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Committee on Fisheries

2014/0138(COD)

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*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council laying down a prohibition on driftnet fisheries, amending Council Regulations (EC) No 850/98, (EC) No 812/2004, (EC) No 2187/2005 and (EC) No 1967/2006 and repealing Council Regulation (EC) No 894/97 (COM(2014)0265 – C8-0007/2014 – 2014/0138(COD))

Committee on Fisheries

Rapporteur: Renata Briano

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council laying down a prohibition on driftnet fisheries, amending Council Regulations (EC) No 850/98, (EC) No 812/2004, (EC) No 2187/2005 and (EC) No 1967/2006 and repealing Council Regulation (EC) No 894/97
(COM(2014)0265 – C8-0007/2014 – 2014/0138(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2014)0265),
 - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0007/2014),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate and the Polish Sejm, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries and the opinion of the Committee on Environment, Public Health and Food Safety (A8-0000/2015),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Title

Text proposed by the Commission

Amendment

Proposal for a Regulation of the European

Proposal for a regulation of the European

Parliament and of the Council laying down **a prohibition on** driftnet fisheries, amending Council Regulations (EC) No 850/98, (EC) No 812/2004, (EC) No 2187/2005 and (EC) No 1967/2006 and repealing Council Regulation (EC) No 894/97

Parliament and of the Council laying down **rules for** driftnet fisheries, amending Council Regulations (EC) No 850/98, (EC) No 812/2004, (EC) No 2187/2005 and (EC) No 1967/2006 and repealing Council Regulation (EC) No 894/97

Or. en

Amendment 2

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) In view of the reasons stated above and in order to properly address the conservation concerns that this fishing gear continues to cause, as well as to achieve the environmental and enforcement objectives in an effective and efficient manner, while taking into account the minimal socio-economic impacts, it is necessary to introduce a **full prohibition to take on board or use any kind** of driftnets in all Union waters and by all Union vessels whether they operate within Union waters or beyond, as well as by non-Union vessels in Union waters.

Amendment

(16) In view of the reasons stated above and in order to properly address the conservation concerns that this fishing gear continues to cause, as well as to achieve the environmental and enforcement objectives in an effective and efficient manner, while taking into account the minimal socio-economic impacts, it is necessary to introduce a **review, based on the logic of the Common Fisheries Policy and in particular the principle of regionalisation and a strengthening of control and sanctions**, of driftnets **used** in all Union waters and by all Union vessels whether they operate within Union waters or beyond, as well as by non-Union vessels in Union waters.

Or. en

Justification

The full ban proposed by the Commission is in no way justified. What is needed is a review of existing driftnets fisheries where sustainable ones, like the Galician xeito should not only be allowed, but also encouraged. Strengthening of control measures and sanctions is also essential to tackle illegal driftnet fisheries.

Amendment 3

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) For reasons of clarity of Union legislation, it is also necessary to ***delete all other*** provisions related to driftnets ***by amending Council Regulation (EC) No 850/98, Regulation (EC) No 812/2004, Regulation (EC) No 2187/2005 and Council Regulation (EC) No 1967/2006, and repealing Regulation (EC) No 894/97.***

Amendment

(17) For reasons of clarity of Union legislation, it is also necessary to ***amend or delete*** provisions related to driftnets ***in other pieces of Union legislation which are inconsistent with provisions of this Regulation.***

Or. en

Justification

Provisions in other EU legislation that would be contradictory to the Regulation as amended by this Report need to be amended or deleted.

Amendment 4

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) Vessels carrying out fisheries with small-scale driftnets may need some time to adjust to the new situation and necessitate a phasing-out period. This Regulation should therefore enter into force on ***1 January 2015.***

Amendment

(18) Vessels carrying out fisheries with small-scale driftnets may need some time to adjust to the new situation and necessitate a phasing-out period. ***In cases where they will need to change the type of gear they use, support should be provided by the European Maritime and Fisheries Fund.*** This Regulation should therefore enter into force on ***1 January 2016.***

Or. en

Justification

If the review of the existing driftnet fisheries covered by the regulation requires fishermen to stop fishing with driftnets, they should be eligible for EMFF support for the change of gear type.

Amendment 5

Proposal for a regulation Article 3 – point a

Text proposed by the Commission

(a) to *catch any marine biological resource with driftnets; and*

Amendment

(a) to *use driftnets longer than 2500 metres;*

Or. en

Justification

This Article sets out the driftnet fisheries that should be banned under all circumstances.

Amendment 6

Proposal for a regulation Article 3 – point b

Text proposed by the Commission

(b) to *keep any kind of driftnet* on board of fishing vessels

Amendment

(b) to *carry* on board of fishing vessels *driftnets of an aggregate length exceeding 2500 metres;*

Or. en

Justification

This Article sets out the driftnet fisheries that should be banned under all circumstances.

Amendment 7

Proposal for a regulation Article 3 – point c (new)

Text proposed by the Commission

Amendment

***(c) to target species set out in the Annex
with any kind of driftnet.***

Or. en

Justification

This Article sets out the driftnet fisheries that should be banned under all circumstances.

Amendment 8

Proposal for a regulation Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Objectives for driftnet fisheries

***Fisheries using driftnets that are not
prohibited under Article 3 shall be carried
out in such a way as to ensure that:***

***(a) catches of, and other harm to,
protected species are avoided; and***

***(b) catches of unwanted species are
minimised.***

Or. en

Justification

This Article sets out the objectives for driftnet fisheries.

Amendment 9

Proposal for a regulation Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Conditions for driftnet fisheries

- 1. During a fishing trip involving the use of driftnets, no other kind of gear may be carried on board the fishing vessel.*
- 2. Landing of catches from driftnet fisheries shall take place only in designated ports. Masters of vessels using one or more driftnets who wish to use a landing location in a Member State shall notify the competent authorities in the Member State concerned, at least two hours before arrival in port, of the planned landing location and time of arrival.*
- 3. The master of a fishing vessel using one or more driftnets shall ensure that:*
 - (a) during fishing activity, the net is kept under constant visual observation;*
 - (b) devices are attached to each end of the driftnet, so that its position can be determined at any time. The driftnets must be permanently marked with the registration letter(s) and number of the vessel to which they belong.*
- 4. Without prejudice to Article 14 of Council Regulation (EC) No 1224/2009*, the master of a fishing vessel using one or more driftnets shall record in a logbook the following information on a day-to-day basis:*
 - (a) the total length of the nets on board;*
 - (b) the total length of the nets used in each fishing operation;*
 - (c) the quantity of each species caught during each fishing operation, including*

cetaceans, reptiles and seabirds, by-catches and discards at sea;

(d) the quantity of each species held on board;

(e) the date and position of such catches.

5. As provided for in point (e) of Article 7(1) of Regulation (EC) No 1224/2009, all fishing vessels using one or more driftnets shall, regardless of the length of the vessel concerned, have prior authorisation to fish issued by the competent authorities of the flag Member State.

** Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).*

Or. en

Justification

This Article sets out conditions for the use of driftnets. It aims to provide a basis for an effective control and the sanctioning of fisheries in breach of the rules. This will benefit the over-whelming majority of fishermen who conduct their business in compliance with the rules and regulations.

Amendment 10

Proposal for a regulation Article 3 c (new)

Article 3c

Regionalised measures

- 1. Measures necessary to attain the objectives set out in Article 3a shall be developed on a regionalised basis.***
- 2. The measures referred to in paragraph 1 may include:***
 - (a) prohibitions and restrictions regarding the use of driftnets not mentioned in points (a) or (b) of Article 3;***
 - (b) adding species to the list set out in the Annex;***
 - (c) a total ban on the use of driftnets in a specific sea or fishery;***
 - (d) further definitions regarding the technical characteristics of driftnets, such as mesh size;***
 - (e) further definitions regarding the use of driftnets, such as distance from shore.***
- 3. The use of driftnets in a specific fishery may only be prohibited or restricted if alternative gear is available which has significantly less negative effects from an environmental point of view.***

Or. en

Justification

Building on the logic of the CFP reform, this Article provides for the review procedure based on a regionalised approach.

Amendment 11

**Proposal for a regulation
Article 3 d (new)**

Text proposed by the Commission

Amendment

Article 3d

Procedure for adoption of regionalised measures

1. Article 18 (1) to (6) of Regulation (EU) No 1380/2013 shall apply to the regionalised measures referred to in Article 3c of this Regulation.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 3g setting out the regionalised measures referred to in Article 3c.

3. Following appropriate consultations and on the basis of scientific advice, Member States having a direct management interest affected by the measures referred to in Article 3c of this Regulation may submit joint recommendations in accordance with Article 18(1) of Regulation (EU) No 1380/2013 by 1 January 2017.

4. By way of derogation from paragraphs 1 to 3 of this Article, in respect of waters covered by Regulation (EC) No 1967/2006, such regionalised measures may be adopted as part of the management plans referred to in Article 19 of that Regulation.

Or. en

Justification

This sets out the procedure for the regionalised approach.

Amendment 12

**Proposal for a regulation
Article 3 e (new)**

Article 3e

Control measures

1. In cases of failure to comply with the obligations laid down in Article 3 of this Regulation, the competent authorities shall take appropriate measures in respect of the vessels concerned, in accordance with Article 89 of Regulation (EU) No 1224/2009.

2. Failure to comply with Article 3 of this Regulation shall be considered a serious infringement for the purposes of Article 90 of Regulation (EU) No 1224/2009.

3. Member States having a direct management interest affected by the measures referred to in Article 3c of this Regulation shall develop a plan for the effective control of driftnet fisheries and for sanctions for infringements. The same obligation shall apply to Member States to which Regulation (EC) No 1967/2006 is applicable.

4. Member States having a direct management interest affected by the measures referred to in Article 3c shall update the control and sanctions plan for driftnet fisheries every year, focusing specifically on non-compliance with Article 3.

Or. en

Justification

The main problem with the existing driftnet fisheries is illegal use. Control and sanctions need to be reinforced.

Amendment 13

Proposal for a regulation Article 3 f (new)

Text proposed by the Commission

Amendment

Article 3f

Support from the European Maritime and Fisheries Fund

Where measures necessary to attain the objectives set out in Article 3a of this Regulation include investments on board or in equipment, they shall be regarded as measures to foster the gradual elimination of discards and to facilitate the transition to a sustainable exploitation of living marine biological resources as referred to in Article 38(1) of Regulation (EU) No 508/2014 of the European Parliament and of the Council*.

**** Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149. 20.5.2014, p. 1).***

Or. en

Amendment 14

Proposal for a regulation Article 3 g (new)

Article 3g

Exercise of delegated powers

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts as referred to in Article 3d(2) shall be conferred on the Commission for a period of five years from [the entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
- 3. The delegation of power referred to in Article 3d(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 5. A delegated act adopted pursuant to Articles 3d(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before***

the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Or. en

Justification

This amendment is self-explanatory.

Amendment 15

Proposal for a regulation
Article 3 h (new)

Text proposed by the Commission

Amendment

Article 3h

Review

1. Member States having a direct management interest affected by the measures referred to in Article 3c shall report to the Commission on the implementation of this Regulation within two years after its entry into force and every third year thereafter.

2. The Commission shall, on the basis of the reports from Member States referred to in paragraph 1 and taking into account scientific advice, including from STECF and ICES, evaluate, in the year following that in which it receives those reports, the impact of the measures adopted in accordance with this Regulation on the stocks and fisheries concerned.

Or. en

Justification

This amendment is self-explanatory.

Amendment 16

**Proposal for a regulation
Article 4 – paragraph 2 – point a**

Text proposed by the Commission

Amendment

(a) Article 1a is deleted;

deleted

Or. en

Justification

This amendment is self-explanatory.

Amendment 17

**Proposal for a regulation
Article 4 – paragraph 2 – point c**

Text proposed by the Commission

Amendment

(c) in Annex III, point D is deleted.

(c) in Annex III, *section 3*, point D is deleted.

Or. en

Justification

This amendment is self-explanatory.

Amendment 18

**Proposal for a regulation
Article 4 – paragraph 3**

Text proposed by the Commission

Amendment

3. Article 2(o), Article 9 and Article 10 of Regulation (EC) No 2187/2005 are deleted.

3. Article 2 **point** (o), Article 9 and Article 10 of Regulation (EC) No 2187/2005 are deleted.

Or. en

Justification

This amendment is self-explanatory.

Amendment 19

**Proposal for a regulation
Article 4 – paragraph 4**

Text proposed by the Commission

Amendment

4. In Annex II **(a) of** Regulation (EC) No 1967/2006, the words "and drifting nets" are deleted.

4. In **point (a) of** Annex II **to Council** Regulation (EC) No 1967/2006*, the words "and drifting" are deleted.

*** 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 (OJ L 409, 30.12.2006, p. 11).**

Or. en

Justification

This amendment is self-explanatory.

Amendment 20

Proposal for a regulation Article 6

Text proposed by the Commission

Article 6

Entry into force

This Regulation shall enter into force on **1 January 2015**.

Amendment

Article 6

Entry into force

This Regulation shall enter into force on ***the twentieth day following that of its publication in the Official Journal of the European Union.***

It shall apply from 1 January 2016, with the exception of Article 4 paragraph 3, which shall apply from 1 July 2017.

It shall apply to driftnets covered by Regulation (EC) No 2187/2005 from 1 July 2017.

Or. en

Justification

Given the nature of the plan, it is reasonable that it applies from the 1 January 2016. With regard to the Baltic Sea, the existing ban should still be in place until the 1 July 2017 in order for it to be continued in the delegated acts, should this be deemed appropriate. The ban should however only apply to such nets that were already banned at the time of the entry into force of this Regulation. Driftnets that are covered by the new definition of "driftnets" in this Regulation but not by the definition applicable for the purposes of the Baltic Sea ban in Regulation (EC) No 2187/2005 should be assessed in the regionalised procedure under this Regulation..

Amendment 21

Proposal for a regulation Annex (new)

Text proposed by the Commission

Amendment

Annex

Prohibited species

*Albacore,
Bluefin tuna,
Bigeye tuna,
Skipjack,
Atlantic bonito,
Yellowfin tuna,
Blackfin tuna,
Little tuna,
Southern bluefin tuna,
Frigate tuna,
Oceanic sea breams,
Marlins,
Sailfishes,
Swordfishes,
Sauries,
Dolphinfishes,
Sharks, and
Cephalopods*

Or. en

Justification

This amendment sets out the species that may not be targeted by driftnet fisheries.

EXPLANATORY STATEMENT

The Commission proposal

Driftnet fishing started to cause substantial problems in the late 1970s and 1980s, when driftnets with large mesh sizes and net lengths of tens of kilometres started being used. These large-scale driftnet fisheries resulted in significantly increased amounts of incidental mortality of protected species including, in particular, cetaceans, sea turtles and sharks, and they lead to international concerns about the environmental impacts.

To address this situation, the European Union adopted legislative measures under Regulations (EC) No 850/98, (EC) No 812/2004, (EC) No 2187/2005, and (EC) No 1967/2006 (EC) No 894/97. The current legislative framework has however shown weaknesses as the existing rules have proven easy to circumvent.

In order to address this situation and to comply with international obligations of the European Union to regulate driftnet fisheries, the Commission has put forward a proposal, on the basis of a precautionary approach, for a total prohibition to take on board or use any kind of driftnets from 1 January 2015 in all fisheries subject to the Common Fisheries Policy. The proposal also introduces a revised and more comprehensive definition of this fishing gear.

The view of the Rapporteur

The proposal presented by the Commission on 14 May 2014, is too drastic, in so far as it foresees the absolute ban of driftnets. The Commission has based its argumentation on the precautionary principle. There are however driftnet fisheries within the European Union that are certified. When this is the case, even a test against the strictest environmental standards cannot give rise to sufficient arguments for a total ban.

Furthermore, the objective behind the proposal can be achieved in a different way, more sustainable for the European environment and economy. A total ban would without any doubt be detrimental for a large number of fishing communities, most of them of a small scale character, that since centuries have used driftnets in a sustainable way.

On the basis of a study commissioned by the European Parliament, there are currently 45 active driftnets fisheries identified in 9 member States operating in EU waters. Together they account for 3640 vessels, of which a larger part is a small scale one: most vessels measure less than 10 m in length and operate from a range of ports.

One example is the Galician *xeito* which has been used for centuries and is one of the most sustainable gears of the artisanal fisheries in the EU. Many other cases could be quoted to stress the driftnets' socio-economic effects and good environmental impacts in many Member States.

The damages that a total ban would bring would be of both an economic and social nature. A total ban would entail the disappearance of traditional fishing methods of many European fishing fleets, which instead should be protected as historical and cultural heritage. In addition, fishermen who until now have practiced an extremely selective and low environmental impacting craft would be treated in the same way as the worst perpetrators of IUU fishing.

Nonetheless, it cannot be denied that in some cases the illegal use of driftnets have caused

damages to the environment. Protected species (turtles, fish birds, sharks, etc.) have been accidentally caught, and there are reasons to address this.

An additional reason why the total ban is not appropriate is that the environmental damages to protected species are not strictly linked to the gear itself but to its illegal use.

A total ban would not be a decisive measure against those fishermen that have used and continue using driftnets illegally, both in terms of exceeding the maximum length or with regard to other technical standards, or in terms of targeting protected species. In this case, the most effective measure is to instead increase the law enforcement activities at sea or on land. Moreover the national authorities of the Member States should attribute the responsibility of illegal fishery presumptively when the fishermen's conduct is "presumptively" oriented to commit illegal fishery with driftnets.

The illegal use of driftnets constitutes a serious infringement according to the EU rules to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU Regulation (EC) No 1005/2008). As stated in Annexe XXX of the Commission implementing Regulation (EU) No 404/2011 a penalty of 4 points is given for the use of prohibited or non-compliant gear.

Member States should therefore put in place the necessary measures and cooperate between themselves and with third countries to identify their nationals carrying out IUU fishing, make sure that they are adequately sanctioned and verify the activities of their nationals involved with third country fishing vessels.

For this reason the Rapporteur feels the urgent need to increase controls on a large scale, in particular in the Mediterranean Sea, where the problem of accidental catches of protected species is more prominent, as stated by the European Commission.

Any effective control and implementation of the rules builds on a general acceptance by the fishing community. It has to be based further on cooperation with the Advisory Councils in order to make real the objectives of the reformed Common Fisheries Policy. It also must be taken into consideration that the technical measures, that the European Commission is working on, should reinforce the prohibition to catch protected species and to update on a regular basis the list of the Annexe I.

The current regulation of driftnets in the EU has also shown some specific weaknesses of the legal framework which need to be addressed.

A way to prevent potential loopholes could be to prohibit keeping on board driftnets with an aggregate length of more than 2.5 km or to keep on board multiple different gears on the same time. Other measures with the same purpose could be to prescribe that landing should take place in designated ports, in order to facilitate the work of control authorities in Member States as foreseen by the Article 15 of the basic Regulation.

In relation to the legal use of the driftnets there would probably be room for a review in order to minimise by-catches and mitigate catches or harm to protected species. Such a review could include questions as mesh size allowed or the maximum/minimum distance from the shore and other aspects of the use of driftnets. This review ought to be made on a regional level following the logic of the basic regulation (Article 18).

In case the review would lead to the use of different gear or to the change of the existing ones, this could be facilitated by the European Maritime and Fisheries Fund in order to provide financial support to fishermen and fisherwomen during the transition and conversion of gears.

One specific problem is ghost fishing due to driftnets lost at sea: on this issue, it could be considered whether the European Commission should be empowered to adopt rules on identification and marking of fishing gears to clearly identify to which vessel the lost driftnet belongs to and to allow it to find its fishing gear.

An important role in the effective system of controls on sea and in the ports should be played by the European Fisheries Agency, in order to give a real support to the national authorities of controls during the operations.