*Market Advisory Council Feedback on Commission Delegated Regulation amending Commission Delegated Regulation (EU) 2015/242 on the ACs

***This feedback has been supported and adopted by the Executive Committee of the Mediterranean Advisory Council on the 07.06.2017.**

I. Background

On 5th December 2016 an Inter-AC meeting, attended by representatives of the ten Advisory Councils (ACs) effectively operating by then, DG MARE and observers, took place in Brussels. One of the main issues discussed was the structure and organisation of the ACs.

During this meeting the European Commission (EC) informed attendees that the decision on whether an organisation belongs to the group of sector organisations or the other interest group resides on the general assembly of each AC.

The EC, aware of the controversies occurred given the lack of clear rules and criteria within ACs to determine the belonging of an organisation to one or the other group, proposed a delegated act to redraft article 4.3 of the COMMISSION DELEGATED REGULATION (EU) 2015/242 of 9 October 2014 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy.

Article 4.3 read as follows:

> *Article 4*
>
> *3. The general assembly shall appoint an executive committee of up to 25 members. After consultation of the Commission, the general assembly may decide to appoint an executive committee of up to 30 members to ensure appropriate representation of small-scale fleets.*

The redraft of this article would aim at guaranteeing the smooth functioning of the ACs by ensuring a balanced representation in the executive committee, preventing the majority to decide on the representativeness of the minorities. The appointed organisation to the executive committee would be in line with the nomination proposal of the interest group concerned.

After the Inter-AC coordination meeting, several ACs or some of their members have submitted their opinion in written.

The draft was presented in the Expert Group for Fisheries and Aquaculture on the 15 December 2016, with the presence of national experts and representatives of the European Parliament and the Council.

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II. Commission Draft Delegated Regulation (EU) …/... of XXX amending Delegated Regulation (EU) 2015/242 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy

On the 11 May 2017, the EC informed ACs that the draft delegated act amending the delegated regulation on the functioning of the ACs has been published on the "better regulation portal" for feedback, for which stakeholders will have 4 weeks before the adoption procedure is launched.

This amendment intends to modify the provision on the definitions of the two main categories of stakeholders represented in the AC according to article 45 § 1 of Regulation 1380/2013 (the fisheries/aquaculture industry on the one hand and the other interest groups on the other) and the provision on the appointment of the executive committee of the AC.

Particularly it addresses on the one side the competence to decide whether a new member of the ACs belongs to the 60% or 40% (sector organisations or other interest groups, respectively); on the other side the competence to nominate members of the executive committee.

In this regard, the draft Delegated Regulation states:

> […]
>
> (4) It is necessary to further align the definition of the term "sector organisations" to the wording of Article 45(1) of Regulation 1380/2013 to avoid potential interpretative difficulties.
>
> (5) Given that there might be mixed organisations, representing both the fisheries sector and other interests, it is necessary to specify that the general assembly decides on the classification of the members of the Advisory Councils in one of the two categories referred to in article 45(1) of Regulation 1380/2013.
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> (8)
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> HAS ADOPTED THIS REGULATION:
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> Article 1
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> Delegated Regulation 2015/242 is amended as follows:
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> (1) In Article 2, paragraph 21 is replaced by the following:
>
> "2. Sector organisations" means organisations representing the fisheries (including employed fishermen) and, where appropriate, aquaculture operators, and representatives of the processing and marketing sectors."
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> (2) Article 4 is amended as follows:
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> (a) in paragraph 22, the following point (c) is added:

[1] *2. 'Sector organisations' means organisations representing the fishermen and, for the aquaculture Advisory Council, aquaculture operators and representatives of the processing and marketing sectors.*

"(c) decide on the classification of the members of the Advisory Councils under the categories "sector organisations" or "other interest groups". That decision shall be based on objective and verifiable criteria, such as the provisions of the statutes, the list of the members and the nature of the activities of the organisation concerned.";

(b) paragraph 33 is replaced by the following:

"3. Based on designations from the sector organisations and from the other interest groups for the seats allotted to them respectively, the general assembly appoints an executive committee of up to 25 members. After consultation of the Commission, the general assembly may decide to appoint an executive committee of up to 30 members to ensure appropriate representation of small scale fleets."

The EC requested ACs comments and suggestions on this draft before launching the adoption procedure.

III. Market Advisory Council Opinion on the Draft Delegated Regulation proposed

The MAC appreciates the effort made by the EC to clarify the rules regarding the composition of the ACs.

Having considered the draft delegated act, the MAC has decided to forward this letter to the EC requiring clarification on the interpretation of the aforementioned Delegated Act regarding the following issues:

- The MAC considers that "sector organisations" shall include all organisations comprised in the value chain, yet this is not clearly stated in the current draft.

- The MAC interprets from the wording laid down on the draft regulation that the general assembly as a whole shall decide on the classification of the members of the ACs in one of the two categories referred. The MAC requests from the EC clarification on this assumption. This being correct, it would not solve the problem of the imbalance between the 60% and 40% when deciding the belonging of an organisation to one or the other sector.

[2] *2.The general assembly of an Advisory Council shall: (a) adopt the rules of procedure of the Advisory Council; (b) meet at least once a year to approve the annual report, the annual strategic plan and the annual budget of the Advisory Council.*

[3] *3.The general assembly shall appoint an executive committee of up to 25 members. After consultation of the Commission, the general assembly may decide to appoint an executive committee of up to 30 members to ensure appropriate representation of small-scale fleets.*

- The MAC interprets that regarding the election of members of the executive committee candidates must be put forward by the sector organisations or other interest groups each for their own category.

- The MAC wonders whether the sector organisations and other interest groups have a right of veto regarding the belonging of their own group, as it has happened already de facto in other ACs (namely SWWAC).

END

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