



EUROPEAN COMMISSION

Brussels, 21.11.2011
SEC(2011) 1391 final

COMMISSION STAFF WORKING PAPER

SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**Proposal for a Regulation of the European Parliament and of the Council
amending Council Regulation (EC) 1185/2003 on the removal of fins of sharks on board
vessels**

{COM(2011) 798 final}
{SEC(2011) 1392 final}

EXECUTIVE SUMMARY

1. PROBLEM DEFINITION

Due to their life-history characteristics, shark populations are particularly vulnerable to overfishing and take a long time to recover from depletion. Sharks have been increasingly targeted by fisheries due to an increased demand for shark products, fins in particular. Finning is the practice of severing and retaining the fins of sharks while discarding the carcass at sea. Finning is highly wasteful and unsustainable. Recognizing that sharks, skates and rays are particularly vulnerable to overexploitation, that many shark stocks are under serious threat, and that the practice of shark finning contributes to excessive mortality and to stock depletion the Council in 2003, adopted Regulation (EC) No. 1185/2003 on the removal of fins of sharks on board vessels^{Error! Bookmark not defined.}. The Regulation applies to all types of fishing in EU waters, and to all EU vessels fishing in non-EU waters.

The Regulation bans finning without exception, and also bans the removal of fins of sharks on board vessels. However, by derogation, shark fins may be removed from carcasses on board vessels which hold special fishing permits. In order to ensure that no discarding of carcasses has occurred, the weight of the fins must never exceed 5% of the live weight of the shark catch on board.

The main identified problem with the current Regulation centres on the weakness in control, which stems from the existence of permits (issued at Member States' discretion) allowing the removal of fins on board, and from the use of weight ratios in an attempt to verify that finning has not occurred. Consequently the following specific problems are identified:

1. The Regulation permits processed shark carcasses and fins to be landed in separate ports at separate times, making it impossible to physically weigh fins and carcasses against each other, thus making it impossible for inspectors to be certain that finning has not occurred. Inspectors must rely on the figures recorded in the logbook in order to make the necessary weight comparisons.
2. To verify the compliance with the 5% fin to carcass live weight ratio, inspectors faced with processed carcasses and/or fins, must use conversion factors to verify that finning has not occurred. The weight ratio and conversion factor varies according to species, location and life stage, as well as processing/preservation methods such as freezing and/or drying of the products. No single ratio can apply to all of these contingencies.
3. Fleets around the world use different fin cutting techniques and retain different fin sets from carcasses. The fin cutting methods of the EU fleets and the fact that they retain all fins on board results in a higher fin-to-carcass-weight ratio than that calculated for other fleets. EU vessels routinely land in non-EU ports where more restrictive weight ratios apply, and are consequently found to be in breach of locally applied regulations.
4. On-board processing hampers the collection of data which are vital for the development of management and conservation measures.

5. The Regulation imposes an annual reporting obligation on the Member States. The majority of Member States have a poor compliance record with this obligation (see Annex). It would seem necessary to simplify the reporting obligation for those Member States not issuing special permits and for those not catching any sharks.
6. There are no uniform guidelines governing the issue of permits by national authorities.

Those primarily concerned are EU vessels holding special fishing permits. These are typically long distance surface longliners, the vast majority being Spanish (181 vessels), followed by Portuguese (29 vessels). There is one Lithuanian and one Cypriot vessel holding permits.

2. ANALYSIS OF SUBSIDIARITY

The conservation of marine biological resources is an exclusive competence of the European Union and the European Commission therefore has the right to propose relevant legislation in this domain, in the framework of the Common Fisheries Policy. Sharks are fished by vessels flagged in various Member States, operating within and outside EU waters, and EU action in this domain is therefore necessary and justified.

3. OBJECTIVES

The general objective of the Regulation is to enhance shark conservation. The main policy objective is to ensure that, in application of the precautionary principle, the conservation of shark stocks is enhanced.

In order to achieve this objective more specific objectives are set:

- Conservation of sharks (particularly blue shark and shortfin mako) by eliminating all possibility to fin.
- Facilitation of effective and reliable control.
- Enabling collection of data critical to the establishment of management measures and stock monitoring.

Pursuing this objective would ensure coherence of EU legislation with international rules (in particular FAO, ICCAT and IOTC), which the EU must abide by.

4. POLICY OPTIONS

The following options have been considered and assessed:

Option 1: Maintaining the use of the 5% fin to live-weight ratio

- (i) The use of the 5% fin-to-carass live weight ratio, without the requirement to land processed carcasses and fins simultaneously or at the same port.

(ii) The use of the 5% fin-to-carcaass live weight ratio, combined with the requirement to land processed carcasses and fins simultaneously, at the same port.

Option 1(i) amounts to maintaining the status quo, i.e. on-board processing would still be permitted on vessels holding processing permits. Where fins and carcasses are landed simultaneously at the same port they would have to be weighed to check whether the fin weight exceeds 5% of the live weight of the sharks, in order to determine whether finning has occurred. When fins and carcasses are landed separately, the inspector must rely on the information recorded in the logbook.

Option 1(ii) allows for direct inspection and weighing of both fins and carcasses. Under this option it is not necessary to rely only on the logbooks to determine the fin-carcaass weight correspondence.

Option 2: Shift from the current limit of 5% fin to live weight ratio to 5% fin to dressed (typically beheaded, eviscerated and skinned) carcass ratio and require that fins and carcasses are landed simultaneously at the same port

Given that the dressed weight can be roughly equal to half the live weight, such a shift would halve the amount of fins a vessel would be allowed to retain on board. Similarly to Option 1(ii), Option 2 would allow for direct inspection and weighing of both fins and carcasses, eliminating reliance on logbooks when checking for compliance with the maximum fin-carcaass weight ratio.

Option 3: Fins-remain-attached approach:

Keeping fins naturally attached to the carcass makes it impossible for finning to take place. In order to facilitate on-board storage, the fins could be partly sliced through and folded against the carcass, as is practiced in some fisheries in North, Central and South America.

Option 4: Prohibition to take sharks in surface longline fisheries

This prohibition would mean that sharks cannot be retained, transhipped or landed by longliners. Technical measures and fishing practices would have to be significantly changed to respect this prohibition, as sharks constitute 40-70% of longliners' catches by volume (25-47% of the catch value).

5. ANALYSIS OF IMPACTS

The impacts of each policy option were assessed to the greatest extent possible. However, given the lack of relevant data, economic data in particular, it has not been possible to accurately quantify these impacts. These impacts are summarized in Table 1.

Table 1. Summary comparison of the policy options – impacts of each option.

	I M P A C T S				
Option	Economic	Conservation	Control and enforcement	Data collection	Simplification, administrative burden and relations with

					non-EU countries
1(i)	No impact in the short term, but reduced revenue due to reduced catches is possible in the medium term and likely in the long term.	Negative impact increasing in the long term.	Significant difficult in ensuring compliance. EU inspectors state that this option is unacceptable.	Remains very limited	No impact on simplification or administrative burden. Probable recurrence of problems when EU vessels land in non-EU ports where the 5% dressed weight rule applies.
1(ii)	No impact in the short term, but reduced revenue due to reduced catches is possible in the medium term and likely in the long term.	Negative impact increasing in the long term.	Control is facilitated, but a certain degree of uncertainty regarding compliance remains.	Remains very limited	No impact on simplification or administrative burden. Probable recurrence of problems when EU vessels land in non-EU ports where the 5% dressed weight rule applies.
2	A moderate negative impact is expected. This could be offset to a certain extent provided that the sector is willing to adapt fin cutting practices.	Depending on the sector's reaction, either a continuation of current trends or a positive impact can be expected, the magnitude of which is unknown.	Control is facilitated, but a certain degree of uncertainty regarding compliance remains.	Remains very limited	No impact on simplification or administrative burden. EU vessels landing in certain non-EU ports would in line with the locally applied 5% dressed weight rule.
3	No significant negative impact expected on operators who are in compliance with the current Regulation.	Positive impact expected, the magnitude of which is unknown, but becoming more positive in the mid to long term.	Control is significantly facilitated and simplified, and uncertainty regarding compliance is virtually eliminated.	Significantly enhanced, enabling establishment of further management measures in the future.	The abolishment of weight ratios and special fishing permits would contribute to simplification of rules and their implementation. No direct impact on relations with non-EU countries.
4	A significant negative impact is expected due to the loss of a significant percentage of the current revenue of surface	Significant positive impact expected in the short, medium and long term.	Control is significantly facilitated and simplified, and uncertainty regarding compliance is virtually eliminated.	Data collection becomes virtually non-existent.	The abolishment of weight ratios and special fishing permits would contribute to simplification of rules and their implementation. No direct impact on relations with non-

	longliners.				EU countries.
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6. COMPARING OF THE POLICY OPTIONS

Option 4 might have the largest positive effect on shark stocks, particularly blue shark and shortfin mako, provided that shark avoidance measures are successful and that no discards are generated. On the other hand, Option 4 would have the most significant negative economic impact on the fishing sector, which might cease being profitable. Furthermore, option 4 would further limit data collection, thus inhibiting the establishment of effective management measures such as a TAC and quota regime, in the future. Option 3 would also have a significant positive effect on these stocks, but a much smaller negative effect on the fishing sector than Option 4. Depending on the application of adaptive strategies (new marketing channels, new fishing, processing and transshipment patterns etc), the sector might be able to withstand the negative economic impact of Option 3. Furthermore, Option 3 would have a significant positive effect on data collection, consequently enabling the establishment of essential conservation and management measures in the mid and long term. Additionally, Option 3 would simplify control and enhance its effectiveness. Options 1(i), 1(ii) and 2 would not fulfil the desired policy objectives.

7. MONITORING AND EVALUATION

The nature of the monitoring regime will be determined by the choice of policy option. In case options 1(i), 1(ii) or 2 are selected, a monitoring regime similar to the current one would be implemented, i.e. the Member States will be required to submit annual reports of a nature similar to that laid down in Article 6 of the current Regulation.

In case option 3 or 4 is chosen, the nature of reporting would be radically different and the reporting format will be greatly simplified as special fishing permits would no longer exist. The current reporting format consists of a questionnaire, many of the questions being based on the assumption that on-board fin removal is being carried out. If on-board fin removal were to cease, these questions would no longer be present in the future follow-up questionnaire.

No significant costs or savings are expected, regardless of the choice of the format and nature of the future reporting obligations. However, if options 3 or 4 are chosen the administrative burden would be reduced.

The evaluation of the positive conservation effects on the two main shark species concerned will have to be monitored in the medium to long term, as their life-history characteristics are such that any positive trends in the stock would only become apparent after several years or perhaps decades.