



**EUROPÊCHE RESPONSE TO THE EUROPEAN COMMISSION'S CONSULTATION ON A NEW
FRAMEWORK FOR TECHNICAL MEASURES IN THE REFORMED COMMON FISHERIES POLICY**

1. About Europêche

Europêche, the Association of National Organisations of Fishery Enterprises in the European Union, was founded in 1962 and is regarded as the most important EU-wide representative of the catching sector. Europêche is the European organisation of shipowners, fishermen and employers that today counts with 16 member organisations from 10 European countries. Europêche aims to improve the competitiveness of EU fishing enterprises; the development of responsible and sustainable fishing activity; the promotion of training, health and safety at sea and fight against illegal fishing.

2. Introduction

In January 2014 the European Commission launched a public consultation as part of its on-going efforts to **review and modernise the technical measures** in the light of the reformed CFP. These technical measures define where, when and how a fishing company exploits commercial fish resources and interacts with the marine ecosystem.

This consultation builds on the **need to adapt the EU fisheries legislation and policies to the newly fundamentals introduced by the CFP¹, i.e. the landing obligation and regionalisation**. The introduction of these two approaches is a big challenge for the EU fishing industry, which is concerned on the practical implementation and future development of the technical measures.

3. Background

When the European institutions adopted the current **EU Technical Conservation Regulation (EC 850/98)**, it aimed to reduce catches of juveniles of commercial and non-commercial species, to improve species selectivity, to avoid catches of protected species, to reduce discards and minimize the impacts on the environment.

It is worth noting that up to recent years, policy decisions have been taken exclusively by Council of the EU and detailed technical measures were delivered as EU Regulations rather than as regionally devised rules that would have permitted to accommodate the specificities of each fishery and region. In this respect, the **exhaustive micro-management approach** together with the intention of communitarian institutions to compile all technical details under a single framework brought about a complex legal system for fishermen to comply with, without much room for flexibility. Particularly, **the intensive codification on mesh sizes and catch composition rules triggered considerable levels of discards**.

¹ Regulation 1380/2013 on the Common Fisheries Policy (basic regulation)

This theory is backed by the STECF when provides that *“In general **Technical Measures** relating to gear selectivity have no clearly defined objective and, following the EU decision-making process, the measures finally adopted often **differ from what was initially proposed and tested**”*².

Hence, despite the increasing number of Regulations on technical measures, it turned out that the technical measures as implemented in the EU have **failed to deliver the desired results**.

The technical measures should be adopted following direct contact with stakeholders. They have to be more flexible and responsive to specific needs, well-timed and based on fast-track and efficient decision-making processes that can be adapted to changing circumstances and developments³. This can absolutely not be achieved with the ordinary EU decision-making process as it was demonstrated over the years.

Against this background, the new CFP has designed an innovative strategy to fisheries management, based on a shift to a **result-based approach and introducing regionalisation**, instead of dictating what can be or what cannot be done by EU fishermen in a centralised fashion. Europe che fully agrees with this new approach.

In order to attain those objectives, the European Commission is developing a new strategy to regulate technical measures based on simplification, increased regionalisation, greater stakeholder involvement and more industry responsibility.

The shipowners in the European Union would like to individually address some of the key points included in the public consultation which have a direct impact in the catching sector in order to contribute to the strengthening of fisheries management.

4. Current Legal situation

The new CFP regulation 1380/2013 (Art. 7) envisages different conservation measures to achieve the objectives aforementioned. The most relevant measure for the purpose of this paper would be the **multiannual plans**, which shall establish the framework for the sustainable exploitation of stocks and marine ecosystems concerned, particularly they shall include the appropriate technical measures (Art. 10.f). Those plans shall be applied either to single stocks or multiple stocks in a particular sea area were relevant.

Nevertheless, due to an **inter-institutional deadlock** since 2009, several proposals for multiannual plans or amendments to existing plans have not progressed due to differing interpretations of Article 43 of the Treaty by the Co-legislators. The Task Force on multiannual plans reached a political agreement on April 2014, to resolve the situation. Based on this agreement the Commission will be able to propose new multiannual plans, but it remains to be seen whether EU institutions will be able to adopt them.

In this context, the Commission is of the opinion that a new framework regulation for technical measures is required to **provide legal certainty whilst those multiannual management plans are not**

²Scientific, Technical and Economic Committee for Fisheries (STECF) – Different Principles for defining selectivity under the future TM regulation (STECF-13-04). 2013. Publications Office of the European Union, Luxembourg, EUR 25973 EN, JRC 81584, 38 pp.

³ OPINION of the European Economic and Social Committee NAT/631 The landing obligation

in place. Therefore, the possible regulation could be understood as a transitional solution to adapt the current legal system to the new CFP requirements as regards technical measures. The content of this “storage facility” would be reduced as plans will gradually enter into force, setting out the technical measures to the pertinent sea area through regionalisation.

Europêche is reluctant towards Commission’s approach given that the European Commission is **criss-crossing the need to adapt the current legislation to the implementation of the landing obligation with the need to remove redundant technical and control measures.**

It is worth mentioning that once the successive legislative landing obligation waves enter into force, the current fisheries management will dramatically change, shifting the focus from the landings to catches. This **upcoming scenario will render the current technical measures dispensable.**

Accordingly, the catching sector in the EU encourages the European Commission to reconsider its strategy which should be consistent with the objectives laid down in the new CFP. Hence, in order to avoid reproducing the same mistakes that have occurred in the past, the **EU prescriptive technical measures should not be maintained, even on a temporary basis.** Otherwise, it would be in contradiction with the regionalisation and the result-based approaches, creating once again a complex legal framework.

In addition, the Commission should promote an environment of trust, **allowing fishermen to voluntarily choose the most appropriate tools to achieve greater selectivity and the reduction of bycatches.** We must not forget that fishers will be fully responsible for the catches taken and not for what they land; accordingly they should be allowed to decide the best selective measures.

To conclude this point, one of the major lessons the past CFP experience has taught us, is that **the right place to discuss mandatory technical measures must be at a regional level,** where they can be customised to particular fisheries and regional conditions.

5. Simplification and regionalisation

The legal evolution of technical measures has demonstrated that they have become more numerous and complex over the years. Micro-management has been proved ineffective so far, consequently a radical change is needed.

Against this background, Europêche endorses the move towards regionalisation introduced by the CFP, which will allow for simplification and better governance. The **added value** to legislate in close cooperation with Advisory Councils, operators in the fishing industry, scientists and other stakeholders would be:

- ❖ Clearer and simpler rules
- ❖ Tailor-made to the specificities of each fishery and sea basin
- ❖ Better understanding and acceptance by operators, national authorities and stakeholders
- ❖ High degree of compliance by fishers
- ❖ Easier to enforce by inspectors
- ❖ Major involvement of stakeholders
- ❖ Greater credibility and legitimacy of EU policies
- ❖ Better alignment with environmental policy objectives
- ❖ Enhancement of fishing selectivity

Having stated the above, in the context of a fully documented fishery, **the need for current technical regulations would be almost non-existent** as fishing companies would evolve to minimise not marketable catches (greater selectivity) and focus their activities towards catch compositions that are economically efficient.

Therefore, **any possible technical measure framework should be designed and set up from the scratch by applying a bottom-up approach per fishery**. Further, we are of the opinion that a simply revision of the current technical measures would be bound to fail in achieving the desired effects of the new CFP goals in this entirely changed policy context. As a result, Europêche highly doubts the need to have a new EU common framework on technical measures at all.

Moreover, in line with the result-based approach, technical measures should be determined at individual vessel level, complemented if necessary by regionally designed rules by the competent regional structures, i.e. by the different groupings of Member States.

However, if following the analysis of the results from the public consultation, the European Commission deems it imperative to maintain some common standards applicable to all fisheries and regions, they **must be limited to the establishment of general definitions, principles and common objectives in line with the new CFP without introducing new rules**.

It goes without saying that in order to be able to **control and enforce the result-based approach**, there must be clearly defined management targets. In fact, the results obtained from the implementation of the management plans shall be quantitatively measured based on the objectives and goals established therein. In case that those objectives are not met, the European Commission shall take appropriate measures.

6. Incentivising stakeholders

Europêche believes that the first incentive can be found in the **full involvement of the fishing industry in the decision-making process**, which in this context is the **“key stakeholder”**. It certainly will promote greater clarity and motivation from fishing businesses to comply with tailor-made measures. Therefore, the EU catching sector welcomes the move to develop more participatory approaches as stated in the public consultation document.

Furthermore, as acknowledged by the European Commission (page 4 - consultation paper), *“the introduction of the landing obligation with clear deadlines will be the driver for change in many fisheries.....creating incentives for desired behaviour change”*. Europêche completely supports the idea that the **landing obligations will drive increased selectivity and adaptation of fishing strategies to avoid and minimise unwanted catches**. In fact, there is a strong economic incentive to solely catch target species, since fishers do not want to catch fish that cannot be sold or creates sorting difficulties⁴.

Consequently, it is of utmost importance to give fishermen maximum freedom to decide the selective measures to attain quantifiable goals to be set on the management plans. This will provide a strong motivational response from the fishing industry and will encourage fishers to comply with the regulations.

⁴ Pelagic RAC Recommendations on implementing the EU landing obligation in pelagic fisheries, April 2014

7. Elimination, reduction and avoidance of unwanted catches

Broadly speaking, up to date **technical measures have been considered by fishermen as a way to introduce additional restrictions on their activity**. Those measures have provoked great economic losses for fishers whether through direct lost of catches or gear replacement. Those negative consequences had to be mitigated through technical innovation where possible.

As a result, the purpose of the measures was watered down, in addition to preventing the innovative potential of the fishing industry to design and develop new fishing techniques that shall improve selectivity and reduce bycatches.

In this context, the replacement of technical specifications with result-based targets in close collaboration with the stakeholders will **allow the fishing industry to choose the most suitable means to their companies to achieve the specific targets**.

8. Minimising the ecosystem impact of fishing gears

Huge efforts have been made by the fishing industry during the past years to develop high-tech fishing methods and gears in order to minimise discards and its possible impact on the environment. In fact, the STECF has stressed several times that *“more has been achieved in terms of improved selectivity in the last four years than in the previous twenty years”*. We, nevertheless, draw the European Commission’s attention to the need to invest further efforts and funding in the demersal fisheries to promote technological advances in selectivity.

Having said that, the effects of fishing activities on the ecosystem often vary depending on the métier (fishery) and/or the region concerned. Accordingly, the same measures for the **ecosystem protection could not be developed or applied across all fisheries**.

9. Different technical measures framework in different sea basin

First and foremost, Européche **strongly recommends that the technical measures on fishing gears shall not be regulated by the co-decision procedure, but instead they shall be developed at local level**.

A good example to show the negative effects of the above can be found in the Mediterranean fleet which have reported grave difficulties caused by the introduction of mandatory rules (**1967/2006 Regulation**), for instance on twine thickness. This technical measure has particularly caused problems in ship maneuvering and safety; a significant increase in gear breaks due to the weakening and decline in resilience of the gear; the devaluation of the price of catches and unnecessary increase of discards due to deterioration caused by using a twine as thin and sharp.

In conclusion, it can be affirmed that **mesh sizes, net configuration and twine thickness** (technical measures relating to gear specifications) **should be designed and determined at a regional level**. Hence, in line with our approach, selective and preventive measures should be exclusively included in the different management plans adopted in the diverse sea basins throughout Europe.

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