



NWWAC RESPONSE TO QUESTIONNAIRE ON THE SECOND REPORT OF IMPLEMENTATION OF EU REGULATION 2019/1241

24 November 2023

I. GENERAL IMPLEMENTATION OF TECHNICAL MEASURES

The first report on the implementation of the Technical Measures Regulation (TMR) has been adopted in September 2021¹. This report was based on the scientific information provided by STECF and ICES, and on the results of the consultation launched to gather the views and input of Member States, Advisory Councils, sector and other stakeholders.

The report concluded that the TMR “*provides the framework needed to implement the CFP and effectively contribute to EU environmental legislation*”, which are features also recognised in the Marine Action Plan to achieve its objectives.

It was also underlined that regionalisation is a powerful tool to effectively manage fisheries resources to provide targeted and tailor-made technical measures, while acknowledging that more needs to be done to effectively minimise the impact on sensitive species and the environment.

Article 31(1) of the TMR requires the Commission to report on the implementation every three years.

By means of this questionnaire, Advisory Councils are invited to provide their general impressions on the implementation, and concrete views regarding specific aspects of the Regulations with a view to contribute to the 2024 report.

1. Has your Advisory Council identified difficulties in the implementation of the Technical Measures Regulation? If so, please indicate the relevant Article and the difficulties encountered.

As already mentioned in previous advice, the NWWAC identifies a clash between Article 27 of the Technical Measures regulation ((EU) 2019/1241), which deals with catch composition and mesh sizes as against the obligation to land catches from Article 15 of the CFP. Article 27 provides for maximum percentage of species allowed so as to qualify for the specific mesh sizes and other selectivity measures set out in Annexes V to VII. However, the regulation makes it clear such percentages shall be without prejudice to the landing obligation. This creates an issue of compliance which greatly affects fishers’ operational activity and thus represents a key challenge in implementing both the TMR and the CFP.

Furthermore, without a definition of targeted fishing, there is still ambiguity regarding the use of specific meshes other than reference meshes. This poses difficulties both in terms of the use of these meshes and their control. Clarification is therefore awaited in order to secure the practices of European fishers.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:583:FIN>

Moreover, in relation to Article 19, the NWWAC would like to point out that, when fishers are asked to avoid certain zero catch species and move to alternative fishing grounds where these are found in lower density, it is important to take into account the catch densities of the other fish stocks targeted in the traditional fishing area. This because fishers might have to fish harder to catch the same composition of target species when moving to a different ground, which is thus not necessarily a preferable option.

II. MEASURES TAKEN TO IMPROVE FISHING PATTERNS.

Technical measures are amongst the tools enshrined in the Common Fisheries Policy (CFP) to manage fisheries resources. The decisions of where, when and with what kind of fishing gear fisheries may take place have a direct impact most importantly on the presence of juveniles in the catch. This is one of the objectives of the TMR (Art 3.2(a)).

The first report took stock of the use of regionalisation to adopt size and species selective gears/devices (Art 16), closed or restricted areas to protect juveniles and spawning aggregations (Art 17), minimum conservation reference sizes (Art 18) and real time closures and moving on provisions (Art 19).

While the full implementation of the landing obligation boosted the investment in more selective gears, it was signalled that to contribute to the sustainable use of commercially exploited stocks, more efforts were necessary.

Advisory Councils are invited to share their efforts put in place for this objective.

2. Since the 2021 report on the implementation of the TMR, has your AC recommended additional technical measures aimed at improving the size/species selectivity of commercially exploited species?

- a. if no, could you please provide reasons why not?
- b. If yes, please include the relevant information in the table below:

As a general comment, the NWWAC wishes to point out that fishers have always been keen on their own initiative to collaborate with gear technologists and implement selectivity measures where possible. One of the reasons why the resulting innovations in fishing techniques and gears have actually encountered some difficulty in their implementation is the lack of flexibility in the Technical Measures Regulation. The NWWAC advocates for the legislation to be more flexible and receptive to such innovations.

Since 2021, the NWWAC has produced a number of recommendations on additional technical measures to improve size/species selectivity:

- On 15 April 2021, the NWWAC submitted advice to the NWW Member States Group on a draft joint recommendation for a management framework for king scallop in the Eastern Channel, including measures such as a temporal closure and gear modification.
- On 26 April 2021, the NWWAC and North Sea Advisory Council submitted advice to the NWW and Scheveningen Member States Groups on best practice measures for the management of skates and rays in the North Western Waters. the ACs collected and collated all available information on best practice measures in use, recommendations of measures to be implemented in the future, an overview of ongoing trials and research needs.

- On 3 June 2021, the NWWAC submitted advice to the NWW Member States Group on a draft joint recommendation on Technical Measures in the NWW, with specific views expressed on the raised fishing line.
- On 22 July 2022, the NWWAC submitted advice to the Commission on Technical Measures in the Celtic Sea, providing specific recommendations following the conclusions of the STECF Expert Working Group EWG-21-18 report.
- On 2 February 2023, the NWWAC submitted advice to the NWW Member States Group requesting them to work on a joint recommendation on whelk management in European waters of 7d and e. The AC proposal includes a maximum vessels length of 16m, the use of sorting grid with minimum spacing of 22mm and VMS installed on all vessels.
- Following a workshop held in May 2023, the NWWAC, the NSAC and the Market AC submitted joint advice to the Commission on brown crab on 22 September this year. Among the recommendations included in this document, the three ACs proposed a minimum landing size for brown crab and discussed the use of gears.
- On 6 June 2023, the NWWAC organised a workshop on the management of the northern hake stock², aiming to review recent research on the stock and consider whether and how the 2002 hake plan should be reviewed. DG MARE also attended the meeting and presented on the complex regulatory framework managing the hake fishery in the NWW. Following this workshop, we asked the Commission for legal clarification on the applicable mesh size for hake netters, as the AC aims to improve their fishing pattern. Discussions have been progressing since then and the AC is preparing a letter to the Commission on the topic.

Moreover, the NWWAC would like to refer to page 3 of its response to the targeted consultation on the Action Plan to conserve fisheries resources and protect marine ecosystems from December 2021, which includes an extensive list of projects on innovations in fishing gears and techniques that should be taken into account to improve selectivity. That list should be integrated with the following:

- The REJEMCELEC project aimed to improve the selectivity of bottom trawls in the western Channel and the Celtic Sea and has produced some very encouraging results. These include the use of T90 mesh panels on the back of the trawl as an alternative to a square mesh panel. These devices show better results on the escapement of horse mackerel, mackerel and small whiting.
- The SelecMC project aimed to assess the effectiveness of the regulatory measures in force since 2019 in the Celtic Sea.
- The SELUX project aimed to evaluate the ability of light to improve the effectiveness of the selective devices used by trawlers in the Eastern Channel and Southern North Sea and produced very encouraging results, particularly for whiting.

Measure	Area (1)	Fleets involved (2)	Additional comments (3)

²<https://www.nwwac.org/listing/nwwac-workshop-on-the-management-of-the-hake-northern-stock.4222.html>

Gear modifications: use of new and innovative gear techniques and selectivity devices (0)			
Spatial-temporal measures to protect juveniles and spawning aggregations (New closure/Modification of existing)			
Moving on rules and real time closures			
Increase the current MCRS			
Others (please, specify)			

- (0) Including, but not limited to, DISCARDLESS, ICES advice on innovative gears...
- (1) (ICES division/sub, GFCM GSAs). If relevant, please indicate the name and code of MPAs
- (2) Gear code(s) and if possible, approximate number of vessels affected.
- (3) Free field to share any relevant information

III. MEASURES TAKEN TO MINIMISE THE IMPACT ON SENSITIVE SPECIES

Technical measures should be designed in a manner oriented to reduce the adverse impacts of fishing on sensitive species (Art 3.2(b)). Amongst others, with a ban on the use of pelagic drift netting (Art 9), of certain destructive gears (Art 7), and with a specific framework for Member States to introduce the fisheries management measures necessary to comply with their obligations under the EU environmental legislation (Art 21). In addition, deliberate killing or harming of sensitive species is prohibited under EU law (Article 12 of Habitats Directive and Articles 10(3) and 11(2) of the Technical Measures Regulation). If caught, they should be released promptly and unharmed.

In addition, Annex XIII of the Regulation asks Member States to step up and increase the knowledge which will serve for the adoption of management measures.

Member States are invited to inform on the progress reached as to the protection of sensitive species, in particular on any additional measures implemented since the entry into force of the TMR.

3. Since the 2021 report, has your AC recommended additional mitigation measures or set up training, capacity building and collaborative support activities engaging fishers?

- a. if no, could you please provide reasons why not?
- b. If yes, please include the relevant information in the table below:

The NWWAC believes that there are already many examples of prohibited species and gear attachments introduced to protect species of concern. This can be achieved in conjunction with the fishing industry to achieve the most effective method while maintaining the fishery in question profitable and sustainable over time.

- Regarding skates and rays species in the NWW, the NWWAC issued advice on best practice measures for their management in April 2021. This opinion includes a list of innovative fishing gears/techniques that could be tested in areas other than the Celtic Sea to better protect ray species, such as the raised fishing line trawl to reduce catches. Another example is the Benthos Release Panel (BRP) in combination with led, as tested through the Combituig project (EMFF project by ILVO & Rederscentrale PO, Belgium).

- The AC would like to refer to the joint [NSAC/NWWAC Advice on European eel management from April 2022](#) emphasising the urgent need to reduce the impact of the many factors, also unrelated to fishing, that cause mortality in European eels. The advice provides specific recommendations on how to address them.

General measure	Specific possible measure	Target group of species				Area concerned (1)	Fleet concerned (2)	Link to published measure	Additional remarks
		Cetaceans	Reptiles	Birds	Fish				
Mitigation	Spatial-temporal measures								
	ADD								
	Bird scaring lines								
	Hook-protecting devices								
	Frangible hooks and snoods								
	Large animal excluder devices (LAEDs) in trawls								
	Raised panels in static nets								
	Frangible nets								
	Other (please specify)								
Monitoring	Observer coverage								
	REM/CCTV								
	e-DNA surveys								
	Passive acoustic monitoring								
	Citizen science monitoring								
	Beach stranding surveys								
	Other (please specify)								
Additional research (knowledge)	Test LAED effectiveness								
	Develop automated e-DNA sampling methods								
	Other (please specify)								
Stakeholder engagement	Trainings to fishers, capacity building...								

(1) (ICES division/sub, GFCM GSAs). When relevant, please indicate the name and code of MPAs.

(2) Gear code(s) and if possible, approximate number of vessels affected.

4. Have you found any difficulties in implementing the prohibition of catching, retention, transhipment or landing of the species referred to in Article 11?

- If any, please provide a brief explanation on their nature.
- Does your AC consider that the list provided for in Annex I (Prohibited species) is adequate?
- If not, please provide a brief explanation.

As pointed out in the [Joint NWWAC/NSAC letter on the prohibited species list](#) from April 2023, both Advisory Councils previously raised their concern regarding the prohibited species list which was identified by the NSAC in their original letter on this subject from 2019, followed by a joint letter from the two ACs in 2020. The NWWAC and NSAC welcomed the review regarding criteria for the classification of prohibited species by the STECF in 2022 and the development of a decision tree as “a starting point to set out a standardised approach to classify protected species in the future.” As mentioned in the letter, the ACs sought clarification whether the

STECF recommendations regarding the application of the decision tree to any potential changes in the prohibited species list will be taken into account in the fisheries management. In the response to this letter, DG MARE acknowledged this recommendation, which should however be further developed and seen in the broader context of EU decision making, inter-institutional prerogatives and the international dimension at stake for the management of certain stocks. The NWWAC wishes to reiterate that the process of how species are included and removed from the prohibited species list needs to be as transparent as possible.

IV. MEASURES TAKEN TO MINIMISE THE IMPACT OF FISHING ACTIVITY ON THE ECOSYSTEM

EU legislation, and more concretely the TMR, aims to contribute to minimising the impact of fishing on marine environment (Art 3.2(c)), and restricting activity for protection for certain seabed habitats (Annex II). It provides a specific framework for Member States to introduce the fisheries management measures necessary to comply with their obligations under the EU environmental legislation (Art 21).

Advisory Councils are invited to share the following information regarding the implementation of these provisions.

5. Since the 2021 report, has your AC recommended additional measures to minimise the impact on the environment?

- a) If no, could you please provide reasons why not?
- b) If yes, please include the relevant information in the table below

In May 2021, the NWWAC submitted its [advice on the impact of climate change on fisheries in the North Western Waters](#) with specific recommendations on adaptation and mitigation measures. Also in relation to climate change, the AC provided [feedback on the public initiative "CO2 emissions of engines - methodology for their reduction"](#) from August 2021.

The NWWAC engaged in the public consultation “Expanding Ireland’s Marine Protected Area Network” in July 2021 on the expert group report on marine protected areas published in January 2021 by Ireland’s Department of Housing, Local Government and Heritage. The AC provided advice on what features of the marine environment should be protected, why they should be protected and how. The NWWAC response to this consultation can be found [here](#).

In November 2021, the NWWAC joint forces with the Long Distance and Pelagic Advisory Councils producing [advice on deep sea mining in international waters](#). The advice provided feedback to the Commission’s proposal for an EU common position on the International Seabed Authority (ISA) and deep-sea bed mining, including proposals for a reform of the work of the ISA.

On 10 May 2022, the NWWAC and PelAC jointly organised a virtual workshop on the impacts of seismic and offshore wind energy developments on fisheries, which led to production of [joint advice](#) on the topic. This piece of advice includes a list of recommendations addressing both commercial fish and shellfish species and their habitats and provides the ACs’ views on the recommendations from the Commission’s “Overview of the effects of offshore wind farms on fisheries and aquaculture” (EASME/EMFF/2018/011 Lot 1: Specific Contract No. 03) and from the European Marine Board’s “Addressing underwater noise in Europe, Future Science Brief No 7 October 2021”.

Finally, the NWWAC would like to refer to its August 2023 advice on the Marine Action Plan, including recommendations and reflections on reducing the impact of fishing on the seabed and on sensitive habitats.

Measure	Purpose			Area (1)	Affected fleet	Other MS involved, where relevant (2)	Additional comments
	Seabed protection	Sensitive species protection	Other				
Designation of new protected areas							
Effort limitation or restriction of certain gears							
Special conditions to operate in protected areas Others...							

(1) (ICES division/sub, GFCM GSAs). When relevant, please indicate the name and code of MPAs.

(2) Gear code(s) and if possible, approximate number of vessels affected.

V. MEASURES TAKEN IN THE CONTEXT OF SCIENTIFIC RESEARCH

The fishing industry is of great importance as provider of fisheries dependent information. In addition to scientific research by oceanographic vessels, reliable and robust information needs to come from the routine activity carried out by commercial vessels. Fishing industry needs to be incentivised to participate.

The TMR includes several provisions aimed at encouraging the participation of stakeholders in scientific research, as it allows derogation of technical measures (Arts 25 and 26) and for Member States to propose the use of innovative gears (Art 20). Article 23 of the TMR enables the possibility for the Commission to adopt delegated acts to give follow up to joint recommendations from Member States for the implementation pilot projects to develop a system of full documentation of catches and discards based on measurable objectives and targets, for the purpose of a results-based management of fisheries. These may also include derogations from certain technical measures.

Advisory Councils are invited to share the following information on scientific research aimed at more sustainable management measures.

6. Since the 2021 report on the implementation of the TMR, are your members participating in scientific research programmes for the objective of increasing the size/species selectivity of commercially exploited species?

- a. If no, are you considering implementing these in the foreseeable future?
- b. If yes, please include the relevant information in the table below:

As already pointed out in the response to question 2, the NWWAC believes that collaboration between fishers and scientists to develop, test and implement new gears and measures is an ongoing process and a key aspect characterising fisheries management in the NWW and in the EU overall. Some of the initiatives our members are or have been involved in include:

- The Irish Fisheries Science Research Partnership, made up of Irish industry representatives and scientists from both the Marine Institute and BIM. One of the latest topics being addressed by this partnership is related to conservation measures for Nephrops in the Porcupine Fishery, with a proposal to extend the fishery closure. As a step in addressing the data gaps identified by the Marine Institute, some stakeholders subsequently proposed that a survey should be undertaken for the months of June and July of this year. The NWWAC will follow this initiative and consider making preparing advice once results of these trials are ready.

- NWWAC members have been involved in a number of projects on skates & rays management:
 - An assessment of cuckoo ray (*Leucoraja naevus*) survivability in an Irish otter trawl fishery by BIM between September and November 2021.
 - Thornback Ray Fisheries Improvement Project in the Eastern Channel involving bottom trawls, trammel net, and Danish seine. This project started in July 2021 and is foreseen to end in June 2026, with the objective for the fishery to achieve MSC certification by 2027.
 - The RAYWATCH project, based on a collaboration between science (ILVO) and sector (Belgian fisheries) providing a targeted and efficient data collection for commercially important ray species within the framework of "Roadmap for rays and skates" and the renewed DCF using state-of-the-art technologies.
 - Rayscan, which developed an automatic artificial intelligence identification application supporting fishers with the accurate identification of skates on board of fishing vessels and in fish auctions.
- The Rapansel project, developed by the Spanish Institute of Oceanography together with the OPPF-4 Fresh Fishing of the Port of Vigo, has already been active for five years and five campaigns have been carried out on trawlers in the Gran Sol fishing ground. The aim is to design a suitable gear to maintain the fishing yields of the Vigo fleet's target species, monkfish and anglerfish. Currently the regulated mesh size is 100 mm and the fleet that operates in the monkfish fishery was working with 80 mm. By increasing the mesh size, there is a loss of fish. The project is working to avoid that loss of monkfish but, at the same time, using square mesh panels with 180 mm, managing to avoid the species for which there is no quota in addition to juvenile cod, haddock and whiting.

Measure	Area (1)	Fleets involved	MS involved (if relevant)	Aprox date of results (2)	Aprox date of adoption of new measures	Additional comments (3)
Gear modifications: up take of new and innovative gear techniques and selectivity devices (0)						
Spatial-temporal measures to protect juveniles and spawning aggregations (New closure/Modification of existing)						
Moving on rules and real time closures						
Increase the current MCRS						
Pilot projects that develop a system of full documentation of catches and discards						
Others (please, specify)						

7. Since the 2021 report, are you planning or participating in scientific research programmes or engagement activities for fishers, for the objective of minimising the impact on sensitive species?

- If no, could you please provide reasons why not?
- If yes, please include the relevant information in the table below

In 2021, the NWWAC became a member of the CIBBRINA LIFE project Stakeholder Advisory Board. This project is a European flagship initiative in which fishers, scientists, fisheries and environment ministries and NGOs from 13 European countries will work jointly to minimize incidental bycatch in fisheries which have a high risk of bycatch of priority marine mammals, birds, turtles, sharks and rays and to work towards transparent and environmentally and socioeconomically sustainable fisheries in the Northeast Atlantic, Baltic and Mediterranean regions. The main objective is to minimise and, where possible, eliminate bycatch mortality of priority endangered, threatened and protected (ETP) species. This will be achieved through cross-border and cross-sectoral cooperation, involving industry, scientists, authorities and other relevant stakeholders, to establish regionally coordinated mitigation, monitoring and assessment programmes. The AC participated in the project kick-off meeting on 6-8 September 2023 and will continue following its developments.

General measure	Specific possible measure	Target group of species				Area concerned	Fleet concerned	Link to published research	Additional comments
		Cetaceans	Reptiles	Birds	Fish				
Mitigation	Spatial-temporal measures								
	ADD								
	Bird scaring lines								
	Hook-protecting devices								
	Frangible hooks and snoods								
	Large animal excluder devices (LAEDs) in trawls								
	Raised panels in static nets								
	Frangible nets								
Other (please specify)									
Monitoring	Observer coverage								
	REM/CCTV								
	e-DNA surveys								
	Passive acoustic monitoring								
	Citizen science monitoring								
	Beach stranding surveys								
	Other (please specify)								
Additional research (knowledge)	Test LAED effectiveness								
	Develop automated e-DNA sampling methods								
	Other (please specify)								
Stakeholder engagement	Trainings to fishers, capacity building...								

(1) (ICES division/sub, GFCM GSAs). When relevant, please indicate the name and code of MPAs.
(2) Gear code(s) and if possible, approximate number of vessels affected.

8. Since the last reporting obligation, are you planning or participating in scientific research programmes for the objective of minimizing the impact on the habitat?

- a. If no, could you please provide reasons why not?
- b. If yes, please include the relevant information in the table below

In 2021 the NWWAC joined the SEAwisE project and will continue supporting this project by co-organising workshops as needed as well as providing input via written procedures. SEAwisE is an international project paving the way for the implementation of Ecosystem Based Fisheries Management (EBFM) in Europe. Through a targeted programme of interdisciplinary research led by a collaborative network of partners, together with the input of key fisheries stakeholders, SEAwisE aims to deliver a fully operational tool that will allow fishers, managers, and policy makers to easily apply EBFM structures in their own fisheries.

Since May 2022, the NWWAC has also been involved in the Mission Atlantic project, which aims at developing operational Integrated Ecosystem Assessments (IEA) and systematically apply them through the Atlantic basin and regional case studies. Mission Atlantic is structured around ten Work Packages including mapping pelagic and benthic habitats, developing ecosystem state indicators and future scenarios and assessment of ecosystem risks and vulnerabilities in associated ecosystem services.

As a general point, which is also valid for the two previous questions, it is important to take into account that NWWAC member organisations do not have sufficient resources to follow all the relevant policy files and actively engage in the great number of projects involving the marine environment and fisheries. This is especially true for producers’ organisations, where the main focus is fishers’ daily occupation to ensure they can earn their livelihood. Even so, NWWAC members continue making every effort to engage in all relevant fora and contribute holistically to a sustainable fisheries sector.

Research programme	Area (1)	Participating fleet	Objective of the research	MS involved, where relevant	Timing (to obtain results) (2)	Additional comments (3)

(1) (ICES division/sub, GFCM GSAs). When relevant, please indicate the name and code of MPAs

(2) Where relevant, planning including discussions in regional groups, ACs and submission of JR. If the scientific research is part of an ongoing project, please send also the results/approximate dates of availability.

3. Free space (with limited number of characters) for any additional remarks.

9. Based on the projects of questions 7, 8 and 9, are you intended to propose to regional groups with joint recommendations?

The NWWAC is regularly in communication with the NWW Member States Group and attends Technical Group and High Level Group meetings. MS representatives are also invited to NWWAC plenary meetings and asked to join ad-hoc meetings (Focus Groups, workshops, etc.) where relevant. This continuous coordination between the AC and the NWW MS Group ensures that both parties are aware of respective work programmes and at the same time are able to consider unplanned opportunities for joint recommendations should a new topic need to be addressed.

Considering the NWWAC work programme for Year 19 (1 October 2023 – 30 September 2024) and the work programme of the Dutch presidency of the NWW MS Group, the following topics might be proposed by the AC:

- Definition of directed fishing
- Measures for directed fishing of squid
- Measures for Nephrops in the Porcupine Fishery
- Measures for managing the scallop fishery in the Channel
- Implementation of the landing obligation
- Implementation of the Marine Action Plan