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RAC MED OPINION ON THE PROPOSED REGULATION CONCERNING THE REFORM OF THE CFP

The Executive Committee met in Bari on 20th October 2011 and adopted the opinion proposed by the meeting of the RAC MED working group held in Malta on 20th September 2011 to examine the CFP regulation proposal presented on 13th July covered the critical aspects of this proposal and its application to the specific Mediterranean context. Discussion of the more general aspects was postponed for other occasions. In particular during the meeting the following sensitive areas were identified and for each one the opinions, proposal, hopes and recommendations (highlighted in bold) were expressed:

- **Maximum Sustainable Yield (MSY)**: the definition of MSY that does not refer to single stocks as in the north European seas but to the mix that makes up the catch from the various types of fisheries, and in particular trawl fisheries, as in the Mediterranean is subject to greater difficulties and margins of uncertainty. This is especially true when data on the state of the stocks are not available with the exception of a few cases (see the recent communication at the workshop held in Brussels on 8th September). The situation in the Mediterranean Sea is rather different from that of other European basins in which single stocks are monitored by ICES and by other institutes within the system of TAC and quotas, in order to establish the annual amounts for fisheries of the target species. The RAC MED concluded that, although it would be desirable to establish that the MSY will be reached in 2015, this seems at best ambitious even for the basins of the north and east of the EU, where the Mediterranean is concerned it could be considered unrealistic.
An over-ambitious definition by group of species (never formulated in the history of the CFP to date) can lead to several consequences, both in terms of the management plans for multi-specific fisheries systems already being implemented or approved and for the other measures contemplated in the proposed Regulation (e.g. the value of the transferable fishing concessions).
The RAC MED therefore proposed that, although the general aim of achievement of the MSY should be respected (which in the Mediterranean ought to be established by groups of species that are variable according to the season or the area in the different fishery systems) a margin of flexibility needs to be permitted concerning the deadline of 2015. An experimental period will also be necessary in order to identify the necessary measures and actions to be taken to achieve the goal, ascertain applicability and verify the results obtained.
- **Regionalisation**: the lack of a governance framework in the reform proposal makes it difficult to envisage the correct execution of the process of compliance that the reform entails, given the



variety and characteristics of Mediterranean fisheries, while also reducing the margins of flexibility and adaptation of the measures that are theoretically acceptable. The RAC MED, in accepting that the multi-annual management plans are an adequate response to the need for management that considers the diverse conditions of the different European seas, **proposes the evolution of their formulation, opening up participation to the all stakeholders, organized into representative associations, rather than allowing only member states to propose them.**

- **Discard:** the aim of eliminating discarded catch – a term that covers both non-commercial fisheries species and undersized specimens – causes several problems in the Mediterranean. The mix of fisheries target species varies in its composition and in the size of the fish caught according to the fishing area and the season, a situation that inevitably leads to a significant portion of discarded catch although this fluctuates according to temporal and geographic factors.

Art. 15 of the reform proposal concerns the requirement to store on board and land all Mediterranean demersal stocks as of January 2016 at the latest. This would appear unworkable in this context for two reasons: 1) storage on board: if the portion of the catch of demersal fishery species destined to be discarded is significant (according to species or size), storing this part of the catch on board would entail the use of spaces normally necessary for the trawl activities themselves, creating greater problems on smaller vessels. In the case of vessels that spend several days at sea, this extra volume of unwanted catch would inevitably need to be refrigerated on board thereby reducing the storage capacity of the vessels for the product destined for sale, and would also oblige the vessels to return to port more frequently than before, the consequence being longer waiting times, larger distances to be covered as well as higher direct and indirect costs (fuel, crew etc.); 2) landing: currently the infrastructure and the necessary technical/economic organization are not present to register, store and then forward the product to the destinations foreseen in the reform proposal (non-human consumption for the undersized specimens and the rest for charity). The creation of such structures would entail relative investments and would need to follow the same technical and bureaucratic procedures as any construction in port areas; properly financed management organisations would also need to be in place as it would not be possible to commercialise the discarded species (it is very uncertain that the undersized specimens could be sold for non-human consumption). The disposal of this product as special waste would also be very expensive and complex. The solution indicated in the Common Market Organisation (CMO) reform proposal is to assign the administration of this issue to the Producers Organizations, however this would appear to be impractical for the reasons stated. The lack of suitable infrastructure will make it impossible to respect the requirement described in art. 15, without disregarding the problem highlighted previously concerning storage on board. A further consideration is that this biological waste would be destined for a land-based rubbish dump rather than being put back into its natural environment.

In order to achieve the acceptable goal of reducing the amount of discarded catch, the RAC MED proposed that the technical and economic problems described should be dealt with according to the specific local conditions through the implementation of pilot actions, especially concerning the improvement of gear selectivity, to be adequately and specifically financed through the new EFF. If necessary such pilot actions, and their timing, could be made compulsory and the results that emerge could be used to formulate measures for the management plans of for a new Regulation. The WG further stressed that it is essential to determine whether the unwanted catch covers just fishery species (bony fish and elasmobranchs) or other organisms too (echinoderms, algae etc) which are usually form part of the total biomass caught in trawl nets.



Furthermore it should not be overlooked that, when this question was first raised by the EC, the Mediterranean basin was publicly excluded from such obligations in the short term. On that occasion various pilot actions were proposed in order to deal appropriately with the technical and economic problems involved in the implementation of measures that are now being considered mandatory.

- **The system of transferable fishing concessions (TFC)**: the RAC MED recalled and emphasised the unreserved opposition to the application of transferable concessions in the Mediterranean expressed by the vast majority of the NGOs and Fishery Organisations which participated in the consultation phase for the reform. Some of these groups expressed their approval of TFCs in the light of the announcement that the incentives to end fishing operations would be abolished. This undeniably disadvantageous situation could lead to the TFC system attracting capital to the sector due to value given to the fisheries concessions themselves, thus creating (in the given framework) an effective regulation system. This general disapproval is not duly described in the EC document on the consultation nor is it acknowledged in the Regulation proposal. **The WG hopes that during the negotiations to be held before the definitive approval of the Regulation by the Council and then by the Parliament, the precise characteristics of the Mediterranean can be contemplated more specifically, leaving both small scale fisheries and the adoption of the entire measure to the discretion of the Member States (SM check).**

The application of a system of transferable fishing concessions (TFC) in the Mediterranean would create much greater difficulties than the frequently mentioned risk of concentrating the concessions in the hands of a few economically strong groups. The first and most complex of these issues is the definition of “concession” which, regardless of the legal aspects, cannot refer to quotas allocated to single vessels or companies (except in the case of bluefin tuna) rather it would have to refer to a measurement of fishing effort (as declared by the EC itself on numerous occasions) which is yet to be defined. This point is particularly delicate and the RAC MED expressed its extreme concern considering the various possible interpretations of Articles 28 (allocation of the transferable fishing concessions) and 29 (allocation of individual fishing opportunities) in the Mediterranean.

According to Art. 28 (2) *“Each Member State shall allocate transferable fishing concessions on the basis of transparent criteria, for each stock or group of stocks for which fishing opportunities are allocated in accordance with Article 16, ... For the allocation of transferable fishing concessions pertaining to mixed fisheries, Member States shall take account of the likely catch composition of vessels participating in such fisheries* (3). According to Art. 29 *“Member States shall allocate individual fishing opportunities to holders of transferable fishing concessions, as referred to in Article 28, on the basis of fishing opportunities allocated to the Member States, or established in management plans adopted by Member States in accordance with Article 19 of Regulation (EC) No 1967/2006”*.

If this leads to the allocation of a TFC in the Mediterranean to every vessel indicating only one or more species that can be fished, and not the measurable quantitative aspects relative to the fishing effort that may be exercised (e.g. GT x Kw x activity) nor quantity per species or mix of species that can be fished and only subsequently, according to Art. 29, would the quotas be allocated, *“on the basis of the fishing opportunities allocated the Member States or established in the management plans...”* the RAC MED deduced that:

- a) the value of the TFC could be compromised or indeed the fishing activity could become economically non-viable if limitations are placed on the component “activity” in the



- measurement of fishing capacity when deciding the fishing effort to allocate to each vessel, if such decisions are not taken appropriately;
- b) if no allocation of fishing effort is approved for each vessel, and instead just an indication of the species that can be caught is given, this would not constitute a marketable TFC unless the TFC also receives fishing opportunities; in this case Art. 29 transfers the allocation of fishing opportunities to the Member States (the only annual quota in the Mediterranean is for bluefin tuna) or those established in the multi annual management plans, which to date in the Mediterranean do not foresee the introduction of quotas for single species nor for groups of species;
 - c) if, according to Art. 28, the Mediterranean Member States will also have to establish a system of TFCs by 31 December 2013, and if these will need to activate a market, or if, before this date, the fishing effort needs to be quantified and allocated as described above (point a), or if multi-annual management plans need to be approved (point b) it is crucial that these are, for practical purposes, based on the introduction in the Mediterranean of a system of TAC and quotas by species and groups of species. This hypothesis is arguable and complex and has not been contemplated to date, the scientific basis concerning its efficiency is scarce or absent and doubts could be formulated on the feasibility of its management;
 - d) if, in the case of the Mediterranean, the way ahead is via the implementation of multi-annual management plans, it would appear unjustified to provide the dual possibility in Art. 29 (1) (fishing opportunities allocated to the Member States or established in the management plans), with the exception of bluefin tuna.
 - e) The issues surrounding the precautions to be taken concerning speculation, the excessive concentration of TFC in the hands of a few economically strong groups and the protection of the small scale fisheries sector have not been resolved, rather they have been referred to the Member States. It is not sufficient to state that the issuance and acquisition of the TFC will be based on the interests and the free will of the operators, considering the fragility and the debt load of small and medium sized companies, the pressures of the fish markets and the growing difficulties caused by the general economic crisis. If the possibility of extending the TFC system to small scale fisheries is left up to the Member States, it could feasibly be assumed the fears expressed on several sides during the consultative phase would become reality, with the disappearance of the small scale fisheries sector from the coastal communities, and with it the social, cultural and economic context in which it is embedded.
 - f) The relative stability that would appear to be protected by the opportunity to exchange TFCs between Member States is contradicted by the possibilities that are left open by Art. 31 (2). Furthermore, the current possibility for vessels to be jointly owned by companies, individuals or other legal entities from different Member States or from non EU countries leaves the TFC system potentially open to the process of internationalisation of the concessions.

The RAC MED hoped that the idea of introducing a system of TFC in the Mediterranean would be reconsidered and therefore postponed pending more thorough evaluation of the issues mentioned above, with the support of scientific research, the GFCM and following extensive discussion among the stakeholders, by means of specific workshops among other approaches; this is also in consideration of the fact that otherwise the TFC could become the main reference for credit institutes in assessing fisheries enterprises. The RAC MED suggested



the appraisal of a TFC system in the Mediterranean, with its application and management principally assigned to the Member States rather than the market, recalling that RACMED had already requested that the adoption of the TFC system in the Mediterranean be left to the individual choice of the Member States, and not only for its applicability to small scale fisheries. If TFCs are adopted the introduction of a conditional clause is considered necessary, this clause would mean that allocation of the TFC would only be possible if the fisheries enterprise in question fully respects the CFP, social legislation and that concerning safety in the workplace, not to mention the national labour contracts in force. In this context and once the new Financial Instrument is duly clarified where national social safety valves are concerned, a similar clause should also be foreseen in order to guarantee economic support for the crew during the periods in which fishery activities are suspended.

- **The definition of small scale fisheries** is another somewhat weak point in the Regulation proposal that the Commission had frequently acknowledged requires modification in the framework of specific meetings and seminars, in view of the fact that a system of differential management could be introduced. Leaving the only parameter that defines small scale fisheries as the mere measurement of 12 m from the coast, as stated in the Regulation proposal, effectively means that the Commission is abandoning the possibility of establishing a more suitable procedure for identification through the consideration of several factors (fishing capacity (Gt, Kw), fishing gear employed, number of days at sea per year, length of each fishing trip, working members of a cooperative or vessel owner on board, number of crew members, distance from the coast, vessel type, length, capitalization of the businesses). In absence of a more appropriate definition of Mediterranean small scale fisheries, difficulties will inevitably be faced in the management of the various measures proposed by the reform and the actions that will be put forward in the future financial instrument.

The RAC MED proposed that discussion be reopened and that a more appropriate definition of small scale fisheries be adopted

- **Multi annual management plans, technical measures and reform:** the RAC MED deemed the policy of multi annual plans and the technical measures appropriate for the achievement of MSY and expressed serious concern about the tendency to modify or insert new technical measures or change the aims and add measures before these approved plans have produced effects and during the implementation of these same technical measures before they can develop sufficiently to allow the determination of a measurable impact. The WG underlined that the Mediterranean fisheries sector is currently in a complex phase of adaptation in order to comply with the rules that became effective on 1 June 2010 and the Regulation on controls, this is a significant, ongoing process with the consequent impact across the sector, from the capture systems to the market. The introduction of further norms and modifications before the current system has been fully established would be difficult for the operators to comprehend and accept. Moreover, the application of such rules would be particularly difficult in the Mediterranean where fisheries are typically seasonal and multi-specific, and where there are 7 EU Member States compared with 14 non Member States which are not subject to the same regulations. It is therefore necessary to define which stocks need to be managed and how, so as not to create disparity within the basin.
- **The role of RAC:** in view of the new and more important mission assigned to RAC by the Reform, the RAC MED expressed its consideration that the current framework is limiting and



incomplete and **hoped to strengthen the advisory committees and to be more deeply involved in the reform process**. It is hoped that the European Parliament report of 25th March 2009 is taken into consideration as it refers to governance in the framework of the CFP and requests that the role, responsibility and functions of RAC should be significantly enhanced.

- **Financial Instrument: As the document relative to the financial instrument is due to be presented, the RAC MED Working Group concluded by conveying the hope that the current contribution provided for fleet demolition would not suddenly be abandoned. The WG suggested the phasing out of the scheme which could be linked to the local and national management plan strategy and, if confirmed, to the system of transferable concessions.**

* The WWF did not fully agree with the proposed opinion and therefore added the following comments: WWF considers that a mere “objection” to the RAC MED opinion would be far from reflecting the meeting discussions. WWF fully shares:

- the importance of the implementation of multiannual management plans at fishery level as a key means to deliver regionalization, and agrees on the need to specify the involvement of stakeholders in the process of developing and implementing those management plans through compulsory “co-management committees”.
- the big concern expressed by the RAC MED on the obligation to land all catches. The elimination of discards and by-catch should be tackled on a fishery-by-fishery level with the adoption of more selective measures under the framework of a multiannual plan.
- the big concern of the RAC MED on TFCs. WWF believes that Europe’s fisheries are diverse and need more options than the single tool of TFCs.
- a fair definition of small scale fisheries is considered a very difficult task.

However, WWF considers that the stocks biomass above the MSY level should be achieved by 2015.

