

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to share any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Fisheries Control System
LEAD DG – RESPONSIBLE UNIT	MARE – D4
LIKELY TYPE OF INITIATIVE	Legislative proposal
INDICATIVE PLANNING	2 nd quarter 2018
ADDITIONAL INFORMATION	https://ec.europa.eu/fisheries/cfp/control_en

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception Impact Assessment, including its timing, are subject to change.

A. Context, problem definition and subsidiarity check

Context

The Common Fishery Policy (CFP)¹ objectives are to ensure that fishing and aquaculture activities are environmentally sustainable in the long term and are managed in a way that is consistent to achieve economic, social and employment benefits. Its success depends very much on the implementation of an effective control and enforcement system. The measures establishing a Union fisheries control system for ensuring compliance with rules of the CFP are provided for in the Council Regulation (EC) No 1224/2009 of 20 November 2009 (hereinafter 'the Control Regulation'), in the Regulation establishing a European Fisheries Control Agency (EFCA)², in the Regulation establishing a system to combat illegal, unreported and unregulated fishing (IUU fishing)³. They will be complemented by the Regulation on the sustainable management of the external fishing fleets (SMEF)⁴.

The need to review the Union fisheries control system, and in particular the Control Regulation and the EFCA's founding Regulation, was recently raised by various institutions.

A comprehensive evaluation of the implementation of the Control Regulation and its impacts on the CFP, covering the period 2010-2016, was carried out as part of the REFIT exercise and its results published in the Report from the Commission to the European Parliament and the Council⁵ and the accompany Staff Working Document 'REFIT Evaluation of the impact of the fisheries regulation'⁶.

The evaluation confirmed that the Control Regulation is highly relevant for ensuring compliance with the CFP. The text adopted in 2009 tackled the main shortcomings of the previous system, contributing to step up the overall level of compliance with the CFP, to improve communication, exchange and data sharing among the various stakeholders, to generally improve the quality and quantity of fisheries data, and to foster the level playing field among operators.

The evaluation however also showed that more needs to be done and that the current legislative framework is not entirely fit for purpose, for a number of reasons laid down in the next section of this document.

During 2016 and 2017 the control of the CFP was also addressed by other Institutions:

- The special Report of the Court of Auditors '*EU fisheries controls: more efforts needed*' (29 May 2017);
- The European Parliament resolution of 25 October 2016 on how to make fisheries controls in Europe uniform.

Both documents highlight deficiencies in the implementation of the Fisheries Control Regulation, as well as in some of its provisions and call upon the Commission to tackle the identified issues such as coherence with the CFP, complexity of the system and lack of clarity in the Control Regulation, sanctioning systems, control of the small fleet, quality of data and, sharing and exchanging of information. The latter should also allow cross-benefits with other related marine and maritime areas e.g. maritime safety and, search & rescue.

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, OJ L 354 28.12.2013 p.22.

² Council Regulation (EC) No 768/2005, OJ L 128, 21.5.2005, p.1.

³ Council Regulation (EC) No 1005/2008, OJ L 268, 29.10.2008, p.1.

⁴ On 20 June 2017 the European Parliament and the Council reached a political agreement on the basis of a Proposal of the Commission (COM(2015) 636 final). The formal adoption and subsequent entry into force of the Regulation is expected before the end of the year.

⁵ COM(2017) 192 final, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2017:192:FIN>

⁶ SWD(2017) 134 final http://eur-lex.europa.eu/resource.html?uri=cellar:2c2f2554-0faf-11e7-8a35-01aa75ed71a1.0017.02/DOC_1&format=PDF

In addition, in June 2017, the EFCA Administrative Board issued its recommendations following the results of the second five-year EFCA's evaluation⁷. Among other things, the Board recommended to align the EFCA's founding Regulation to any review of the Control Regulation, as well as to the recent and possible future developments of the CFP.

Finally, shortcomings in the Control Regulation and the need for revision were also identified by the REFIT Platform in June 2017 in its opinion on the submission by the Finnish Government Stakeholder survey on the control of EU fisheries⁸.

Problem the initiative aims to tackle

The main weaknesses identified in the Fisheries Control System are:

- **Uneven level of enforcement:** Compliance with CFP rules is based on a fair and uniform application of the control rules across fisheries and Member States and on a strict and consistent follow-up of detected infringements. Common standards with respect to sanctioning, including the application of points for serious infringements, are recognised pillars to ensure equal treatment of fishermen. The evaluation, however, shows that sanctions and their application vary considerably across Member States. Furthermore, the current point system for serious infringements, giving discretion to Member States to define criteria, hinders the CFP implementation and erodes the trust of operators in the system.
- **Complexity of the legislative framework:** Despite the simplification achieved with the 2009 reform, the Control Regulation remains complex and a number of provisions require simplification and legal clarification. In addition, as some obligations can be interpreted and thus applied very differently by Member States, the Commission is often requested to provide guidance to avoid diverging interpretations.
- **Fisheries data still incomplete:** the Control Regulation sets a number of important provisions for data and information recording, management and sharing, including access by the various stakeholders. However, a number of those provisions appear to be obsolete with regard to available technologies, unclear, open to different interpretations or not fully adequate to the specificities of the various fisheries/sectors, in particular for small scale fisheries. The provisions also allow for too many derogations and exemptions which hinder the quality of the data collected and jeopardise full compliance with the CFP. Additionally, there is a need to review the provisions enabling sharing and exchange of data with other parties with a legitimate interest, enabling synergies and cross-sector use, especially as regards VMS positioning data.
- **Lack of coherence with the current CFP:** the Control Regulation and the EFCA Regulation were both adopted prior to the reformed CFP, which entered into force in 2014. While the text of the Control Regulation was partially amended in 2015, the alignment did not introduce new provisions, tools and methods enabling the Member States to properly control and enforce new policy elements introduced by the CFP, in particular the landing obligation and the revised multiannual approach to fisheries management. Also the EFCA Regulation was amended in 2016 but exclusively to align it to the new coastguard functions and not to the reformed CFP.

Basis for EU intervention (legal basis and subsidiarity check)

The CFP and its control is an area of exclusive EU competence pursuant to Article 3(d) of the Treaty and therefore the subsidiarity principle does not apply.

B. Objectives and policy options

This initiative aims at amending the Union fisheries control system to simplify it, to make it more effective and efficient and to ensure full compliance with the reformed Common Fisheries Policy (CFP).

Specific objectives of this initiative are to:

- Remove obstacles that lead to ineffective or different implementation of provisions by Member States and to situations that hinder equitable treatment of operators within and across Member States, e.g. concerning the enforcement of rules;
- Simplify the current legislative framework and reducing administrative burden e.g. by streamlining reporting

⁷ <https://efca.europa.eu/sites/default/files/EFCA%20Evaluation%20-%20Issuing%20of%20Recommendations.pdf>

⁸ https://ec.europa.eu/info/sites/info/files/xiv3acontrol_of_eu_fisheries.pdf

requirements; promoting the use of harmonised and/or interoperable IT tools, and harmonise the catalogue of serious infringements.

- Improve availability, reliability and completeness of fisheries data and information, in particular of catch data, which are key to monitor and deliver on the CFP objectives and allow exchange and sharing of information;
- Bridge the gaps with the reformed CFP, with special regard to appropriate control rules relating to the landing obligation and to the revised multiannual approach to fisheries management;
- Enhance the level of coordination among and within Member States, the European Commission and the European Fishery Control Agency (EFCA) to improve synergies and promote a level playing field at EU level.
- Align EFCA's mission and tasks with recent developments in the Common Fisheries Policy (CFP), notably the landing obligation, regionalisation, measures to combat IUU fishing and the external dimension of the CFP as well as with any future revision of the Control Regulation.

To achieve these objectives the following policy options are considered:

Option 1: No policy change. Continue current policy and focus on implementation and enforcement of existing framework

The continuation of the current situation is taken as baseline to assess the impacts of the other proposed policy options.

Option 2: Amendment of the Fisheries Control Regulation

This option foresees amendment of the provisions of Control Regulation to: 1) increase effectiveness and coherence of rules, in particular as regards sanctions and point system, follow up of infringements, data exchange and data sharing, traceability, recreational fisheries, monitoring and catch reporting tools for vessels below 12 meters; 2) simplify the current legislative framework, including by clarifying provisions prone to different interpretations that resulted in problematic and uneven implementation and by addressing the numerous derogations and by addressing the numerous derogations; 3) bridge the gaps with CFP, in particular with the landing obligation; 4); promote the use of harmonised and/or interoperable (at national level) IT tools; 5) increasing synergies with other policies, notably the fight against IUU fishing, environment, markets and security, and 6) align the text with the Lisbon Treaty.

Option 3: Amendment of the Fisheries Control System

This option includes all the elements indicated in option 2, any related amendments of specific provisions in relevant legislation, the alignment of EFCA's mission and tasks to the changed needs of the new CFP and of the revised Control Regulation and adaptation of EFCA procedures and working practices to take into account the Common Approach on decentralised agencies as adopted in the 2012 Joint Statement of the European Parliament the Council of the EU and the European Commission.

C. Preliminary assessment of expected impacts

Likely economic impacts

Options 2 and 3 are expected to have positive economic impacts, ensuring return of the investments done in past years while boosting growth and investment, and increasing innovation and technological development.

Likely social impacts

Options 2 and 3 are expected to have positive social impacts in the medium-long term especially for small scale fisheries, particularly in those sectors targeting overfished stocks, but also for the maritime/fisheries safety aspects and in saving lives at sea.

Likely environmental impacts

Options 2 and 3 are likely to have positive impacts, with further reduction of overfishing and recovery of fish stocks.

Likely impacts on fundamental rights

No major impacts anticipated.

Likely impacts on simplification and/or administrative burden

Options 2 and 3 are likely to have positive impacts on simplification and in the medium-long term are expected to decrease administrative burden.

D. Evidence base, data collection and better regulation instruments

Impact assessment

An impact assessment is being prepared to support the preparation of this initiative and to inform the Commission's decision. The impact assessment will include quantification of the estimated simplification benefits and cost savings derived from this initiative.

Evidence base and data collection

The results of the ex-post REFIT evaluation, complemented by the evidence and data collected, as well as by the results of the consultations carried out in this frame, will all serve as a basis for the impact assessment.

The earlier mentioned report from the Court of Auditors, the resolution of the European Parliament, the opinion of REFIT Platform, together with the Recommendations from EFCA will also feed into it.

The results of the studies carried out in 2015 and 2016 by the European Parliament and NGOs will further support the analysis.

Collection of additional data to specifically assess the impacts of the proposed policy options is also foreseen.

Consultation of citizens and stakeholders

An extensive public consultation was conducted in the framework of the REFIT evaluation⁹ in 2016, with 462 contributions received. The consultation consisted of 35 closed questions, tackling specific topics plus 3 open questions on strengths and weaknesses of the current system and suggestions on way forward. Targeted consultations were also carried out with directly and indirectly impacted stakeholders, plus the ones who have stated interest in the policy.

Additional targeted consultations will be carried out in the fourth quarter of 2017 with the aim to get feedback on the above listed policy options and the likely impacts of each option. The policy options will be presented and discussed in several different fora to ensure a broad and exhaustive coverage of relevant stakeholders.

These targeted consultations will address all stakeholders directly and indirectly impacted by the Control Regulation, and the ones who have a stated interest in the policy. In particular the following categories of stakeholders have been identified: Advisory Councils, European Fisheries Control Agency (EFCA), European Maritime Safety Agency (EMSA) and FRONTEX (sea border control), Public authorities, Industry/fishermen, EU and national associations, NGOs, Research organisations.

Stakeholders are invited to provide feedback on this inception impact assessment and in particular on the above listed policy options (N.B. the feedback period will close 4 weeks after the date of publication of this document).

Stakeholders can also send specific contributions by email to MARE-FISHERIES-CONTROL@ec.europa.eu (please specify if the comments can be published with your personal or your organisation's details, or if the comments should be published anonymously, in which case make sure attachments do not contain any personal details).

All contributions will be published on the dedicated website on Europa¹⁰.

Will an implementation plan be established?

No implementation plan will be established, as the envisaged legislative proposal will be directly applicable and it is not expected to raise implementation challenges.

⁹ https://ec.europa.eu/info/consultations/evaluation-fisheries-control-regulation_en

¹⁰ https://ec.europa.eu/fisheries/cfp/control_en