



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 11 June 2014  
(OR. en)**

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**Interinstitutional File:  
2014/0138 (COD)**

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**9934/14  
ADD 2**

**PECHE 258  
CODEC 1310**

**COVER NOTE**

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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 May 2014

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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No Cion doc. COM(2014) 265 final

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Subject: Proposal for a Regulation of the European Parliament and of the Council laying  
down a prohibition on driftnet fisheries, amending Council Regulations (EC)  
No 850/98, (EC) No 812/2004, (EC) No 2187/2005 and (EC) No 1967/2006  
and repealing Council Regulation (EC) No 894/97  
- Commission staff working document

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Delegations will find attached document SWD(2014) 154 final.

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Encl.: SWD(2014) 154 final



Brussels, 14.5.2014  
SWD(2014) 154 final

**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
laying down a prohibition on driftnet fisheries, amending Council Regulations (EC) No  
850/98, (EC) No 812/2004, (EC) No 2187/2005 and (EC) No 1967/2006 and repealing  
Council Regulation (EC) No 894/97**

{ COM(2014) 265 final }  
{ SWD(2014) 153 final }

**Disclaimer:** This executive summary commits only the Commission's services involved in its preparation and does not prejudge the final form of any decision to be taken by the Commission.

## 1. PROBLEM DEFINITION

Driftnets are fishing nets that can drift and operate close to or at the sea surface to target fish species that swim in the upper part of the water column.

Following specific United Nations General Assembly (UNGA) Resolutions<sup>1</sup>, which called for a moratorium on the "large-scale pelagic driftnets"<sup>2</sup>, the EU developed in the 90's a series of provisions to implement such a ban for large-scale driftnets<sup>3</sup>.

Additionally, recognising the serious threat driftnet fisheries for salmon posed to already depleted harbour porpoise's populations, since 1 January 2008 it has been prohibited to keep on board or use for fishing any kind of driftnets in the Baltic Sea<sup>4</sup>.

Currently EU vessels are allowed to keep on board and use small-scale driftnets, except in the Baltic, provided that:

- (a) their individual or total length is equal to or smaller than 2.5 km
- (b) their use is not intended for the capture of species listed in Annex VIII of Regulation No 894/97 as amended by Regulation (EC) No 1239/98<sup>5</sup>, and
- (c) species listed in Annex VIII<sup>6</sup> which have been caught in driftnets cannot be landed.

Notwithstanding this entire regulatory framework, there has been still evidence of difficulties in applying the EU driftnets rules, particularly in the Mediterranean.

Such weaknesses might be the reason for a proliferation of national measures supplementing the existing EU legal framework which have not been anyhow very effective in ensuring that those weaknesses were not exploited and may have left room to some more abuse and non-compliance by operators.

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<sup>1</sup> United Nations General Assembly Resolutions: [44/225](#) of 22 December 1989; [45/197](#) of 21 December 1990; [46/215](#) of 20 December 1991

<sup>2</sup> Large-scale driftnets were defined as nets over 2.5 Km in length under the Convention for the prohibition of fishing with long driftnets in the South Pacific (Wellington Convention).

<sup>3</sup> Council Regulation (EC) [No 894/97](#) of 29 April 1997 laying down certain technical measures for the conservation of fishery resources

<sup>4</sup> Council Regulation (EC) [No 2187/2005](#) of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98.

<sup>5</sup> Council Regulation (EC) No [1239/98](#) of 8 June 1998 amending Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources

<sup>6</sup> List of species (Annex VIII): Albacore: *Thunnus alalunga*; Bluefin tuna: *Thunnus thynnus*; Bigeye tuna: *Thunnus obesus*; Skipjack: *Katsuwonus pelamis*; Atlantic Bonito: *Sarda sarda*; Yellowfin tuna: *Thunnus albacares*; Blackfin tuna: *Thunnus atlanticus*; Little tuna: *Euthynnus spp.*; Southern bluefin tuna: *Thunnus maccoyii*; Frigate tuna: *Auxis spp.*; Oceanic sea breams: *Brama rayi*; Marlins: *Tetrapturus spp.*; *Makaira spp.*; Sailfishes: *Istiophorus spp.*; Swordfishes: *Xiphias gladius*; Sauries: *Scomberesox spp.*; *Cololabis spp.*; Dolphinfishes: *Coryphaena spp.*; Sharks: *Hexanchus griseus*; *Cetorhinus maximus*; *Alopiidae*; *Carcharhinidae*; *Sphyrnidae*; *Isuridae*; *Lamnidae*; Cephalopods: all species.

Though concerned Member States have recently adopted further national measures to address these issues there is still potential in the near future of the same problems re-emerging.

In addition, on the basis of the past experience and recent information from scientific studies<sup>7</sup>, some small-scale driftnet fisheries might still pose persisting environmental and conservation problems through interactions with protected species (e.g. cetaceans, sea turtles, sturgeons etc.) particularly in some areas.

## **2. ANALYSIS OF SUBSIDIARITY**

The Commission act on the basis of Article 3 (1d) and in line with the procedure established by the Article 43(2) of the Treaty on the Functioning of the European Union.

Therefore, the subsidiarity principle does not apply to the matter addressed by this initiative.

## **3. OBJECTIVES**

Within this framework the main specific policy objective are as follows:

- To address and eliminate any possible persisting environmental and conservation problems related to the use of small-scale driftnets.
- To address and eliminate shortcomings in the EU legal framework that may undermine implementation and weaken control and enforcement.
- To contribute to the objectives and targets for "good environmental status" as established under the Marine Strategy Framework Directive (MSFD)<sup>8</sup> and related Directives.

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<sup>7</sup> MAREA Framework Contract MARE 2009/05 Lot. 1 SI2.651082 - Specific contract 8 (SI2.646130). "Identification and characterization of the small scale driftnet fisheries in the Mediterranean (DriftMed) and Framework Contract No MARE/2011/01 Lot2 - Specific contract 5 (SI2.650655). "Study in support of the review of the EU regime on the small-scale driftnet fisheries".

<sup>8</sup> Directive [2008/56/EC](#) of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)

#### 4. POLICY OPTIONS

To address these objectives, four policy options have been considered:

- Policy option 1: maintenance of the status quo (baseline scenario);
- Policy option 2: introduction of technical and control measures;
- Policy option 3: selected ban of some driftnet fisheries;
- Policy option 4: total ban of driftnets fisheries.

##### **Policy option 1: maintenance of the status quo (baseline scenario)**

This approach means taking no specific steps to modify the current regulations controlling the use of driftnets included under Council Regulation (EC) No 894/97 as amended by Regulation (EC) No 1239/98.

##### **Policy option 2: introduction of technical and control measures**

This option seeks to remove misinterpretation and poor implementation of the existing rules on driftnets by introducing specific provision on:

- Additional technical measures (e.g. rigging of the fishing gears: mesh size and twine thickness; distance from the coast, etc.)
- Control and monitoring aspects (e.g. one net rule, compulsory fishing authorisations, etc.).

##### **Policy option 3: selected ban of some driftnet fisheries**

Only the driftnet fisheries identified as being the most harmful to strictly protected species and/or not able to avoid unwanted by-catches of unauthorised species (Annex VIII species) would be discontinued.

The information available so far available is not sufficient to identify harmful driftnet fisheries to any degree of accuracy although several specific examples exist and more field work would be needed.

##### **Policy option 4: total ban of driftnets fisheries**

This option would mean eliminating de facto any driftnet fishery, by introducing a total prohibition to keep on board and/or use this type of fishing gear. Any persisting control and environmental problems would be addressed, by applying the precautionary principle.

This option will also match with the preference showed by some Member States because either they have never developed such a type of fisheries (e.g. The Netherlands, Belgium etc.) or they have adopted national measures (e.g. Spain, Greece, Cyprus, Malta etc) or have signed international obligations (e.g. Mediterranean and Black Sea Member States together with Portugal as Parties to ACCOBAMS) prohibiting the use of any driftnets though in most case without implementing it.

## 5. ASSESSMENT OF IMPACTS

The evaluation of policy options is based on a SWOT analysis. For the sake of brevity, considerations on the status-quo-baseline scenario (Option 1) are not reported hereby.

The majority of fisheries identified are seasonal, and the participating fleets are comprised of polyvalent vessels. For most fishers driftnetting represents only a few months of fishing activity in any year with some fishers using driftnets for less than half a month per year. Nonetheless this type of fishery may represent a significant source of income integration for some local community of fishers though, during the past years, the numbers of vessels as well as the number of employees have been substantially decreasing. While it cannot be excluded that the ban may affect some of the vessels carrying out these fisheries, the overall socio-economic impact of the total ban is therefore considered irrelevant at national and sub-regional level. The total prohibition to use driftnets according to option 4 is not expected to result in a corresponding reduction of fishers which will continue to operate with other gears as already authorised in their fishing licence.

Option	Socio-Economic Impact	Score
<i>Policy Option 2</i>		
Technical and control measures adopted at EU level	Economic and financial costs are expected to adapt the fleet to the new technical requirements and to develop appropriate control tools. Accrued technical measures on the driftnet sectors could determine ceasing of some fishing activities	-
<i>Policy Option 3</i>		
Selected ban on some driftnet fisheries	Social and economic impacts on driftnet fishermen affected by the implementation of the ban. Although these costs can be mitigated by carrying out other type of fisheries already authorised in their fishing licence and, where necessary, through accompanying financial measures. They are aggravated by the potential risk of discriminatory treatment amongst driftnet fisheries. Furthermore, in order to get more reliable data for proper classification also the sector should participate in the scientific surveys with additional costs.	--

Option	Socio-Economic Impact	Score
<i>Policy Option 4</i>		
Total ban on driftnet fisheries	Social and economic impacts for affected fishermen, although they will be mitigated by carrying out other type of fisheries already authorised in their fishing licence and, where necessary, through accompanying measures to support adaptation (switch to other fishing methods, differentiation of activity, phasing out).	-

(Key: + positive impact, ++ substantially positive impact, -negative impact, -- substantially negative impact, 0 no impact, NA not applicable/very difficult to assess)

Option	Environmental Impact	Score
<i>Policy Option 2</i>		
Technical and control measures adopted at EU level	Similar environmental impacts as the status quo, though it removes the possibility for future relaxation of national legislation to adversely impact unauthorised species.	-
<i>Policy Option 3</i>		
Selected ban on some driftnet fisheries	<p>This option aims to address the persisting environmental problem, including the collection of the evidences needed to support decision. However, it should be noted that the information available in the short term is limited and not enough robust to identify the most harmful fisheries to be prohibited. In this context there is a risk that the most harmful fisheries are not covered by the ban with persisting environmental concerns.</p> <p>The possible transfer of effort from prohibited driftnet fisheries to other metiers should be monitored to avoid negative impact.</p>	+



Option	Environmental Impact	Score
<i>Policy Option 4</i>		
Total ban on driftnet fisheries	Positive impact since this option will address all possible environmental concerns, by prohibiting any activity. The displacement of activity towards other gears already authorised in their fishing licence is considered minimal considering the marginal importance given to driftnet activities for most of the vessels. However, transfer of effort from driftnet fisheries to other métiers should be monitored to avoid unexpected negative impact. Positive indirect effects for better steering other fisheries with likely interaction with protected species.	++

An assessment of the administrative burden on the Member States is based on the potential requirements of the main measures suggested for each Policy option and the implications for the involved stakeholders (i.e. public bodies and businesses) in terms of: a) regulatory requirements (high burdens), b) information obligations (limited burdens), or c) specific adaptation in processes or behaviours (medium burdens).

Options	Impact on administrative burden	Score
Option 2 Technical and control measures adopted at EU level	Important administrative burden, to follow the adaptation process towards new requirement (e.g. changes to mesh size) and to correctly monitor the implementation of the new regime (e.g. establish fishing authorization, control plan etc.)	--
Option 3 Selected ban on some driftnet fisheries	Important administrative burden to collect the information needed to decide on possible ban of certain fisheries. Difficulties to manage and control two parallel systems: driftnet fisheries possibly banned and driftnet fisheries possibly authorised.	--

<p>Option 4</p> <p>Total ban on driftnet fisheries</p>	<p>Administrative burden in the short term, to manage and control the transition. In the medium and long term the burden will be largely reduced thanks to simplified legislative framework and control needs. This simplified regime would require a less demanding control and monitoring targeting the driftnets and less fishing gears to administer.</p>	<p>+</p>
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## 6. COMPARISON OF OPTIONS

In addition to the comparison above reported, the performances of the four policy options are compared against each other using the evaluation criteria of relevance, effectiveness, efficiency, coherence and acceptability.

The relevance of the options is considered in the light of persisting environmental and control problems identified, namely:

- environmental problem: insufficient monitoring of driftnet fisheries to assess impacts on protected species
- control problem: some Member States have not been able to prevent current small-scale driftnet fisheries from targeting unauthorised species.

The effectiveness and efficiency of the options is considered, inter alia, in relation to prevent expansion of large scale driftnets/targeting Annex VIII species and associated indiscriminate catches (including of target species/bycatch) as well on mitigating impacts of driftnets on species with special protection needs.

The coherence of the policy options was considered in relation to overarching EU objectives, strategies and priorities.

The acceptability of the policy options was considered in relation to better control and enforcement, the environmental dimension, commensurate administrative burden (i.e. taking account of the proportionality principle) including also the output of the public consultation.

The comparison between the four policy options is summarised in the table below.

<b>Evaluation criteria</b>		<i>Option 1 Satus quo</i>	<i>Option 2 Technical and control measures</i>	<i>Option 3 Selected ban</i>	<i>Option 4 Total ban</i>
<i>Relevance</i>	<i>Environmental</i>	--	+	+	++
	<i>Control</i>	-	-	--	++
<i>Effectiveness</i>	<i>Objective 1</i>	--	+	+	++
	<i>Objective 2</i>	--	+	+	++
	<i>Objective 3</i>	--	+	+	++
	<i>Objective 4</i>	--	+	+	++
	<i>Objective 5</i>	0	0	-	-
<i>Efficiency</i>	<i>Objective 1</i>	--	+	+	++
	<i>Objective 2</i>	--	+	+	++
	<i>Objective 3</i>	--	+	+	++
	<i>Objective 4</i>	--	+	+	++
	<i>Objective 5</i>	0	0	-	-
<i>Coherence</i>	<i>Proportionality principle</i>	+	+	-	-
	<i>Precautionary principle</i>	-	+	+	++
	<i>Ecosystem based management</i>	-	+	+	++
<i>Acceptability</i>	<i>Member States</i>	0	-	--	+/-
	<i>Fishermen</i>	0	--	--	-
	<i>NGOs</i>	--	+	+	++

Based on the above considerations, policy option 4 concerning a total ban of all kind of driftnet fisheries seems to be the preferred option as it satisfies mostly the effectiveness, efficiency, coherence and acceptability parameters while providing the best results in terms of environmental impact and less administrative burden.

## 7 MONITORING AND EVALUATION

New monitoring and evaluation systems other than those already existing shall not be created; it is a matter to make them properly functioning.

In that respect, the Commission shall closely verify and cooperate with Member States to ensure that the control, inspection and enforcement tools together with scientific monitoring, risk assessment strategies and deterrent measures established under the Common Fisheries Policy<sup>9 10 11</sup> are effectively and efficiently implemented by Member States

In addition, the new mechanisms established by the Marine Strategy Framework Directive<sup>12</sup> (MSFD) should facilitate and improve the monitoring and reporting systems by Member States as established by the Birds and Habitats Directives<sup>13</sup>.

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<sup>9</sup> Council Regulation (EC) No [1224/2009](#) of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy. OJ L 343, 22.12.2009, p.1.

<sup>10</sup> Council Regulation (EC) No [1005/2008](#) of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, OJ L286, 29.10.2008, p.1.

<sup>11</sup> [Regulation \(EU\) No 1380/2013](#) of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy. OJ L 354, 28.12.2013, p.22.

<sup>12</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy.

<sup>13</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds. [Council Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.