

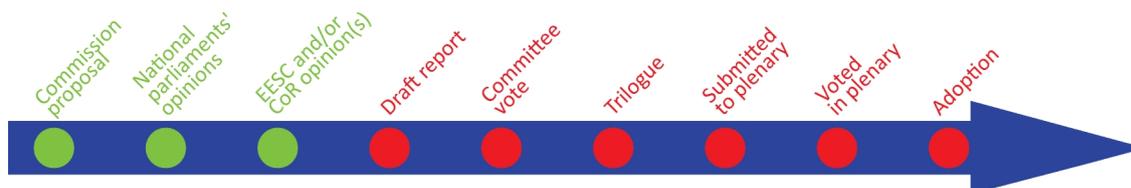
Overhauling fisheries technical measures

SUMMARY

Technical measures in fisheries govern the different fishing practices that can be used to catch fish, as well as the areas and seasons for fishing. Aimed at limiting unwanted catches or at reducing the impacts of fishing on nature, EU technical measures in fisheries have, over time, developed into a complex set of prescriptive measures, which do not fully achieve their objectives. The European Commission finalised, on 11 March 2016, a long-awaited proposal to overhaul a number of existing rules and to establish a new legislative framework in this domain. It would provide measures of general application in all seas, and would also set a new approach on governance and delegation of powers for the development of regional approaches. The Commission estimates that this new regulation would contribute to reaching CFP objectives, notably on delivering maximum sustainable yield for fish stocks, with positive socio-economic and environmental impacts. The Parliament's Committee on Fisheries is to vote on its report on the proposed new framework before the summer.

Proposal for a regulation of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 1224/2009 and Regulations (EU) No 1343/2011 and (EU) No 1380/2013 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005.

<i>Committee responsible:</i>	Fisheries (PECH)	COM(2016) 134 of 11.3.2016
<i>Rapporteur:</i>	Gabriel Mato (EPP, Spain)	2016/0074 (COD)
<i>Shadow rapporteurs:</i>	Renata Briano (S&D, Italy) Peter Van Dalen (ECR, The Netherlands) Nils Torvalds (ALDE, Finland) Liadh Ní Riada (GUE/NGL, Ireland) Marco Affronte (Greens/EFA, Italy)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Discussion of draft report and vote in PECH Committee	



<p>In this briefing:</p> <ul style="list-style-type: none"> • Introduction • Existing situation • The changes the proposal would bring • Preparation of the proposal • Parliament's starting position 	<ul style="list-style-type: none"> • Parliamentary analysis • Advisory committees • National parliaments • Stakeholders' views • Legislative process • References
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Introduction

Technical measures (TM) are rules addressing detailed elements of fishing practices, in essence on how, where and when one can fish. They aim essentially at selective fishing, i.e. catching primarily what is targeted and authorised, and in contrast reducing as much as possible the unwanted catch of juvenile fish, of non-desired fish species, but also possibly of highly protected marine species. Some technical measures may also aim at avoiding damage to vulnerable habitats; another dimension of nature protection in marine ecosystems.

Technical measures embrace rules on the design and on other technical characteristics of fishing gear (e.g. mesh size, netting and material) and on their use (e.g. prohibited gear, length limitations). They also include provisions on the characteristics of fish (e.g. minimum fish sizes, catch composition) which can be kept or used for specific purposes only, taking into consideration the type of fishing operations concerned (target species, gear, area). Technical measures also consist of regulation of fishing in given areas or periods (spatial or temporal fishing closures), for example to protect high concentrations of juvenile fish or some fragile coral reefs.¹

Over time, fisheries technical measures developed as a highly complex set of rules. However, two proposals for some major legislative streamlining, presented successively in 2002 and in 2008 to the Council, failed.² With the Lisbon Treaty, the European Parliament became co-legislator on these matters in 2009. Some key elements of the reform of the Common Fisheries Policy (CFP), decided in 2013, notably changes in fisheries management (such as the progressive obligation that all fish caught are all landed, even if too small), and reviewed forms of governance (possibilities for regional approaches), add to the justifications for a comprehensive overhaul of the current fisheries technical measures.

On 11 March 2016, the Commission [presented](#) a proposal for a new regulation on the conservation of fishery resources and the protection of marine ecosystems through technical measures. This regulation would simplify and group measures to be continued under a common framework. It would also establish a new approach of governance for regional actors to develop tailored technical conservation measures in their own sea basins.

Existing situation

Technical measures under the new Common Fisheries Policy

The new 'CFP Basic Regulation' (EU [No 1380/2013](#)) establishes technical measures as one of the main management tools to contribute to the conservation and sustainable exploitation of marine biological resources (see Article 7(1) thereof). It defines TM as 'a measure that regulates the composition of catches by species and size and the impacts on components of the ecosystems resulting from fishing activities by establishing conditions for the use and structure of fishing gear and restrictions on access to fishing

areas' (Article 4). The Regulation also provides a non-exhaustive list of the types of provisions considered as technical measures (Article 7(2)), which largely cover the types of rules, usually referred to as fisheries technical rules in EU fisheries management for several decades.

Regarding technical measures, the reformed CFP essentially builds on the past, with one notable exception concerning 'undersized fish': the previous concept of fish below 'minimum landing size' has been substituted with the concept of fish below 'minimum conservation reference size', in line with the major policy change to eliminate discards of part of the catch and to move towards a progressive obligation to land all the fish caught (even those under 'minimum sizes').

The new CFP Basic Regulation also provides that 'objectives for ... technical measures ... and measures designed to avoid and reduce, as far as possible, unwanted catches' must be included in any multiannual plan (Article 10(1)(f)). It further provides some possibilities for sea-level regional cooperation on conservation measures (including therefore technical ones), notably also with regard to the implementation of the landing obligation (see Articles 15 and 18).

Main existing fisheries technical rules

Currently, technical measures in fisheries are provided within around 30 different regulations (about two thirds adopted by the EU legislator(s) and one third by the European Commission).³

One of the major sets of technical rules lies within what is often called '**TM Regulation 850**' (Council Regulation (EC) [No 850/98](#) on technical measures for the protection of juveniles of marine organisms). Although not limited to a unique main sea area, this regulation, which deals exclusively with TM, is mainly of relevance to the Atlantic Ocean (at large, including the North Sea, as well as the Atlantic outside the EU waters, notably based on measures adopted in regional organisations such as the North East Atlantic Fisheries Commission), but it also provides some measures for the Outermost Regions and the Black Sea.

Concerning the Baltic Sea, most of the currently applicable technical measures are set within the specific '**Baltic TM Regulation**' ([No 2187/2005](#), dealing also exclusively with TM). As far as the Mediterranean Sea is concerned, a number of applicable technical measures are provided as part of the fisheries management rules established in the '**Mediterranean Regulation**' ([No 1967/2006](#)).

Besides these three major regulations, TM are also incorporated as elements of some **recovery measures or multiannual plans** for specific stocks or fisheries, as for example in the regulations establishing measures for the recovery of the cod stocks in the Irish Sea ([No 2549/2000](#) and [No 254/2002](#)), in the multiannual plan for cod stocks in the Baltic Sea ([No 1098/2007](#)) or in the multiannual recovery plan for bluefin tuna ([No 302/2009](#)).

Other applicable technical measures are also provided in **fishing outside EU waters regulations**, developed on the basis of international commitments (especially the different Regional Fisheries Management Organisations (RFMOs), in which the EU participates). This is the case, for example, for European Parliament and Council Regulation (EU) [No 1343/2011](#) concerning fishing in the area covered by the GFCM (General Fisheries Commission for the Mediterranean), for Council Regulation (EC) [No 600/2004](#) concerning fishing activities in the CCAMLR area (Convention on the

conservation of Antarctic marine living resources), and for Council Regulation (EC) [No 520/2007](#) concerning certain stocks of highly migratory species.

Besides 'all-TM' regulations, 'sea-specific' regulations, 'multiannual plan' regulations and 'RFMO-derived' regulations, sets of technical rules can also be found within **aim-specific regulations**, focused on a very particular subject. This covers notably the 'Cetacean Regulation' (No [812/2004](#)), concerning the reduction of incidental catches of cetaceans in fisheries), and the 'Shark-finning Regulation' ([No 1185/2003](#) on the removal of fins of sharks onboard vessels). The 'Driftnet Regulation' ([No 894/97](#)) may also be qualified, and has been for a long time, as aim/subject specific.⁴

Technical rules may also need to be accompanied by additional measures in order to allow for simpler enforceability or controllability. However, the border between a technical measure and a technical control measure is not always easy to draw. In some cases, 'controllability provisions' are incorporated in the same regulation as the one establishing the technical rule itself.⁵ In parallel, the specific chapter on the control of technical measures within the '**Fisheries Control Regulation**' (EC [No 1224/2009](#)) also contains some provisions which may be seen as TM in their essence (e.g. measures for real time closures).

Most of the above regulations have themselves been subject to **amendments over time** (e.g. 14 times for the 'TM Regulation 850', including among others to set some specific prohibitions to protect fragile habitats under the [Natura 2000](#) network at sea, or on the basis of corresponding international development under the auspices of the North East Atlantic Fisheries Commission for example).

Technical measures have also been established under **numerous European Commission regulations**, to serve different purposes.⁶

Some regulations already under review by the European Parliament and Council

Some of the existing regulations which contain provisions about technical measures are already under examination by the European Parliament and the Council for legislative review and/or repeals.

Two of the existing **multiannual plans**, one concerning the recovery of **bluefin tuna** and the other concerning **cod in the Baltic** Sea, are proposed for replacement with new multiannual plan regulations (respectively files [2015/0096\(COD\)](#) and [2014/0285\(COD\)](#)). The possible provisions for technical measures to be included therein are an important element in the ongoing interinstitutional negotiations on both the [Bluefin Tuna Plan](#) and the multiannual multispecies [Baltic Plan](#).

The Commission also presented in 2014 a proposal for a regulation aimed at a complete ban on any use of **driftnets** (alongside widening the definition of this gear) and which would repeal the current Driftnet Regulation No 894/97. The Committee on Fisheries examined and discussed this proposal (file [2014/0138\(COD\)](#)), but decided to delay its vote in consideration of the announcement, by the Commission services, of the probable coverage of driftnets in the (then) upcoming proposal for a new TM framework regulation and alongside a possible withdrawal of the 2014 legislative proposal in this regard.

The European Commission has also proposed to **align 'TM Regulation 850'** and the '**Mediterranean Regulation**' with the TFEU (Treaty on the Functioning of the European Union) with regard to delegated and implementing powers (respectively, files [2012/0208\(COD\)](#) and [2011/0218\(COD\)](#)). The EP gave its first reading position on the

proposals in 2013; since then, however, there has been no progress on these files in the Council.⁷

Other legislative proposals already under examination may possibly lead to the adoption of new sets of TM if negotiations progress. This is, for example, the case regarding a proposal for a regulation to establish specific conditions for fishing for **deep-sea stocks** in the North East Atlantic ([2012/0179\(COD\)](#)).

The tabling of this proposal for an overhaul of TM in fisheries raises the **need for particular attention** to be paid to consistency, or compatibility, between the positions that will develop on this new proposed regulation, and the positions which will continue to develop to progress (including possible withdrawals) on these ongoing proposals for fisheries regulations.

Main problems

According to the European Commission, the existing technical measures suffer the following main weaknesses (an extensive description of which is developed in the impact assessment report):

- **Suboptimal performance:** some technical measures have contributed to regulating exploitation patterns properly, showing good selectivity results or delivering positive effects in reducing impacts on ecosystems. However, in other cases, they have not been effective and have not delivered all the results desired, notably as they are viewed as unduly restricting fishermen's activity with resulting loss of revenues;
- **Difficulty to measure effectiveness:** assessing and quantifying the value of individual technical measures is difficult, not only because there is no defined metrics to do so, but also because technical measures are taken collectively and form part of a larger ensemble of fisheries management measures, all jointly influencing the actual outcome;
- **Prescriptive and complex rules:** regulating technical inputs has created incentives to negate rules or circumvent them, leading to the need for further legislation to counter adaptive reactions. This has led over time to a highly complex and very prescriptive set of rules, including multiple derogations and exceptions, disseminated in a range of different legal texts. In addition insufficient attention has been given to the practicalities and costs of actual control and enforcement;
- **Lack of flexibility in the management framework:** the ordinary legislative procedure is seen by stakeholders as complex, lengthy, and politically driven, and not suited to frequent changes in detailed technical rules. This decision-making is also viewed as lacking flexibility in the case of changing conditions or taking advantage of innovation;
- **Insufficient involvement of key stakeholders in the decision-making process:** the success of technical measures depends largely on their acceptance by fishermen; however, they are perceived as resulting from a top-down process, and hence often criticised for being impractical or not representative of the reality of fishing practices.

The changes the proposal would bring

According to the Commission, there is common awareness and shared recognition among the different stakeholders and political bodies on the above-mentioned problems and on the need to address them. Within the explanatory memorandum of its legislative proposal, the Commission also expresses the view that the previous failed attempts to streamline technical measures, as well as the absence of progress on the

alignment of some of these regulations with the TFEU, highlight the need for a new approach on these matters.

Addressing the above concerns, the proposal of the Commission aims to strive towards:

- **Simplifying** the current rules in line with the Commission's regulatory fitness and performance programme ([REFIT](#));
- Optimising the contribution of technical measures to **achieving the key objectives of the new CFP**. This should be particularly the case for the attainment of maximum sustainable yield (MSY⁸) by regulating the exploitation pattern (i.e. the impacts of fishing activities on the different age-classes within a stock), for the progressive elimination of discards (by minimising unwanted catches) and for ensuring that fishing activities are consistent with environmental protection requirements;
- Creating the necessary **flexibility to adjust technical measures by facilitating regionalised approaches**, as also promoted under the new CFP.

The [proposal](#) for this new framework regulation would be structured in several sections.

General provisions would set the scope, objectives, targets (linked to the objectives); principles of good governance and definitions (mostly regarding fishing gears and fishing operations, on the basis of the existing grounds).

A chapter on **common technical measures** would establish common rules to all seas. Building on the measures contained in the current primary-TM regulations, these would notably set prohibited fishing gears and methods, measures for protected species (fish and non-fish) and habitats, restrictions on certain types of gears and conditions for their use (towed gear and static gear, including the consolidation of the current restrictions on the use of driftnets, but with the possibility to strengthen these provisions under regionalised approaches), minimum conservation reference sizes and common measures against discarding (high-grading, slipping, species not under catch limits). It would also provide for some delegated powers, e.g. for the Commission to list a new fish or shellfish species deserving fishing prohibition, or for the Commission or the Member States regarding the designation of closed areas to protect sensitive habitats (in this case along lines already established in the CFP Basic Regulation).

A chapter on **regionalisation** would provide for baseline technical measures applicable for different maritime regions. These sets of TM would be defined within a specific annex for each area concerned. This chapter would also establish general principles for regionalisation of technical measures under delegated powers, notably through multiannual plans, temporary discard plans and conservation measures to implement environmental legislation. These powers, allowing the development of regional technical measures (to establish new measures or amend/derogate from the existing baselines under conditions) would be derived from those established in the CFP (Article 18 of Regulation 1380/2013), on the basis of joint recommendations submitted by regional groups of Member States. The Commission may also be given powers to adopt implementing acts, in order to further define a number of detailed technical specifications, notably concerning gears and their construction, controls and monitoring, and devices to reduce incidental catches of dolphins or birds.

Another part of the regulation would empower the Commission to adopt technical rules as delegated acts, in respect of **measures agreed under Regional Fisheries Management organisation**, namely the North East Atlantic Fisheries Commission (NEAFC). Similar empowerment concerning technical measures agreed within the

General Fisheries Commission for the Mediterranean (GFCM) would be established through amending the corresponding GFCM Regulation, No 1343/2011 (see below).

The new regulation would also establish **exemptions** from technical measures limitations when conducting scientific research and activities related to restocking or translocation of marine species. It would further include a **safeguard clause**, under which the Commission would be given delegated powers to adopt restrictions, notably on the use of fishing gears or on fishing activities in certain areas or during certain periods, in cases where scientific advice indicates that immediate action is required to protect marine species.

The **delegation** of powers to the Commission would be established for a five-year period, with periodic reporting and tacit renewal if not opposed. The Commission would also **report** on this new technical measures regulation by 2020, and every three years thereafter.

The first **annexes** refer to provisions established as common technical measures. They cover the list of fish, shellfish and crustaceans subject to a complete prohibition of fishing (Annex I), the closed areas in which the use of given gear is prohibited, to protect sensitive habitats (Annex II) and the list of species (fish and cephalopods) which cannot be fished by using driftnets. Annex IV provides for the measurement of the size of fished species. The subsequent annexes contain the technical measures applicable for seven identified sea regions, namely the North Sea, Baltic Sea, North Western waters, South Western waters, Mediterranean, Black Sea and the outermost regions. These annexes include minimum conservation reference sizes, mesh sizes, closed or restricted areas to protect juveniles and spawning fish, and other regionally specific measures. These regional baseline measures may be modified in the future on the basis of regional joint recommendations.

The adoption of this new regulation would be associated with the **repeal of six existing Council regulations**, namely TM Regulation 850 (No 850/98), the Baltic TM Regulation (No 2187/2005), the Driftnet Regulation (No 894/97), the Cetacean regulation (No 812/2004), and the two Irish cod stock Regulations (No 2549/2000 and No 254/2002). It would also **amend five other regulations**, namely the Mediterranean Regulation (No 1967/2006), the GFCM regulation (No 1343/2011) and the Baltic cod multiannual plan (No 1098/2007), as well as the general Control Regulation (No 1224/2009) and the CFP Basic Regulation itself (No 1308/2013).

According to the [Commission](#), this proposal should also lead to the repeal of over 10 Commission regulations.⁹

Preparation of the proposal

The initiative for an in-depth review of the technical measures legislative framework dates back to 2011 at least, and the finalisation of the proposal by the Commission took three years longer than its initial forecasts.¹⁰

The Commission held numerous **consultation** meetings with major stakeholders between 2011 and early 2015, particularly in the framework of organised bodies of representative groups of stakeholders such as the Advisory Councils – consultation bodies established under the CFP – but also bilaterally with industry groups, NGOs or Member States, for example. The European Commission also launched a [process of public consultation](#) on this issue during the first half of 2014. In the [summary](#) of the 59 [contributions received](#) to its [consultation document](#), the Commission services report

that there is 'overwhelming support for a complete overhaul of technical measures, not limited to simply re-casting or cleaning-up'. They also highlight however that 'there are diverging opinions on the content of any future legislative framework for technical measures', when considering for example, among other numerous issues, the balance between EU co-decided rules, regional management or direct responsibility of operators, also in relation to ensuring a level playing field, control, guarantees on achieving the objective of selective fishing, etc.

The Commission also contracted, in December 2012, an **external evaluation** of technical measures, complemented by a prospective evaluation of the values and impacts of pre-defined policy options for changes. The [final report](#) of this study, as well as its [summary](#) were completed and [published](#) in 2014.

A large number of scientific reports have also been requested specifically for, or used to contribute to, the preparation of this proposal. The Commission requested the Scientific Technical and Economic Committee for Fisheries to provide specific expert advice on [technical measures](#) (e.g. reports of [2012](#) and [2013](#) on selectivity). Some STECF reports on [environmental impacts](#) (e.g. evaluation of closed areas in [2007](#), updated in [2014](#)), as well as specific advice from the International Council for the Exploration of the Sea (ICES), (e.g. ICES advice on [bycatch of cetaceans](#) and protected species) are also of direct relevance to this legislative proposal. Some elements provided within scientific advice focusing on the [landing obligation](#) do also refer directly to technical measures. The European Commission also refers to additional background material from other studies, including those linked to other initiatives (such as the [2008 impact assessment](#) of the previous attempt to review the 'TM Regulation 850', and reports on deep sea fisheries or driftnet fisheries).

These different consultations, reviews of legislation, external studies, etc., are provided in detail in the [impact assessment report](#) accompanying the legislative proposal. As also illustrated in the [summary](#) thereof, the Commission identifies the different problems with the existing technical measures (see previous section), as well as different policy options on how best to address them in consideration of the new CFP. It rejected an option for a new regulation which would mainly consolidate current TM (under sets of common and regional specific rules). The option for the quasi-complete elimination of fisheries technical measures (except those aimed only at nature protection), based on the consideration that other fisheries management measures would continue in place, and on the assumption that the new landing obligation would in itself drive selective fishing practices, has likewise not been retained. In its assessment report, the Commission develops the arguments that led to the proposal for a new approach on technical measures, keeping the main rules deemed necessary for conservation of fisheries resources, but also proposing a radical change in the governance structure, with regionalisation and delegation of powers being seen as the main tool to provide flexibility and better involvement and acceptability for stakeholders in the future, while managing the transition according to baseline regional measures.

Parliament's starting position

In 2015, the EP Committee for Fisheries triggered the drafting of an own-initiative report ([2015/2092\(INI\)](#)) concerning [technical measures and multiannual plans](#) (rapporteur Gabriel Mato, EPP, Spain), in anticipation of new proposals expected from the Commission on these matters. In this context it held a public [hearing](#) in September 2015 on Multispecies Management Plans, which also covered issues on the

related technical measures and exercise of legislative competences. In its [position](#), adopted in December 2015 by a large majority (571 for, 6 against, 65 abstentions), the European Parliament considered, among numerous other things, that technical measures should be simplified to implement the objectives of the CFP, improve selectivity, and minimise discards and the impact of fishing on the environment. It also gave its views on the balance between general common approaches and regional ones, on legislating according to the ordinary legislative procedure or within judicious use of delegated acts (e.g. for flexibility and responsiveness) and on the need for stakeholder involvement.

Parliamentary analysis

Several documents and analyses have been published by European Parliament services in relation to the review of the TM legislative framework. These publications include:

- An [illustrated guide for non-experts](#): This guide aims to help non-informed readers to become more familiar with the domain, by providing basic information and illustration on fishing gear and certain main ocean-related concepts.
- An in-depth analysis entitled [why fisheries technical measures matter](#). Prepared in mid-2014, this paper gives an overview of technical measures in relation to fishing practices and their objectives. It gives an outline of the EU legislation on this subject, and deals with various questions on governance and exercise of institutional competences.
- An [implementation appraisal of Regulation 850/98](#) on the conservation of fishery resources through technical measures for the protection of marine organisms, published in September 2015, which provides a succinct overview of material publicly available on the implementation, application and effectiveness of EU law.
- A [study in support of a workshop](#) entitled 'a new Technical Measures Framework for the new CFP', held by the EP Committee on Fisheries on 13 October 2015. The four experts invited provided their views on both the lessons of the past and on possible ways forward for the future, notably considering approaches for the three main maritime regions bordering the European Union.
- An [Initial appraisal of the impact assessment](#) accompanying the proposal for a new regulation on fisheries technical measures. This briefing, published in June 2016 provides an initial analysis of the strengths and weaknesses of the Impact Assessment (IA) made by the European Commission before presenting this initiative.

The Commission proposal for a new framework for TM also includes specific provisions concerning restriction on the use of driftnets, a particular issue which has been the subject of specific parliamentary analyses,¹¹ published in early 2015, in relation to the corresponding legislative proposal presented by the Commission in 2014.

Advisory committees

Consulted on this proposed new regulation on fisheries technical measures, the [European Economic and Social Committee](#) provided its opinion on 13 July 2016. The EESC supports the general approach for update and simplification of the technical measures framework, and for promoting the involvement of stakeholders in the setting of technical rules. It is, however, of the view that the proposal does not sufficiently safeguard the fisheries sector's short-and-medium-term interests, and calls therefore for a number of proposed rules not to be adopted as such. Commenting on certain

specific draft provisions, the Committee notably does not agree with some proposed baseline mesh sizes nor with the introduction of some mitigation measures for by-catch of cetaceans or birds without further analysis and scientific justification.

In its opinion on this proposal adopted on 7 December 2016, the [Committee of the Regions](#) also makes recommendations for detailed amendments of some proposed measures.

National parliaments

By mid-February 2017, no concerns on subsidiarity had been raised by the national chambers of any Member State, with at least eight having engaged in a [scrutiny](#) process on the proposal.

Stakeholders' views

After having expressed some general views, a number of Advisory Councils launched a specific process to examine the Commission's proposal in detail.

The [South Western Waters Advisory Council](#) (SWWAC) adopted an [opinion](#) on technical measures in early December 2016. In this opinion – which was validated during a period in which NGOs had suspended their contribution to the AC activities – the SWWAC welcomes the general approach but also expresses some concerns on detailed elements of the proposed measures (notably on the increase of mesh sizes in some fisheries and the extension of some measures to reduce by-catch of birds and cetaceans). The SWWAC insists on keeping all technical rules currently in place, as a starting point for future discussions and changes on a regional basis. It states that it will later provide a detailed note on these matters to the co-legislators.

The [North Sea Advisory Council](#) has held several [working group meetings](#) to prepare its draft response, with another meeting scheduled for 2 March 2017. Similarly, after several discussions on the proposal, notably considering it article by article in a [working group](#), the [Baltic Advisory Council](#) forwarded [recommendations](#) to the Commission on 13 February 2017, though these do not yet [cover all articles](#), and are accompanied by [minority position comments](#). The [Mediterranean Advisory Council](#) provided a preliminary [position](#) on 19 January 2017, announcing further examination by a [working group](#) on 21 February 2017. In the same manner, after the Commission presented its draft regulation to the [North Western Waters Advisory Council](#) in July 2016, the latter [concluded](#) that it would engage in compiling a response to the proposal.

Legislative process

In anticipation of the tabling of this new draft legislation on technical measures, the EP Committee on Fisheries (PECH), responsible for considering the proposal, scheduled a public [hearing](#) on this subject on 21 March 2016.

The EP Committee on Fisheries (PECH) has since held several general exchanges of views on technical measures. As reported in the specialist [press](#), the rapporteur (Gabriel Mato, EPP, Spain) notably organised on 25 January 2017, as part of the preparatory work, a meeting with interested Members (shadow rapporteurs) and with representatives from the different Advisory Councils (Commission) to get the views of the latter on the proposal. The vote on the draft report in the PECH Committee is scheduled for 12-13 July 2017. The Committee on Environment, Public Health and Food Safety will provide an opinion, the vote on which is planned for 9 March 2017.

On 11 April 2016, the Commission presented its proposal concerning technical measures to the [Fisheries Council](#), which took note and instructed its preparatory bodies to start the technical examination of the file. The agreement of a Council general approach on this draft regulation may take place in spring 2017.

References

[Conservation of fishery resources and protection of marine ecosystems through technical measures](#), European Parliament, Legislative Observatory (OEIL).

Endnotes

- ¹ Some technical rules may also be designed to contribute towards reducing 'wasteful' fish mortality. Such measures may consist for example in setting maximum durations for the immersion of set nets (to avoid some fish rotting), or in technical requirements to prevent ghost fishing (lost nets) or to reduce discards (for example, prohibition of 'high grading' or 'slipping' practices). Technical measures may aim at contributing indirectly to nature protection, such as for example the 'sandeel box' in which fishing for sandeels has been prohibited considering that they represent an important food source for some nesting seabirds.
- ² The first proposal in 2002 for a new Regulation on technical measures for the Atlantic and the North Sea ([COM\(2002\) 672](#)) was withdrawn by the Commission in 2004, as it had become clear, after only two meetings in the Council Working Party, that it could not form the basis for a revision (see the Commission impact assessment report [SEC\(2008\) 1978](#) accompanying the subsequent proposal). Another proposal ([COM\(2008\) 324](#)) was [presented](#) in 2008, also in view of a significant overhaul and simplification of fisheries technical rules. The Council however failed in agreeing to such end (the legislative initiative thus opened, [\(2008/112/CNS\)](#) was however used to address another problem and to [prolong for 18 months](#) some technical measures that were previously set on a temporary basis only).
- ³ According to the [Commission impact assessment report](#), the current technical measures regime is covered under 31 different regulations. However, this report contains some inaccuracies – or at least information which has not been updated for the last eight months – notably as far as Annex V is concerned. As an illustration, this Annex lists 31 regulations described as 'current regulatory structure of technical measures', but it still includes regulation No 1434/98, while this regulation was repealed on 29 June 2015 (by Regulation 2015/812). As another example, this Annex refers to the annual regulation on fishing opportunities in the Black Sea for 2015 (Reg. 2015/106), a regulation now superseded as followed by Regulation 2016/73 concerning the year 2016. Moreover, regarding the Black Sea Fishing Opportunities Regulation, it is indicated that it sets a 'closed area' for turbot, while both the regulations for 2015 and 2016 provide a measure that would better qualify as a 'closed period' for this species (by prohibiting fishing in April and June).
- ⁴ Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources was initially setting numerous technical measures. However, its provisions were rapidly repealed in association with the adoption of new sets of measures (within the TM regulation 850/98), with the only exception those concerning driftnets. Nowadays, the only measures which remain applicable under this 1997 regulation refer to restrictions on the use of driftnet (see [consolidated regulation No 894/97](#)).
- ⁵ For example, bottom trawls carried on board vessels which simply navigate across an area where bottom trawling is prohibited, must be lashed and stowed according to given prescriptions (e.g. under [Regulation No 850/98](#), Art. 28, point 2 or Art. 29, point 5).
- ⁶ These Commission regulations provide for example for further technical specifications on selectivity (e.g. regulation [No 3440/84](#) on the attachments of fishing gear, or [No 686/2010](#) on the use of selective gear in the Baltic Sea), for detailed specifications to ensure a level playing field and harmonised TM control (e.g. regulation [No 517/2008](#) on the measurement of mesh size and twine thickness) or for technical rules to contribute to the recovery of a given stock (e.g. Commission regulations [No 1162/2001](#), [No 2602/2001](#) and [No 494/2002](#) on the recovery of stock of hake in the North East Atlantic).
- ⁷ A proposal for the alignment of the 'Baltic TM regulation' with the TFEU had also been tabled in 2012, but it was withdrawn by the European Commission in 2015 (see [2012/0285\(COD\)](#)). The debate on this new proposal for a TM framework which would also repeal 'TM Regulation 850', may logically render, at least the proposal to align this 'TM Regulation 850' with the TFEU, obsolete.
- ⁸ In the new 'CFP basic regulation', maximum sustainable yield (MSY) is defined as 'the highest theoretical equilibrium yield that can be continuously taken on average from a stock under existing average environmental conditions without significantly affecting the reproduction process'. MSY grossly corresponds to the largest catch of a fish stock that can be taken over an indefinite period without harming it (with environmental conditions remaining constant). MSY is usually expressed in terms of amounts (weight) of fish which can be harvested.
- ⁹ The number of regulations affected by this new proposal seems, however, not to be always consistent, depending on the source. The [Press memo](#) highlights that the new regulation would repeal over 10 Commission regulations. However, it also states that it 'replaces fully or partially nine co-decided regulations, amends and simplifies five

others', a total number which differs from the formal legislative proposal (which foresees the repeal of six regulations and amendment of five others). In the impact assessment, as in the [summary](#) thereof – prepared by the Commission services without prejudice to the Commission final decision – it was anticipated that the new Regulation would replace six regulations, partially replace three others and repeal 10 Commission regulations.

¹⁰ See corresponding [road map](#) published by DG MARE, which foresaw the expected adoption of the proposal by the Commission in March 2013.

¹¹ See the study published by DG IPOL on [alternative solutions for driftnet fisheries](#) (February 2015) and the [initial appraisal](#) of the European Commission impact assessment on the driftnet ban proposal, prepared by DG EPRS, and which identifies a number of weaknesses or poor quality elements and which concludes notably that 'the overall impression is of an impact assessment prepared in some haste'.

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eprs@ep.europa.eu

<http://www.eprs.ep.parl.union.eu> (intranet)

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Second edition. The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure. To view the earlier edition of this briefing, please see: [PE 579.102](#), 18 March 2016.