

ROADMAP	
TITLE OF THE INITIATIVE	Proposal for a Regulation of the European Parliament and of the Council for the conservation of fishery resources through technical measures for the protection of marine organisms
TYPE OF INITIATIVE	X CWP • Non-CWP • Implementing act/Delegated act
LEAD DG – RESPONSIBLE UNIT	DG MARE - A2
EXPECTED DATE OF ADOPTION	March 2013
VERSION OF ROADMAP	No: 1 Last modification: June 2011

This indicative roadmap is provided for information purposes only and is subject to change.
It does not prejudge the final decision of the Commission on whether this initiative will be pursued
or on its final content and structure.

A. Context, problem definition
(i) What is the political context of the initiative? (ii) How does it relate to past and possible future initiatives, and to other EU policies? (iii) What ex-post analysis of the existing policy has been carried out and what results are relevant for this initiative?
<p>(i) Conservation of marine biological resources is the fundamental pillar to achieve the objectives of the Common Fisheries Policy (CFP). Within the context of the ongoing process of reform of the CFP a number of key issues were identified¹ that are hindering the achievement of this objective currently. These were also identified in the impact assessment² subsequently carried out as part of the reform process. These include:</p> <ul style="list-style-type: none"> • fleet overcapacity; • imprecise policy objectives resulting in insufficient guidance for decisions and implementation; • a decision-making system that encourages a short-term focus; • a framework that does not give sufficient responsibility to the industry; • poor compliance by the industry. <p>The technical measures regulations currently in force are regarded as being too complex and difficult to understand, control and enforce. To illustrate this, the main regulation currently in place, Council Regulation (EC) 850/1998³, was adopted by the Council on 30 March 1998 and has been amended no less than forty-one times⁴. It includes a mixture of rules of general application, very technical details and many derogations and amendments, which adds to their complexity. In addition to Regulation 850/1998 technical measures of relevance for the North Sea and the Atlantic are also found in a number of other regulations 2056/2001⁵, 494/2002⁶, 812/2004⁷, 1288/2009⁸ while separate regulations are in place for the Mediterranean⁹ and the Baltic Sea¹⁰. There are also separate measures for the protection of vulnerable marine ecosystems in the high seas</p>

¹ [COM \(2009\) 163 final](#) of 22.04.2009. Green Paper - Reform of the Common Fisheries Policy.

² [SEC\(2011\) 891](#). Impact Assessment Accompanying Commission proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy [repealing Regulation (EC) No 2371/2002]

³ Council Regulation (EC) [No 850/98](#) of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms

⁴ Technical aspects of the gears and specific measures by Council Regulations (EC) No 579/2011, (EC) No 1288/2009, (EC) No 973/2001, (EC) No 812/2000, (EC) No 724/2001, (EC) No 1298/2000, (EC) No 2723/1999, (EC) No 1459/1999, (EC) No 308/1999, (EC) No 1568/2005, (EC) No 602/2004, and by Commission Regulations (EC) No 517/2008, (EC) No 146/2007, (EC) No 129/2003, (EC) No 1922/1999. It has also been amended by several regulations on fishing opportunities for the Atlantic, Deep sea species and the Black Sea, and in particular by Regulations (EC) No 23/2010, (EC) No 43/2009, (EC) No 40/2008, (EC) No 51/2006, (EC) No 27/2005, (EC) No 1936/2005, (EC) No 2287/2003, (EC) No 2341/2002, (EC) No 2555/2001, (EC) No 2848/1999, (EC) No 2742/1999, (EC) No 1287/2009, (EC) No 1359/2008, (EC) No 2015/2006, (EC) No 2270/2004, (EC) No 2340/2002. Regulation 850/98 has also been amended by several recovery plans, in particular, by Council Regulations (EC) No 2166/2005, (EC) No 254/2002, (EC) No 300/2001, (EC) No 2549/2000 and by Commission Regulations (EC) No 494/2002, (EC) No 2602/2001, (EC) No 1162/2001, (EC) No 304/2000, (EC) No 2056/2001, and (EC) No 456/2001

⁵ Commission Regulation (EC) [No 2056/2001](#) of 19 October 2001 establishing additional technical measures for the recovery of the stocks of cod in the North Sea and to the west of Scotland

⁶ Commission Regulation (EC) [No 494/2002](#) of 19 March 2002 establishing additional technical measures for the recovery of the stock of hake in ICES sub-areas III, IV, V, VI and VII and ICES divisions VIII a, b, d, e

⁷ Council Regulation (EC) [No 812/2004](#) of 26.4.2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98

⁸ Council Regulation (EC) [No 1288/2009](#) of 27 November 2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011

⁹ Council Regulation (EC) [No. 1967/2006](#) of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No. 2847/93 and repealing Regulation (EC) No. 1626/94.

¹⁰ 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

from the adverse impacts of bottom fishing gears¹¹ as well as measures in third-country waters covered under Regional Fisheries Management Organisations (RFMOs) such as North-east Atlantic Fisheries Commission (NEAFC)¹², Northwest Fisheries Organization (NAFO)¹³, Convention on Conservation on Antarctic Living Marine Resources (CCALMR)¹⁴ and the International Convention for the Conservation of Atlantic Tunas (ICCAT)¹⁵ among others.

Despite a general consensus amongst Member States, stakeholders and the European Parliament that the current technical measures are ineffective, no political agreement for a new package of measures has been reached in the last ten years. Previous Commission proposals in 2002¹⁶ and in 2008¹⁷ failed for a number of reasons. It was argued by Member States that the text had grown too complicated and too difficult to interpret and that the new proposals were merely a consolidation. In addition, it was felt that they did not reflect regional differences while the advantages of harmonising measures across different areas were also questioned. Finally, stakeholders did not feel that they had been fully consulted on the proposals despite extensive stakeholder consultation on both occasions and an impact assessment in support of the second proposal.

The failure to reach political agreement on a new technical measures regulation highlights the need for a new approach. This should be based on simplification, the decision making framework of the Lisbon Treaty, strengthening the long-term approach to conservation and resource management, regionalisation, further stakeholder involvement and more industry responsibility. This is in line with the objectives defined in the proposal for the new basic regulation as part of the reform process¹⁸.

(ii) This proposal aims to develop a new technical measures framework in the context of the reform of the CFP. As such it must therefore ensure the protection of marine biological resources and the reduction of the impact of fishing activities on fish stocks and on marine eco-systems. It must also be clearly aligned with other elements of the CFP regulation e.g. multiannual plans and the discard policy as well as environmental conservation legislation including the Habitat Directive¹⁹, the Birds Directive²⁰ and the Marine Strategy Framework Directive (MSFD)²¹ (2008/56). The new proposal will cover the North Atlantic and the North Sea. The Baltic and the Mediterranean have separate regulations for technical measures. There are good reasons not to re-open the Mediterranean regulation, and the Baltic regulation was modified in recent years, but it is important that existing measures within these sea basins are compatible with the new measures proposed. In addition, given the EU also cooperates closely with RFMOs in international waters, the EU should continue to promote the adoption of new and improved technical measures for the protection of marine resources within RFMOs. Such measures should be applicable to EU vessels fishing in these waters.

(iii) In developing its 2008 proposal for a revised technical measures regulation, the Commission prepared an impact assessment²². It was primarily based on stakeholder consultations of a series of Commission non-papers²³ and a series of reports/meetings as follows:

- STECF working group on the respective influence of the main factors²⁴ which affect codend selectivity, June 2007.
- STECF working group on the evaluation of closed areas²⁵, March and October 2007.
- Expert meeting with net makers, July 2007.
- "Report on the review of technical measures"²⁶ produced by the ICES working group WGFTFB (Working Group on Fishing Technology and Fish behaviour) in 2005.

In this impact assessment, three options were presented: a status quo policy option, a simplification only policy

¹¹ Council Regulation (EC) [No 734/2008](#) of 15 July 2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of fishing gears

¹² [North East Atlantic Fisheries Commission](#)

¹³ [Northwest Atlantic Fisheries Organization](#)

¹⁴ [Convention on the Conservation of Antarctic Marine Living Resources](#)

¹⁵ [International Convention for the Conservation of Atlantic Tunas](#)

¹⁶ [COM\(2002\)672](#) final. Proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures for the protection of juveniles of marine organisms

¹⁷ [COM\(2008\)324](#) final Proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures

¹⁸ COM(2011) 425 final. Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy

¹⁹ Council Directive [92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

²⁰ Council Directive [79/409/EEC](#) of 2 April 1979 on the conservation of wild birds

²¹ 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)

²² [SEC \(2008\) 1977](#) Commission staff working document - Impact Assessment regarding the Commission's proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures in the Atlantic and the North Sea Lead - DG: DG FISH - Agenda planning: 2006/FISH/004 - Summary of the impact assessment on the proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures

²³ Non-paper by the Commission Services on Technical Measures in the North Sea and Atlantic. October 2005; Non Paper – Technical Measures in the North-east Atlantic and the North Sea. Preparing a Proposal to replace Council regulation 850/98. July 2006.

²⁴ Meeting with the STECF Working Group 11-15 June 2007

²⁵ Commission Staff Working Document. Evaluation of Closed Area Schemes (SGMOS-07-03). Subgroup on management of stocks (SGMOS) of the Scientific, Technical and Economic Committee for Fisheries (STECF). 5-9 November 2007.

²⁶ ICES WGFTFB Report 2005 (ICES CM 2005/B:04)

²⁷ [Impact Assessment of Discard Reducing Policies. June 2011](#)

option and a simplification and regionalisation policy option. It was found that the status quo option would result in many gears remaining unselective, resulting in high levels of discarding, and that some of the current regulations were unenforceable or easily circumvented by fishers. With the status quo option, the dialogue with stakeholders would not improve, as stakeholders would continue to have only a limited involvement in the decision-making process. In addition, the current technical measures do not take sufficient account of the need to protect other ecosystem components such as endangered, threatened and protected species and also sensitive habitats.

The results of this original impact assessment and the stakeholder consultations held at the time remain relevant when considering a status quo policy option as part of the process in developing a new proposal. In addition, the evaluations carried out by STECF on codend selectivity²⁴ provide a detailed analysis of selectivity parameters, develop evaluation tools and models for assessing gear selectivity. The STECF Working Group on closed areas²⁵ carried out a comprehensive assessment of most of the existing closed areas and seasons and found many of them to be ineffective or impossible to assess because of limited data. The meeting of netmakers and the ICES report both identify weaknesses and inconsistencies in the current regulations. All of these are useful reference documents in carrying out a more extensive impact assessment to support this new initiative.

As part of the CFP Reform Impact Assessment, an assessment of the impact of discard reducing policies was carried out²⁷. This assessment had two phases. The first phase comprised a series of desk studies on the extent of discarding practices in the EU and described the anti-discard policies in a number of countries (Iceland, Norway, Scotland and Denmark). Moreover, the level of discarding in EU fisheries was classified and finally specific studies of discarding in Mediterranean fisheries were undertaken. The second analytical phase assessed the impacts of a range of anti-discard policy options in EU fisheries including the effects of changes in fishing gear selectivity and the introduction of new technical measures such as Real-time closures. This analysis showed that the introduction of an anti-discard policy based on effective technical measures would result in short-term economic losses but medium to long-term additional gains, primarily in environmental and economic terms. This will be another important reference document for this new initiative.

What are the main problems which this initiative will address?

The current technical measure legislation, Regulation (EC) 850/98, applies primarily to the North Atlantic and North Sea and contains the following range of measures:

- Minimum mesh sizes;
- Restrictions on gear construction (i.e. twine thickness, codend construction);
- Mandatory device of selectivity devices (e.g. square mesh panels, sorting grids)
- Minimum landing sizes;
- Closed areas and seasons;
- Catch composition limits;
- Eco-system protection measures; and
- Prohibitions of certain gears.

Since its introduction additional technical measures have been adopted, often on an *ad hoc* basis. The introduction of multiannual plans since 2002 has only made this situation more complex, as each of these plans has brought new sets of accompanying technical measures. The result is a legislative labyrinth – a mass of overlapping, and sometimes contradictory provisions, allowing multiple derogations and exceptions, scattered throughout a range of very different legal texts. This has led to three inherent problems in the current legislation that this initiative will seek to address:

- the underlying deficiencies in the selectivity of fishing gears and their impact on the ecosystem;
- a lack of incentives to improve selectivity or fish more responsibly; and
- the complexity of the existing technical measures legislation.

Under the current regulations it is apparent that many legal gears being used are unselective, leading to high discarding as well as incidental catches of biologically sensitive species. Currently the appropriate match between minimum mesh sizes and minimum landing sizes is a particular problem in mixed fisheries, because the minimum landing sizes regulations in those fisheries often generate discard problems, rather than helping to resolve them. Without species-selective fishing technology, these problems cannot be solved effectively. It has also become increasingly clear in many fisheries that regulating gear selectivity alone is not sufficient to provide sustainable exploitation patterns, and also that the measures imposed may have unintended, negative effects. Regulation-induced discarding provides a clear example. In mixed fisheries, no single mesh size suits all species, and any change may favour one species at the expense of another. The new measures must address this by improving the selectivity of gears but also of fishing practices to reduce unwanted bycatch (undersize, non-target and species for which the vessel has no quota). This can be achieved through a combination of simple gear based measures and avoidance measures.

Who will be affected by it?
The principal sectors affected with the introduction of a new technical measures framework will be the owners, operators and crews of fishing vessels operating in EU waters. The new measures will be applied to the North Atlantic and North Sea, but the intention is to ensure the basic principles contained within the new framework have linkage with the Mediterranean, Baltic and Black Seas, as well as non-EU waters allowing possible integration over time. Fish processors will also be affected as changes in gear selectivity and fishing operations will lead to differences in the size, quantity and species landed. There will undoubtedly be knock-on effects to ancillary industries, particularly net-making companies resulting from changes in gears. It will also affect the national administrations and research agencies that will have to adapt tools and measures to ensure enforcement of the new rules and monitor and record changes in selectivity and fishing patterns that may result.
(i) Is EU action justified on grounds of subsidiarity? (ii) Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? (Necessity Test) (iii) Can the EU achieve the objectives better? (Test of EU Value Added)
(i-iii) Provisions in the proposal relating to the conservation of marine biological resources falls under the exclusive competence of the EU according to Article 3(1d) of the Treaty on the Functioning of the European Union (TFEU) ²⁸ . Therefore, the subsidiarity principle does not apply for those provisions. Given that the conservation of marine biological resources is an exclusive competence of the Union, technical measures frameworks to ensure the protection of marine biological resources and the reduction of the impact of fishing activities on fish stocks and on marine eco-systems shall be established at Union level. This is the line expressed in the Commission proposal for a new basic regulation on fisheries ²⁹ . The proposal refers to a specific technical measure framework which shall: (a) contribute to maintaining or restoring fish stocks above levels capable of producing maximum sustainable yield through improvements in size-selection and where appropriate species selection; (b) reduce catches of undersized individuals from fish stocks; (c) reduce catches of unwanted marine organisms; (d) mitigate the impact of fishing gear on the ecosystem and the environment, with particular regard to the protection of biologically sensitive stocks and habitats. However, recognising the specificities of fisheries in different regions Member States will be empowered to adopt measures in accordance with the proposal, that are no less stringent than those existing in Union legislation.

B. Objectives of the initiative
What are the main policy objectives?
The main policy objectives are as follows: <ul style="list-style-type: none"> to contribute to the implementation of the commitment to bring all European fish stocks to a state where they can produce Maximum Sustainable Yield (MSY) by 2015 through improvements in size-selection and where appropriate species selection; to adapt the technical measures in the context of the reformed CFP taking account of the consideration of environmental aspects, such as the protection of marine habitats and the elimination of discards and the role of Member States, the Regional Advisory Councils (RACs), Council and the European Parliament in the decision-making process; to contribute to the objectives and targets for "good environmental status" as established under the MSFD²¹, as well as other environmental conservation legislation such as the Habitats¹⁹ and Birds Directives²⁰; and to simplify and bring together but also, where appropriate, improve the effectiveness of existing technical measures, in particular those laid down in Regulation 850/98³ and its different amendments⁴, in other regulations containing technical measures and in particular the regulations for the recovery of the stocks of cod⁵ and hake⁶ and other multiannual plans.
Do the objectives imply developing EU policy in new areas?
No.

²⁸ Consolidated version of the [Treaty on the Functioning of the European Union](#)

²⁹ Article 14 of COM(2011) 425 final

C. Options

- (i) What are the policy options being considered?
- (ii) What legislative or 'soft law' instruments could be considered?
- (iii) How do the options respect the proportionality principle?

(i) The policy options being considered are as follows:

Option 1 - Status Quo

This approach means taking no specific steps except to align Council Regulation (EC) No 850/1998 on technical measures³ to Article 290 TFEU²⁸ and make the transitional technical measures contained in regulation (EC) No. 1288/2009⁸ permanent as amended by Regulation (EC) 579/2011⁴.

Option 2 – Consolidation and Harmonisation

This approach would involve simplifying technical measures and harmonising them across regions, without necessarily taking into account the regional or fishery/species/gear specific considerations. This would involve the consolidation of all technical measures regulations including the transitional technical measures, measures contained in long-term management plans and possibly technical measures contained in other regulations for protection of ecosystem components such as Endangered, Threatened and Protected (ETP) species and sensitive habitats into one regulation replacing the current Regulation (EC) No. 850/98³.

Option 3 - Technical measures Framework

This option proposes a new legislative framework, which would simplify the current complex rules but also introduce empowerment of Member States to adopt national rules reflecting local/regional specificities of fisheries. Essentially a three tiered approach is envisaged:

- (1) The new basic regulation will set the objectives for the new technical measures framework at EU level;
- (2) A new Council and Parliament regulation setting out the general principles and "toolbox" approach to technical measures as well the implementing strategies;
- (3) The empowerment for Member States to adopt national technical measures in the context of regionalisation.

Option 4 – Abolition of Technical Measures

This option would mean abolishing all or the majority of the current technical measures and simply setting targets and objectives by fishery or by region. It would be left up to stakeholders to decide how to meet these targets and the burden of proof would rest with them to demonstrate that they are meeting these objectives and with national administrations to report to the Commission on the activities and results. Where targets were not met or it could not be demonstrated they were being met then the precautionary principle would apply and fisheries would have to be closed.

(ii) While the full detail is still to be considered it is the intention in developing a new framework that will contain both binding and non-binding instruments. An important part of the process will be identifying elements that potentially could be left to self-regulation by stakeholders (e.g. voluntary closures) or managed through "soft-law" (e.g. non-binding certification of cod-ends or gears).

(iii) As the options are still to be fully developed, the proportionality of the content of each option will be addressed in the context of the planned impact assessment.

D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

If the **first policy option**, "status quo" is chosen the technical measures regulations will conflict with the objectives of the reformed CFP with no marked improvement in discarding in EU fisheries or likely reductions in the environmental impacts of fishing on the marine ecosystem. Stocks will likely continue to decline and profitability be further diminished. The dialogue with stakeholders will also not improve, as stakeholders would continue to have limited involvement in the decision-making process resulting in top-down management. The regulations would remain complex and national administrations would continue to struggle with implementation. It would, however, result in no costs to fishermen for the adaption of their gears or displacement from fisheries or areas.

If the **second policy option**, "consolidation and harmonisation" is chosen there will likely be some benefits in a consolidation and harmonisation of measures across regions. This would simplify the rules for industry and national administrations and remove anomalies that lead to mis-reporting and ambiguities particularly in applying mesh size and catch composition rules that border different eco-regions. In addition it would bring all the relevant measures under one regulation. It does, however, imply a continuation of a very much top-down management approach with only a limited role for stakeholders in the decision-making process. It may also lead to some fishermen having to change gears to meet the requirements of harmonised regulations. Additionally the regulations will continue to be inflexible and provide few mechanisms to adapt them to take account specific conservation issues that may arise. Attempts to follow this policy option have already failed twice in the past.

If the **third option**, "framework" is chosen there will be greater flexibility for Member States to develop regionally specific measures. This option would also allow for the provision of incentives to reward responsible practices. The creation of incentives for fishers to change their behaviour, in the long run should benefit the entire industry economically from a reduction in unwanted bycatch and discarding. On the other hand, there is also a risk that in adopting such national measures, a complex legal framework could re-emerge. It will also undoubtedly lead to fishermen having to change gears to meet the requirements under the framework and a fundamental change in behaviour by fishermen with a shift in focus away from regulation of landings to regulation of catches.

If the **fourth option** "abolition" is chosen the technical measures regulation would become very simple as it would merely contain a set of targets and objectives to be met and the requirements and time frame for reporting. There would also be greater flexibility as they can fish with whatever gear they choose and are not restricted by detailed provisions describing gears. However, the burden of proof would lie with fishermen to demonstrate they are meeting the targets set by the regulation. This will likely result in the need for greater monitoring of operations at an individual vessel level through a combination of observers, CCTV, e-Logbooks to demonstrate achievement of targets and compliance. The current system of regulating technical measures is very much based on monitoring the gears and their use through a combination of inspections at-sea and ashore and retrospective reporting of gear, effort and catches through logbooks backed up by scientific observers deployed on board vessels. Adopting a target-based system implies a move to more intensive monitoring of the operations with no need for detailed spot-checks of gears. This would mean changes in the roles of fisheries inspectors and on board observers to more of an auditing function through the verification and cross-checking of documented evidence supplied to show targets are being. The costs of this additional monitoring will likely have to be borne jointly by Member States and fishermen. In the longer term there is also no guarantee this option will improve the situation and in fact may lead to the use of much smaller mesh sizes than currently required and encourage mis-reporting to stay within the targets set. In the worse case it may also lead to a situation whereby the Commission is forced to close fisheries because it cannot be demonstrated targets are being met even though stocks are being fished sustainably.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

(i-ii) Option 1 maintains the status quo so will not simplify the current regulations or reduce the administrative burden on Member States. Option 2 will simplify the regulations by bringing them together under one regulation, although it is questionable whether this will reduce the administrative burden on Member States and fishers. Options 3 and 4 are designed to simplify the current regulatory framework through the elimination of elements of the technical measures which are unnecessary or unenforceable. For Option 3 it should be noted that in the event Member States will not adopt regionally specific measures, or adopt measures that are found not to be effective to reach the conservation targets, the intention will be that the Commission is empowered to adopt the necessary measures by way of delegated act. The introduction of a target based approach into elements of option 3 and in totality in respect of Option 4, where the burden of proof will rest with the stakeholders will also simplify the regulations. However, Option 4 potentially will increase the administrative burden on fishers as they will have to document and demonstrate they are meeting targets set. Member States may also face an increase in administrative burden as a result of increased monitoring and reporting.

(iii) Options 1 and 2 will at best maintain relations with other countries over the compatibility of technical measures in their waters and EU waters (in this case primarily Norway, Iceland, Faroe Islands, Greenland) given the current EU measures have been cited by these countries as ineffective. Option 2 may lead to some harmonisation of regulations which potentially could take account of measures in other countries and therefore might be more acceptable to Norway and Faroe Islands. Option 3 should improve relations with other countries if the basic principles lead to an improvement in selectivity and are also in line with the provisions of an obligation to land all catches as proposed in the Basic Regulation. Option 4 would probably not be acceptable to other countries given it would conflict with their own management systems in many respects and could be seen to have issues of controllability.

(iv) No difficulties in implementing options 1 and 2 would be anticipated for Member States as they would be

<p>largely consolidating the existing measures. Implementation arrangements for options 3 and 4 would largely be dependent on the outcome of the empowerment provisions being discussed in the context of the reform of the CFP.</p> <p>(v) No difficulties in transposing the regulations under option 1 and 2 would be anticipated for Member States. Under Option 3 some difficulties may arise but can probably be resolved. Option 4 may create difficulties for some Member States given it is less prescriptive and hands a certain amount of responsibility to the stakeholders.</p>
<p>(i) Will an IA be carried out for this initiative and/or possible follow-up initiatives? (ii) When will the IA work start? (iii) When will you set up the IA Steering Group and how often will it meet? (iv) What DGs will be invited?</p>
<p>An impact assessment is planned for this initiative and preliminary work has already begun in identifying the various policy options that will be considered. The development of the impact assessment will be aided by the findings of an external study to be carried out under the Framework contract for evaluation and impact assessment activities of DGMARE³⁰.</p> <p>An impact assessment Steering Group will be established in the third quarter of 2011 and will meet as necessary but at least twice. Provisionally it is planned to invite DGs: AGRI, ENV, ENTR, RTD, REGIO, TRADE, SANCO, ECFIN, EMPL and ENTR as well as the Legal Services and Secretary-General.</p>
<p>(i) Is any of options likely to have impacts on the EU budget above €5m?</p> <p>(ii) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial regulation? If not, provide information about the timing of the ex-ante evaluation.</p>
<p>The options do not directly impact on the EU-budget. However, where the cost of the technical adaptations for gear modifications required can not be borne easily by the fishing industry, Member States should make use of the possibilities offered by axis I of the European Fisheries Fund (EFF)³¹ and its successor or any other national financing mechanisms in order to actively promote the use of mitigation devices. For pilot projects which may be outside the scope of the EFF and for which the protection of habitats and/or species is the main objective, financial support is available under FP7 and LIFE+. In any case, it is expected that the planned impact assessment will deliver more information on expenditures arising and appropriate funding sources.</p>

E. Evidence base, planning of further work and consultation

<p>(i) What information and data are already available? Will existing impact assessment and evaluation work be used?</p> <p>(ii) What further information needs to be gathered, how will this be done (<i>e.g. internally or by an external contractor</i>), and by when?</p> <p>(iii) What is the timing for the procurement process & the contract for any external contracts that you are planning (<i>e.g. for analytical studies, information gathering, etc.</i>)?</p> <p>(iv) Is any particular communication or information activity foreseen? If so, what, and by when?</p>
<p>Information and data on the selectivity of fishing gears is available for a number of key stocks and gears. Although some of the data is quite dated new datasets are available for many key stocks. New analytical methods and modelling techniques have also been developed in recent years. The impact assessment and associated reports and consultations completed for the previous proposal for a revision to the technical measures regulation²² in 2008 and the impact assessment of discard reducing policies carried out as part of the reform of the CFP will provide further information for this new initiative. In addition there are a number of large scale EU funded research projects <i>e.g.</i> NECESSITY³², DEGREE³³, RECOVERY³⁴ that have developed and tested a variety of gears and gear modifications to reduce their environmental impact.</p> <p>Further information, consolidating the existing data and information, will be required to develop this new framework. Analysis of selectivity data, particularly for towed gears needs to be reviewed to assess how changes in mesh size and the introduction of new technical measures will impact on different sectors and in different fisheries. The implications of moving to a full result-based system and abolishing most of the current technical measures will also need to be assessed. An external contractor will be assigned to these tasks.</p> <p>The tender process for the external contractor will be launched in November 2011 with a start date of January 2012.</p> <p>A non-paper is planned for initial consultation with stakeholders in the period June-November 2011.</p>

³⁰ Call for tenders [MARE/2011/01](#) (Lot 2) Evaluation and impact assessment activities for the Directorate-General for Maritime Affairs and Fisheries - Published in Official Journal [S55-089143](#) of 19/03/2011

³¹ Council Regulation (EC) [No 1198/2006](#) of 27 July 2006 on the European Fisheries Fund

³² http://ec.europa.eu/research/fp6/ssp/necessity_en.htm

³³ http://ec.europa.eu/research/fp6/ssp/degree_en.htm

³⁴ http://ec.europa.eu/research/agriculture/projects/qlrt_2001_00935_en.htm

It is felt that a combination of the existing information, the additional study planned as well as the results of the stakeholder consultation will allow evaluation of the key issues. Additional requests for to address specific technical questions as part of the regulation may also be referred to Scientific, Technical and Economic Committee for Fisheries (STECF) and International Council for the Exploration of the Sea (ICES) during the process.

Which stakeholders & experts have been or will be consulted, how, and at what stage?

A preliminary consultation phase based on the non-paper referred to above is planned with the Member States, European Parliament and RACs (and possibly other stakeholders). This will be to discuss the general approach and principles, objectives and structure of the proposal. This is planned for June-November 2011.

Following on from this preliminary consultation and on completion of an external study on the various options a public consultation will be carried out. This is planned for July-October 2012.