

Conservation of fishery resources and protection of marine ecosystems through technical measures

2016/0074(COD) - 11/03/2016 - Legislative proposal

PURPOSE: to change the governance structure of technical measures on the conservation of fishery resources in order to optimise the contribution of technical measures to achieving the key objectives of the new Common Fisheries Policy (CFP).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: technical measures are rules governing how and where fishermen may fish. They aim to control the catch that can be taken with a given amount of fishing effort and also to minimise the impacts of fishing on the ecosystem. They concern: (i) measures that regulate the operation of the gear; (ii) minimum sizes below which fish must be returned to the sea; (iii) measures that set spatial and temporal controls to protect aggregations of juvenile or spawning fish; (iv) measures that mitigate the impacts of fishing gears on sensitive species or closed areas to protect sensitive habitats.

The history of technical measures applying in European fisheries legislation within the framework of the Common Fisheries Policy (CFP) is one of numerous regulations, amendments, implementing rules and temporary technical measures introduced as stop-gaps to resolve emerging problems. Across all Union sea basins and non-Union waters in which Union vessels operate there are more than 30 regulations which contain technical measures.

With the new challenges of the [new CFP](#), which came into force on 1 January 2014, the retrospective evaluation concluded that the current regulatory structure for technical measures will continue to be sub-optimal.

This is because of five identifiable problems:

1. sub-optimal performance: technical measures provide little incentive to fish selectively where there is no cost to discarding, or of catching sensitive species or impacting adversely on the seabed;
2. difficult to measure effectiveness: the current regulations do not contain any defined metrics on which to measure success;
3. prescriptive and complex rules: some measures are difficult for control authorities to enforce, and for fishermen to comply with;
4. lack of flexibility: technical measures are mostly decided following a complex, inflexible and lengthy politically-driven process which is not well suited to defining detailed technical rules that need frequent updating and periodic review;
5. insufficient involvement of key stakeholders in the decision-making process.

These repeated failures to reach agreement on a new technical measures regulation clearly highlight the need for a new approach which aims to change the governance structure of technical measures rather than making wholesale changes to the measures themselves, the improved flexibility and incentives for fishing selectivity it introduces will deliver improvements in the effectiveness of technical measures.

IMPACT ASSESSMENT: the preferred approach is that of a new framework Regulation containing a) general provisions (scope, objectives, guiding principles) and definition of the expected results and corresponding standards; b) common rules and technical provisions; and c) baseline standards (by region) corresponding to identified results which would function as default measures in the context of regionalisation.

The preferred option largely presents changes to the regulatory structure and governance of technical measures. Few new measures are introduced and any changes to the substance are very much about deletion of rules in order to simplify and lessen administrative burden, improve controllability or consolidate nature conservation measures.

CONTENT: the proposal has the following structure:

Subject matter: the proposed Regulation lays down technical measures concerning: (a) the taking and landing of fisheries resources; and (b) the operation of fishing gears and the interaction of fishing activities with marine ecosystems.

The proposal contains general provisions, overarching and specific objectives, targets linked to the general and specific objectives expressed in terms of levels of unwanted catches; thresholds for bycatches of sensitive species; and reduction in the extent of the seabed significantly affected by fishing; principles of good governance and definitions.

The definitions relate primarily to the definition of fishing gears and fishing operations and are common to all regions. They consolidate and update the existing definitions contained in the existing Regulations.

Common technical measures: the proposal contains common rules currently contained in all of the primary technical measures regulations but applicable to all sea basins and considered as de facto permanent as there is no need or justification for changing them. The provisions included under this part are:

- prohibited gears and practices including prohibition on the sale of marine species caught using certain gear types,
- measures to protect sensitive species (e.g. marine mammals, reptiles and seabirds) and habitats (e.g. coldwater corals) including those listed in the Habitats and Birds Directives;
- general restrictions on the use of towed gears and conditions for their use (covers basic codend construction and permissible attachments to fishing gears);
- restrictions on the use of static nets. This includes the consolidation of the existing restrictions on the use of driftnets (i.e. prohibition to use drift nets above 2.5km, prohibition on using such gears to target highly migratory species and the total prohibition on the use of

driftnets in the Baltic). Under regionalisation Member States should strengthen these provisions up to and including the introduction of a total prohibition on the use of such gears where there is scientific evidence that shows the continued use of driftnets constitutes a threat to the conservation status of sensitive species in that region;

- minimum conservation reference sizes;
- common measures to reduce discarding.

Regionalisation: regionalisation sets the general principles for regionalisation with reference to baseline measures which will apply where no regional measures are in places and establishes the empowerments needed for regionalisation of technical measures through multiannual plans, temporary discard plans and conservation measures necessary for compliance with obligations under environmental legislation.

The regional measures that can be taken under temporary discard plans are also defined, as well as safeguards that will be taken if scientific evidence shows that the conservation objectives are not being met by the regional measures. To this effect, a safeguard clause is included that allows the Commission to act where available scientific advice indicates that immediate action is required to protect marine species. Such measures could include restrictions on the use fishing gears or on fishing activities in certain areas or during certain periods.

Technical Measures in non-Union waters: the Commission may adopt delegated acts in respect of existing detailed rules concerning lists of vulnerable marine ecosystems and also specific technical measures related to defined fisheries for blue ling and redfish agreed by the North East Atlantic Fisheries Commission (NEAFC).

Annexes: the Annexes contain baseline measures by sea basin (i.e. North Sea, Baltic, Northwestern waters, Southwestern waters, Mediterranean, Black Sea and the outermost regions). These baseline measures will apply in the absence of measures being put in place regionally.

There are also annexes containing a list of prohibited species that if caught as bycatches must be returned immediately to the sea; closed areas established for the protection of sensitive habitats and a list of species that are prohibited for capture with driftnets.

Reporting: by the end of 2020 and every third year thereafter, the Commission will report on the implementation of this Regulation including an assessment of the impact of technical measures on the conservation of fisheries resources and on the environmental impacts of fisheries on marine ecosystems. On the basis of that report, the Commission will propose any necessary amendments.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.