

Targeted stakeholder consultation on the Technical Measures Regulation (fisheries)

Fields marked with * are mandatory.

Introduction

One of the novelties of the new [Technical Measures Regulation](#) is the requirement for the Commission to report on a tri-annual basis to the European Parliament and Council. As described in Article 31 of the regulation, the report shall assess the extent to which technical measures both at regional and Union level have contributed to achieving the objectives and reaching the targets set out in the regulation. This report is important, as it sets a system that monitors progress and promotes corrective actions if progress is insufficient to meeting the targets and objectives set out in this legal text.

Although initially foreseen in December 2020, the delivery of the report has been delayed to the second quarter of 2021. The scientific advice, which is indispensable for producing this report, was delayed due to the COVID-19 crisis and was finally delivered late autumn.

In accordance with Article 31 of the regulation, the report will be prepared on the basis of scientific advice and after consultation of the Member States and relevant Advisory Councils. Given the overall importance of the regulation also for other stakeholders, this consultation is complemented by this online targeted stakeholder consultation. The scientific basis for the report can be found in the advice from STECF ([Review of technical measures](#); [Plenary report](#)) and [ICES](#) advice on innovative gear.

In view of this advice and considering the objectives of the regulation and elements to be included in the report, we have prepared a limited number of questions to which you can provide your answers. In case you wish to support your answers with additional documentation, this must be 2 pages maximum (including references) and can be uploaded at the end of the questionnaire.

About you

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation

- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

*** First name**

30 character(s) maximum

*** Surname**

30 character(s) maximum

*** Email (this won't be published)**

*** Organisation name**

255 character(s) maximum

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

*** Country of origin**

Please add your country of origin, or that of your organisation.

- | | | | |
|--------------------------------|---|-----------------------------------|---------------------------------------|
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Latvia | <input type="radio"/> Romania |
| <input type="radio"/> Belgium | <input checked="" type="radio"/> France | <input type="radio"/> Lithuania | <input type="radio"/> Slovak Republic |
| <input type="radio"/> Bulgaria | <input type="radio"/> Germany | <input type="radio"/> Luxembourg | <input type="radio"/> Slovenia |
| <input type="radio"/> Croatia | <input type="radio"/> Greece | <input type="radio"/> Malta | <input type="radio"/> Spain |
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- Czechia
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- Other
- Estonia
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The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

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The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the personal data protection provisions

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Technical Measures

1. Even though the Regulation on Technical Measures has only entered into force recently, your views are welcome on whether technical measures both at regional level and at Union level have contributed to achieving the objectives set out in Article 3 and reaching the targets set out in Article 4 of that Regulation.

5000 character(s) maximum

2. Do you consider that the list of prohibited species in Annex I (Prohibited species) is complete?

- Yes
- No

3. Do you think that the measures in place are adequate to ensure that species referred to in Article 11 are not harmed and promptly released?

- Yes
- No

Please provide a brief explanation.

5000 character(s) maximum

4. Have you been involved in any scientific research envisaging the use of accidentally caught marine mammals, seabirds and marine reptiles?

- Yes
- No

5. Are you aware of any mitigation measures or restrictions on the use of certain gear that Member States have put in place aimed at minimizing, or where possible eliminating the catches of mammals, seabirds and marine reptiles?

- Yes
- No

6. Do you consider that the measures provided for in Annex II (Closed areas for protection of sensitive habitats) are adequate?

- Yes
- No

7. Do you think the closed or restricted areas to protect juveniles and spawning aggregations established in Part C of Annexes V to VIII and X and Part B of Annex XI are adequate?

- Yes
- No

8. Do you consider the current minimum conservation reference sizes for commercial species as in Part A of Annexes V to X adequate?

- Yes
- No

9. Do you think there is a need to align the minimum conservation reference size between recreational fisheries and commercial fisheries?

- Yes
- No

Why?

5000 character(s) maximum

10. Do you think there is a need for real-time closures and moving-on provisions?

- Yes
- No

Please provide a brief explanation (including area).

5000 character(s) maximum

11. Do you think that the recent [ICES advice on innovative gear](#) could serve as a basis to promote innovation while ensuring coherence with CFP objectives?

- Yes
- No

Please provide a brief explanation.

5000 character(s) maximum

We think that the recent ICES advice cannot “serve as a basis to promote innovation in the fishing sector while ensuring coherence with CFP objectives” for six reasons.

1) In its advice, ICES tried to define what innovation was, given that it had not been done in Regulation 2019 /1241. But ICES made a very theoretical reasoning, classifying innovating gear in four Groups of ‘Performance’ (‘Disruptive’, ‘Transformative’, ‘Incremental’, and ‘No effect or negative’), as if the issue at stake were only about the perception of innovating gears by their operators, without considering the specificities of the CFP.

To establish this ranking, ICES very broadly referred to a study made in 2020 in another context, that of the UK and the then soon-to-be-enforced Brexit. This study (mentioned p. 12 of the Working Group report; “A global state-of-the-art review of seafood”), was perhaps relevant to the UK seafood processing industry, but it cannot serve as a basis for the methodology of such an important report dealing with the implementation of the CFP.

Either the request made by the Commission to ICES was unclear, or ICES forgot to account for the regulatory framework linked to the question. At any rate, this advice is thus irrelevant regarding the implementation of Regulation 2019/1241.

2) According to the advice and in accordance with the Working Group Report, innovation is deemed to be driven by three criteria: (a) catch efficiency, (b) selectivity and reduction of by-catch, and (c) impacts on ecosystems.

That is a very simplistic approach. Fishing (i.e. economic) operators are first of all driven by profitability, i.e. they first of all try to increase their profit e.g. through ‘innovation’. It is only then, as a second step, that ‘innovations’ are looked for in order to cope with constraints imposed by regulations (on the gear themselves, their use etc.). Not the other way around.

3) It is probably because of this simplistic approach that the precautionary approach, a central pillar of the CFP, was ignored in this advice. In addition, although the effects of innovative gears on the ecosystems are referred to in both the advice and the Working Group report, the ecosystem-based approach itself, as defined in Article 4 (1) (9) of the basic CFP Regulation No 1380/2013 — which is also a central pillar of the CFP — is not fully accounted for. In particular, even though impacts on endangered and protected species are mentioned, the necessity to preserve the ecosystem as a whole — i.e. the biodiversity, biological processes, and habitats — is utterly ignored.

4) In the advice, an ‘innovative gear’ is defined as a gear, or a component of a gear, that is different from the current EU regulation’s baseline or from the gear commonly used in a specific sea basin.

Considering the precautionary approach and the ecosystem-based approach, such a mere comparison with the baseline gear is not enough and appears rather weak. To ascertain that there is positivity in a given innovation, any analysis must also include a comparison with all other gears catching the same species in the same ecosystems. For instance, comparing pulse trawl only with ‘regular’ beam trawl is completely

insufficient, given the widely acknowledged, severe impacts caused by the latter.

5) On that note, it is extremely peculiar that pulse trawl was not discussed in this advice, given that that unique gear was explicitly considered by the Commission and very few Member States (one, in particular) as an innovative gear! Not even mentioning it is incomprehensible. As a reminder, this gear did not find its origin in the search for selectivity, contrary to what was claimed during these debates, but in order to cut the fuel costs that were putting beam trawls in jeopardy. This is clear from Mr Van Balsfoort's conference organized by the Commission in Brussels in May 2006 (<https://bit.ly/3tMearP>). Omitting this well-known fact is unacceptable.

6) Finally, this advice does not account for social impacts of innovations on small-scale fishers, although increased competition was noted in an ICES Special Request Advice (<https://bit.ly/3rLESif>). Electric fishing is the perfect case of innovation that led to the destruction of entire livelihoods, as evidenced in Dunkirk, whose fish auction recently closed due to plummeting landings of sole. Even in the Netherlands, only 46% of the sole quotas have been reached in 2020, in continuation with past years' trend (<https://bit.ly/3rON1Tk>). Now that electric fishing is banned, the Dutch industry is developing a new fishing method to inject high-pressure water in the sediment to dislodge fish. This technique is not mentioned in the ICES advice although it has been widely advertised by the Dutch industry and cannot be ignored by both the Commission and ICES. As for electric fishing, its destructive potential is so big that we must stop its development at an early stage in the name of the precautionary principle.

12. Are you involved in any research project on innovative gear?

- Yes
- No

13. Do you think there is a need for additional nature conservation technical measures for the protection of sensitive habitats?

- Yes
- No

Which measures for which habitats?

5000 character(s) maximum

For the protection of sensitive areas, all active (i.e. mobile) fishing gears should be banned from marine protection areas (MPAs), including Natura 2000 areas. It is not acceptable to allow destructive gears in such fragile areas.

On that note, UK-based Blue Marine Foundation proved that the Dogger Bank MPA was regularly trawled and filed a complaint to the EU Commission. The British government has announced banning bottom trawling in the Dogger Bank right after Brexit entered into force. The EU should follow this example.

14. Do you think there is a need for additional nature conservation technical measures for the protection of sensitive species?

- Yes

- No

Which measures for which species?

5000 character(s) maximum

See question 13.

15. Do you think there is a need for additional measures in relation to species and size selectivity of fishing gear and mesh size specifications?

- Yes
 No

Why?

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Control is crucial, as it is widely known that regulations are breached on a daily basis. This fact is also known by the Commission. For example, The engine power is supposed to be limited to 300 hp in the 12 nautical mile coastal band (Regulation 2019/1241 in Annex V, Part C, § 2.2), but this has been largely exceeded, as revealed by the Commission in a report (<https://op.europa.eu/en/publication-detail/-/publication/a867cbac-8e90-11e9-9369-01aa75ed71a1/language-en/format-PDF/source-99423821>). Many of these vessels are, as expected, Dutch, and according to Dutch NOS newspaper, national authorities had been aware of this for ten years and knowingly allowed large fishing companies to fraud (<https://nos.nl/artikel/2303680-hoe-nederland-visserij-fraude-wel-doorhad-maar-niets-deed.html>).

On another topic, that of mesh size, Dutch organization Vissersbond also addressed a letter to all his members asking them to stop cheating on mesh size, because their analysis of landed catch showed too many small soles (see Annex). Yet, no one seemed to be bothered.

Finally, the Commission is fully aware of the Dutch fraud re. the number of electric fishing licences, given that it has acknowledged it was far beyond the regulatory limit (see <https://www.bloomassociation.org/wp-content/uploads/2020/08/Reponse-commission-30-juillet-2020.pdf>).

The fact that the Dutch keep trampling EU laws is a public secret, so we suggest you ensure these regulations are enforced instead of organization public consultations. The single most important measure to be enforced is the following: the European Commission must play its role of Guardian of the Treaties by enforcing and respecting the existing rules. Paper laws are useless.

16. Do you think that additional regional mitigation measures are needed for the reduction of incidental catches for sensitive species?

- Yes
 No

17. Do you think that there is a way to improve collection of scientific data on incidental catches of sensitive species as set out in Annex XIII?

- Yes
- No

18. Do you think that there is a way to improve sufficient monitoring and assessment the effectiveness of mitigation measures as set out in Annex XIII?

- Yes
- No

19. Have you identified difficulties in the implementation of the Technical Measures Regulation?

- Yes
- No

Please indicate the relevant Article(s) and the difficulties encountered.

5000 character(s) maximum

See question 15.

Document Upload

Should you wish to provide additional information to your replies, you can upload your document here. This must be 2 pages maximum (including references).

Only files of the type pdf,doc,docx,odt,txt,rtf are allowed

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Contact

MARE-TECHNICAL-MEASURES@ec.europa.eu

