also be noted that there is a possibility that acquiring a certification enabling fishing products to display an eco-label cannot be possible in the situations covered by this IA. As a matter of fact, the standards for certification are generally based on the FAO guidelines for the eco-labelling of fish and fishery products³¹ and include criteria for the management system such as (for example in MSC Principle No 3): "*The fishery is subject to an effective management system that respects local, national and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable*". The current situation, where there is no effective international management framework, might be taken as incompatible with this criterion.

As far as information to the public and diplomatic action are concerned, the experience through nearly one year of dispute with ample press coverage and giving rise to strong political messages in exchanges of correspondence between the EU on one part and Faroe Islands and Iceland on the other part, shows that this action had only very little effect. It led to these countries to resume talk but at the end of the day their preparedness for a negotiated solution did not appear to have changed.

In conclusion, it is possible to assume that the environmental effects of Option 2 would be, albeit perhaps positive, very minor.

Economic effects:

With such weak environmental effects, the expected net economic impact of the measure does not appear very encouraging. Furthermore, MSC certification is a rather expensive process that only powerful fishing companies can afford if there is no public financial support. In fact, the specialised press often reports about fishery operators becoming discouraged to engage in a certification process due to the relatively high associated costs. As said above, the main consumers from southern and eastern countries would likely pay more attention to prices than to eco-labelling or divulgation campaigns, so the effect on them will not be appreciable.

Social effects:

Social consequences in terms of employment, working conditions, rights of workers, etc, which are generally associated to economic effects, would be neutral or negligible under this option. However, improved guidance to consumers through information campaigns associated or not to eco-labels would indirectly have a rather positive effect in increasing the awareness of the public about the fishing sector and its associated management problems. This will always be a good thing because public support is essential to guarantee implementation and enforcement of fishery management rules.

Administrative costs:

This option entails substantial administrative burden both for the public and the private sector, since the action it requires in terms of information is continued and not just one-off. The eco-label certification process is on its side expensive and, although there may be grants available in its support, it weights considerably in the economy of the catching sector.

³¹ <http://www.fao.org/docrep/012/i1119t/i1119t.pdf>

Costs associated to eco-labels are, according to MSC:

- Costs of fishery certification: between 10 500€ and 84 000€ per fishery
- Costs of certification for the supply chain: no estimate given by MSC, but one can assume about 10 man/days of an auditor specialist, plus a few travel expenses. Roughly, about 10 000€

These two costs are incurred only the first year.

- Charges for label use: a fixed annual amount depending on the level of sales, plus 0.5% of the sales. If one assumes that half of the mackerel catch by the EU is MSC-certified and one fourth of the retailers are willing to display the MSC label, the charges for the label can be estimated as above 37 500€ This cost can be taken as an annual administrative burden that will be maintained every year. To this, one must add the costs of advertising campaigns to inform consumers and guarantee the success of the ecolabels.

It can be assumed that the total associated administrative costs of ecolabels can easily be well above 50 000€ per year, after an initial investment of between roughly 20 000€ and 95 000€

Option 3: Regulatory instrument allowing to prohibit trade on all fishery products from the stock in question

Description of the option:

This option consists on banning the import into the EU from the third country in question (in the present case study, Iceland and the Faroe Islands) of the fish concerned and any products derived from it (in this case, any mackerel or fish products derived from mackerel). To do this efficiently, a regulation is to be issued enabling the Commission to adopt the import prohibition as soon as there is a case for doing so and to withdraw the prohibition whenever the conditions to trigger the prohibition are not met anymore. According to the advice of the Legal Service, the Commission could exert its powers by an implementing act. The regulation would also establish the criteria and procedures on the basis of which the Commission would take its decision to either issue or withdraw the import prohibition. This would include the setting of adequate control Committees in the context of the new “comitology” framework³² and detailed criteria to exert the implementing powers, such as specific impact assessments for every implementing decision. These impact assessments should include indicators on stock conservation (biological reference levels) and on the potential effects on the EU processing industry, which may be highly dependent on the imported products.

Mackerel can be imported under the main following forms:

- Fresh or chilled;
- Whole frozen, Headed and Gutted (H/G), Flaps and Fillets;
- Canned;

³² [Regulation \(EU\) No 182/2011](#) of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers

- Roe;
- Fish waste;
- A number of highly elaborated products such as fishmeal, fish oil, fish feed, encapsulated Omega-3 fish oil, Hydrolysates, fish protein.

In order to foresee the potential effects of a ban on imports of mackerel from Iceland and the Faroe Islands, it is important to analyse the current flows of these products.

Imports of mackerel into the EU from Iceland and the Faroe Islands have become important only very recently, following the expansion of the mackerel fishery:

Mackerel (*)	2008		2009		2010	
	Volume(t)	Value('000€)	Volume(t)	Value('000€)	Volume(t)	Value('000€)
From all countries	70 728	107 064	65 221	97 270	56 789	89 759
From Iceland	331	253	165	186	2 685	2 790
From FI	1 124	1 130	1 576	1 863	11 760	13 334

(*)Fresh or chilled;Whole frozen, Headed and Gutted (H/G), Flaps and Fillets, Canned

The greatest proportion of these imports (>98%) is in the form of whole round mackerel frozen. As far as other fish products that potentially contain mackerel, the imports are only significant for fish waste, fishmeal and fish oil, as follows:

Fish waste (051191)	2009		2010	
	Volume(t)	Value('000€)	Volume(t)	Value('000€)
From all countries	173 272	47 031	185 273	53 409
From Iceland	23 395	3 653	26 887	4 696
From FI	20 514	3 859	22 727	5 378

Fish meal (230120)	2009		2010	
	Volume(t)	Value('000€)	Volume(t)	Value('000€)
From all countries	562 187	413 949	427 916	472 624
From Iceland	22 135	19 229	18 098	23 257
From FI	4 130	3 331	10 860	13 243

Fish oil(*) (1504)	2009		2010	
	Volume(t)	Value('000€)	Volume(t)	Value('000€)
From all countries	173 272	47 031	185 273	53 409
From Iceland	23 395	3 653	26 887	4 696
From FI	20 514	3 859	22 727	5 378

(*) May include oils from marine mammals; however, most of it (at least 80%) is of fish origin

It is not possible to determine the proportion of mackerel as constituent of these products. However, the time at which mackerel is caught (the feeding season) implies that its contents in fat is excessive for human consumption and the fish is better fitted for transformation into meal and oil. We can therefore work on the assumption that a fair proportion of these exports may have been produced by considerable quantities of mackerel. It should also be noted that the conversion factor for fish meal and oil to live weight of pelagic fish is taken as 1:5.

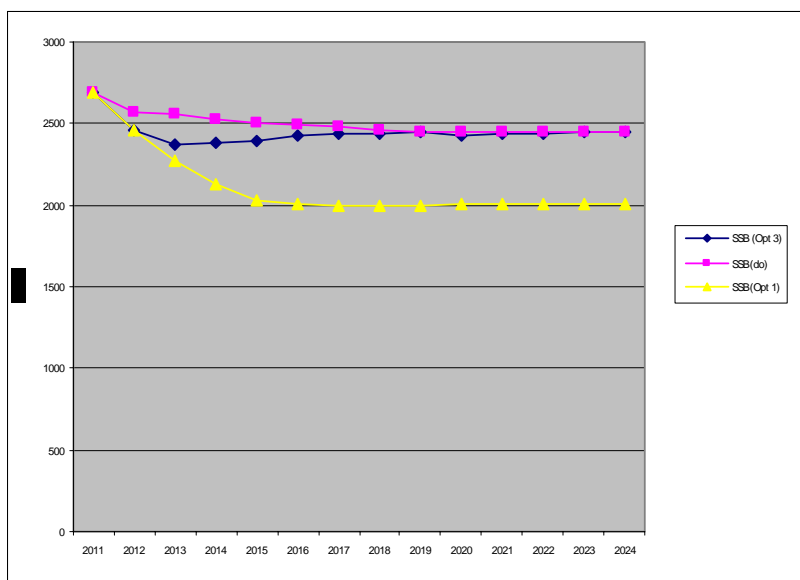
One may conclude that a resolute ban on imports may have a fair important effect on the external trade from the Faroe Islands and Iceland. If applied to the above-mentioned products, the immediate losses for both Iceland and Faroe would theoretically be above 30 mio€ annually before they find alternative markets. Both countries, but especially Iceland, have an economy highly dependent from the fishing sector and therefore it can

be expected that the ban on imports will produce an immediate reaction from the authorities of both countries, lobbied by the export firms, to make all possible efforts to revert to the availability of the EU market, even if this is done at the expenses of abandoning the current high catching behaviour, which by the way they should recognize as non-sustainable.

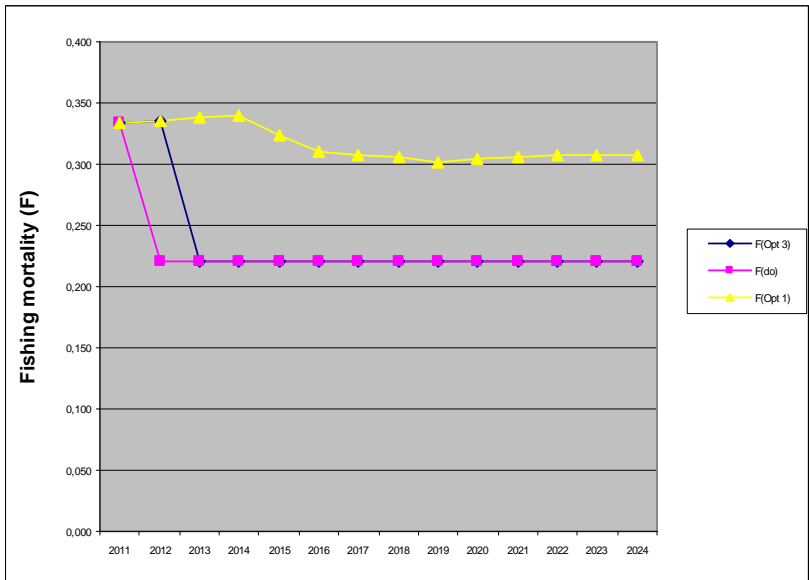
In terms of effects on the mackerel stock, it is plausible to assume that the situation would revert to the situation foreseen in the desirable scenario, i.e. an immediate agreement for 2012 and successive years. However, to be more realistic, one may also suppose that there would be a lag of two years before the effects are noticed, because the implementation of this option would still require the completion of the decision-taking process for the required legislation. The simulation for this exercise would be done therefore assuming that the agreement would take effect only for 2013 and successive years.

Environmental effects:

The results in terms of SSB, yields and F will be, compared to the desirable scenario (the desired situation) described below. The results of Option 1 are also included because they allow a better inter-option comparison.



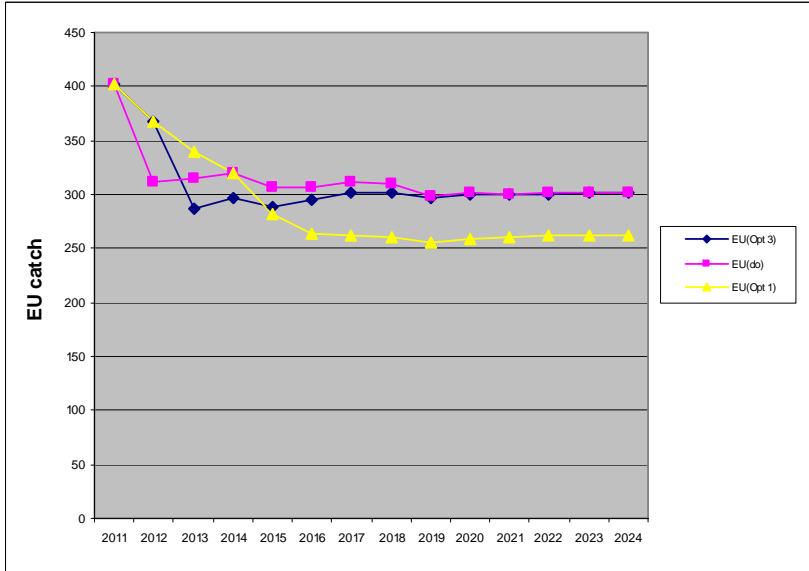
The SSB would fall sharply the first two years, as in option 1, but soon will it recover, reaching the desired levels after six years more. The fishing mortality would revert to the target values as soon as the agreement is reached:



In all, this can be interpreted as a rapid return to "normality" for the fishing mortality and a progressive recovery of the SSB towards the desirable situation. The fisheries would, from the agreement, revert to a status of sustainability and there would be in principle no reason for any of them to lose the MSC or any other certification based on the FAO standards. The advantages of this option over Option 1 are evident.

Economic effects:

The EU catches forecasted under this model would be, compared to the desirable scenario and with Option 1:



It can be seen that the EU catch would progressively recover to reach the "desired" levels 6 years after the first agreement entered into force. It should be noted that the longer it takes for Option 3 to be implemented, the more difficult the recovery would be, as a consequence of the "erosion" of the stock during the years of disagreement.

In economic terms

Although slightly below the desirable scenario, this option yields substantially improvement with respect to Option 1 in terms of catch. The net effects observed can be summarised as follows:

- (1) Option 3 would imply making some sacrifices in the short term in terms of reduced catch during three consecutive years, but from the fourth year on the yearly catches would be consistently higher than for Option 1 and from the eighth year the long-term gains would have been consolidated at about 300 000t, 16% above the long-term catch expected under Option 1.
- (2) This increase in long term yield is traduced in economic benefits for the catching sector. In absolute figures these can be evaluated as 40mio€ per year. Although the short term losses, together with the import ban, may create difficulties to the processing sector, the increased production in the EU could help in providing raw material for the fish processing industry.
- (3) The fact of agreeing a joint management regime would be sufficient, even if the stock is not yet fully rebuilt to its maximum productivity level, to satisfy the eco-labelling requirements of the MSC, and therefore the eco-label certification could be maintained.
- (4) Following the same reasoning as for Option 1, the net gains in yield may underestimate the effects on economic productivity, because the increased yields would be taken at lower fishing rates, which entails lower production costs and hence an additional multiplier of the economic gain.
- (5) An important element of this option is that it provides with a rather high stability in catches, which is a good think to plan investments in the fishing industry.

Social effects:

The best that can be said of this option is that none of the undesired effects of Option 1 are to be expected. On the contrary, this option would re-establish confidence in fisheries managers, would improve the economic performance of the pelagic fishing sector and one could expect better yields by vessel and hence better revenues for crews.

Administrative costs

Option 3 would be onerous in terms of administrative burden. It would require 1) new legislation (co-decision regulation, plus implementing acts); 2) increased surveillance at customs and 3) legislation terminating the ban whenever it has produced the desired effects. Traceability requirements will also increase administrative burden in the exporting countries (analysis of samples and production of certificates).

The summary results are (rounded to the nearest 500€):

- Administrative burden for business: 19 000€
- Administrative burden for public authorities: 13 500€

Main drawbacks

The problem associated with fishmeal, fish oil, fish feed and other products for industrial uses is that there is no way to determine whether these were elaborated from mackerel.

The current rules in the EU lead to the obligation to ensure that fish feed for aquaculture is not made up with fish meal or oil made from the same species that is to be fed. That may allow importers of fish feed to determine whether a product within this category has been made up with salmon, trout, bass, sea bream and other farmed species or trimmings from those, but not from mackerel since there is no farming of this species.

Banning imports of fishmeal and elaborated products originated from or containing mackerel in its composition necessitates therefore establishing new traceability requirements to determine the species composition of these products. These requirements should be incorporated in the legal instrument.

Option 4: Regulatory instrument allowing to partially prohibit trade on fishery products from the stock in question

Description of the option:

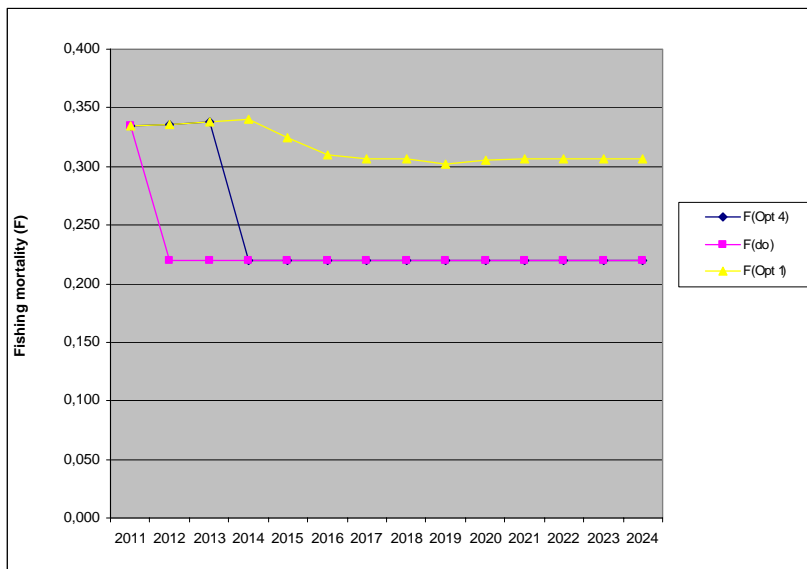
This option is essentially the same as Option 3 but where the import ban would only concern easily identifiable fish products that do not necessitate any special additional traceability or labelling provision. The main idea behind this option is that any possible loss of impact of the import prohibition would be compensated by the very few additional administrative burden that it might produce, since this burden would be limited to the legislative aspect (which would be considerably simplified) and to the additional checking effort that would appear at customs, that in any case would be much lower than in the case of option 3. In our study case on mackerel, the import ban would then be limited to the following products of Atlantic mackerel (*Scomber scombrus*): fresh or frozen round fish, flaps, fillets and canned and smoked Atlantic mackerel

Environmental effects:

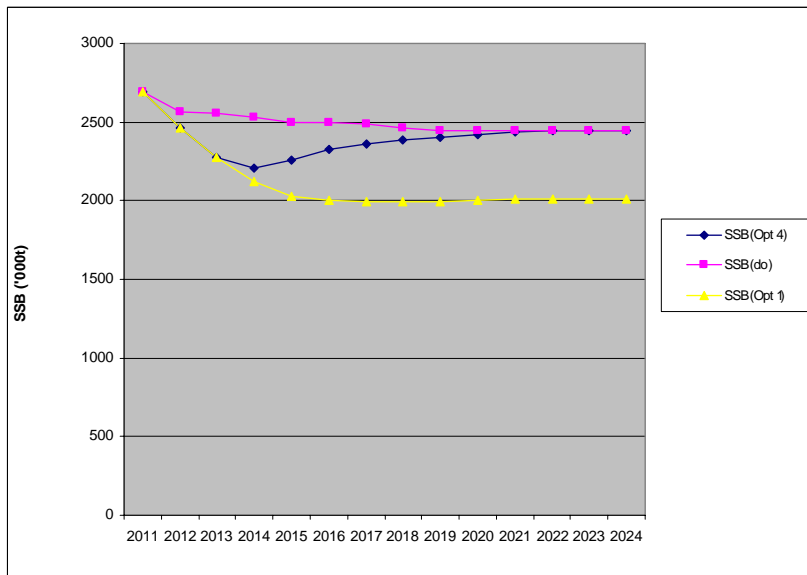
Given the limitations of this option (it would exclude the high volumes of fish meal and oil), it is thought that the deterrent effect would be much smaller than in the case of Option 3. Again, one cannot predict the response by Iceland and Faroe islands to an import ban of this nature, but we can imagine that the export companies affected would also lobby the authorities of these countries and later rather than sooner these would reconsider their position vis-à-vis the other Coastal States.

A reasonable assumption for the purpose of this exercise is that the said authorities will not feel in a hurry to achieve an agreement and therefore, this would only be obtained two years after the import ban was put in place, i.e., the first agreed TAC would apply in 2014.

The forecasted effects on the spawning stock biomass and on F would hence be as shown in the graphs below:



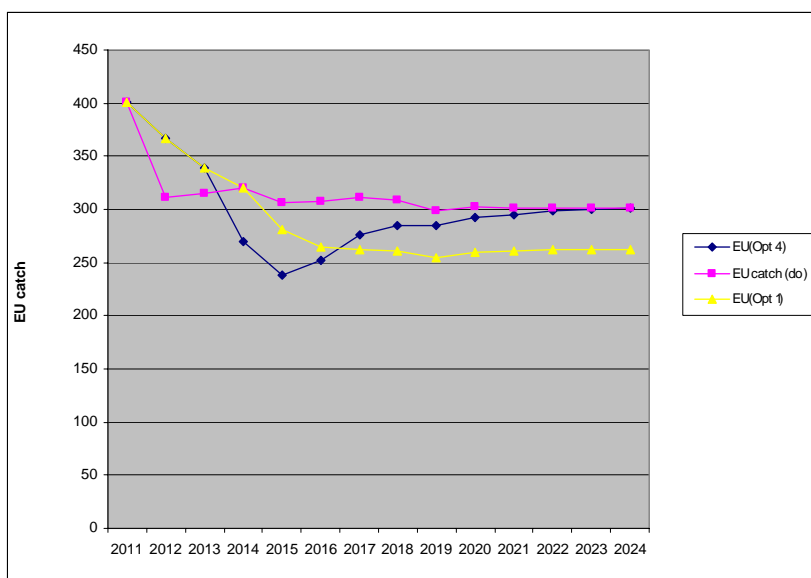
Fishing mortality remains high (as in Option 1) until the year of the first agreement, where it adopts the target level of $F=0.22$, and keeps this value all through the period.



As one could anticipate, recovery of the SSB towards the long-term desired levels (2.4milot) takes its time (5-6 years after the agreement). The "alert" level of 2.2milot is however never reached.

Economic effects:

The following graph shows the catch forecasted, compared to Option 1 and to the desirable scenario:



The situation is very similar to the one observed for Option 3, but with one-year lag and with a more difficult recovery, as anticipated due to the late reaction to achieve an agreement. Once more, this responds to the principle that overfishing one year will require disproportionately large sacrifices later on to rebuild sustainability of the system. This being said, there is no doubt that this option produces the desired effect of restabilising the fishery without appreciable environmental risks once the import ban achieves its deterrent goal.

Social effects:

Same comments as above: similar to Option 3, attenuated

Administrative costs

Option 4 would entail a considerable improvement with respect to Option 3 in terms of administrative burden. It would in any case require 1) new legislation (co-decision regulation, plus implementing acts), but presumably much simpler than in the case of Option 3, since there would be no imperatives on traceability; 2) increased surveillance at customs (but again mitigated since it would be just a few products concerned) and 3) legislation terminating the ban whenever it has produced the desired effects.

The estimates of administrative burden can be summarized as follows:

- Administrative burden for business: 4 500€
- Administrative burden for public authorities: 3 500€

Main drawbacks/other comments

The problem associated with this option is that its dissuasive power is weakened with respect to Option 3, and a delay in achieving an agreement results in reduced catch opportunities in the following years.

Option 5: Regulatory instrument allowing to adopt counter-measures

Description of the option:

This would consist of a regulatory instrument providing for "counter-measures" in response to an "internationally wrongful act" committed by another State. Recourse to such "counter-measures" is recognised under customary international law provided that due process and proportionality requirements are met. "Counter-measures" could consist of trade-restrictive measures, limitations of access to ports and/or of any other measures that are capable of inducing the offending State to discontinue its wrongful conduct. They are justified if:

- Taken in response to a wrongful act;
- Taken after the offending State have been requested to abandon the wrongful conduct
- They aim at inducing the offending States to take remedial action
- Their effects are proportional to the effects of the wrongful conduct
- They are reversible and actually lifted once the offending State has taken remedial action

The nature of the measures to be taken may include import prohibitions, but is not limited to those. Other possible measures are the suspension of bilateral agreements and the prohibition of access to ports. It should be noted that the import prohibitions do not strictly need to apply to the species subject to dispute, but may include other goods. What is more important in designing the appropriate set of measures is, in first place, that the EU should unambiguously establish the existence of the wrongful act on the side of the offending State. Ensuring proportionality of the measure is the second most important aspect to consider.

In the case of the mackerel, the most clear argument to establish that Iceland and Faroe Islands acted wrongfully is that in fixing their autonomous TACs at such high levels, these countries have breached the principle of "due regard" to the rights and duties of other States, since i) the magnitude of their TACs is completely out of proportion compared to existing fishing patterns ii) no scientific or objective argument has been put in support of these quantities and iii) the long-term losses for the EU fishing industry are very important (see assessment of Option 1).

What is more difficult, although not impossible, is to establish the proportionality condition. In the case of mackerel, if the losses for the EU fleet are evaluated in roughly 40mio€/year, for the counter-measures to be effective and proportional, they should produce losses in Iceland and Faroe Islands of the same order of magnitude, but larger, in order to have the necessary inducing effect.

It is not the purpose of this IA to determine exactly the nature of the counter-measures but just to show that there is room to apply them and means to design them. In the case of mackerel such a possibility exists, although not free from controversy and requiring careful study. Fields of measures could in principle include i) access to ports and services to fishing vessels, ii) import prohibition of mackerel and other similar species and iii) termination, suspension or not improvement of bilateral agreements.

Environmental economic and social effects:

Since the scope of counter-measures extends beyond the measures under Options 2 to 4, it is reasonable to assume that they would be as effective as, if not more than, the measures under those options. The environmental assessment would yield at least the same results as for Option 3, and the same would apply for the economic and social aspects. It would be important to look carefully after the interests of the industrial sectors that would be affected on the side of the EU. For example, if the prohibition to import

mackerel has little effect on the EU processing industry because the EU production could easily fill the gap produced, this would not be necessarily the case for other species that would be included in the import prohibition. The termination or suspension of bilateral agreements may have an important effect also on the EU side³³.

Administrative burden

As far as this aspect is concerned, the administrative burden would be even higher than for Option 3: on the one hand, it would cover more prohibitions and therefore more monitoring effort. The need of a careful analysis and selection of the most appropriate measures will therefore add weight to the administrative burden for both public authorities and the industry.

In this calculation, applicable to the mackerel case, we can assume that, in addition to the prohibition of Option 3, there would be a prohibition of access to ports and services that would generate administrative costs. The suspension or non-renewal of certain aspects of the bi-lateral agreements are taken as not generating additional administrative costs, since that is to be done in the context of the regular exchanges foreseen in the agreements.

The estimates of administrative burden can be summarized as follows:

- Administrative burden for business 19 000€
- Administrative burden for public authorities: 19 000€

6. SECTION 6: COMPARING THE OPTIONS

In first place, it appears convenient to summarize the analysis made in Section 6:

The options were given in the form of a list but in reality they respond to an organised scheme allowing to respond to the following questions:

- a) Is it confirmed that EU action would have an added value? Is it justified that action be taken by the EU?. This may be responded by examination of Option 1 against the desirable scenario: how bad would the situation would be if the dispute and the behaviour of the non-cooperating countries is maintained? Or, can the EU remain idle?
- b) If it is confirmed that action should be taken, then can this action be of non-legislative nature?. Analysis of the likely effects Option 2 would help to respond to this question
- c) If the answer is that legal action should be taken, then what type of measure should be taken? The answer would be a result of the comparative advantages and disadvantages of options 3, 4 and 5.

³³ As an example, the exchange of fishing opportunities between the EU and the Faroe Islands foreseen in the bilateral fisheries agreement has not taken place for 2011, as a consequence of the mackerel dispute. While this has important consequences for the Faroese fishing sector, many EU fleets are on their side suffering a loss of opportunities to fish in Faroese waters.

The following analysis will then follow the above-mentioned sequence of questions.

Question a): Is it justified that the EU should act?

The environmental, economic and social consequences of letting the current situation to perpetuate are in the study case of mackerel, if not disastrous, at least very severe. In environmental terms, sustainability would be very seriously threatened: the high risk (>21%) of falling below the limit value of 1.7mio (which might lead to a closure of the fishery) would mean a very high probability (almost a certainty) that that event would occur once every five years. This, added to the long-term losses in yield for the EU pelagic sector, make the no-action option absolutely unbearable. Other arguments exist, but the environmental and economic arguments (especially the known case of blue whiting) more than sufficient for an affirmative response to this question. The fact that at present the mackerel fishery is the most important for the EU in economic terms reinforces this assessment. Not acting in the mackerel case will be seen as disinterest of the EU institutions with regard to conservation of fish stocks and defence of the interests EU fishing industry.

Question b): legislative or non-legislative action?

The analysis of Option 2 is admittedly rather speculative and centred on eco-labelling schemes and information to consumers. It does not cover other non-legislative action taken by the industry such as blocking access to Faroese vessels to EU ports since we need to examine institutional action by the EU or action by private organizations that could be promoted by EU institutions. EU action promoting blockage of access to ports by foreign vessels it is not conceivable if these are legally entitled to accede to EU ports.

The analysis done concerns the particular case of mackerel, for which at present there is a generalised MSC certification of EU fisheries, whilst it is very unlikely that Iceland and Faroe Islands could obtain such a certification. The situation is ideal in this sense except for the fact that most mackerel consumers would be guided for price, quality and freshness rather than by a eco-label. It is possible that for other products the promotion of eco-labels and extended information to consumers would have a larger influence in market demand, but yet this needs to be translated into pressure on the fishing industry of the non-cooperating country.

An important element of judgement is the weak support given by the fishing sector to this option, even when they are currently users of eco-labelling schemes.

In general terms, it can be concluded that, while non-legislative action may potentially help in some cases, the option to take decisive legal action is highly preferable in most cases. Even if it were preferable in few cases, this would justify the adoption of the necessary legal mechanism so the action could really be implemented in such few cases.

Question c) what type of legal action?

While the response to the first two questions was rather straightforward, to respond to the third question becomes trickier. It is appropriate to synthesize the assessments made in the previous section. The table below includes a ranking of the options for each topic

	Option 3	Option 4	Option 5
Environmental, economic and social effects	<ul style="list-style-type: none"> • Very rapid recovery to desired levels • No risks of 	<ul style="list-style-type: none"> • As Option 3, but effect perhaps delayed 	<ul style="list-style-type: none"> • As Option 3, perhaps in a more effective manner

	depletion(*) <ul style="list-style-type: none"> • MSC certification maintained • Improved confidence in managers • Improved wages after recovery • Better prices for consumers • 		
RANK:	1	2	1
Administrative burden	Heavy: very detailed legislation (traceability), monitoring of many products	Light: simpler legislation, less products to monitor	Heavier than for Option 1: more detailed range of measures; controversial legislation, complex monitoring
RANK	2	1	3
Main drawbacks	<ul style="list-style-type: none"> • Difficulties related to determination of products containing the species • Prove of respect of proportionality and equity of measures 	<ul style="list-style-type: none"> • No major difficulties. Easier to prove respect of proportionality and equity 	<ul style="list-style-type: none"> • As for Option 3, but more complex set of measures faces more complex difficulties of compatibility with law.
RANK	2	1	3

(*) In the study case of mackerel, of SSB falling below the limit value of 1.7miot

The environmental, economic and social effects are very closely interlinked and very similar to the three options; the only difference is that it is expected Option 4 may produce effects a given time later, since the measures adopted are not as stringent as in options 3 and 5. The lesser effectiveness of Option 4 is however compensated by a much easier application both in terms of drafting of legislation and of actual enforcement. The cumulated rankings (5, 4, 7) does not give dramatic results allowing either to select or deselect one or another option.

It is moreover difficult to generalize the analysis made above for mackerel to other future cases. There could be situations where Option 3 is not applicable since all imported goods made from the species in question are elaborated and transformed into industrial products. In other cases, trade measures would be inapplicable (for example, if the species in question is not subject to trade) but there is scope to adopt counter-measures for which an effective EU legal mechanism is lacking.

With this in mind, one is tempted to conclude that the best option would be one sufficiently flexible to absorb the main advantages of the 3 options above and capable to minimize their drawbacks and administrative costs. A possible description of that option would be an EU legal instrument with the following characteristics:

- a. Primarily based on Article 207 TFEU; other basis are also conceivable if measures envisaged are not trade-related
- b. Describing its field of application as for this exercise: situations of lack of cooperation in fisheries management and adopting measures that go far against common international sharing practice and threaten sustainability.

- c. Establishing a list of possible measures to apply, from trade restrictions to counter-measures of diverse nature.
- d. Setting out the main principles and criteria upon which these measures should apply: effectiveness, proportionality, equity, compatibility with law, etc;
- e. Giving the Commission implementing powers to apply the appropriate measures to the appropriate solution, in accordance with the above-mentioned criteria;
- f. Specifying the type of impact assessment that should precede the exertion of the above-mentioned powers;
- g. Setting out the specific mechanisms for control by Member States in accordance with the new Comitology Regulation³⁴
- h. Establishing clear rules for the automatic or very rapid suspension of the measures when the non-cooperating State has adopted appropriate corrective measures;
- i. The Commission would also be authorised to create, where necessary, new monitoring mechanisms whenever the existing ones would be insufficient.

The field of application should clearly exclude the cases covered by the IUU legislation and by other instruments. The list of measures should be sufficiently ambiguous so it would not exclude newly conceived effective and uncontroversial measures whenever these arise. The principles and criteria under d) should instead be very strict so the margin of manoeuvre for the Commission is unambiguously established.

This solution should be designed to allow a rapid adoption by the Commission of measures inducing a change in behaviour of the non-cooperating countries as conceived under Options 3 to 5, according to the specific cases that would arise.

7. SECTION 7: MONITORING AND EVALUATION

The objective of the whole exercise (see section 3) is to contribute to the conservation of fish resources and to bring them to levels that can produce maximum sustainable yield. The indicators commonly used to monitor the status of fish resources are the spawning stock biomass (SSB), i.e., the amount of fish that is ready to spawn at the time of spawning and the fishing mortality (F), which indicate the rate at which fish is removed from the stock by the fishing activity. Other indicators exist that complement these and that illustrate the extent to which fishing activities do not just have an effect on the stocks targeted, but also on other fish or marine organisms that are incidentally captured or damaged.

³⁴ Regulation (EU) No 182/211, http://eur-lex.europa.eu/Result.do?arg0=modalit%C3%A9s+de+contr%C3%B4le+par+les+Etats+membres&arg1=comp%C3%A9tences+d%27%C3%A9xecution&arg2=&titre=titre&chlang=fr&RechType=RECH_mot&Submit=Rechercher

At present there is a highly sophisticated system designed to guarantee a timely and scientifically-based monitoring. The system includes the collection of data on the fishing activity, sampling and collection of biological data, scientific surveys at sea using research vessels and a framework for the international collaboration of fisheries scientists allowing to collate and exchange data and information, conducted fish stock assessments and provide scientific advice for fisheries management. In the case of the North-east Atlantic, most of these activities are coordinated by the International Council for the Exploration of the Sea (ICES, see footnote No 20). Similar bodies exist for other fishing areas of EU fishing interest.

The current framework for the collection of data for scientific analysis³⁵ and the mandate of the Scientific and Technical Committee for Fisheries also provide a routine basis for the production of economic data useful to monitor the performance of the intended measure by indicators such as economic yields, turnover of EU fleets and their dependence from one or another fish stock. Follow-up of imports is also routine work. There is no reason therefore, for the time being, to create new systems or reinforce any of the existing systems to monitor the state of fish resources.

8. ANNEXES

Annex I: analysis of the replies to the consultation

Annex II: description of the problems on WHB and MAC

Annex III: spreadsheets on the assessment of administrative burden

Annex IV: list of acronyms

³⁵ [Council Regulation \(EC\) No 199/2008](#) of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy

Annex I

Analysis of replies to the consultation

Analysis of the replies to the consultation launched 22 March 2011 on the basis of the consultation document " Impact Assessment on the possible utilisation by the EU of trade-related measures against non-cooperating States for the purpose of conservation of fish resources"

1. TECHNICAL DETAILS

Rather than an open public consultation, a targeted one was chosen. This is mainly due to the highly specialised fields of work associated to the dossier: management of straddling and highly migratory stocks and international trade rules, on which the awareness of the wide public is supposed to be very low. The target groups were those represented in the main consultation bodies for the common fisheries policy: the Advisory Committee for Fisheries and Aquaculture (ACFA), the seven Regional Advisory Councils (RACs), and the authorities of Member States.

The Advisory Committee on Fisheries and Aquaculture (ACFA) provides a forum for ongoing dialogue with the industry. Its 21 members represent the main branches of the industry – production, processing and trade, in both fisheries and aquaculture as well as consumer groups and organisations dealing with environmental protection and development.

ACFA operates through four working groups, which deal with:

- fisheries resources and management
- aquaculture
- markets and trade policy
- general questions, including economics and the condition of the sector.

The Regional Advisory Councils (RACs) were created as part of the 2002 reform of the Common Fisheries Policy. They were established to give stakeholders (fishermen, vessel owners, processors, traders, fish farmers, women's fisheries groups, environmental and consumer organisations and others) a vehicle through which to feed recommendations into CFP policy developments. RACs must include stakeholders from at least two Member States. They each have a general assembly and an executive committee. The fisheries sector has two thirds of the representatives on each body, and other interests one third. In addition to five geographical RACs, two others have been established for pelagic stocks and the high seas fleet.

- Baltic Sea RAC
- Long Distance RAC
- Mediterranean Sea RAC
- North Sea RAC
- North-western waters RAC
- Pelagic stocks RAC
- South-western waters RAC

The consultation was opened 22 March 2011 and the last contribution was received and accepted on 30 May 2011, which makes the whole consultation period close to 10 weeks. A consultation document (copied in the appendix to this annex) was distributed to the target groups. It contained an explanation of the basic problem, a brief analysis of the possible approaches and several closed and open questions allowing a complete feed-back. The Commission's minimum standards for consultation³⁶ have been fully met and the Guidelines on organisation of stakeholder consultation in DG MARE³⁷ have been followed. The Commission had the opportunity to present and explain the consultation document to the two RACs more directly affected by the problem: the LDRAC and the PELRAC during the meetings of the Executive Committees of these RACs.

2. REPLIES RECEIVED

Very few replies were received within the deadline foreseen in the consultation (10 May). By 17 May the RACs most directly concerned (PELRAC and LDRAC) and several organizations constituting these RACs have already sent their contribution. In view of having as many replies from Member States as possible, a reminder was sent 17 May to those having failed to reply by that date. The latest contribution was received and admitted for this analysis by 30 May.

The following is a summary of the contributions received:

Target population: Member States:

	AT	DE	DK	EE	EL	ES	FR	HU	IE	IT	MT	NL	LT	PO	PT	SI	UK
Date	18/05	20/05	30/05	23/05	20/05	10/05	16/05	18/05	13/05	30/05	25/05	18/05	20/05	16/05	3/05	5/05	19/05

It should be noted that this list includes all Member States directly affected by the mackerel dispute.

Target population: stakeholders (RACs):

- PELRAC (Pelagic RAC): reply sent 11/05, but many organizations belonging to this RAC also sent their individual contributions (see below)
- LDRAC (Long-Distance RAC): its reply was sent 10/05 but it consisted of four contributions by four organizations belonging to this RAC.
- BSRAC (Baltic Sea RAC): reply sent 16 May but not responding to the consultation paper; it gave just a general support to the Commission in

³⁶ Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission.

³⁷ Note to Directors – Adonis No D 00166 of 6.01.2010

seeking to find a solution in dealing with third countries that do not live up to management issues, consistent with the legal framework in place.

The no participation by other RACs can be explained by the fact that it is just the above-mentioned ones that are directly affected by disputes like the one existing now with Iceland and Faroe Islands on mackerel.

Target population: stakeholders: (ACFA): One of the organizations (AIPCE-CEP) mentioned in its reply that it was to be considered in the ACFA position. However, there was no contribution from ACFA as collective entity. It is possible that some of the individual stakeholders organizations are represented both in ACFA and in the RACs, but it was not possible to attribute their reply to one or another committee.

Target population: stakeholders. Individual replies by Organizations and date:

- NPWG/EAPO (European Association of Fish Producers Organisations, member of PELRAC): 9/05
- SPFA (Scottish Pelagic Fishermen's Association, member of PELRAC): 10/05
- KFO (Killybegs Fishermen's Organisation Ltd., member of PELRAC): 10/05
- NFFO (National Federation of Fishermen's Organisations, member of PELRAC)
- FEABP (Federación de España de Armadores de Buques de Pesca, member of LDRAC): 10/05
- FEOPE (Federación Española de Organizaciones Pesqueras, member of LDRAC): 10/05
- ADAPI (Associação dos Armadores de Pesca Industrial, member of LDRAC): 10/05
- ARVI (Cooperativa de Armadores de Pesca del Puerto de Vigo, member of LDRAC): 10/05
- AIPCE-CEP (EU Fish Processors Association, CEP stands for the EU Federation of National Organisations of Importers and Exporters of Fish): 6/05
- Klondyke FPO (Klondyke Fish Producers Organization): 10/05
- RSPB Scotland (Royal Society for the Protection of Birds, Scotland): 9/05

Some of the entities consulted did not reply specifically to the questions of the consultation document but gave just a general supportive reply (EE, LT, BSRAC).

The catching sector was clearly predominant among the respondents to the consultation. The processing industry and the environmental NGOs were represented only by one organization (AIPCE-CEP and RSPB, respectively). No contributions were received by the other sectors represented in these committees, such as consumers, fish farmers,

traders, etc. In any case, it must be said that these sectors are only partially or secondarily affected by situations like the mackerel dispute.

Anecdotally, a contribution was received by an individual that in the past was intimately associated to the export industry and now is retired and does not represent any of the target groups. His contribution was not included in this analysis.

General comments:

There is a clear general support for the way the problem is perceived and for the establishment of trade restrictions. The only exception to this general support came from the processing industry (AIPCE-CEP), a sector that does not want to see their sources of raw material restricted in any way. Among the options chosen, the weight of the opinion falls mostly in favour of options 3 (regulatory instrument banning all products) and 5 (countermeasures). Option 2 (the soft instrument) received a moderately enthusiastic support by Member States and a clear rejection by most stakeholders. Both Member States and stakeholders were clearly in favour of assuming the possible short-term negative implications of an import ban in favour of long-term sustainability. As regards whether imports should be understood to cover transshipping, there is again clear support, especially by stakeholders. Administrative burden associated to a trade ban is not perceived as a problem, either for it being relatively small or because it is fully justified as largely outweighed by the possible negative consequences of no action under a risk of overfishing.

3. MAIN RESULTS OF THE CONSULTATION:

The main result and conclusions can be summarized as follows:

1. Representativeness of the replies received. Generally speaking, the replies received represented the main groups of stakeholders potentially affected by the problem. All Member States having fisheries of mackerel, blue whiting and other Atlantic species for which there is a potential or real problem of non-collaborating third-countries responded to the consultation. The industry was particularly well represented as far as the catching sector is concerned, but only a contribution was received from the processing industry. Environmental NGOs sent only one contribution.
2. Perception of the problem. Member States fully agreed (47%), mostly agreed (47%) or just partially agreed (6%) with the perception of the problem as described in the consultation paper (essentially, the same description as in this report, see section 3 below). The other stakeholders also showed high support: 75% fully agreed and 25% mostly agreed. Comments received point to the specific gravity of some elements of the problem (other countries and fish species) and to expression of mistrust about the Commission's will or capacity to react appropriately.
3. Importance of the problem. Only one Member State (7%) perceived the problem as of moderate importance; the others felt that the importance was very severe (40%) or severe (53%). Among the other stakeholders, only one (precisely that representing the processing industry) considered a moderate importance (8%); the remainder felt the importance as very severe (84%) or severe (one opinion-8%). The comments received outlined the possible outcomes of the mackerel problem,

the particular economic importance of the mackerel fishery and the need to consider the gravity of the social consequences of the problem.

4. Need to act. 67% of Member States fully agreed and 33% mostly agreed on the need to act. The opinion of the other stakeholders was fully consistent with the opinion given on the importance of the problem: 84% fully agreed, 8% mostly agreed and 8% just partially agreed on the need to act. Comments qualified the action required as swift (preferably before the 2011 fishing season) and subject to Member States consultation. The processing industry was not convinced on the need to act since voluntary approaches by the purchasers and consumers could be enough.
5. Possible approaches. The consultation document gave an analysis of the possible approaches to use trade measures in order to stimulate good fishery management behaviour, by going through the existing legislation, mainly the IUU Regulation, the international framework for fisheries and trade governance and the use of trade measures by RFMOs. Among Member States, 47% fully agreed, 33% mostly agreed and 20% just partially agreed with the analysis. The opinions of the other stakeholders were more dispersed: only one organization 8% fully agreed, 67% mostly agreed, 8% partially agreed and 17% did not agree at all. Comments from Member States referred to the need to analyse settlement procedures under UNCLOS and perhaps amend the IUU regulation. Most stakeholders referred to independent legal advice pointing to the applicability of the IUU regulation in the case of mackerel; others (those disagreeing with the analysis) stated that the international framework is either useless or can just be disregarded.
6. Trade restrictions as a solution. The consultation paper sought confirmation about the use of trade measures as a possible solution to problems like those described for mackerel and blue whiting. Member States were divided: 21% fully agreed, 43% mostly agreed, 29% partially agreed and one Member State (7%) barely agreed. The other stakeholders were more conclusive: 75% fully agreed, 17% mostly agreed and only 8% (one organization: the processing industry) just barely agreed. Observations were made on the need to approach the problem overfishing more globally while not abandoning other routes to push for negotiated solutions.
7. Analysis of possible options:

Option 1: no action.

Among Member States, 20% considered it just as a last resort, while 80% judged it as ineffective. All other stakeholders (100%) considered it ineffective.

Option 2: a soft instrument, non-legislative, such as sustainability labels, "name and shame" exercises, diplomatic demarches and so on.

Member States believed this option could be more or less effective (64%), only a last resort (29%) or ineffective (7%). The other stakeholders were more conclusive in that all organizations but one (91%) considered this option as ineffective and only one (9%) as more or less effective.

Option 3: regulatory instrument addressing imports of all products originated in the country concerned and made from the species subject to dispute.

This option received most support from Member States: 43% considered it as effective and 57% as more or less effective. The other stakeholders expressed also a clear support, considering it effective (64%) or more or less effective (36%).

Option 4: more limited regulatory instrument, including only easily identifiable fish products.

Member States found this option as effective (14%), more or less effective (72%) or as a last resort (14%). The other stakeholders showed weaker support, considering it as more or less effective (22%), a last resort (56%) or ineffective (22%).

Option 5: regulatory instrument providing for countermeasures, of very diverse nature, inducing the offending State to discontinue its wrongful conduct.

Member States found this option effective (36%), more or less effective (43%) or as a last resort 21%. The other stakeholders took this option as effective (80%), more or less effective (10%) or as a last resort (10%).

Other options (ad libitum)

Some Member States pointed to the combined use of the options, the inclusion of all fish products (and not just the species in cause) in the trade restrictions and the ITLOS³⁸ mechanism. The other stakeholders also pointed to the combined use of options and included the possibility to suspend the Iceland accession process, the measures that are put in place in other countries such as the USA and the banning of imports of fishmeal irrespectively of its species composition.

³⁸ [International Tribunal for the Law of the Sea](#)

Appendix to Annex I

Consultation document including a summary of the replies received.

Note: all texts in italics belong to the original consultation document

CONSULTATION DOCUMENT

Subject: Impact Assessment on the possible utilisation by the EU of trade-related measures against non-cooperating States for the purpose of conservation of fish resources

Disclaimer: This paper has been prepared by Commission services to consult stakeholders on the above-mentioned issue. Its contents cannot be construed as reflecting or pre-empting the European Commission's definitive views or positions of the subject matters in issue. The European Commission cannot be held responsible for any use which might be made of the information contained therein.

Target Groups consulted:

- The Advisory Committee for Fisheries and Aquaculture (ACFA)
- Regional Advisory Councils (RACs)
- Member States' experts (through the Committee for Fisheries and Aquaculture)

Expected replies: In written, by post to the address European Commission, 1049 Brussels, BELGIUM or by e-mail to:

MARE-SHARED-STOCKS-CONSULTATIONS@ec.europa.eu

Deadline: 10 May 2011

4. DESCRIPTION OF THE PROBLEM

The UN Convention on the Law of the Sea³⁹ as well as the UN Fish Stocks Agreement⁴⁰ provide for the obligation of coastal States and States fishing for such stocks on adjacent high seas to cooperate in managing responsibly straddling and highly migratory fish stocks in order to ensure their long-term sustainability, either by direct consultation

³⁹ United Nations Convention on the Law of the Sea (Montego Bay Convention), OJ L 179, 23.6.1998, p. 3.

⁴⁰ The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (in force as from 11 December 2001), OJ L 189, 3.7.1998, p. 17.

amongst each other or via the appropriate Regional Fisheries Management Organizations (RFMOs) in their geographical context.

Disagreement on the management of straddling and highly migratory stocks is frequent and to arrive at useful arrangements the willingness of all parties concerned to cooperate, is required, including the EU, and third countries. It is not infrequent that one or more of the third parties refuse to show the willingness to cooperate and prefer to fish at a unilaterally chosen intensity for a number of years. 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 is now suffering the consequences of too long and unsuccessful consultations and negotiations both between the North-East Atlantic coastal states and in the framework of the North-East Atlantic Fisheries Commission (NEAFC) before finally an arrangement was reached on the management of the North-East Atlantic stock of blue whiting. Due to a series of years of disagreement that led to very serious depletion of the stock and as a consequence, the Total Allowable Catch (TAC) for this species had to be set for 2011 at 40100t, less than 7% of the level of 2010 (540000t). This has resulted in disastrous consequences for the viability of this fish stock and therefore for certain EU fleets, and in a very meager probability of rebuilding the stock to sustainable levels in the medium term. Such outcomes run contrary to the fundamental objectives of the EU's Common Fisheries Policy.

At present the EU faces such a problem with the stock of North-East Atlantic mackerel. In this case the lack of agreement among coastal States, is compounded by the setting by Iceland and Faroe Islands of autonomous catch limits at very high and biologically unviable levels, not sustained by any objective argument either on the basis of historical rights or stock distribution, and contrary to scientific advice.

The EU cannot remain inactive in a situation where third countries refuse to abandon harmful unilateral behaviour and fail to show the necessary goodwill to achieve an arrangement for the management of migrating fish stocks (such as mackerel). Indeed, in that situation to maintain the unlimited access to a lucrative EU market for such stocks constitutes not only a political contradiction but also a stimulus to continue the intensive over-exploitation of the stock by third countries. The EU should therefore be able to have an instrument to address these cases efficiently.

As a summary, the problem is perceived at two levels:

(i) A concrete problem...

At present the EU faces the immediate threat of overexploitation of the stock of mackerel due to the attitude of certain third States, which appear to exploit the short-term benefit for part of their fleet of pelagic fishing in total disregard of the international obligations to cooperate with the other coastal States and the viability of the fish stock.

(ii) ...that raises a general problem

It is possible that such a lack of cooperation and risk of overexploitation becomes evident in the short term for other shared stocks and other parties. Any such situation cannot be excluded in other areas where the EU shares fisheries with other States.

When facing situations of unwillingness by any given third country to cooperate on the management of a straddling and highly migratory fish stock on which the EU shares an interest, and where the attitude of such country poses a risk of overfishing that would require subsequent sacrifices by all parties engaged in rebuilding the stock to sustainable levels, there is a need to take appropriate action. However, the existing legal framework does not provide with any effective measure in support of this approach, and it becomes imperative to find new avenues.

Questions:

(1) Do you agree with this perception of the problem?

Target population: Member States' authorities:

	Fully	Mostly	Partially	Barely	Not at all
	ES, IE, FR, PO, AT, UK, IT	PT, SI, NL, HU, EL, DE, MT, DK			

Observations:

ES: Iceland and Faroe are willing to get a place in the fishery that they didn't have historically.

FR: The problem becomes aggravated by the suspension of quota exchanges under the bilateral agreements (Faroese case) and by the distortion of the international markets (competition for the Russian market).

NL: The unilateral TACs by Iceland and Faroe Islands constitute a wrongful act, a violation of UNCLOS Articles 63 and 117-119 and in conflict with Articles 2 and 4(b) of the NEAFC Convention.

EL: Lack of cooperation endangers the viability of stocks.

UK: It is vital that the blue whiting case is not repeated for mackerel

DE: Russia's behaviour on blue whiting and redfish should be included in the analysis

DK: Agree that continued setting of unilateral quotas is unsustainable. All possibilities for reaching a negotiated agreement must be exhausted

Target population: stakeholders:

	Fully	Mostly	Partially	Barely	Not at all
	Klondyke, EAPO, SPFA, RSPB, KFO, FEABP, ARVI,	AIPCE, FEOPE, ADAPI			

	NFFO, PELRAC				
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Observations:

FEOPE: The problem is also the the EU delegation in negotiations is ill prepared and ha snot consulted duly the opinion of the fishing sector.

NFFO: The EU appears to be looking for delayed mechanisms rather than taking action, which is possible now according to legal analysis available.

PELRAC: Action in the short term should also be undertaken with priority without compromising the interests of the EU pelagic fishing fleet.

What is your perception of the importance of the problem?

Target population: Member States' authorities:

	Very severe	Severe	Moderate	Appreciable	Insignificant
	PT, IE, FR, PO, AT, UK	SI, ES, NL, EL, DE, MT, IT, DK	HU		

Observations:

ES: In the case of mackerel, the risk is not imminent since the stock is good shape.

IE: The current behaviour of certain Coastal States will ultimately lead to the depletion of stocks to the detriment of all Coastal States.

NL: The threat to sustainability is confirmed by scientific projections that point towards depletion of the stock of mackerel (limit reference point reached) by 2016.

EL: In particular since there is a documented risk for the stock to fall outside safe biological limits.

UK: Scientific projections point to a rapid decline if the situation is maintained. Action should be taken therefore sooner than later.

Target population: stakeholders:

	Very severe	Severe	Moderate	Appreciable	Insignificant
	Klondyke, EAPO, SPFA, RSPB, KFO, FEABP, FEOPE, ADAPI, NFFO, PELRAC	ARVI	AIPCE		

RSPB is particularly concerned that the MSC certification can be lost and that mackerel, of high value for human consumption, be converted into fishmeal.

FEOPE: the socio-economic effects are always ignored.

ADAPI: It's about time that the EU addresses unsustainable fishing practices by our neighbours in order to avoid disloyal concurrence.

PELRAC: Mackerel is the single most valuable stock for the EU fishing industry. This in itself illustrates the importance of the problem.

Do you agree on the need to take action?

Target population: Member States' authorities:

	Fully	Mostly	Partially	Barely	Not at all
	PT, ES, IE, FR, PO, AT, NL, UK, DE, IT	SI, HU, EL, MT, DK			

Observations:

IE: Strong action needs to be taken as a matter of urgency

NL: Time to act swiftly: it would be outrageous to meet the current demands of Iceland and Faroe islands.

UK: Mackerel is extremely important for the UK. Support for action that is proportionate and tailored to individual circumstances, subject to scrutiny, consultation and agreement with Member States.

DK: Action must include all possibilities of reaching a negotiated agreement.

Target population: stakeholders:

	Fully	Mostly	Partially	Barely	Not at all
	Klondyke, EAPO, SPFA, RSPB, KFO, FEABP, FEOPE, ADAPI, ARVI, NFFO, PELRAC	FEABP	AIPCE		

Observations:

AIPCE: Not convinced that action is needed: voluntary action by purchasers and consumers would be enough.

RSPB, NFFO, PELRAC: Furthermore, action should be expedient, with a view to solve the problem as a matter of urgency, before the 2011 fishing season.

ADAPI: Better late than never. Action should be taken without regard to the international importance of the country concerned.

5. POSSIBLE APPROACHES

The present initiative aims at exploring the possibility of using trade-related measures against countries and products from stocks that are in situations such as those described above for blue whiting and mackerel. These measures would mainly aim at promoting conservation of the stocks concerned by inducing a reduction of the intensity of fishing of the third parties concerned, this without prejudice to the need to continue consultations and, where required, use the existing mechanisms of dispute settlement. They would only be implemented when bilateral or regional cooperation has failed to establish an appropriate management regime for the stocks concerned.

The "IUU Regulation"⁴¹ contemplates inter alia the use of trade restrictions for vessels engaged in illegal, unreported and unregulated fishing. However, it is not considered as applicable for the problem described above. The IUU Regulation addresses issues of lack of compliance with applicable international and domestic conservation and management measures, whilst the measures that are being envisaged in the present context target fisheries not covered by agreed conservation and management measures, conducted in absence of cooperation with other coastal States and constituting a threat to sustainability.

Other examples of the application of trade restrictions for conservation purposes are the CITES Convention, transposed in EU legislation by Regulation (EC) No 338/97⁴², and certain recommendations made in the context of RFMOs. None of these instruments can be used in the cases above-mentioned. In the case of CITES, mainly because this Convention allows trade restrictions only when the danger is imminent and very serious, which may be too late when the threat is just overexploitation and not necessarily complete depletion of the stock. In the case of RFMOs, trade restrictions have been agreed in certain cases (bluefin tuna in ICCAT, toothfish in CCAMLR), but this is not a generalized approach. Furthermore, RFMOs adopt rules for the management in their regulatory area, which does not necessarily coincide with the area where the problem is found, as it was the case for mackerel and blue whiting described above.

The approach that is being envisaged needs to be analyzed in the context of the relevant international law, including international customary law, the International Law of the

⁴¹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999

⁴² Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein. OJ L 61, 3.3.1997, p. 1–69

Sea, international treaty law, international trade law, mainly the GATT Agreement, and any other bilateral or multilateral international agreements such as the EEA. Any measure imposing trade restrictions will have to be fully consistent with this legal framework

Questions:

Do you agree with this analysis of the possible approaches?

Target population: Member States' authorities:

	Fully	Mostly	Partially	Barely	Not at all
	ES, IE, AT, UK, DE, IT, DK	SI, FR, PO, HU, EL	PT, NL, MT		

Observations:

PT: The IUU regulation should be applied to Iceland and Faroe Islands.

FR: The economic sanctions should cover all other species concerned. As an example, deep water fish from Faroe Islands.

NL: The analysis of possible measures should include "countermeasures" and dispute settlement procedures under UNCLOS (although it is recognized that this will be a lengthy process).

EL: Agree that the existing framework does not allow to cover the cases described.

UK: Need to re-consider the use of the IUU scheme, possibly by amending the Regulation. Further consideration also to use the ITCLOS mechanism This also a good opportunity to reconsider the remit and powers of RFMOs.

MT: Better coordination is required in RFMOs.

DK: Important to ensure full consistency with international law.

Target population: stakeholders:

	Fully	Mostly	Partially	Barely	Not at all
	ARVI	AIPCE, Klondyke, EAPO, RSPB, KFO, FEABP, ADAPI, PELRAC	NFFO		SPFA, FEOPE

Observations:

EAPO, KFO, ADAPI, PELRAC: In addition, independent legal advice suggests that the IUU regulation could be applied.

SPFA, NFFO: Action should be taken regardless of being outside perceived international law

FEOPE: Do not think that the IUU Regulation, CITES, UNCLOS, GATT or EEA are of any use. Furthermore, RFMO measures are not always compulsory and contracting parties can object.

Do you agree in particular that trade restrictions may be a solution?

Target population: Member States' authorities:

	Fully	Mostly	Partially	Barely	Not at all
	FR, NL, IT	PT, SI, IE, PO, DE, MT	AT, HU, EL, UK	DK	

Observations:

PT: Attention to fish products entering the EU via a third country.

SI: Trade restrictions are largely ineffective.

ES: The effect of trade restrictions may be limited in the case of mackerel, since there are other markets.

IE: Fully supportive, but are concerned as to the long time it may take to put concrete measures in place.

AT: The question is whether EU import restrictions can solve the worldwide problem of overexploitation of fish stocks. Aquaculture may give a better solution.

NL: Yes to trade measures but also continue pushing for a negotiated solution.

EL: Trade restrictions do not address the problem globally. There should be complementary measures

UK: Trade related sanctions play a role in encouraging parties back to negotiation table, but are not the only means to solve the crisis.

DE: Trade restrictions could help to push certain countries to adopt more constructive positions.

MT: Trade restrictions serve only partially. Soft tools such as eco-labels may undermine sustainable development.

DK: The trade restrictions mentioned are seen prima facie to be against international law (Notably WTO/GATT). Furthermore such steps could escalate the friction between the parties.

Target population: stakeholders:

	Fully	Mostly	Partially	Barely	Not at all
	Klondyke, EAPO, SPFA, RSPB, KFO, FEABP, ARVI, NFFO, PELRAC	FEOPE, ADAPI		AIPCE	

Observations:

AIPCE: The legislative route is not necessarily appropriate.

KFO, PELRAC: Yes, and they should progressively include other products and other fish, including whitefish.

FEOPE: Within the current setup it is difficult to get the measures in time.

ADAPI: Yes, but we need to be careful of possible entries via a third country.

6. POSSIBLE OPTIONS TO ADDRESS THE IDENTIFIED PROBLEM

A first option would be to take no action and expect that external circumstances change, inducing a change in the attitude of the third countries in cause. As an example, in the case of mackerel one could expect a change in the distribution and migration of the stock, so it becomes unavailable or scarce in the waters of Faroe Islands and Iceland, as it was the case a few years ago. This scenario is however associated to the risk of a worsening of the situation if the expected changes operate in opposite direction.

A second option would be to take measures in the form of non-legislative instruments, such as mechanisms of the type "blame and shame", sustainability labels or diplomatic démarches in different forms. Such measures would aim at discouraging consumers from buying the fish products originating from a non-cooperating country or to put direct political pressure on that country. Such mechanisms have to be studied to see if they can be effective but there may also be (technical or other) drawbacks that need to be studied carefully, since in addition their associated administrative burden can be non-negligible.

A third option would be to provide the common fisheries policy with a regulatory instrument allowing a quick response to the problem by imposing trade-related measures on fish products derived from the relevant fish stock and that have an origin in the country concerned. At first sight, this would seem to be an effective approach, but it should be carefully defined so that it is compliant with multilateral and bilateral trade agreements and obligations. The approach also necessitates identifying and determining the origin of the products at the customs, in particular where the products have been transformed or elaborated substantially in different countries.

A fourth option would be to impose limited trade restrictions so as to exclude from them products for which the determination of the origin would be disproportionately difficult.

A fifth option would consist of a regulatory instrument providing for "counter-measures" in response to an "internationally wrongful act" committed by another State. Recourse to such "counter-measures" is recognised under customary international law provided that due process and proportionality requirements are met. "Counter-measures" could consist of trade-restrictive measures, limitations of access to ports and/or of any other measures that are capable of inducing the offending State to discontinue its wrongful conduct.

In the cases of options 2 to 4, the measures taken should be either limited in time or subject to revision on account of a change in the circumstances that had led to their adoption. In the case of "counter-measures", the measures taken must be reversible; they must actually be lifted once the offending State has put an end to its wrongful conduct.

The burden associated to the legislative process not only for the adoption of the regulation setting out the instrument, but also for subsequent specific acts applying the instrument to one or another situation, should also be weighed against the expected benefits.

Other options are possible and can be suggested for consideration.

Questions:

Which kind of measures would you consider effective in solving the problem identified?

Target population: Member States:

	Effective	More or less effective	Last resort	Ineffective
Option 1: no action			ES, FR, UK	PT, SI, IE, PO, AT, NL, HU, EL, UK, DE, MT, IT
Option 2: soft instrument		PT, SI, ES, PO, AT, HU, UK, DE, MT	IE, FR, NL, EL	IT
Option 3: regulatory instrument (trade restrictions on fish products derived from the relevant fish stock)	PT, ES, NL, HU, MT	SI, IE, FR, AT, EL, UK, DE, IT		
Option 4: regulatory instrument (more limited trade restriction)	ES	PT, SI, IE, FR, AT, NL, EL, UK, DE, IT	HU, MT	
Option 5: regulatory instrument ("counter-measures")	PT, ES, IE, NL, IT	SI, FR, AT, HU, EL, UK	DE, MT	
Other options (describe below)	IE, FR	NL, UK		

Observations:

ES: Neither the accession process (Iceland) nor the special relations with Denmark (Faroe Islands) should be an obstacle.

IE: Suggests an incremental approach, starting by prohibition of imports of mackerel, followed by prohibiting imports of fish meal and, if necessary, of any fishery product. Shortfalls of fish products can be covered by other imports.

FR: As said before, import restrictions should cover other species. Diplomatic démarches only can aggravate the atmosphere for negotiations.

PO: For option 2, rather less than more effective.

NL: Options 3 and 4 are, respectively, potentially effective and potentially more or less effective. The "name and shame" option might backfire on the EU.

EL: Better use a combination of options. Use UNCLOS, the Fish Stocks Agreement and the FAO Code of Conduct for Responsible Fisheries

UK: Soft measures may help but are insufficient by themselves; option 3 should be subject to scrutiny and consultation with Member States before its application to individual cases. On option 4, all efforts should be made to identify as many products as possible. Countermeasures could be taken in combination with options 2 and 3. As "other options", consideration should be given to the ITLOS mechanism.

DE: the soft instrument is necessary but not sufficient.

MT: Option 3 is the preferred one.

IT: Option 3 requires long time

DK: Any measure imposing trade restrictions must be fully consistent with international law. The outlined trade restrictive measures give rise to serious concern regarding compatibility with international law. This is especially the case with option 2, 3 and 5, which risk violating the national treatment principle in GATT.

Target population: Stakeholders:

	Effective	More or less effective	Last resort	Ineffective
Option 1: no action				Klondyke, EAPO, SPFA, RSPB, KFO, FEABP, FEOPE, ADAPI, NFFO, PELRAC
Option 2: soft instrument		ADAPI		Klondyke, EAPO, SPFA, RSPB, KFO,

				FEABP FEOPE, NFFO, PELRAC
Option 3: regulatory instrument (trade restrictions on fish products derived from the relevant fish stock)	Klondyke, EAPO, SPFA, FEABP, ADAPI, ARVI, NFFO	RSPB, KFO FEOPE, PELRAC		
Option 4: regulatory instrument (more limited trade restriction)		FEABP, ADAPI	Klondyke, EAPO, SPFA, KFO, PELRAC	FEOPE, NFFO
Option 5: regulatory instrument ("counter-measures")	Klondyke, EAPO, SPFA, KFO FEOPE, ADAPI, NFFO, PELRAC	RSPB	FEABP	
Other options (describe below)	EAPO, NFFO	Klondyke, KFO, PELRAC		

Observations:

AIPCE: None of the said measures is preferred.

EAPO, KFO: Use the IUU regulation, suspension of accession talks. Trade on mackerel is relatively small, and therefore trade sanctions should include all fish and fish products;

SPFA: Combinations of measures should also be foreseen.

KFO: A major diplomatic offensive would be "more or less effective".

FEOPE: It would be interesting to copy correlated systems in force in other countries as the USA.

NFFO: Ban all fish meal coming from Iceland and Faroe islands, since it is difficult to recognize whether it contains mackerel. Escalate the ban to include other species if necessary. Suspend accession negotiations with Iceland.

PELRAC: A restriction of the imports of all fish and fishery products from Iceland and the Faroe Islands should be considered as a serious option.

7. *POSSIBLE EFFECTS OF IMPORT LIMITATIONS OR RESTRICTIONS*

This section enters into some detail about the specific effects of one or another option.

The EU market of fish products is partly dependent on imports. Any limitation or restriction of these may have a non-negligible impact on the supply to the EU market. The degree of such impact will depend very much on the type of product, the quantities being subject to restriction or allowed, the possibility to find alternative sources of supply and the final destination of the product (direct human consumption, fish processing industry, fish meal and oil industry, etc). Although at this juncture it would be difficult to evaluate the effects of trade restrictions as a general measure, perhaps stakeholders could give an opinion on the following assertion:

"It is possible to assume the implications of a trade restriction or limitation on the EU market in the short term, if this is done for the sake of ensuring the sustainability of the stock and avoid stock depletions, which is the main condition to guarantee the long-term supply of the EU market"

Question:

Do you agree with this assertion?

Target population: Member States' authorities:

	Fully	Mostly	Partially	Barely	Not at all
	ES, FR, IT	PT, SI, IE, PO, AT, NL, UK	HU, EL, MT, DK		

Observations:

PT: Need to supply the market; the strategic orientation of the CFP towards fleet reduction does not help.

ES: The EU fleet production can compensate largely the losses resulting from an import ban.

IE, FR: Long term losses of mackerel for our fishing industry largely outweigh any short term discomfort strong trade restrictions may pose.

AT: Such a general question cannot be usefully commented by stakeholders.

NL: Attention should be paid to proportionality.

EL: As it difficult to assess the effectiveness of trade restrictions, it is difficult to justify whether their implications can be assumed.

UK: In every individual case it should be possible to assess rather accurately the positive and negative impacts. UK has a perception of the potential negative impacts to be limited.

MT: if there are socio-economic negative effects, then measures should be taken to mitigate them

Target population: stakeholders:

Fully	Mostly	Partially	Barely	Not at all
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	Klondyke, EAPO, SPFA, KFO, ARVI, NFFO, PELRAC	FEABP FEOPE, ADAPI		AIPCE	
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Observations:

AIPCE: Trade measures applied only to the EU might unintentionally have significant impact on legitimate trade flows, which do not help to guarantee long-term supply for the EU.

FEOPE, PELRAC: Add: in order to protect the EU fishing industry that is to disappear soon under the current policy.

ADAPI: With such a high demand in the EU market, the downsizing EU fleet will not be able to replace losses from an import ban.

The effects of the possible introduction of import limitations or restrictions will also be highly dependent on what is meant by "import". For example, the IUU Regulation defines importation as "the introduction of fisheries products into the territory of the Community, including for transshipment purposes at ports in its territory". This definition encompasses therefore goods that are landed in the EU in transit towards other countries and has therefore a much wider coverage than a consideration of imports as goods having the EU market as immediate destination.

Observations on the definition of imports:

Target population: Member States:

PT, DK, IE: Should include all products

AT: The difference is substantial: including all imports may entail considerable administrative burden.

NL: Precise details of the scope of the restrictions are to be discussed at a later stage.

EL: There is need of a harmonised definition of "imports".

UK: The issue should be considered on a case-by-case basis.

MT: Regulatory frameworks should be simple to implement and solution-oriented.

DK: The IUU Regulation is not relevant in this case, and hence neither its definition of "imports".

Target population: stakeholders:

Klondyke: Should include all products

EAPO, SPFA, KFO FEOPE, NFFO: In the case of mackerel apply the restriction to all mackerel products entering the EU, include if their destination is further afield, and having been originated in Iceland or Faroes, even if they have been rerouted via a third country.

As evoked in the description of the options, any trade restriction, including by "soft" approaches, will impose a certain administrative burden. In some occasions this additional burden may be alleviated by the rational use of existing administrative mechanisms, but in any case the increase in costs may be substantial. You are requested to synthetically describe, for your preferred option, how you perceive this additional administrative burden.

Observations on the administrative burden:

Target population: Member States:

PT: Needs to be done despite the cost.

SI: It is important not to add administrative burden.

AT, DK: Most likely there will be administrative burden, and this should be carefully considered.

IE: Existing structures and procedures for custom control are expected to be largely sufficient to implement the new legislation.

NL, UK: Additional administrative cost will always appear, so they need to be limited.

MT: Administrative workload seems higher for option 3.

Target population: stakeholders:

Klondyke, EAPO, SPFA, ADAPI: damage if not action taken outweighs administration costs

FEOPE: Additional burden can be compensated with simplification of unnecessary rules.

ARVI: The administrative burden should be similar to what is found following a health alert or a safeguard clause

NFFO. Not an issue: a blanket ban is easy to administrate.

Final question:

Please include below any other comments you may have on this proposal

Target population: Member States:

PT: one could consider cancellation of bilateral agreements, but with careful consideration of the effects on our own industry.

DK: important that introduced measures are proportional.

IE: Ireland advocates strong trade measures including the possibility to cover all fish products.

EL: The solution should be effective (not simply exhortations) and adopted at the international level under the EU leadership.

EE: The IUU regulation should be applied, and not only in the case of mackerel, but also on blue whiting and redfish as far as Russia is concerned.

LT: The scientific analysis should be of the higher scale and quality, and other third countries concerned should be consulted

UK: concerned by the timing. Measures for mackerel should be specific, targeted, easily reversible. The general instrument should not allow trade measures without proper consultation to Member States. On the consultation about options, there are not single responses covering all possible cases. The interests of all sectors, not only the catching sector, should be considered. Sustainability should be at the forefront of fisheries and marine management.

DE: Admits that certain behaviours and the shortcomings of the existing management frameworks makes it necessary to consider and examine certain trade measures. However, this does not predetermine the German position on any future specific proposal in this regard.

DK: Important that introduced measures are proportional and fully consistent with international law. Such measures should only be brought into effect if all other appropriate measures have been exhausted.

Target population: stakeholders:

Klondyke: danger for the Commission to be seen as a weak institution.

EAPO, SPFA, KFO: Do not leave the results of this consultation as an appeasement exercise. Keep Norway abreast of developments.

KFO: the output of the exercise should be a meaningful short-term solution that utilises all existing instruments, followed immediately by a wider scoped legal instrument.

ADAPI: cancellation of existing bilateral agreements can be a possibility, but careful attention should be paid to the possible damages to the EU industry.

NFFO: the EU has left this issue to go on for far too long. Need to act immediately following the advice prepared for the North Atlantic Fishing Company Limited (Owen and Churchill, 2011).

PELRAC: the issue is very technical and it is expected that the Commission could take note of the discussion held by the PELRAC Executive Committee on 12 April at Bilbao.

Many thanks for your cooperation

Annex II

The problems associated with the management of Blue whiting and mackerel in the North-east Atlantic

1. BLUE WHITING

1.1. Biology

Blue whiting is widely distributed in the eastern part of the North Atlantic with the highest concentrations along the edge of the continental shelf between 300 and 600 m. Most of the spawning takes place along the shelf edge and banks west of the British Isles. Juveniles are abundant in many areas, with the main nursery area believed to be the Norwegian Sea. Recent work on stock identification suggests that there is likely to be more than one single stock in the Northeast Atlantic.

1.2. Fisheries

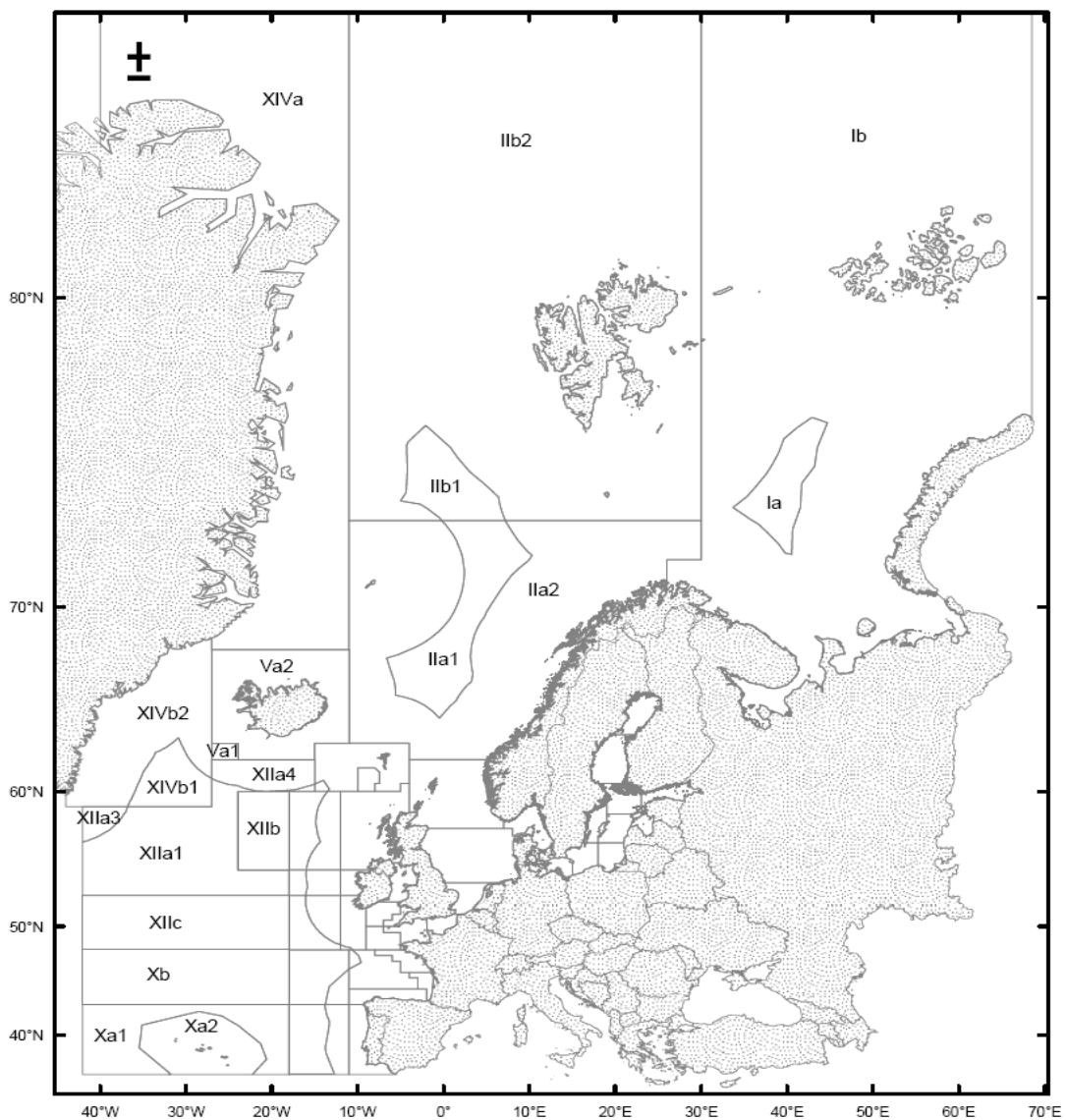
This main fisheries on blue whiting take place in the Faroes region, west of Scotland and around the Porcupine Bank (Figure 10.2.1). The fleet targeting blue whiting consists of several types of vessels but the bulk of the catch is caught with large pelagic trawlers. The main countries exploiting this fishery, together with the most recent catch for which comprehensive and detailed data are available, are given below⁴³.

Area	Denmark	Iceland	Faroe	France	Germany	Iceland	Ireland	Netherlands	Norway	Portugal	Russia	Spain	UK/Scotland	Grand Total
IIa	20	1 411				498		33	2 346		41 589		18	45 915
IIb											271			271
IIIa	117								14					131
IVa	106		221			312			16 334		5 228		33	22 234
IVb	5								17					22
Va						433								433
Vb		16 427	2 296			40 432		101	1 623		54 577			115 456
VIa		27 727		2 557		33 679	3 836	12 148	123 351		15 099		116	218 514
VIIb		1 924				34 166		203	17 320		20 509			74 122
VIIIb								355						355
VIIIc			3 937	4 670	2 456	7 065	4 585	33 195	58 904		6 198			111 010
VIIIe											1 692			1 692
VIIIa				1 865					3					1 868
VIIIc												20 637		20 637
VIIj						31			2					39
VIIIi							562		5 786					6 348
IXa*										2 043				2 043
XII			6 707			3 045			300		4 487			14 539
XIVa						10								10
Grand Total	248	58 354	8 831	5 044	120 202	8 776	35 686	225 995	2 043	149 650	20 637	173	635 639	

*Value for area IXa is summed across CN, CS and S subdivisions of this area.

The Areas mentioned in the first column correspond to the ICES areas as shown in the map below:

⁴³ All tables and data shown in this annex are extracted from the ICES website, in particular from the advice given by ICES for the management of blue whiting in 2010:
<http://www.ices.dk/committe/acom/comwork/report/2010/2010/whb-comb.pdf>



It must be underlined that the interests of the EU do not appear fully represented in the catch table. In fact, most of the blue whiting that can be fished in EU waters and that, as an actual fact, belongs to the EU, is swapped with Norway in exchange for quotas of other valuable species to be fished by EU vessels in northern Norwegian waters (Arctic cod and haddock, mostly). As an example, swaps in 2009 and 2010 were 63 000t and 59 900t respectively. Swaps are commonly done also with Faroe Islands (10 500t and 9 000t in the same years).

Status of the stock

According to the most recent assessment (see footnote 41 in this annex), the spawning stock biomass is below the reference points agreed (there is less spawners at sea than what had been agreed as desirable) and the fishing mortality is above the figure required to produce maximum sustainable yield. As a result, ICES forecasted for 2011 a catch of 40 100t if the management plan were to be adhered to, which implies a reduction of the catch of 93% from the level of 2010.

Management regime

At present blue whiting is managed as a single stock, until a better scientific background allows to determine the most appropriate breakdown of management units. Coastal States (the EU, Norway, Faroe Islands and Iceland) fix the management measures (essentially, catch limits and mesh sizes) applicable to their EEZ, and NEAFC sets out the regime applicable (catch limits) in the international zone (identifiable in the map above), called the Regulatory Area. In setting the management measures for their respective EEZs, Coastal States consult each other in order to keep exploitation consistent with scientific advice. Coastal States also propose in NEAF a catch limitation in international waters that is consistent with the decisions taken for their own respective EEZs. In 2005, Coastal States approved a long-term management plan, subsequently amended in 2008, specifying a mechanism to decide on catch limits and on the basis of the following⁴⁴:

"The Parties agree to implement a long-term management plan for the fisheries on the Blue Whiting stock, which is consistent with the precautionary approach, aiming at ensuring harvest within safe biological limits and designed to provide for fisheries consistent with maximum sustainable yield, in accordance with advice from ICES."

As far as the NEAFC Regulatory Area is concerned, TACs are decided annually on that basis of proposals made by Coastal States. Most of the quotas are allocated to Russia.

Until 2005, there was no agreement, either among Coastal States or within NEAFC, having a binding effect on any of the parties. The EU fixed TACs of which a part was allocated to Member States and quotas were left aside to swap with Norway and Faroe Islands, and the other Coastal States did similarly, but this was done with no overall context guaranteeing that catches were kept within sustainable levels. As a result, the sum of individual TACs, and therefore the resulting catches, largely exceeded the catch recommended by scientists.

Lack of agreement, or agreements that were not consistent with sustainability criteria, were always the result of excessive demands by some of the parties. These parties were opportunistically willing to take advantage of the apparently very healthy stock that continued to grow despite heavy fishing on it. The following table (ICES, same source as above) allows a better understanding of the situation:

⁴⁴ Extract from the agreed record of consultations between the European Community, the Faroe Islands, Iceland and Norway on the management of blue whiting in the North-east Atlantic for 2009.

Year	ICES Advice	Predicted Catch corresp. to advice	Agreed TAC	ICES catch
1987	TAC for northern areas; no advice for southern areas	950	-	665
1988	TAC for northern areas; no advice for southern areas	832	-	558
1989	TAC for northern areas; no advice for southern areas	630	-	627
1990	TAC for northern areas; no advice for southern areas	600	-	562
1991	TAC for northern areas; no advice for southern areas	670	-	370
1992	No advice	-	-	475
1993	Catch at <i>status quo</i> F (northern areas); no assessment for southern areas	490	-	481
1994	Precautionary TAC (northern areas); no assessment for southern areas	485	650 ¹	459
1995	Precautionary TAC for combined stock	518	650 ¹	579
1996	Precautionary TAC for combined stock	500	650 ¹	646
1997	Precautionary TAC for combined stock	540		672
1998	Precautionary TAC for combined stock	650		1125
1999	Catches above 650 000 t may not be sustainable in the long run	650		1256
2000	F should not exceed the proposed F_{pa}	800		1412
2001	F should not exceed the proposed F_{pa}	628		1780
2002	Rebuilding plan	0		1556
2003	F should be less than the proposed F_{pa}	600		2321
2004	Achieve 50% probability that F will be less than F_{pa}	925		2378
2005	Achieve 50% probability that F will be less than F_{pa}	1075		2027
2006	F old management plan	1500	2100 ²	1966
2007	F should be less than the proposed F_{pa}	980	1847 ³	1612
2008	F should be less than F_{pa}	835	1250 ⁴	1246
2009	Maintain stock above B_{pa}	384	606 ⁵	636
2010	Follow the agreed management plan	540	548	
2011	See scenarios	-		

Weights in '000 t.

¹NEAFC proposal for NEAFC regions 1 and 2.

²Agreed TAC from four Coastal States of 2 million tonnes, and an additional allocation to Russia in the international zone of 100 000 t.

³Agreed TAC from four Coastal States of 1.7 million tonnes, and an additional allocation to Russia and Greenland of 147 000 t.

⁴Agreed TAC from four Coastal States of 1.1 million tonnes, and an additional allocation to Russia and Greenland.

⁵Agreed TAC from four Coastal States of 0.59 million tonnes, and an additional allocation to Russia (0.016 million tonnes).

It can be seen that catches exceeded consistently the advice of scientists since the mid nineties and especially at the beginning of the 21st century, as a consequence of the lack of an effective agreement within Coastal States and within NEAFC. Furthermore, Coastal States chose to waive the management plan agreed in 2005 for 2006, postponing the necessary catch reductions for subsequent years⁴⁵:

"

- (1) *The management targets are to maintain the Spawning Stock Biomass (SSB) of the Blue Whiting stock at levels above 1.5 million tonnes (Blim) and the fishing mortality rates at levels of no more than 0.32 (Fpa) for appropriate age groups as defined by ICES.*
- (2) *For 2006, the Parties agree to limit their fisheries of Blue Whiting to a total allowable catch of no more than 2 million tonnes.*
- (3) *The Parties recognise that a total outtake by the Parties of 2 million tonnes in 2006 will result in a fishing mortality rate above the target*

⁴⁵ Extract from the agreed record of consultations between the European Community, the Faroe Islands, Iceland and Norway on the management of blue whiting in the North-east Atlantic for 2006.

level as defined in paragraph 2. Until the fishing mortality has reached a level of no more than 0.32, the Parties agree to reduce their total allowable catch of Blue Whiting by at least 100,000 tonnes annually.."

The planned reduction in catch for 2007 and 2008, was however insufficient to halt the decline of the stock, and the multi-annual management plan of 2005 was consequently revised in 2008. Although the new management plan was evaluated by ICES as consistent with the precautionary approach and MSY objectives, the fact is that the decision taken for 2009 was for a TAC well above the figure recommended by ICES to halt immediately the decline of the stock.

As a result of this sequence of decisions (and lack of decisions), a consistent and effective management plan was agreed and properly implemented between coastal States far too late to allow the stock to quickly recover: the poor state of the stock led to a situation whereby, for 2011, if the management plan were followed (which indeed was the decision), catches should be reduced by 93% from their level 2010.

The rules adopted by NEAFC for the regulatory Area in 2011 were fortunately consistent with this very drastic reduction: a TAC of 5831t⁴⁶, but Russia objected in 31 December 2010 in accordance with Article 12 of the NEAFC Convention, on the basis that the scientific advice available contemplated solutions different from a drastic catch reduction. Russia adopted an autonomous catch limit of 45 000t together with a delayed start of the fishery by 1 March 2011.

The consequences of the loss of fishing opportunities on blue whiting are disastrous for several key EU sectors. Specialised fleets will have stopped or drastically cut back their activity, with important social consequences in terms of job losses, and the traditional swaps with Norway had to be discontinued, which implies losses of fishing possibilities in Arctic waters.

2. MACKEREL⁴⁷

Biology

The combined northeast Atlantic mackerel is assessed as one stock but composed of three spawning components. Spawning areas of mackerel are widely spread, and only the North Sea component is sufficiently distinct to be clearly identified as a separate spawning component. Mackerel from the Southern and Western areas migrate to feed in the Norwegian Sea and the North Sea during the second half of the year and then they mix with the North Sea component (overwintering). In recent years the "feeding" migration appears to take place more to the western approaches of the North-east

⁴⁶ This TAC includes part of the catch that Coastal States can take in their EEZ. As a consequence, the additional catch that it represents is only 3192t (of which 2975t for Russia and 217 for Greenland).

⁴⁷ Most information and data shown in this annex are extracted from the ICES website, in particular from the advice given by ICES for the management of mackerel in 2010 and from the report of the ICES working group dealing with widely distributed stocks (WGWIDE). These reports can be found online: <http://www.ices.dk/committe/acom/comwork/report/2010/2010/mac-nea.pdf>
<http://www.ices.dk/workinggroups/ViewWorkingGroup.aspx?ID=273>

Atlantic, perhaps due to the effects of climate change, and this has made mackerel more available to fisheries in the Icelandic and Faroese EEZs than historically was the case. Return to the spawning grounds start in the early spring and goes on until the end of the spawning season, which is variable for the different spawning components of the stock.

State of the stock

Following recent good recruitments (entry in the stock of newborn individuals each year) in 2002, 2005 and 2006, the stock increased sharply, reaching a peak of spawning stock biomass (the total weight of the individuals capable to reproduce at spawning time) close to 3 million tonnes, the highest on record. The fishing mortality, which reached high levels ($F=0.44$) in 2002, was subsequently reduced and reached a value of $F=0.23$ in 2009. These figure compares with reference points established by ICES as follows:

Reference points

	<i>Type</i>	<i>Value</i>	<i>Technical basis</i>
MSY	MSY $B_{trigger}$	2.2 million t	SSB associated with high long term yield and low probability of stock depletion based on management strategy evaluation (ICES, 2008)
Approach	F_{MSY}	0.22	F associated with above
Precautionary	B_{lim}	1.67 million t	B_{loss} of the 2007 assessment for combined stock (Western, Southern and North Sea components)
	B_{pa}	2.3 million t	B_{loss} of the in Western component in 1998 assessment raised by 15% to account for the southern component
Approach	F_{lim}	0.42	F_{loss}
	F_{pa}	0.23	$F_{lim} * 0.55$ (CV 36%)

(unchanged since: 2010)

The current value of fishing mortality for mackerel is therefore very close to the one that would produce MSY in the long term ($F=0.22$), and the spawning stock biomass is well above the levels associated to MSY ($SSB_{MSY}=2.2$ million t) or to a precautionary level ($SSB_{pa}= 2.3$ million t)⁴⁸. In other words, the stock is now healthy and fished at a rate which may lead to maximum sustainable yield. This is the desired status of any fish stock.

Fisheries

This species is distributed in the whole ICES area and currently supports one of the most valuable European fisheries (with 2010 landings estimated at 930 000t). Mackerel is fished by a variety of fleets (ranging from open boats using hand lines on the Iberian coasts to large freezer trawlers and Refrigerated Sea Water (RSW) vessels in the Northern Area. The stock is historically divided into three components, with the North Sea component considered to be over fished since the late 1970s, and the Western component contributing the vast majority of biomass and catch to the stock.

The patterns of NEA mackerel fishing are very variable throughout the wide mackerel distribution and between the seasons due to migration, spawning, feeding and over-wintering. The largest fisheries have been on the over-wintering and early spawning migration phases. The geographic area of these fisheries has changed over time, and a precise description of their distribution is given in the report of WGWIDE (see footnote

⁴⁸ This level of SSB is defined as the one which guarantees with a high probability that the actual value of SSB, which is estimated with a certain inaccuracy, is not at the level of SSB_{lim} , which is thought to lead to stock depletion.

45 above). The important feature to underline is that in recent years the fishery has shifted towards the north and to the north-west, perhaps due to oceanographic conditions determined by climate change (which led to the recent dispute with Iceland and the Faroe Islands).

The following table (ICES report, updated) shows the recent evolution of catches by country:

Table 9.4.2.5b Mackerel in the Northeast Atlantic (combined Southern, Western, and North Sea spawning components). Catches by country 1988-2009 (cont.) (data submitted by Working Group member)

Country	2002	2003	2004	2005	2006	2007	2008	2009
Belgium	22	2	5	1	3	1	2	3
Denmark	34376	27900	25665	23212	24219	25223	26726	23491
Estonia								
Faroe Islands	19768	14014	13029	9769	12067	13429	11289	14062
France	21878	22906	20266	16338	14953	20038	15602	18340
Germany, Fed.	26532	24061	23244	19040	16608	18221	15502	22703
Germany, Dem. Rep.								
Guernsey					10			
Iceland	53	122		363	4222	36706	112286	116160
Ireland	72172	67355	61102	45687	40664	49260	44759	61056
Jersey				9	8	6	7	8
Latvia								
Lithuania					95	7		
Netherlands	33444	30424	27532	25127	24157	24234	19972	23568
Norway	184291	163406	157364	119678	121993	131691	121524	121229
Poland				570		978		
Portugal	2934	2749	2289	1509	2620	2605	2381	1753
Romania								
Spain	50123	23762	34455	52753	54136	62946	64648	114074
Sweden	5232	445	4437	3204	3209	3858	3664	7303
United Kingdom	194045	183008	174730	152801	95815	133688	112149	157010
Russia/USSR (Russia from 1990)	45811	40026	49489	40495	33580	35408	32728	41414
Misreported	6009		31					
Unallocated	50543	59172	46596	13171	4954	12453	1069	-139
Discards	23774	9481	10972	19760	17970	8615	26766	12854
Total	771007	668833	651206	543487	471283	579367	611074	734889

Economic importance of the fishery

According to an assessment on the basis of 2009 values conducted by Unit MARE A3, in charge of the structural policy and economic analysis, about 800 EU vessels have a strong (>39%) dependence on mackerel⁴⁹. Those vessels employ more than 1 630 workers generate a gross value added of above 45mio€ Most of these (in numbers) belong to the small-scale fishing segment of Irish handliners.

⁴⁹ Dependence is measured as the ratio between the value of catch of mackerel and the value of the total catches for each specific segment.

Management

Until 2007, Norway and the EU were the major if not the only shareholders of this fishery and have responded to the above-mentioned international requirements by consulting each other and reaching a common understanding on the management of the stock. Since that year, until 2010, and responding to an increased availability of mackerel in the EEZ of the Faroe Islands, this country also participated in the consultation on mackerel management. The part of the fishery conducted in international waters (the NEAFC Regulatory Area) was managed since 2006 and until 2009 by the North-East Atlantic Fisheries Organization (NEAFC).

A management plan was agreed by Norway, Faroe Islands and EU in October 2008. ICES has evaluated the plan and concluded that it responds to the precautionary principle and is well designed to achieve maximum sustainable yield.

Since 2008, and following a progressively increasing availability of the stock in the EEZ of Iceland, this country started to develop a fishery on mackerel which by 2009 reached levels of more than 130 000 t. This figure was interpreted by the other coastal States (Norway, the EU and Faroe islands) as excessive and incommensurate with what could be taken as legitimate rights of Iceland with regard to commonly accepted allocation criteria in international practices on sharing of fish resources. For comparison, the TACs agreed by the other three coastal States were as follows: EU: 367 000t, Norway: 181 000t, Faroe Islands: 17 000t. Both Norway and the EU invited Iceland to limit its catches to more reasonable levels, but with no avail.

The attitude of Iceland, not willing to lower catches and the inability of Norway and the EU to force it to reduce its fishing level led the Faroe Islands to break the arrangement agreed with the EU and Norway for 2010 and set an autonomous quota of 80 000 t, 400% about the previously agreed figure of 17 000t.

In early 2010, Norway and the EU invited Iceland and Faroe Islands to open consultations to try to establish a four-band Coastal States arrangement for the long-term management of the stock. Meetings among Norway, the EU, Denmark, on behalf of Faroe Islands, and Iceland took place on 15-18 March 2010 in Alesund (Norway), 28-30 May 2010 in London (UK), 21-22 September 2010 in Reykjavik (Iceland), 12-14 October 2010 in London (UK) and 26 November 2010 in Oslo (Norway).

In spite of efforts to find a consensus among all participants, Iceland left the meeting 26 November 2010 and announced a unilateral quota of 146 818 tonnes for 2011, 13% higher than the already perceived as excessive quota for 2010. On their side, the EU and Norway agreed on their respective catch limitations and on the exchange of fishing opportunities between them. According to this arrangement, the EU and Norway would set for 2011 catch limits of 400 813t and 183 069, respectively. The EU, after having exchanged some fishing possibilities with Norway and kept aside 4 990t for future exchanges, adopted catch limits for the three EU management areas as follows⁵⁰:

⁵⁰ For a complete description of these areas, see Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:024:0001:0125:EN:PDF>

- North Sea: 20 002t
- Western and northern waters: 258 684t
- Southern waters: 29 572t
- Norwegian waters: 11 240t

As far as international waters are concerned, NEAFC adopted in November 2010 a recommendation to Contracting Parties inviting them to adopt catch limits and to notify them to the other Contracting Parties.

During the winter of 2010-2011, several encounters took place separately between the EU and Iceland, Norway and Faroe Islands, together with announcements of the use of trade-related measures⁵¹. A resumption of Coastal States consultations took place in Oslo from 9 to 11 March 2011 but no arrangements were concluded, notably due to escalating demands with higher expectations from the Faroe Islands and a still unacceptable approach from Iceland.

The end result of the notifications to NEAFC was the following:

- EU (provisionally): 327 298t as part of the catch limits for the EU fishing zone, which also applies to the NEAFC Regulatory Area
- NO: the 182 827t agreed with the EU can also be taken in the NEAFC RA
- ICE: Of the 154 825t catch limit for the Icelandic EEZ, up to 20 000t can be taken in the NEAFC RA.
- FI: The 150 000t catch limit for the Faroese EEZ can be taken from the NEAFC RA.
- RF: A catch limit of 49 243t for the NEAFC RA.

In all, total catch in 2011 may reach 937 950t in both the NEAFC RA and the EEZs of Coastal States, i.e. 45% higher than the catch forecasted by ICES if the management plan was followed. According to the ICES catch forecast, such a catch would result in a fishing mortality of $F=0.33$. This figure is 50% higher than the value of $F=0.22$ that, according to ICES, would lead to maximum sustainable yield. $F=0.22$ also represents the upper limit of the range of F -values aimed at by the management plan designed by Norway, the EU and Faroe Islands in 2008.

Although there is no immediate danger of collapse of the stock, reverting in 2012 to catch rates consistent with the management plan may imply important losses of potential yield. These losses are to be estimated with some precision following the new assessment that will be conducted in September 2011.

3. OTHER POTENTIAL CASES

Other stocks are managed in the complex way described above for blue whiting and mackerel. Essentially, NEAFC recommendations only apply to the NEAFC RA, and

⁵¹ In January 2011, the joint Committee of the European Economic Agreement was convened by the EU to announce its intentions to ban all landings of mackerel in the EU ports by Icelandic vessels on the basis of the European Economic Agreement (EEA), which foresees such type of measures in its Protocol No 9.

management rules in the EEZs of Coastal States are adopted by these, preferably in a coordinated manner in the context of "consultations". Other stocks subject to this regime in the North east Atlantic are: redfish, Atlanto-Scandian herring and horse mackerel. Of these, only redfish present recurrent problems associated to disproportionate demands of coastal States, but no stock is free from the danger of a coastal state breaking the equilibrium achieved in the multi-lateral consultations.

It must be underlined that the results of these consultations are not legally binding: they cannot be called "agreements" with the meaning implied in international law. They are instead termed "arrangements" whereby the parties announce that they will recommend their respective fishing authorities the adoption of one or another measure. These authorities are free (although bound politically) to adopt or not the measures discussed during the consultations.

This is the reason why, in the case of mackerel, the decision of Faroe Islands to break the arrangements concluded in 2008 for the management plan could not be taken as a breach of international law that could led to apply the measures of the IUU Regulation.

In these circumstances, if the EU honours its ambition to lead good fishery management practice in the international scene, it would be justified to provide it with the widest possible range of instruments to induce other countries to do the right management choices.

Annex III. Calculation of administrative burden

Regulation setting up trade-related measures against non-cooperating countries						Tariff (1 per hour)	Time (minutes)	Price (per action)	Freq (per year)	Nbr entities	Total number of actions	Total administrative costs	Business as usual costs (% of ACT)	Total administrative burdens (AC-BAU)
No.	Art.	Org. Art.	Type of obligation	Description (required action(s))	Target group									
1	No		Notification of (specific) activities	Familiarizing with the information obligation	Custom and market authorities	31,29 €	120	62,58 €	1	20	20	1.251,80 €	30	876,12 €
2	No		Notification of (specific) activities	Training employees about the information obligations	Custom and market authorities	25,63 €	120	51,26 €	1	20	20	1.025,20 €	30	717,84 €
3	No		Inspection	Familiarizing with the information obligation	Custom and market inspectors	18,47 €	120	36,94 €	1	20	20	738,80 €	80	147,76 €
4	No		Inspection	Training employees about the information obligations	Custom and market inspectors	18,47 €	120	36,94 €	1	20	20	738,80 €	80	147,76 €
5	No		Inspection	Retrieving relevant information from existing data	Custom and market inspectors	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €
6	No		Inspection	Producing new data	Custom and market inspectors	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €
7	No		Inspection	Inspecting and checking	Custom and market inspectors	18,47 €	120	36,94 €	45	20	900	33.245,00 €	80	6.649,20 €
8	No		Inspection	Submitting the information	Custom and market inspectors	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €
														13.525,38 €

[Option 3, public authorities: 20 authorities concerned for 45 imports; costs would decrease in subsequent years if imports also decrease.

Regulation setting up trade-related measures against non-cooperating countries for the purpose of conservation of fish resources						Tariff (1 per hour)	Time (minutes)	Price (per action)	Freq (per year)	Nbr entities	Total number of actions	Total administrative costs	Business as usual costs (% of ACT)	Total administrative burdens (AC-BAU)
No.	Art.	Org. Art.	Type of obligation	Description (required action(s))	Target group									
1	No		Cooperation with audits & inspection by public authorities	Familiarizing with the information obligation	Import-export firms	18,47 €	60	18,47 €	1	20	20	389,40 €	80	73,88 €
2	No		Cooperation with audits & inspection by public authorities	Retrieving relevant information from existing data	Import-export firms	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €
3	No		Cooperation with audits & inspection by public authorities	Producing new data	Import-export firms	18,47 €	60	18,47 €	45	20	900	16.623,00 €	80	3.324,60 €
4	No		Information labelling for third parties	Familiarizing with the information obligation	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	1	20	20	389,40 €	70	110,82 €
5	No		Information labelling for third parties	Training employees about the information obligations	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	45	20	900	16.623,00 €	70	4.986,90 €
6	No		Information labelling for third parties	Adjusting existing data	Import-export firms from Iceland and FI	18,47 €	30	9,24 €	45	20	900	8.311,50 €	70	2.483,45 €
7	No		Information labelling for third parties	Producing new data	Import-export firms from Iceland and FI	18,47 €	10	3,08 €	45	20	900	2.770,50 €	70	831,15 €
8	No		Information labelling for third parties	Filing in forms and tables, including recordkeeping	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	45	20	900	16.623,00 €	70	4.986,90 €
9	No		Information labelling for third parties	Filing the information	Import-export firms from Iceland and FI	14,04 €	10	2,34 €	45	20	900	2.106,00 €	70	631,80 €
														18.101,80 €

[Option 3, business: The basis for the calculation is 20 export firms (ICE+FI) for all kind of products; there would be 10 exports of frozen, fresh, filleted and canned mackerel, 10 of fish waste, 25 of fish meal and 10 of fish oil.

Regulation setting up trade-related measures against non-cooperating countries						Tariff (1 per hour)	Time (minutes)	Price (per action)	Freq (per year)	Nbr entities	Total number of actions	Total administrative costs	Business as usual costs (% of ACT)	Total administrative burdens (AC-BAU)
No.	Art.	Orig. Act.	Type of obligation	Description required action(s)	Target group									
1	No		Notification of (specific) activities	Familiarizing with the information obligation	Custom and market authorities	31,29 €	60	31,29 €	1	20	20	625,80 €	30	436,06 €
2	No		Notification of (specific) activities	Training employees about the information obligations	Custom and market authorities	25,63 €	60	25,63 €	1	20	20	512,60 €	30	358,82 €
3	No		Inspection	Familiarizing with the information obligation	Custom and market inspectors	18,47 €	120	36,94 €	1	20	20	738,80 €	80	147,76 €
4	No		Inspection	Training employees about the information obligations	Custom and market inspectors	18,47 €	120	36,94 €	1	20	20	738,80 €	80	147,76 €
5	No		Inspection	Retrieving relevant information from existing data	Custom and market inspectors	18,47 €	30	9,24 €	10	20	200	1.847,00 €	80	369,40 €
6	No		Inspection	Producing new data	Custom and market inspectors	18,47 €	30	9,24 €	10	20	200	1.847,00 €	80	369,40 €
7	No		Inspection	Inspecting and checking	Custom and market inspectors	18,47 €	120	36,94 €	10	20	200	7.388,00 €	80	1.477,60 €
8	No		Inspection	Submitting the information	Custom and market inspectors	18,47 €	30	9,24 €	10	20	200	1.847,00 €	80	369,40 €
														3.678,20 €

Option 4, public authorities: 20 authorities concerned for 45 imports; costs would decrease in subsequent years if imports also decrease.

Regulation setting up trade-related measures against non-cooperating countries for the purpose of conservation of fish resources						Tariff (1 per hour)	Time (minutes)	Price (per action)	Freq (per year)	Nbr entities	Total number of actions	Total administrative costs	Business as usual costs (% of ACT)	Total administrative burdens (AC-BAU)
No.	Art.	Orig. Act.	Type of obligation	Description required action(s)	Target group									
1	No		Cooperation with audits & inspection by public authorities	Familiarizing with the information obligation	Import-export firms	18,47 €	60	18,47 €	1	15	15	277,05 €	80	55,41 €
2	No		Cooperation with audits & inspection by public authorities	Retrieving relevant information from existing data	Import-export firms	18,47 €	30	9,24 €	10	15	150	1.385,25 €	80	277,05 €
3	No		Cooperation with audits & inspection by public authorities	Producing new data	Import-export firms	18,47 €	80	18,47 €	10	15	150	2.770,50 €	80	554,10 €
4	No		Information labelling for third parties	Familiarizing with the information obligation	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	1	20	20	369,40 €	70	110,62 €
5	No		Information labelling for third parties	Training employees about the information obligations	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	10	20	200	3.694,00 €	70	1.108,20 €
6	No		Information labelling for third parties	Adjusting existing data	Import-export firms from Iceland and FI	18,47 €	30	9,24 €	10	20	200	1.847,00 €	70	554,10 €
7	No		Information labelling for third parties	Producing new data	Import-export firms from Iceland and FI	18,47 €	30	9,24 €	10	20	200	1.847,00 €	70	554,10 €
8	No		Information labelling for third parties	Filing in forms and tables, including recordkeeping	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	10	20	200	3.694,00 €	70	1.108,20 €
9	No		Information labelling for third parties	Filing the information	Import-export firms from Iceland and FI	14,04 €	10	2,34 €	10	20	200	468,00 €	70	140,40 €
														4.662,98 €

Option 4, business: The basis for the calculation is 15 export firms (ICE+FI); there would be 10 exports of frozen, fresh, filleted and canned mackerel.

Regulation setting up trade-related measures against non-cooperating countries							Tariff (1 per hour)	Time (minutes)	Price (per action)	Freq (per year)	Nbr entities	Total number of actions	Total administrative costs	Business as usual costs (% of ACT)	Total administrative burdens (AC-BAU)
No.	Act.	Org. Act.	Type of obligation	Description required action(s)	Target group										
1	No		Notification of (specific) activities	Familiarizing with the information obligation	Custom and market authorities	31,29 €	120	62,58 €	1	20	20	1.251,60 €	30	876,12 €	
2	No		Notification of (specific) activities	Training employees about the information obligations	Custom and market authorities	25,63 €	120	51,26 €	1	20	20	1.025,20 €	30	717,64 €	
3	No		Inspection	Familiarizing with the information obligation	Custom and market inspectors	18,47 €	120	36,94 €	1	20	20	738,80 €	80	147,76 €	
4	No		Inspection	Training employees about the information obligations	Custom and market inspectors	18,47 €	120	36,94 €	1	20	20	738,80 €	80	147,76 €	
5	No		Inspection	Retrieving relevant information from existing data	Custom and market inspectors	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €	
6	No		Inspection	Producing new data	Custom and market inspectors	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €	
7	No		Inspection	Inspecting and checking	Custom and market inspectors	18,47 €	120	36,94 €	45	20	900	33.246,00 €	80	6.649,20 €	
8	No		Inspection	Submitting the information	Custom and market inspectors	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €	
9	No		Denegation of authorisation to access ports and services	Familiarizing with the information obligation	EU port authorities	31,29 €	120	62,58 €	1	5	5	312,90 €	10	281,61 €	
10	No		Denegation of authorisation to access ports and services	Training employees about the information obligations	EU port authorities	25,63 €	120	51,26 €	1	5	5	256,30 €	10	230,67 €	
11	No		Denegation of authorisation to access ports and services	Retrieving relevant information from existing data	EU port authorities	25,63 €	30	12,82 €	20	5	100	1.261,50 €	10	1.153,35 €	
12	No		Denegation of authorisation to access ports and services	Producing new data	EU port authorities	18,47 €	30	9,24 €	20	5	100	923,50 €	10	831,15 €	
13	No		Denegation of authorisation to access ports and services	Inspecting and checking	EU port authorities	18,47 €	60	18,47 €	20	5	100	1.847,00 €	10	1.682,30 €	
14	No		Denegation of authorisation to access ports and services	Submitting the information	EU port authorities	25,63 €	30	12,82 €	20	5	100	1.261,50 €	10	1.153,35 €	

Option 5, public authorities. 20 authorities concerned for 45 imports, costs would decrease in subsequent years if imports also decrease. 5 authorities would be concerned in denegation of 20 authorisations to use ports and services.

18.837,61 €

Regulation setting up trade-related measures against non-cooperating countries for the purpose of conservation of fish resources							Tariff (1 per hour)	Time (minutes)	Price (per action)	Freq (per year)	Nbr entities	Total number of actions	Total administrative costs	Business as usual costs (% of ACT)	Total administrative burdens (AC-BAU)
No.	Act.	Org. Act.	Type of obligation	Description required action(s)	Target group										
1	No		Cooperation with audits & inspection by public authorities	Familiarizing with the information obligation	Import-export firms	18,47 €	60	18,47 €	1	20	20	389,40 €	80	73,88 €	
2	No		Cooperation with audits & inspection by public authorities	Retrieving relevant information from existing data	Import-export firms	18,47 €	30	9,24 €	45	20	900	8.311,50 €	80	1.662,30 €	
3	No		Cooperation with audits & inspection by public authorities	Producing new data	Import-export firms	18,47 €	60	18,47 €	45	20	900	16.623,00 €	80	3.324,60 €	
4	No		Information labelling for third parties	Familiarizing with the information obligation	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	1	20	20	389,40 €	70	110,82 €	
5	No		Information labelling for third parties	Training employees about the information obligations	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	45	20	900	16.623,00 €	70	4.983,90 €	
6	No		Information labelling for third parties	Adjusting existing data	Import-export firms from Iceland and FI	18,47 €	30	9,24 €	45	20	900	8.311,50 €	70	2.493,45 €	
7	No		Information labelling for third parties	Producing new data	Import-export firms from Iceland and FI	18,47 €	10	3,08 €	45	20	900	2.770,50 €	70	831,15 €	
8	No		Information labelling for third parties	Filing in forms and tables, including recordkeeping	Import-export firms from Iceland and FI	18,47 €	60	18,47 €	45	20	900	16.623,00 €	70	4.983,90 €	
9	No		Information labelling for third parties	Filing the information	Import-export firms from Iceland and FI	14,04 €	10	2,34 €	45	20	900	2.106,00 €	70	631,80 €	

Option 5, business: The basis for the calculation is 20 export firms (ICE+FI) for all kind of products; there would be 10 exports of frozen, fresh, filleted and canned mackerel, 10 of fish waste, 25 of fish meal and 10 of fish oil. The prohibition to access ports and services will not generate significant administrative costs to the industry.

19.101,80 €

Annex IV

List of acronyms

ACFA	Advisory Committee for Fisheries and Aquaculture
CFP	Common Fisheries Policy
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
EEA	European Economic Area
EEZ	Economic exclusive zone
EP	European Parliament
EU	European Union
F	Fishing mortality
FAO	Food and Agriculture Organization of the United Nations
FI	Faroe Islands
H/G	Headed and gutted
GATT	General Agreement on Tariffs and Trade
IA	Impact Assessment
IASG	Impact Assessment Steering Group
ICE	Iceland
ITLOS	International Tribunal for the Law of the Sea
ICES	International Council for the Exploration of the Sea
IUU	Illegal, Unreported and Unregulated fisheries
LDRAC	Long-Distance Fleet RAC
MSC	Marine Stewardship Council
MSFD	Marine Strategy Framework Directive
MSY	Maximum sustainable yield
NEAFC	North-East Atlantic Fisheries Commission
NEAFC RA	NEAFC Regulatory Area
NGO	Non-Governmental Organization
NO	Norway
PELRAC	Pelagic RAC
RAC	Regional Advisory Committee
RFMO	Regional Fisheries Management Organization
SSB	Spawning Stock Biomass
STECF	Scientific, Technical and Economic Committee for Fisheries
TAC	Total allowable catch
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
WGWIDE	Working Group on Widely Distributed Stocks