Ref.:102/2017 Rome, 13th March 2017

MEDAC opinion on the proposal for a regulation on technical measures

Working Group 1 met on 21st February in Rome to discuss the European Parliament and Council proposal for a regulation relative to the conservation of fishery resources and the protection of marine ecosystems by means of technical measures, thus modifying regulations (EC) n. 1967/2006, (EC) n. 1098/2007, (EC) n. 1224/2009 of the Council and regulations (EU) n. 1343/2011 and (EU) n. 1380/2013 of the European Parliament and of the Council revoking regulations (EC) n. 894/97, (EC) n. 850/98, (EC) n. 2549/2000, (EC) n. 254/2002, (EC) n. 812/2004 and (EC) n. 2187/2005 of the Council [COM (2016)134], and to study the impact of this proposal on the Mediterranean basin in greater detail. The Working Group:

- recalling the opinion adopted by MEDAC (prot.19/2017 of 19th January 2017), presented to the European Parliament at the meeting organized by Gabriel Mato, held on 25th January 2017 in Brussels;

- acknowledging that technical measures are rules for where, when and how fishing may take place, and aim to control how much is taken out of the water with a given amount of effort and to minimize the impacts of fishing activities on the marine environment.

- given that it agrees with the need for a careful review of the current framework for technical measures so as to make them consistent with the objectives of the Common Fisheries Policy as defined in Regulation (EU) 1380/2013, especially with regard to the achievement of maximum sustainable yield (MSY) by 2020, the reduction of discards through the implementation of the landing obligation, minimizing and where possible eliminating the impact of bycatch on sensitive species, and achieving good environmental status by 2020;

- given that it considers the aim of standardizing legislation a welcome and necessary step, provided this does not result in new obligations that disregard the regionalisation process and/or administrative burden but maintains and where needed improves the current EU obligations under the Common Fisheries Policy and other environmental legislation;

- given that it hopes to see regionalization implemented as a tool to bring fisheries management closer to the specific requirements of the individual areas, in line with the regionalization as defined in Art. 18 Regulation (EU) 1380/2013;

- given that, in line with Art. 18.5 of the CFP, joint recommendations on technical conservation measures have to be based on the best available scientific advice and should ensure that they can effectively contribute to achieving the objectives of the CFP, namely Art. 2, they meet quantifiable targets of the management plan (when available) and are at least as stringent as measures under European Union law;

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- given that it underlines once again the importance of safeguarding environmental, economic and social sustainability, avoiding measures that increase business costs in financial terms and in terms of jobs;

- given that in the Commission's proposal there are various measures which until now had not been envisaged for the Mediterranean fishery sector and that these new measures may have an adverse effect on fishery enterprises;

- given that in various parts the proposal would appear to be too detailed on measures that should be included in regionalization;

- given that in some language versions various translation errors have been found, especially where technical terms are concerned, although during discussion it was still possible to understand the sense of the various regulations;

the following principles are explained, which should form the basic rational of the framework:

- absolute consistency with the objectives set by the CFP, which aspires to results-based management, leaving more flexibility for those involved, in the context of regionalization as defined by Art. 18 of the Regulation (EU) 1380/2013;
- development of a more effective control and monitoring system for fishery activities, especially in light of the change in governance of the sector towards results-based management;
- simplification of the rules, constantly applying the provisions of the Commission's REFIT programme that aims to reduce the legislative burden, to the benefit of civil society, businesses and public administrations, so that the sector and the operators can better understand the regulations and implement them;
- identification of the tools available to achieve the objectives of the CFP taking into account the specific characteristics – local as well as marine environment- in the Mediterranean basin;
- identification of clear and consistent quantifiable management targets in order to achieve the objectives of the CFP within the set deadline;
- identification of measures to promote the development of selective gear and practices (e.g. spatial/temporal closures) to reduce and where possible eliminate discards, minimizing the impact of fishery activities on the environment while safeguarding the economic viability of fishing enterprises and jobs in the sector in the long term;
- implementation of measures such as gear/vessel modifications and practices (e.g. spatial/temporal closures) to minimise and where possible eliminate the incidental catches of marine mammals, marine birds, and marine reptiles;
- definition of clear, verifiable performance indicators for measures established at regional level as well, in order to respond to an adaptive management approach for the protection of spawning stocks, juveniles and sensitive species and habitats;

- regional monitoring of the impact of recreational fisheries, regardless of the fact that current legislation makes Member States responsible for the management of these fishery activities.

Specifically, where the articles are concerned, MEDAC remarks as follows:

- Preamble, paragraph 11 and article 24 on innovative fishing gears. The proposal should be amended to ensure that there is appropriate knowledge about the impacts of innovative fishing gears such as pulse trawl, including cumulative effects, before use of the gear is widely adopted. Additionally, a system for monitoring, control and evaluation must be in place, serving for enforcement and research as well as evaluation purposes. Finally, current licenses should be made subject to scientific (re-) assessment, before being given a permanently "non-prohibited" status.

- Preamble, new paragraph (44): A part of the coastal zone should be reserved for low impact and selective gears, as well as recreational fisheries, provided its accountability on the impact on marine environment and stocks, to protect breeding grounds and sensitive habitats and to increase the social sustainability of European fisheries while securing the sustainable and 'best use' of the resource.

- Art.6 "Definitions": many definitions should be simplified to avoid differences in interpretation and to facilitate comprehension, not only for the sector but also for the authorities responsible for control activities. In particular, the definition of "*directed fishing*' could cause problems, (4) where this *means fishing for a defined species or combination of species where the total catch of that/those species makes up more than 50% of the economic value of the catch*; MEDAC proposes amending this definition so that the reference parameter is objective and quantifiable. In the same way, the definition of gears should also be made clearer.

- Art.6 "Definitions": paragraph 1 point (6) sensitive habitats and (7) sensitive species: WG1 agrees that it is necessary to improve the definition of sensitive habitats and species to be protected more precisely. All threatened and sensitive habitats and species should be considered, based on habitats listed by all EU environmental legislation (e.g., the Habitat Directive), fisheries legislation (Mediterranean Regulation 1967/2006) FAO and GFCM (e.g., VMEs), and under the IUCN Red List of Threatened Species.

-Art.7 "Prohibited fishing gears and methods". Letter (h). MEDAC agrees that it would be appropriate to add the following words after "acqualung": "spear-guns if used in conjunction with underwater breathing apparatus (aqualung), diver propulsion vehicles (e.g. scooters), or at night from sunset to dawn.

-Art.10 "General restrictions on the use of static nets": paragraph 5: introduces a ban in the Mediterranean on the use of gill nets at depths exceeding 600 meters, this measure

had so far only been envisaged for the North Sea (ex Reg.850 / 98). The MEDAC demands the maintenance of the current regulation waiting for scientific evidence that can support the need to justify such a measure. [1]

-Art.16 "Prohibition of high grading and slipping": high grading is relatively rare, if not unknown, practices in the Mediterranean. The exception to the ban on high grading species exempted from the landing obligation (ex article 15 .4 of Reg. 1380/2013) with reference to their high survival, would increase fishing mortality, and this mortality would not be taken into account in the calculation of total catches. MEDAC therefore proposes an amendment to this article, so that the ban on high grading continues to apply to all species. Slipping is a common practice in purse-seine fishery for small pelagic species: when they see that the average size in the bench is below minimum landing size, they open the net and let go free the fish alive. It is used to avoid catching undersized fish. To prohibit this practice is absolutely counterproductive for the conservation of small pelagic resources and the protection of undersized specimen. On the contrary, provided that scientific advice confirms high survival rates, slipping could be an effective tool to reduce discards, together with methods and equipment to estimate the catch volume, fish size and quality, at an early stage of pursing, while slipping is still acceptable in terms of catch survival. Slipping shouldn't be prohibited as it is a selectivity measure use all around the basin.

- Article 19 point 4 D (new): A part of the coastal zone should always be reserved for low impact and selective gears, as well as recreational fisheries, provided its accountability on the impact on marine environment and stocks, to protect breeding grounds and sensitive habitats and to increase the social sustainability of European fisheries while securing the sustainable and 'best use' of the resource. In this sense we propose to maintain article 13 of the Mediterranean Regulation (1967/2006) and where necessary increase the distance from the shore and depths for certain gears such as trawling and purse seining.

-Art.29 "scientific research". Paragraph 2, letter. (b), establishes that specimens caught in the context of scientific research programs (sampling, gears' selectivity tests, impacts on habitats, etc.) should only be used for purposes other than direct human consumption. This is a new provision for the Mediterranean Basin. It must be highlighted that in order to ensure full scientific rigor during the research program period, fishing operations engaged in research program may be needed to be carried out under the same circumstances as professional fishing operations. This means that marketable fish is caught and could be sold for human consumption. Therefore MEDAC proposes that Art 29 Paragraph 2, letter.

[1] OCEANA, WWF, EAA, IFSUA, FIPSAS and CIPS don't agree with the last sentence. They propose to put: "It is part of an international requirement and as such to be extended to Mediterranean Sea"

(b) applies only to specimens below the minimum conservation reference size (MCRS), in accordance with Article 15 of Reg. (EU) 1380/2013.

-Art.35 "Amendments to Reg. 1967/06)": The complete abolition of Article 15 of the Mediterranean Regulation will effectively make it impossible to fish for juvenile sardines, which was allowed up to now under Article 15, paragraph 3, in areas outside GSAs 17 and 18 (where this fishery is prohibited according to Recommendation GFCM/2013/37/1). MEDAC thinks the derogation should be reintroduced, with the same conditions.[2]

-Art.35 "Amendments to Reg. 1967/06)": MEDAC proposes to reiterate the content of Article 13 of the Mediterranean Regulation, in the proposed Regulation on technical measures. The MEDAC considers that the distance from the coast and the depth can be fully reintegrated into the regulation in question.

-Art.35 "Amendments to Reg. 1967/06)": Following an extensive and interesting debate, the MEDAC considers it necessary to delete Article 13, paragraph 3, second sentence, of the Mediterranean Regulation as it causes major technical difficulties, particularly in certain low-depth areas. In this regard, the pilot project conducted in the framework of the FAO Regional Project ADRIAMED ("Technical properties of purse seines targeting small pelagic species in the Adriatic Sea and impact of their use on the seabed". - FAO AdriaMed Italy-Croatia-Slovenia. Final report Lucchetti A., Arneri E., Belardinelli A., Čikeš Keč V., Colarossi M., De Carlo F., Marčeta B., Marković J., Martinelli M., Milone N., Notti E., Santojanni A., Russo T., Vrgoč N., Vujević A., Zorica B. 2015) clearly demonstrated that no environmental damage occurs using traditional purse seiners, although depth does not exceed 70% of the net height.

- Annex I, point o: There is a mistake on the French translation (at least), since it refers female crawfish and female lobster as prohibited species, and it should said "berried female crawfish and berried female lobster" (in French: œuvrées).

-Annex IX, part B, point 1: it is underlined that a clear definition of "*directed fisheries*" is required, (as used for sardine and anchovy as well as small pelagic species targeted by seiners, and for red seabream in part c), given that the conditions for the use of minimum mesh size are defined in function of the definition.

-Annex IX, part B, point 1: In Note 1 the consideration is made that the minimum twine thickness in the cod end can be greater than 3 mm (a maximum of 5 mm is proposed), as demonstrated by scientific studies, and much less on the thickness of the twine used (Sala,

[2] OCEANA,WWF, EAA, IFSUA, FIPSAS and CIPS do not agree on reintroducing a derogation and are proposing to put the previous wording: "further evaluation is needed on whether it would be appropriate to abolish this regulation".

A., Lucchetti, A., & Buglioni, G. (2007). The influence of twine thickness on the size selectivity of polyamide codends in a Mediterranean bottom trawl. Fisheries Research, 83(2), 192-203.

- Annex IX, part C, point 3 and 4. The abandonment of taking into account the number of sailors on board to determine the lengths of nets and the number of hooks authorized seems to us a bad idea and an increase in the potential fishing effort.

-Annex IX, part D "Mitigation measures for sensitive species" protective measures to reduce the incidental catch of cetaceans and seabirds. MEDAC agrees with the content as it ensures the achievement of obligations already laid out in current environmental legislation, which does not correspond to a real reduction of incidental catches considering the poor effectiveness of proposed systems demonstrated by specific scientific studies and no effects on the species. Different members of the MEDAC have informed on the effects of pingers; they attract cetacean in the nets to eat the fishes. Research projects aiming at identifying innovative solutions are needed and the allocation of dedicated EMFF to support the sector's adaption to these new provisions should be considered a top priority by the Member States affected.

-Annex IX, part C point 5. "restrictions on the use of pots": MEDAC does not think that it is appropriate to cite *Plesionika spp.* and *Pasiphaea spp* among the species of deepwater crustaceans targeted using pots and for which the limit placed is 250 pots per vessel, because scientific studies have demonstrated that they may not necessarily be considered as deepwater species.

-Annex IX, part C, lastly, MEDAC underlined once more that in Annex IX, part C, a ban on the use of pots and longlines by recreational fishers should be added.[3]

3 FIPSAS and CIPS are contrary to the general ban and in favor of a better regulation.