

## Illegal driftnetting in the Mediterranean

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### Abstract

Illegal, large-scale driftnets continue to be used in the Mediterranean. Port inspection visits were conducted in three countries, Italy, Albania and Tunisia, in 2013. These indicated that illegal driftnetting continues in Albania and Tunisia, with unconfirmed indications of illegal activity also documented in Italy. With the recent public and political focus it has become increasingly covert, making assessment of the current level of illegal activity, and its impact on cetacean populations, difficult to determine. We make a number of recommendations for further research that would improve understanding of the impacts of ongoing driftnetting on cetacean populations.

### Introduction

In the 1990s, when driftnet fisheries were at their peak, they were estimated to be killing up to 10,000 cetaceans annually in the Mediterranean (IWC, 1994). Bycatch largely comprised striped dolphins but also included at least 30 sperm whales in the Italian Seas alone (Di Natale and Notarbartolo di Sciara, 1994). The conservation threat was such that the IWC adopted a resolution (1990-6) in support of the United Nations General Assembly (UN GA) initiative regarding driftnet fishing. Since then international, regional and national legislation has been enacted establishing a moratorium on the use of large-scale driftnets on the high seas.

The UN GA global moratorium on large-scale high seas driftnet fishing has now been in effect for 20 years. Implemented in 1992, the Resolution (44-225) placed a moratorium on the use of large-scale driftnets (longer than 2.5km) beyond the exclusive economic zone (EEZ) of any nation. Regional Fisheries Management Organisations (RFMOs), bilateral agreements and national laws have further reinforced such bans including:

- ICCAT (International Commission for the Conservation of Atlantic Tuna) recommendation 03-04 which prohibits the use of driftnets for large pelagic species in the Mediterranean only;
- GFCM (General Fisheries Commission for the Mediterranean) resolution (97/1), which prohibits the use of driftnets, irrespective of net size, to capture large pelagics in the Mediterranean Sea from 2005 onwards, including within EEZs;
- ACCOBAMS resolution 4.2 which states that driftnets of any length should not be used within the Agreement area (ACCOBAMS, 2007); and
- EU legislation in 1992 that set a maximum length of 2.5km for driftnets used in EU waters and by EU vessels.

Subsequent EU legislation (Regulation 1239/98) which came fully into force in 2002 brought about a total ban on the carriage or use of driftnets of any length for capture of large pelagic species by EU vessels in EC waters, and by EC vessels beyond these, covering fisheries targeting ten different species, including tuna, marlin, swordfish, sharks and cephalopods.

Implementation of high seas driftnet bans has largely been successful, but problem areas remain, most notably in the North Pacific Ocean and the Mediterranean Sea (NMFS, 2012). Implementation has a particularly turbulent history in the EU. One of the major problems in enforcing the European Commission's (EC) driftnet regulations was that, until 2007, there was no legal definition of what a driftnet was (Council Regulation 809/2007). This allowed the French and Italian Governments to exploit loopholes in EC Regulation 1239/98 by redefining driftnet gear and continuing to fish (NMFS, 2012). More than €200 million was spent compensating Italian driftnet fishermen for phasing out driftnet fisheries, but nonetheless driftnetting continued, aided by a complex history of permissive legislation and a lack of enforcement. This led the European Court of Justice to initiate proceedings against Italy and France for their failure to implement the ban within their EEZs, including for inadequate measures for the control, inspection, and surveillance of fishing activities within their respective territories and for failure to impose adequate penalties (EC, 2013).

The legislative situation now is such that EU vessels are allowed to keep on board and use small-scale driftnets, except in the Baltic, provided that:

- a) Their individual or total length is equal to or smaller than 2.5 km;

- b) Their use is not intended for the capture of species listed in Annex VIII of Regulation No 894/979 as amended by Regulation (EC) No 1239/985 (a measure put in place to close a loophole where illegal driftnets were being used under the pretence of being bottom set gillnets); and
- c) Species listed in Annex VIII which have been caught in driftnets cannot be landed.

Recent national measures have clarified and improved the legal restrictions on driftnetting in the Mediterranean but illegal driftnetting continues nonetheless. With a large number of small-scale artisanal fishing vessels distributed along an extensive coastline, a high number of potential landing places, high economic incentives to use long driftnets and an associated low risk of being detected, enforcing compliance remains a significant problem (EC, 2013).

In 2007 there were estimated to be 500-600 illegal driftnet vessels operating in the Mediterranean, including from Italy, France, Morocco, Turkey and Algeria (EJF, 2007; Oceana, 2008). From 2005 to 2011, Italian authorities, EU inspectors, and NGOs documented more than 650 infringements of the driftnet ban (Pew Trusts, 2012). A study from 2002-2003 estimated that a total of 3,110-4,184 short beaked common dolphin (*Delphinus delphis*) and striped dolphin (*Stenella coeruleoalba*) were being killed annually by the Moroccan driftnet fleet in the Alborán Sea alone, exceeding 10% of the population size of *D. delphis* in the Alborán Sea, with a further 11,589-15,127 dolphins bycaught annually in the Straits of Gibraltar (Tudela *et al.*, 2005). Such levels of bycatch were of particular concern for *D. delphis*, due to this population being assessed as Endangered and representing the last remnant healthy population in the Mediterranean (Tudela *et al.*, 2005). Bycatch of minke whale (*Balaenoptera acutorostrata*), fin whale (*Balaenoptera physalus*), sperm whale (*Physeter macrocephalus*), pilot whale (*Globicephala melas*) and bottlenose dolphin (*Tursiops truncatus*) were also documented (Tudela *et al.*, 2005).

This report documents the ongoing use of illegal driftnets in the Mediterranean as recorded in 2013. Such activity poses a continued threat to Mediterranean cetacean populations, all of which are classified as either Critically Endangered, Endangered, Vulnerable or Data Deficient (Notarbartolo di Sciara & Birkun, 2010).

## Methods

In 2013 the non-governmental organisation The Black Fish monitored selected ports in Italy, Albania and Tunisia to examine the extent of ongoing illegal driftnetting activity. Ports were selected based on intelligence from fisheries experts and other NGOs as well as on the basis of their size and location. A team of inspectors visited the fishing ports carrying out 76 port inspections in 56 different fishing ports over a period of two months. Both day and night visits were conducted.

Determination of illegality is complex given that this depends on the species being fished for and the total length of driftnets when deployed; with driftnets under 2.5km still legal in certain fisheries. As evidence was collected through port inspections, illegal driftnets were not observed in use. Therefore only driftnets over 2.5 km were classified as illegal during inspections, using a formula to estimate net lengths when they were stacked. Authorities are obliged to confiscate nets which exceed 2.5km in length regardless of where and how they are used, as by EU rules their very length makes them illegal. Smaller driftnets may still be illegal if used to fish for the ten large pelagic species listed in Annex VIII of Regulation No 894/979 (as amended). However, as the current study relied on port inspections, no classification as to the legality or otherwise of the use of small-scale driftnets was made.

## Results

The results of port inspections are summarised in Table 1, presenting information for those ports where confirmed and unconfirmed evidence of illegality was found, including driftnetting, dynamite fishing and 'blacklisted' vessels (those previously documented engaging in illegal driftnetting by NGOs in the past).

In two of the three countries, Albania and Tunisia, illegal driftnets were documented on board vessels with unconfirmed evidence of illegal driftnetting in Italy (see Table 1). A total of 11 vessels were documented with illegal driftnets on board in two months across Albania and Tunisia. Illegal driftnets were found in two of 10 ports inspected (20%) in Albania, five of 24 ports inspected (20.8%) in Tunisia and there was unconfirmed evidence of illegal driftnetting in four of 22 ports inspected in Italy. In these 'unconfirmed' cases there was evidence of driftnet use, for example vessels were seen to be outfitted for driftnet use, but illegality could not be confirmed most often because nets were hidden and the type and size of nets could therefore not be confirmed. Dynamite fishing was observed in Sicily (Italy) and Tunisia.

Table 1: Results of port inspections carried out by The Black Fish in 2013.

Region and Country	Name of port	Evidence found	Evidence of illegality driftnetting? (Y/N/Unconfirmed)
Sicily, Italy	Milazzo	Vessels outfitted for driftnets, but no evidence of illegal driftnets	N
	Sant Agata	Blacklisted vessel with multiple driftnets onboard observed on two occasions.	Unconfirmed
	Cefalu	Various driftnet vessels with large nets onboard – netting under cover so not possible to confirm whether driftnets or not.	Unconfirmed
	Termini Immerese	Fishermen unloading driftnet from vessel onto pallets. Unable to estimate size.	N
	Porticello	Multiple nets stored under covers in an inaccessible part of the port – thought to be driftnets.	Unconfirmed
	Pozzillo	Five blacklisted vessels in port but no evidence of driftnets.	N
	Stazzo	Blacklisted vessel in port but no evidence of driftnets.	N
	Aci Trezza	One vessel suspected to be carrying illegal driftnets but unconfirmed. Driftnet with too large mesh size onboard. Blacklisted vessel in port.	Unconfirmed
	Riposto	Blacklisted vessels leaving port.	N
	Salina – Filicudi	Blacklisted vessel at sea with driftnets, though estimated to be within legal size range.	N
Albania	Sjengjin	Large driftnets onboard vessel	Y
	Vlore	Large driftnets onboard vessel	Y
	Sarande	Vessels outfitted for driftnets, but no evidence of illegal driftnets	N
Tunisia	Ghar el Mehl	Illegal driftnets documented	Y
	Bizerte	Evidence of driftnet use but unconfirmed	Unconfirmed
	Cap Zebib	Suspected driftnet vessel but nets not visible	Unconfirmed
	Jarbah Ajim	Evidence of small scale driftnet use	N
	Monastir	Illegal driftnets found stored on dock, possibly not in regular use.	Unconfirmed
	Gabes	Illegal driftnets stored on docks and on vessels. Evidence of dynamite fishing.	Y
	Houmt Souk	Illegal driftnets stored on docks and on vessels.	Y
	Zarzis	Illegal driftnets stored on docks and on vessels.	Y
Port el Ketef	Illegal driftnets stored on docks and on vessels.	Y	

NB. 'Blacklisted' vessels refer to those previously documented engaging in illegal driftnetting by NGOs in the past, not those listed on the official EU blacklist as engaging in IUU fishing.

## Discussion

Given that obtaining evidence of illegal driftnets in use is logistically difficult, and requires a significant at sea presence, and as ports inspected were not selected randomly, the port inspection evidence presented here should not be taken as representative of the extent of illegal driftnetting operations but rather demonstrates that such illegal activity continues, and potentially at a significant rate, with evidence of illegal driftnetting in 12.5% (n=7) of the ports visited during a monitoring period of only two months. Further unconfirmed evidence of illegality was documented in other ports. The port inspection visits showed that in 2013 fishermen have become more covert in their operations, hiding nets in the hold or under tarpaulins, or only loading nets on board vessels immediately before heading to sea. This contrasts to previous years where driftnets were openly displayed on deck. Furthermore there is evidence to suggest that in recent years, fisherman have used remote landing sites to avoid detection or inspection upon returning to port, a problem recognised in a recent EC review (EC, 2013).

This change is likely as a result of high profile NGO media campaigns and increased pressure from the European Commission.

As illegal large-scale driftnetting continues it is highly likely that bycatch of cetacean species in driftnets also continues to occur. This is of significant concern given the status of Mediterranean cetacean populations, all of which are classified as either Critically Endangered, Endangered, Vulnerable or Data Deficient (Notarbartolo di Sciara & Birkun, 2010). However, with activity becoming increasingly covert it is difficult to determine the overall extent of illegal driftnetting or to assess the current level of bycatch from such activities.

As illegal large-scale driftnetting becomes increasingly covert, there is an increasing logistical and capacity burden on enforcement authorities. In addition to this, the current EU legal framework continues to have a number of weaknesses that impede enforcement. These include:

- The capacity 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 bottom set gillnets or longlines;
- It is possible to land at many, small ports. The absence of a mandatory landing obligation in specifically designated ports undermines the ability to enforce compliance; and
- There is unclear language of Article 11a of Regulation (EC) No 894/97 which prohibits the use of 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. Adding to this, there is corruption at enforcement level in certain regions and a lack of adequate penalties.

Outside the Mediterranean and Baltic there remain a significant number of European vessels still active in legal small-scale driftnet fisheries— potentially more than 1,900 (EC, 2013). Whilst small-scale driftnet (<2.5km) fisheries may not represent a threat comparable to that of the previous large-scale high seas driftnet fisheries, there is sparse information on the extent of their interactions with cetaceans (EC, 2013). Several options for reform of EU legislation relating to driftnetting are currently being considered, including:

- Revision of technical measures such as a one-net rule, a restrained list of landing places etc.;
- A selected ban of EU driftnet fisheries identified as being most harmful to protected species (this requires further identification of such fisheries); or
- A total ban of driftnet fisheries, irrespective of fishery and length.

A total ban represents the simplest enforcement choice, and one which would address the impacts of both legal small-scale driftnet fisheries and illegal large-scale driftnetting. However, any of the options will require a significant improvement in enforcement capacity.

Further afield outside the EU, Baltic and Mediterranean, driftnet fisheries may still occur in EEZs, including with driftnets longer than 2.5 km. Although many countries adopted domestic legislation following the UN resolution, there is little information on the extent of such national legislation or the adequacy of enforcement. EEZs occupy approximately 42% of ocean area (White & Costello, 2014), representing a huge area where large-scale driftnets may still be in use. It has been suggested that the UN GA resolution should be extended to apply in all seas and oceans (WWF, 2012). This would be a significant step forward but it is essential that any national or international legislation is enforced through adequately resourced, independent enforcement.

In conclusion, current evidence shows that implementation of the large-scale driftnet ban remains weak in a number of Mediterranean countries. Given its illegality and the increasingly covert nature of driftnetting, the current scale of illegal activity and its impact on cetacean populations is difficult to determine and cannot be measured through existing fisheries monitoring programmes. Improved compliance is a priority in the Mediterranean, including through measures such as:

- Increased penalties for illegal driftnetting in order that these are a significant disincentive to illegal activities;
- Amendment of legislation to remove barriers to enforcement; and
- Increased, independent enforcement capacity.

There are also a number of urgent research priorities, including:

- That methods be developed and applied to estimate driftnet-related mortality of cetaceans in the Mediterranean and the impact on populations, giving special attention to areas where driftnetting overlaps with known concentrations of cetaceans (e.g. ziphiids in the Alborán Sea, IWC, 2011, 2012);

- That scientists and other stakeholders collaborate to conduct a regional examination of the impacts of European small-scale driftnet fisheries on cetacean populations; and
- That researchers and relevant national and international agencies collaborate to examine the extent of regulation and impacts of large-scale driftnetting within EEZs globally.

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