

ROADMAP

TITLE OF THE INITIATIVE	Review of the EU regime on the small scale driftnet fisheries		
LEAD DG – RESPONSIBLE UNIT	DG MARE- DIR. D ADVISER AND D2	DATE OF ROADMAP	04 / 2013

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A. Context and problem definition

- (1) What is the political context of the initiative?
- (2) How does it relate to past and possible future initiatives, and to other EU policies?
- (3) What ex-post analysis of existing policy has been carried out? What results are relevant for this initiative?

(1) Driftnet fishing has traditionally been carried out with nets of limited lengths and relatively small mesh size to catch different small/medium size pelagic species mostly living in or migrating through coastal areas. This small-scale use has never been a cause for major environmental concerns in the past. Problems began in the late 70s-80s when the use of driftnets with much larger mesh sizes and much longer in length (up to 50 km in extreme cases) expanded rapidly in the absence of meaningful control provisions. The use of these nets resulted in significant environmental impacts, in terms of increased fishing effort on target species and, more important, numerous and large incidences of unwanted catch of protected species, in particular, cetaceans, sea turtles and seabirds¹.

In the early 90s, following specific United Nations General Assembly (UNGA) Resolutions², which called for a moratorium on large-scale pelagic driftnet³ fishing on the High Seas, EU developed a strict legislation on driftnet fisheries both to ensure sustainable exploitation of target resources (mainly tunas and swordfish) as well as to mitigate or annul the negative impact on protected species.

In fact, since June 1992 the keeping on board or use of driftnets whose individual or total size is more than 2.5 km is prohibited in EU waters (except in the Baltic Sea, the Belts and the Sound), and for all EU vessels outside EU waters⁴.

However, the implementation of the 2.5 km rule presented many practical implementation and control problems (e.g. using driftnets under the pretence of them being bottom set gillnets; high economic incentives to use long driftnet for large pelagic stocks with an associated low risk to be detected; cooperative behaviour among vessels, etc.) and did not stop the expansion of large-scale pelagic driftnets. Use of illegal driftnets and incidental taking of protected species continued to be reported in different EU regions particularly in the Mediterranean.

Therefore, since 2002, EU has prohibited⁵ the use of all driftnets, regardless of their length, when intended for the capture of a certain group of pelagic species including inter alia tunas, swordfish, billfish, sharks and cephalopods. This Regulation was accompanied by some Council Decisions⁶ to encourage diversification away from large-scale pelagic driftnet fishing and to allow the conversion of driftnet fishing activities to comply with the driftnet ban as of 1 January 2002.

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 Sea⁷. The Commission reported on this ban in the Baltic, as well as on the implementation of broader measures to reduce incidental catches of cetaceans in EU fisheries, in a Communication to the European Parliament and the Council adopted on 16 July 2009⁸.

Finally, EU vessels are nowadays 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 894/97⁹ as amended by Regulation (EC) No 1239/98⁵, and
- c) species listed in Annex VIII¹⁰ which have been caught in driftnets cannot be landed.

Specifically in the Mediterranean with a view to closing a loophole that could facilitate the use of illegal driftnets under the pretence of them being bottom set gillnets, Article 8 (2) of Regulation (EC) 1967/2006¹¹ has prohibited the catching of most of the species listed in Annex VIII of Regulation (EC) No 894/97 with bottom set gillnets. The same regulation has established further technical provisions for different types of bottom-set gillnets nets (e.g. maximum length, height and twine thickness) which also should have been helpful from a control perspective.

Across the Regional Fisheries Management Organizations (RFMOs) the application of the ban on large-scale driftnets for highly migratory species has been sporadic and, from an international perspective, implementation of the ban is patchy and not fully coherent. The General Fisheries Commission for the Mediterranean ([GFCM](#)) prohibits the use of driftnets longer than 2.5 km and the catching of large pelagic species in the Mediterranean

and Black Sea, including waters under sovereignty of coastal States. The International Commission for the Conservation of Atlantic Tunas ([ICCAT](#)) prohibits the use of driftnets for large pelagic species in the Mediterranean only. Since 2009, both The Indian Ocean Tuna Commission ([IOTC](#)) and The Western and Central Pacific Fisheries Commission ([WCPFC](#)) prohibit the use of driftnets longer than 2.5 km only in the High Seas whilst driftnets fisheries, including with driftnets longer than 2.5 km, is still permitted in waters under their coastal States' jurisdiction.

A Council Regulation (EC) 809/2007¹² was enacted, which provided a clear and unambiguous definition of a driftnet to support the other legislation.

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

These issues have also assumed an accrued international dimension. Some NGOs, with a view to overcome enforcement problems, have recurrently advocated the prohibition of all driftnets fisheries. Moreover the USA has threatened commercial sanctions against the EU Member States not complying with the rules (e.g. Italy).

These compliance problems within the EU have been addressed following rulings by the European Court of Justice (ECJ) against France ([C-556/07](#) and [C-479/07](#)) and Italy ([C-249/08](#)) for the lack of effective control and enforcement of the EU rules on the driftnets.

Following the ECJ's judgements and subsequent Commission's monitoring, the EU Member States concerned have modified previous national measures, The new national measures have improved the situation and the compliance with the rules. For example, France authorizes the use of driftnets in the Mediterranean only with mesh size smaller than 50 mm and within 2 nautical miles from the coast. Italy has recently adopted national legislation stipulating a one-net rule (i.e. no fishing gear other than driftnet can be taken on board) and authorising small driftnets with a maximum mesh size of 100 mm and only within 3 nautical miles from the coast.

With the exception of the Baltic, it can be assumed, on the basis of the EU fishing fleet register, that there are still an important number of EU vessels, from the Black Sea to the North Sea, carrying out small-scale driftnet fisheries in coastal areas.

However, some of the driftnet fisheries might have the potential to interact with protected (e.g. marine mammals, sea turtles, etc.)¹ or unauthorised species¹⁰ (tunas, swordfish, etc.) while the EU rules may be relatively easy to circumvent.

Furthermore, under the current legal framework, the effectiveness of controls against illegal drift-netting can be negatively affected and highly demanding for national control bodies, in terms of human and technical resources, particularly in those countries with a quite big number of small-scale artisanal fishing vessels distributed along a quite extensive coastline with a high number of potential landing places, including a lot of islands (e.g. Mediterranean).

(2) The requirements by the Treaty on the functioning of the European Union (TFEU) to integrate the environmental protection into the definition and implementation of the Union's policies and activities, together with the obligations under the Common Fisheries Policy (CFP)¹³ to apply the precautionary approach and implement the ecosystem-based approach to fisheries management, make further EU action to address once and for all possible persisting environmental, conservation and sustainable fishing problems in relation to the driftnets necessary and justifiable.

There is need for further actions at EU level to address specific issues to enhance certainty for an improved, stable and controllable legal framework in line with the TFEU and CFP requirements.

Furthermore, the joint reading of first and second paragraphs of Article 11a of Regulation (EC) No 894/97 may determine discarding at sea which is no longer in line with the discard ban policy under discussion within the reform of the CFP.

(3) On-going studies, including a retrospective evaluation on driftnet fishing, together with the result of a web-based public consultation and dialogue with Member States and stakeholders, will provide an updated overview of the actual dimension of active driftnet fishing fleets, of their likely environmental impact and sustainability as well as of possible technical solutions to improve conservation and control in line with EU requirements. This approach could be fine-tuned and adjusted at regional and sub-regional level to match with the specificities of the different driftnet fisheries in the various sea Basins.

In case the implementation of further EU technical and control rules were considered not adequate to address the remaining problems, and would still be demanding a disproportionate amount of national resources to ensure proper control, then either a partial or a total ban for all kind of driftnets fisheries could be contemplated.

What are the main problems which this initiative will address?

The current EU legal framework on driftnet has shown some weaknesses among which worth mentioning is, for example, the fact that it leaves room for circumvention by allowing the carrying on board of driftnets together with other fishing gears, thereby creating the possibility to report falsely that catches of large pelagic species were made with the other gears, most commonly the bottom set gillnets or longlines. Problematic could be also the lack of specifications on the maximum mesh size for driftnets, making it more difficult to observe the prohibition

of using driftnets for the capture of large pelagic species. From a control point of view, the possibility to land in several small places in the absence of a mandatory landing obligation in specifically designated ports could be seen as undermining the compliance with the driftnets rules. Another weakness which could be mentioned is the unclear language of Article 11a of Regulation (EC) No 894/97 which prohibits the use driftnets when "intended" for capture of certain species listed in Annex VIII. The prohibition is therefore conditioned on a subjective element which is difficult to prove. All these flaws facilitate circumvention of rules and create a disproportionate burden of proof for the control authorities when prosecuting offenders.

Such weaknesses might be the reason for a proliferation of national measures supplementing the existing EU legal framework. Using the possibilities offered in Articles 9 and 10 of Regulation (EC) No 2371/2002¹⁴, some Member States have over time enacted a series of national measures that have not been very effective in ensuring that those weaknesses are not exploited and may have left room to some more abuse and non-compliance by operators. This resulted in misuse of driftnets that technically complied with EU and national legislation but to all intents and purposes were in fact illegal driftnets by targeting unauthorized large pelagic species (i.e. tunas etc.) and continuing to cause incidental takings and death of protected species (e.g. marine mammals, sea turtles, sea birds, etc.).

Though concerned Member States have recently adopted further national measures to address these issues, the national legislation may not be sufficient to definitively address the problems of control, proper enforcement and possible persisting environmental problems and there is still potential in the near future of the same problems re-emerging. These problems run the risk of being more exacerbated in those countries with important small-scale fishing fleets and numerous landing places spread around the coastline. The resources required to effectively control these specific and dispersed landing sites could be disproportionate in comparison to other priorities of control bodies.

The very existence of so many different national rules on this subject can be seen as a weakness of the current legislative framework on driftnets and has created complexities in the implementation and enforcement phases which are difficult to grasp and control at Commission level.

In addition, on the basis of the past experience, some small-scale driftnet fisheries might still pose persisting environmental and conservation problems through interactions with protected species¹ in some area. It is not yet clear whether these unwanted interactions actually occur and are of low intensity and tolerable or could be highly detrimental to the conservation of protected species at least at local level.

In conclusion, this initiative will seek to identify the extent of the problems in the interpretation or implementation of the current EU legislation and to address, whenever necessary, such problems, in particular:

- a) possible persisting environmental and conservation issues posed by driftnets either of local or more generalized interest in relation in particular to marine mammals
- b) disproportionate control and enforcement means needed to ensure proper compliance with EU rules.

Who will be affected by it?

The sector affected will be the owners, operators and crews of all EU small-scale fishing vessels carrying out driftnet fisheries; clearly the measures will impinge only on those aspects related to driftnet fishing and will not alter the possibility for a fishing vessel to carry out other fisheries.

The measures, though possibly fine-tuned and adjusted to the regional specificities, could be applied to the Black Sea, the Mediterranean Sea, the North East Atlantic, the North Sea including the Skagerrak/Kattegat and, as adequate, to the outermost regions. The Baltic Sea, the Belts and the Sounds will not be affected since the use of all kind of driftnets is already prohibited therein.

Is EU action justified on grounds of subsidiarity? Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? Can the EU achieve the objectives better?

EU action relates to the conservation of marine biological resources, while integrating environmental concerns into fisheries policy, and falls under the EU exclusive competence according to Article 3 (1d) of the Treaty on the Functioning of the European Union (TFEU)¹⁵. Therefore, the subsidiarity principle does not apply to the matter addressed by this initiative.

The EU has the possibility to properly improve EU rules for a more harmonised, stable, transparent and effective management framework of these fisheries. However, recognising the specificities of these fisheries in different regions, the possibility by Member States to adopt national measures in accordance with the EU legal framework will not be affected provided that national rules are no less stringent than those existing at EU level and do not introduce new shortcomings to proper enforcement and control.

B. Objectives of the initiative

What are the main policy objectives?

The CFP in pursuing its objectives to provide long-term sustainable environmental, economic and social conditions and contribute to the availability of food supplies, shall apply the precautionary approach and implement the ecosystem-based approach to fisheries management to ensure that negative impacts of fishing activities on the marine ecosystems are limited and minimised to the maximum extent possible. Article 11 of the TFEU calls to integrate environmental protection requirements into the implementation of the Union's policies and activities. There is, however, no effective conservation policy if rules are not properly controlled and enforced.

Furthermore, EU is promoting an integrated approach to maritime policy¹⁶.

Within this framework the main policy objective are as follows:

- a) To address and eliminate, to the extent feasible, any possible persisting environmental and conservation problems related to the use of driftnets in relation in particular to marine mammals and seabirds.
- b) To eliminate shortcomings in the EU legal framework that may undermine implementation and weaken control and enforcement.
- c) To contribute to the objectives and targets for "good environmental status" as established under the Marine Strategy Framework Directive (MSFD)¹⁷ as well as other conservation legislation such as the Habitats Directive¹⁸.
- d) To comply with EU international obligations vis-à-vis the proper implementation of rules on driftnet fisheries.

Do the objectives imply developing EU policy in new areas?

No.

C. Options

- (1) What are the policy options (including exemptions/adapted regimes e.g. for SMEs) being considered?
- (2) What legislative or 'soft law' instruments could be considered?
- (3) How do the options respect the proportionality principle?

(1) The policy options to be considered are as follows:

Option 1. Status quo - No policy change option (baseline scenario): this approach means taking no specific steps to modify the spirit and technical content of the current driftnet regime as stipulated by the Council Regulation (EC) No 894/97 as amended by Regulation (EC) No 1239/98 except, where necessary, to introduce changes in the wording to reconcile the driftnet regime with the discard ban policy under discussion within the reform of the CFP.

Option 2. EU action on technical measures and/or control

This option seeks to remove possibilities of misinterpretation and implementation by introducing specific provision on

- a) technical measures (e.g. standards for the rigging of the fishing gears: max. mesh size, twine thickness; max. distance from the coast, depths etc.)
and/or
- b) control and monitoring aspects (e.g. one net rule, compulsory fishing authorisations; vessel monitoring; revised logbook, restrained list of designated ports/landing places etc);

This option would allow having a, more stable and standardised EU legislation which could remove certain loopholes that provide room to circumvent the rules and weaken the controls. Such an approach would also tackle the risk that some States could relax recently adopted national measures in the future. It would still require a sophisticated control system.

Option 3 Selected ban of the EU driftnet fisheries identified as being most harmful to the protected species and/or not able to avoid unwanted by-catches of unauthorised species¹⁰.

This option would involve the identification and description of driftnets fisheries across EU waters having inevitable, regular and substantial interactions with protected and/or unauthorised species resulting in incidental catches.

Further, no new driftnet fishery, beyond those already described and authorised by the entry into force of the regulation, should be allowed by Member State unless it is duly certified that it complies with the targets of not catching species in the Annex VIII and has no or very limited interactions with protected species which does not put into question their survivability. This option will also require a sophisticated control system.

Option 4. Total ban of driftnets fisheries

This option would mean eliminating the possibility to take on board or use this type of fishing gears irrespective of the specific fishery and length; the existing definition of driftnets (Regulation (EC) 809/2007) would help in that respect.

Options 2 and 3 are not mutually exclusive.

(2) While the full detail is still to be considered, depending also on the final outcome of the CFP reform in terms of the technical measures, discard ban and regionalisation, the likely instrument to carry out these initiatives would be a regulation amending the existing Council Regulation (EC) No 894/97 that deals specifically with the driftnets. Another option could consist in having a stand-alone legislation which gathers all rules concerning driftnets in one act and repeals the existing instruments.

Unless the option prescribing the full prohibition of all kind of driftnets is chosen, and provided the EU legal provisions are solid enough to prevent any possible risk of future weakening through national measures, part of the process could be left to self-regulation by stakeholders (e.g. non-binding eco-labelling scheme etc.). Such measures would however only be complementary to cover provisions on control.

(3) As the options are still to be fully developed and evaluated, 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?

Option 1. Status quo - No policy change option If this option is chosen then detected implementation weaknesses of the EU framework will not be addressed and the risk that the catching sector and some Member States will not fully implement properly the current rules remain high. Under this situation there may be resurgent problems on conservation of protected species and on a disproportionate burden of proof for the EU and national control authorities when prosecuting offenders to rules on driftnets. Moreover, the effectiveness and credibility of the EU action on this issue will continue to be questioned by the NGOs and at international level, in particular by the USA, with consequent political and administrative costs. The only conceivable way to mitigate these risks would be to develop a much stronger control and monitoring effort both at EU and national level with all consequent costs and reservations in terms of both proportionality and effectiveness.

Option 2. EU action on technical measures and/or control

This approach would create a clearer, more stable and comprehensive legal framework, leaving no possibility for circumvention, to the benefit of a correct implementation while taking care of the driftnet fisheries that pose no conservation problems; the latter will continue to operate. Some additional administrative burden may incur at national level by imposing the need of issuing fishing authorisation for vessels carrying out these fisheries.

Option 3 Selected ban and option 4 Total ban of driftnets fisheries

Either a selected or a total ban of driftnet fisheries will eradicate any possible illegal use of driftnet but will have an impact on the economic viability of existing small-scale fisheries and some of the concerned vessel may not be able to turn to other fishing method. However, at present, it is not yet clear and quantifiable how much of the annual revenue will be affected. It should also be noted that by initiating a full ban will close fisheries that are already certified, through internationally recognised non-government eco-labelling scheme, as being responsible and sustainable (e.g. Hastings fleet pelagic herring),

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 and is not expected to simplify or further complicate the current regulatory framework. It relies heavily on continuing to keep a close vigilance and certain pressure on Member States, particularly in the Mediterranean, to ensure effective control and enforcement and to avoid the introduction of national measures that could undermine correct implementation; this implies to continue keeping a high level of specific inspections/verification mission by the Commission services. In case of non-compliance with the legislation, possible referral of cases against Member States to the ECJ has to be taken into account.

Option 2 will simplify the implementation and control of these provisions although some additional administrative burden at national level may be envisaged due to the fishing authorisation system.

Option 3 may lead to some complexity and administrative burden through the identification of fisheries that should be allowed to continue to operate. Both **options 3 and 4** may need possible accompanying measures for those vessels which will need to leave the fleet or reconvert to other fishing methods.

(iii) None of the options will have a direct effect in relations with third countries although it is worth mentioning that, in particular in the Mediterranean, driftnets smaller than 2.5 km will continue to operate in those third countries. For the sake of coherence and consistency, it may be necessary to develop future actions in the relevant RFMOs concerned by the driftnet fisheries to avoid possible environmental problems associated with

<p>small-scale driftnet fisheries, and with a view to ensure a level playing field between the EU and non-EU vessels.</p> <p>(iv) No insurmountable difficulties in implementing any of the option at stake are anticipated.</p> <p>(v) No transposition by Member States is expected.</p>
<p>(1) Will an IA be carried out for this initiative and/or possible follow-up initiatives?</p> <p>(2) When will the IA work start?</p> <p>(3) When will you set up the IA Steering Group and how often will it meet?</p> <p>(4) What DGs will be invited?</p>
<p>(1-2) An impact assessment will be carried out for this initiative and the 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 two external studies, including retro- and prospective evaluations of the current regime, to be carried out under specific framework contracts (See section E below).</p> <p>(3) An IA steering group has been established to steer as adequate the contracted studies and start working on their first preliminary results. It will meet as necessary.</p> <p>(4) The following DGs and services have been invited: ENV, RTD, REGIO, EMPL, ENTR and DEVCO as well as the Legal Service and the Secretariat-General.</p>
<p>(1) Is any option likely to have impacts on the EU budget above € 5m?</p> <p>(2) 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>(1) The options do not directly impact on the EU budget. However, where the costs of the technical adaptations for the gears or of the prohibition to carry out a specific driftnet fishery/<i>métier</i> cannot be borne easily by the fishing industry, Member States could be encouraged to make use of the possibilities offered by the European Fisheries Fund and its successor (EMFF) or any other national financing mechanisms in order to actively promote the transitional phase towards new mitigation devices, adaptation of the gears or closure of a specific fishery/<i>métier</i>.</p> <p>(2) Not applicable.</p>

E. Evidence base, planning of further work and consultation

<p>(1) What information and data are already available? Will existing IA and evaluation work be used?</p> <p>(2) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when?</p> <p>(3) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?</p> <p>(4) Is any particular communication or information activity foreseen? If so, what, and by when?</p>
<p>(1) The small-scale and artisanal nature of fishing vessels involved in existing driftnet fisheries limits the amount of detailed and updated knowledge on their activities readily available; this is further hindered by the fact that there is no EU obligation to issue national fishing authorisations (former special fishing permits) for these fisheries making it difficult to identify the number of actually active fishing vessels involved.</p> <p>Some ancillary information on the possible numbers of fishing vessels potentially carrying out driftnet fisheries can be obtained on the basis of vessels recorded in the fleet register and having driftnets as their main or secondary gear; this search indicates that more than 1900 vessels may be actually active in driftnet fishing.</p> <p>According to the information available, from the EU fleet register and other sources, vessels potentially using driftnets are in Bulgaria, Denmark, Greece, France, Ireland, Italy, The Netherlands, Portugal, Romania, Slovenia, Sweden and United Kingdom. Driftnets are also used in some French overseas department (e.g. Guyana, Martinique, Guadelupe). A few vessels from some Baltic countries are also reported to use hybrid semi-driftnet gears even though the driftnets are completely prohibited in that region.</p> <p>However, any figure extracted from the fleet register should be treated with caution because more vessels could be actually involved whilst some vessels reporting driftnet as one of the gear may be no longer actively exercise such fishery.</p> <p>Furthermore, no recent knowledge of the various fisheries/<i>métier</i> carried out by driftnets and of their interactions with unauthorised and/or protected species is available. Similarly only sparse economic information, often mixed with other fishing gears, is available through scientific/economic reports to the Commission services.</p> <p>(2-3) There is therefore a need to have an updated overview of the currently active driftnets fleets.</p> <p>This information and data will be sought through two parallel studies covering respectively the Mediterranean (MAREA framework contract - MARE/2009/05) and all the other EU regions (Framework contract for evaluation and impact assessments activities (MARE/2011/01 Lot 2). The first study will describe the Mediterranean</p>

fisheries and provide problems definition and likely technical solutions in that region; this information will feed into the second study. The latter study, started in April, will provide analogous information on driftnet fisheries outside the Mediterranean together with assistance in the evaluation of the current regime and in the alternative policy options as a basis for an impact assessment.

In parallel, we intend to ask all EU Member States to provide their knowledge of the driftnet fisheries stemming from the data they are collecting on this activity under the multiannual Community programme for the collection, management and use of data in the fisheries sector¹⁹; nonetheless the sampling scheme and intensity required under the EU data collection is most probably not adequate to ensure, at least in some areas, a precise and accurate monitoring of these small-scale fisheries.

Some of these driftnet fisheries are certified through voluntary non-government eco-labelling scheme and this could facilitate the collation of further information.

Furthermore, a web-based public consultation (see footnote 20) has been launched with a view to get an overview of the small-scale driftnet fisheries and further elements to assist in the policy making.

(4) For the time being no specific communication or information activity is foreseen; further reflections on this matter are left to a later stage when the final content of the proposal will be well and precisely identified.

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

Stakeholders and experts are planned to be consulted firstly, through a web-based questionnaire²⁰, which has been launched in March and will last till the end of June 2013. Its aim is collecting complementary facts and data about the various driftnet fisheries, on the nature of the problems as well as information about stakeholders' views on the use of various control and technical management measures. The Regional Advisory Councils (RACs) have been duly informed in advance of this consultation through the web-based questionnaire.

At second stage, an additional more targeted consultation, perhaps only limited to the RACs, may also be foreseen on the objectives as well as the various policy options. In parallel, the Regional Advisory Councils (RACs) will be informed about the progress of the impact assessment and also consulted on it. Last but not least, several experts of the various regions will also participate in the above mentioned studies.

¹ Council Directive [92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (HABITATS Directive); Directive [2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (BIRDS Directive); this Directive has repealed the Directive 79/409/EEC,

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)

² United Nations General Assembly Resolutions: [44/225](#) of 22 December 1989; [45/197](#) of 21 December 1990; [46/215](#) of 20 December 1991

³ 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); Wellington, 24 November 1989) which entered into force on the 17th May 1991. <http://www.mfe.govt.nz/laws/meas/wellington.html>; <http://www.jus.uio.no/english/services/library/treaties/08/8-02/large-driftnets.xml>.

⁴ Council Regulation (EEC) [No 345/92](#) of 27 January 1992 amending for the eleventh time Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources;

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

⁵ 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.

⁶ [97/292/EC](#) : Council Decision of 28 April 1997 on a specific measure to encourage Italian fishermen to diversify out of certain fishing activities

[1999/27/EC](#): Council Decision of 17 December 1998 on a specific measure to encourage diversification out of certain fishing activities and amending Decision 97/292/EC

⁷ 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. Provisions included in this Regulation were based on the previous 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 [COM\(2009\) 368 final](#): Communication from the Commission to the European Parliament and the Council - Cetacean incidental catches in Fisheries: report on the implementation of certain provisions of Council Regulation (EC) No 812/2004 and on a scientific assessment of the effects of using in particular gillnets, trammel nets and entangling nets on cetaceans in the Baltic Sea as requested through Council Regulation (EC) No 2187/2005; 16/07/2009.

⁹ Council Regulation (EC) [No 894/97](#) of 29 April 1997 laying down certain technical measures for the conservation of fishery resources

¹⁰ 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.

¹¹ 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

¹² Council Regulation (EC) [No 809/2007](#) of 28 June 2007 amending Regulations (EC) No 894/97, (EC) No 812/2004 and (EC) No 2187/2005 as concerns drift nets

¹³ Council Regulation (EC) [No 2371/2002](#) of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy

¹⁴ Member States may take, under specific conditions, non-discriminatory measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of marine eco-systems within 12 nautical miles of its baselines provided that the EU has not adopted measures addressing conservation and management specifically for this area. Furthermore, Member States may take measures for the conservation and management of stocks in waters under its sovereignty or jurisdiction provided that they apply solely to fishing vessels flying its flag and are no less stringent than existing EU legislation. In both cases, the Member State measures shall be compatible with the CFP objectives.

¹⁵ Consolidated version of the [Treaty on the Functioning of the European Union](#)

¹⁶ http://ec.europa.eu/maritimeaffairs/policy/index_en.htm

¹⁷ 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)

¹⁸ Council Directive [92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

¹⁹ Commission Regulation (EC) No [1639/2001](#) of 25 July 2001 establishing the minimum and extended Community programmes for the collection of data in the fisheries sector and laying down detailed rules for the application of Council Regulation (EC) No 1543/2000 and [2010/93](#); Commission Decision of 18 December 2009 adopting a multiannual Community programme for the collection, management and use of data in the fisheries sector for the period 2011-2013 (notified under document C(2009) 10121)

²⁰ http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/driftnet/index_en.htm