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Ref.: 189/2018 Rome, 6 July 2018

MEDAC opinion on the Proposal for a Regulation of the EP and of the Council establishing a MAP for the fisheries exploiting demersal stocks in the western Mediterranean Sea. (COM (2018) 115 final)

On 7 November 2017 MEDAC adopted by consensus the opinion concerning useful elements for the proposal of a Multi-annual plan for the fisheries exploiting demersal stocks in Western Mediterranean (Ref.270/2017). Thereafter, the FG WMED met in Zagreb, last April, and in that occasion the DG MARE representative presented the EC proposal for a MAP for the demersal species in the Western Mediterranean. In that occasion the members raised up their preliminary comments on it. During the FG WMED meetings, held in Sète on June 12, 2018, the participants expressed the following general opinions on the Regulation proposed by the EC:

- The proposal doesn't include an ex-ante evaluation of the socio-economic impacts, as already highlighted in the previous MEDAC opinion (7 November 2017). Furthermore, the consequent job lost is a transversal issue that affects also different national administrations and not only the national DG fisheries. The right to work must be protected in the fishery sector such as in the other economic sectors.

- MS administrations should provide solutions to support the measures implementation in light of the economical efforts required to the fishermen.

- Some of the elements reported in the previous MEDAC opinion (Ref.270/2017, 7 November 2017) have been included partially in the proposal, without pointing out the rationale behind the contribution, in particular related to "the extension of the bottom towed gears ban from 50 m to an appropriate depth to increase the protection of coastal essential fish habitats" in which MEDAC clearly stated that "when and where necessary to provide a possible extension of the bottom towed gears ban"[1].

- Management measures should be specific for each GSA, taking into consideration fishing activities of extra-EU fleets too operating in the Mediterranean Sea.

- Co-decision and regionalization should be implemented and supported, whereas the delegated acts foreseen in the proposal don't improve this process. Co-management with participatory processes that can guarantee a bottom-up decision making and improved governance. The establishment of multi-stakeholder groups at local level would not just allow an adaptive management system but would entail the

[1] NGOs (Archipelago, Legambiente, Medreact, Oceana, WWF) consider that the extension of prohibition of bottom towed gear in the EC proposal reflects the MEDAC opinion (7 November 2017). Scientific recommendation, based in Mediseh project, suggests the extension of this ban to at least 100m to protect juveniles. This measure would also partially contribute to the protection of Coralligenous and other Calcareous Bio-concretion habitats, which can reach 150 m depths. Given the severe situation of the stocks we suggest increasing the trawl ban up to at least 100m depth all year round, not only for 3 months to improve the effectiveness of the measure. Other closures in deeper areas than 100m should also be taken into account for spawning and juveniles aggregations of other demersal stocks and sensitive habitats that occur at higher depth.

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involvement and effective participation of the fishery sector and other stakeholders in the design and management of the necessary measures on the MAPs, including appropriate technical measures and spatial-temporal closures.

- The final measures included in the MAP should reach as much as possible the consent of stakeholders before to be enforced.

- Given the shared nature of stocks with third countries outside of the EU – it is important that regional collaboration through the GFCM is implemented to ascertain that regional management plans are effective.

Furthermore, the proposal for a Regulation establishing a MAP in WMED has been analyzed article by article and the following aspects have been highlighted:

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EC DRAFT MAP demersal species in WMED	MEDAC OBSERVATIONS
Article 1	No observations
Article 2	No observations
Article 3 ***Objectives*** 1. The plan shall contribute to the achievement of the objectives of the common fisheries policy, as listed in Article 2 of Regulation (EU) No 1380/2013, in particular by applying the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce MSY. 2. The plan shall contribute to the elimination of discards by avoiding and reducing unwanted catches as far as possible, and to the implementation of the landing obligation established in Article 15 of Regulation (EU) No 1380/2013 for the species which are subject to minimum conservation reference sizes and to which this Regulation applies. 3. The plan shall implement the ecosystem-based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised. It shall be coherent with Union environmental legislation, in particular with the objective of achieving good environmental status by 2020 as set out in Article 1(1) of Directive 2008/56/EC and the objectives set out in Articles 4 and 5 of Directive 2009/147/EC and	1.- The precautionary approach is not an objective. [2] 2. - Suppression of par. 2 is required: The implementation of the LO is already included in art. 15 of the Basic Regulation.[3] 3. - Socio-economic sustainability should be added among the objectives of the plan.

[2] NGOs consider that the reiteration of some legislative reference, such as the precautionary principles, are key principles enshrined in the CFP and legally recognised. MAP is the operational, regional implementation tool of the CFP, therefore such principles should be kept in.

[3] NGOs support paragraph 2 as it is in line with the content of the multiannual plans required by CFP (art10,1,f) and should not be suppressed. Deleting reference to LO would go against the CFPO principle.

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Articles 6 and 12 of Council Directive 92/43/EEC. 4. In particular, the plan shall aim to: (a) ensure that the conditions described in descriptor 3 contained in Annex I to Directive 2008/56/EC are fulfilled; and (b) contribute to the fulfilment of other relevant descriptors contained in Annex I to Directive 2008/56/EC in proportion to the role played by fisheries in their fulfilment. 5. Measures in the plan shall be taken on the basis of the best available scientific advice. Where there is insufficient data, a comparable degree of conservation of the relevant stocks shall be pursued.	
Article 4 ***Targets*** 1. The target fishing mortality in line with the ranges of FMSY defined in Article 2 shall be achieved as soon as possible, and on a progressive, incremental basis by 2020 for the stocks concerned, and shall be maintained thereafter within the ranges of FMSY. 2. The ranges of FMSY shall be requested, in particular from STECF, based on this plan. 3. In accordance with Article 16(4) of Regulation (EU) No 1380/2013, when the Council fixes fishing opportunities, it shall establish those opportunities for the assemblage of stocks concerned, within the range of FMSY available at that time for the most vulnerable stock. 4. By way of derogation from paragraphs 1 and 3, fishing opportunities may be set at levels that are lower than the ranges of FMSY. 5. By way of derogation from paragraphs 3 and 4, fishing opportunities may be set above the	1.- The target fishing mortality in line with the ranges of FMSY should be postponed to 4 years. 3. – 4. – 5. It should be better clarified how the range of FMSY will be managed in the mixed fishery context[4].

[4] NGOs support the CFP timeline and principles of achieving Fmsy by 2020 at the latest and oppose any delay in this obligation (adopted in 2013).

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range of FMSY available at that time for the most vulnerable stock, provided that all stocks concerned are above the BPA: (a) if, on the basis of the scientific advice or evidence, it is necessary for the achievement of the objectives laid down in Article 3 in mixed fisheries; (b) if, on the basis of the scientific advice or evidence, it is necessary to avoid serious harm to a stock due to intra- or inter-species stock dynamics; or (c) in order to limit variations in fishing opportunities between consecutive years to a maximum of 20 %.	5.c – How has been calculated the 20%? Which is the scientific basis of this percentage? The interannual variation should be limited to 10%. The MEDAC underlined that it could be possible to set a limit related to the effort reduction throughout 5 years in order to take into account the socio-economic impact.
Article 5	No observations
Article 6 ***Safeguards*** 1. Where the scientific advice shows that the spawning biomass of any of the stocks concerned is below the precautionary reference point (BPA), remedial measures shall be adopted to ensure the rapid return of the stocks concerned to levels above those capable of producing MSY. In particular, by way of derogation from Article 4(3) and (5), fishing opportunities shall be set at levels consistent with a fishing mortality that is reduced within the range of FMSY for the most vulnerable stock, taking into account the decrease in biomass. 2. Where the scientific advice shows that the spawning biomass of any of the stocks concerned is below the limit reference point (BLIM), further remedial measures shall be taken to ensure the rapid return of the stock to levels above those capable of producing MSY. In particular, by way of derogation from Article 4(3) and (5), those measures may include	Article 6 – it seems to be a repetition of what has been already foreseen in art. 4 with the risk that safeguard measures could be aligned with the ordinary management measures[5].

[5] NGOs state that the article 6 shall not be modified because safeguard measures are a CFP requirement (Art. 10, 1 g), which are commonly found and necessary for MAPs.

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suspending the targeted fishery for the stock concerned and the adequate reduction of the fishing opportunities. 3. Remedial measures referred to in this Article may include: (a) measures pursuant to Articles 7, 8, 11, 12, 13 and 14 of this Regulation; and (b) emergency measures in accordance with Articles 12 and 13 of Regulation (EU) No 1380/2013. 4. The choice of measures referred to in this Article shall be appropriate with the nature, gravity, duration and repetition of the situation where the spawning stock biomass is below the levels referred to in Article 5.	
Article 7 Fishing effort regime 1. A fishing effort regime shall apply to all vessels fishing with trawls in the areas and length categories defined in Annex I. 2. Each year, in accordance with the scientific advice, the Council shall set a maximum allowable fishing effort for each effort group by Member State. 3. For the first year of implementation of the plan, the maximum allowable fishing effort shall be substantially reduced from the baseline provided for in paragraph 4, in accordance with the scientific advice. 4. The baseline referred to in paragraph 3 shall be established as follows: (a) for the first year of application of this Regulation, the baseline shall be calculated for each	1. Fishing gears other than trawls should be defined and added in Annex I and the classification should take into consideration other characteristics of the fleet and not only the length of the fishing vessels[6]. 2. It is not possible to plan the fishing activities in a such short range of time. 3. What does it mean "*substantially reduced*"? It is too generic and can cause difficulties in the implementation. It is not reported information on the impact related to these measures. 4.(a) – The reference period should be 2012-16 in order to improve

[6] NGOs suggest the amendment of Annex I considering the scientific advice of STECF on fishing effort regime classification.

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effort group as the average effort expressed as number of fishing days between 1 January 2015 and 31 December 2017 and take account only of vessels active during that period; (b) for the subsequent years of application of this Regulation, the baseline shall be equal, for each year, to the maximum allowable fishing effort for the previous year.	the reliability of the data that are more representative of catches and effort.[7] The calculation methodology of fishing days is not clear, and it could be included by MEDAC in this document. The beginning of the effort management should be postponed in February instead the 1st of January because, December is a very important month for fisheries activities.
5. Where the scientific advice shows significant catches of a particular stock with fishing gears other than trawls, fishing effort levels shall be set for such particular gear or gears on the basis of such scientific advice.	5. What does it mean "*significant catches*"? It is too generic and cause difficulties in the implementation. The proposal should include provisions to ensure that SSF are managed at local level, under specific management plans for SSF, under a co-management regime, and where its polyvalence should be guaranteed. "*Fishing gears other than trawls*" should be defined in Annex I.
6. Where the scientific advice shows that recreational fisheries have a significant impact on the fishing mortality of a particular stock, the Council may limit recreational fisheries when setting fishing opportunities in order to avoid exceeding the total target of fishing mortality.	6. No data collection on recreational fishery is still ongoing, therefore the MAP should include provisions to ensure recreational fisheries is studied and properly managed, including with effective monitoring, control and surveillance. "*Council may limit*" should be replaced by "Council shall limit". Due to the relevance of recreational fishery, related management measures should be adopted[8]. Moreover, MEDAC reiterates its advice (ref.270/2017 7 November 2017) where consensus was made that:" e) *All the measures adopted within the Multi-annual plan should also apply to recreational fisheries in the area of application*" (with minority statement from EFSA).

[7] NGOs support the Commission proposal of calculating the reference period for 2015-17 as it should be based on the most recent years in order to reflect the most recent fishing effort level and stocks status.

[8] EAA suggests to add this sentence at the end of paragraph 6: "…*fishing mortality*; taking fully into account the socio-economic impact of such a limitation with regard to the recreational fishing dependent businesses and jobs and taking fully into account data or estimates of catches ten years back in time for all métiers engaged in the fishery of that species".

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Article 8 Total allowable catches Where the best available scientific advice shows that the fishing effort regime is not sufficient to meet the objectives or targets set out in Articles 3 and 4, the Council shall adopt complementary management measures based on total allowable catches.	- Applying TAC-Quotas system across all fisheries in the Mediterranean, especially demersal fisheries, will not be appropriate, given their multi-specific nature. This would not be efficient and would give rise to significant problems associated with discards. It could also be detrimental to small scale fisheries, due to the tendency for privatization of a public good and associated accumulation and concentration of quota by a few larger companies. Therefore, we ask to remove the article[9].
Article 9 Obligations of the Member States 1. Member States shall manage the maximum allowable fishing effort in accordance with the conditions laid down in Articles 26 to 34 of Regulation (EC) No 1224/2009. 2. Each Member State shall decide on a method for allocating the maximum allowable fishing effort to individual vessels or groups of vessels flying its flag, in accordance with the criteria in Article 17 of Regulation (EU) No 1380/2013. In particular, Member States shall: (a) use transparent and objective criteria, including those of an environmental, social and economic nature; (b) distribute national quotas fairly among fleet segments, giving consideration to traditional and artisanal fisheries; and (c) provide Union vessels with incentives to deploy selective fishing gear or use fishing techniques with reduced environmental impact.	

[9] NGOs agree with article 8 and including catch limits when scientific recommend it and effort regime proves ineffective, in line with NGO position.

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3. Where a Member State allows vessels flying its flag to fish with trawls, it shall ensure that such fishing is limited to a maximum of 12 hours per fishing day, five fishing days per week or equivalent. 4. For the vessels flying its flag, each Member State shall issue fishing authorisations for the areas referred to in Annex I and in accordance with Article 7 of Regulation (EC) No 1224/2009. 5. Member States shall ensure that the total capacity, expressed in GT and kW, corresponding to the fishing authorisations issued in accordance with paragraph 4 is not increased during the period of application of the plan. 6. Each Member State shall establish and maintain a list of vessels issued with fishing authorisations pursuant to paragraph 4 and make it available to the Commission and other Member States. Member States shall transmit their list for the first time within three months after the entry into force of this Regulation and subsequently no later than 30 November each year. 7. Member States shall monitor their fishing effort regime and ensure that the maximum allowable fishing effort referred to in Article 7 does not exceed the set limits.	3. The rationale of the 12 hours/day is not clear. In the Med. the great variety of fishing activities timing doesn't allow the enforcement of this article. Furthermore, the time needed to reach the fishing area and the marine weather conditions should be duly taken into consideration. MEDAC could suggest a different effort unit, more specific for the fishing activities in the Med aimed to the effort reduction.
Article 10	No observations

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Article 11 Closure areas 1. In addition to what is provided for by Article 13 of Council Regulation (EC) No 1967/2006, the use of trawls in the western Mediterranean Sea shall be prohibited within the 100 m isobath from 1 May to 31 July each year.	1. - The prohibition of trawls up to 100 m depth in the WMed [10]doubles the protected areas already existing: no scientific basis is mentioned in support to this paragraph. Furthermore, the already existing areas and their effects should be taken into consideration. Although this measure was partially mentioned in the MEDAC opinion, the meaning of the sentence has been completely changed. Indeed, MEDAC sentence suggested "where and when necessary, extend the bottom towed gears ban from 50 m to an appropriate depth" otherwise the geomorphological characteristics of the Mediterranean cause very different distances of ban along the coasts. Furthermore, the foreseen three months of ban covers the most profitable period in the year. Par.1 should report accurately the MEDAC opinion Ref.270/2017, 7 November 2017. In some areas, specifically Andalusia, given the morphology of the fishing platform, it ends at 100 mt depth, so trawling on this coast could not take place. The risk of fishing prohibition in that area (up to 100 m depth) is the increasing of the effort in the allowed zones. - A part of the coastal zone should be reserved for small-scale, low impact and selective gears to ensure their fair access to fishing grounds, protect breeding grounds and sensitive habitats, and to

[10] NGOs consider that the extension of prohibition of bottom towed gear in the EC proposal reflects the MEDAC opinion (7 November 2017). Scientific recommendation, based in Mediseh project, suggests the extension of this ban to at least 100m to protect juveniles. This measure would also partially contribute to the protection of Coralligenous and other Calcareous Bio-concretion habitats, which can reach 150 m depths. Given the severe situation of the stocks we suggest to increase the trawl ban up to at least 100m depth all year round, not only for 3 months to improve the effectiveness of the measure. Other closures in deeper areas than 100m should also be taken into account for spawning and juveniles aggregations of other demersal stocks and sensitive habitats that occur at higher depth.

	incentivize fishing in a more selective way, with a lower environmental impact. Current exceptions to the prohibition of trawling in depths of less than 50m should be reviewed and revised on a case by case basis. - The ban on the use of trawl nets in the Western Mediterranean within the 100 m isobath from 1 May to 31 July each year is unsustainable without the provision of an appropriate socio-economic support measure for businesses and workers.
2. Within two years of the adoption of this Regulation and on the basis of the scientific advice, the Member States concerned shall establish other closure areas where there is evidence of a high concentration of juvenile fish and of spawning grounds of demersal stocks, in particular for the stocks concerned.	2. – As consequence of the observations made to par.1, the par. 2 should be improved considering the co-management approach. - The scientific basis should be evaluated both for species and the socio-economic impacts according to the CFP objectives. - The already existing fishing restricted areas should be considered in order to estimate the overall percentage of surface that should be protected by each MS to guarantee equal conditions. - The efficacy of the already existing fishery restricted areas should be evaluated in order to assess the eventual need of their extension.[11]
3. Where the closure areas referred to in paragraph 2 affect fishing vessels of several Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 8 of Regulation (EU) No 1380/2013 and Article 18 of this Regulation and on the	3. - Co-decision and regionalization should be supported whereas delegated acts don't improve this process.[12]

[11] NGOs supports paragraph 2 as it is crucial to protect essential fish habitats, including in deeper areas to protect juveniles or spawning aggregations of demersal species with permanently or temporally closures in line with article 8 of CFP. This would also facilitate the implementation of the landing obligation.

[12] NGOs support this paragraph to allow the EC adopt delegated acts on fisheries management in closures mentioned in paragraph 2, based on scientific advice.

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basis of the scientific advice, establishing the closure areas concerned.	
Article 12	No observations
Article 13 Other technical conservation measures 1. The Commission is empowered to adopt delegated acts in accordance with Article 18 supplementing this Regulation by establishing the following technical conservation measures: (a) specifying the characteristics of fishing gear, in particular mesh size, hook size, number of hooks, construction of the gear, twine thickness, size of the gear or use of additional devices to improve selectivity; (b) limiting the use of fishing gear, in particular immersion time and depth of gear deployment, so as to improve selectivity; (c) prohibiting or limiting fishing in specific areas or time periods to protect spawning and juvenile fish, fish below the minimum conservation reference size or non-target fish species; (d) prohibiting or limiting fishing in specific areas or time periods to protect vulnerable ecosystems and species; (e) setting minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms; (f) on recreational fisheries; and (g) on other characteristics linked to selectivity.	- Art. 13 should be repealed[13] for the above-mentioned reason. The wording of this article should be the same as for the other MAPs. 1. - Co-decision and regionalization should be supported whereas delegated acts don't improve this process.

[13] NGOs support this article.

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2. The measures referred to in paragraph 1 shall contribute to the achievement of the objectives set out in Article 3. 3. In the absence of a joint recommendation as referred to in Article 15(2) and after expiry of the applicable deadlines set out in that Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 18 supplementing this Regulation by adopting the measures listed in paragraph 1, where the scientific advice shows that specific action is required to ensure that any of the stocks to which this Regulation applies is managed in accordance with Article 3.	
Article 14 Provisions linked to the landing obligation For all stocks of species in the western Mediterranean Sea to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013, the Commission is empowered to adopt delegated acts in accordance with Article 15 supplementing this Regulation by adopting detailed measures for that obligation as provided for in points (a) to (e) of Article 15(5) or Regulation (EU) No 1380/2013.	Co-decision and regionalization should be supported whereas delegated acts don't improve this process. Concerning the landing obligation, alternative measures raising by the cooperation of MS should be taken into account.
Article 15	No comments
Article 16	No comments (See in the introduction "Co-decision and regionalization should be supported whereas delegated acts don't improve this process")
Article 17 Monitoring and evaluation of the plan 1. For the purposes of the annual report provided for in Article 50 of Regulation (EU) No 1380/2013, quantifiable indicators shall include annual estimates of F/FMSY and SSB for the stocks concerned and, where possible, for by-catch stocks. They may be complemented with other indicators on the basis of the scientific advice.	1. Socio-economic indicators should be estimated as well as the F/F_{MSY} and SSB for the stocks concerned. The results of monitoring activities of socio-economic aspects should be reported every 2 years.

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2. Five years after the date of entry into force of this Regulation and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the results and the impact of the plan on the stocks to which this Regulation applies and, on the fisheries, exploiting those stocks, in particular as regards the achievement of the objectives set out in Article 3.	2. – [14]
Article 18 Exercise of delegation 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. 2. The delegation of power referred to in Articles 11, 12, 13, 14 and 16 shall be conferred on the Commission for a period of five years from the date of 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 that period. The delegation of power shall be tacitly extended for five-year periods, unless the European Parliament or the Council opposes such extension not later than three months beforehand. 3. The European Parliament or the Council may at any time revoke the delegation of power referred to in Articles 11, 12, 13, 14 and 16. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following its publication in the Official Journal of the European Union or at a later date specified in the decision. It shall not affect the validity of any delegated act already in force. 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement	Art. 18 should be repealed.[15]

[14] NGOs support this proposal, given the status of fisheries in the region to be able to adapt plan if needs be.

[15] NGOs support this article.

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on Better Law-Making of 13 April 2016. 5. As soon as it adopts a delegated act, the Commission shall simultaneously notify the European Parliament and the Council thereof. 6. A delegated act adopted pursuant to Articles 11, 12, 13, 14 and 16 shall enter into force only if neither the European Parliament nor the Council has expressed an objection within two months of being notified or if, before the expiry of that period, they have both informed the Commission that they will not object. The period shall be extended by two months at the initiative of the European Parliament or of the Council.	
Article 19 **Support from the European Maritime and Fisheries Fund** Temporary cessation measures adopted in order to achieve the objectives of the plan shall be deemed as temporary cessation of fishing activities for the purposes of points (a) and (c) of Article 33(1) of Regulation (EU) No 508/2014.	Supporting financing measures aimed to manage the socio-economic impacts due to the enforcement of the MAP should be provided.

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