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MINUTES OF THE INTER-AC MEETING
30th October 2014, Albert Borschette Conference Center, Brussels

Participants: The MEDAC delegation was made up of the Vice-President Susana Sainz-Trapaga, the Executive Secretary Rosa Caggiano and the Executive Assistant Erika Monnati

Items of the Agenda:

1) Delegated act laying down details on the functioning of the Advisory Councils

Ernesto Bianchi, explained that the delegated act on the functioning of the Advisory Councils (ACs) is now with the Council and the European Parliament which have a period of two months to object to the delegated act. However, the Commission does not expect any objections and therefore considers it likely that the delegated act will be approved on December 10, 2014.

The main points are in relation to the number of Executive Committee (ExCom) seats, with the possibility to open it up to 30 participants. The principle of equitable membership fees should also take into account financial capacity and additional reimbursement for small-scale fishermen if justified. It was emphasized that the additional reimbursement for small-scale fishermen is a possibility, not an obligation.

The floor was open for discussion and the NWWAC representative expressed their dissatisfaction for not having been consulted on the content of the delegated act and announced that they will provide detailed comments in writing. In particular they asked clarification on the definition of "other interest groups" and "fishermen" is unclear and they wondered whether recreational fishermen belong to the 60% or the 40% group. The same question arose in relation to trade unions and women networks. They also requested further clarification on how to increase ExCom seats from 25 to a maximum of 30 in order to guarantee sufficient representation of small-scale fishermen. In terms of equitable membership fees the NWWAC representatives wanted to know what are the criteria to quantify financial capacity and who to ask for this. Article 6 talks about additional compensation to fishermen representing small-scale fleet. Finally it was noted that under Article 7 Member States "may" provide technical, logistical and financial support but this would mean that it is on a voluntary basis.

The LDAC representative welcomed the increase in the EXCOM seats because they have been having representativeness problems ever since they were funded.

The BSAC representative considered the basic regulation to be very comprehensive and that there was no need for supplements, because their work is already consolidated. She emphasized her satisfaction with the introduction of art.7 - support by Member States - but at the same time she was worried that if Member States are not obliged to provide support it would fuel uncertainty in the budget planning.



The MEDAC representative, Susana Sainz-Trapaga, supported what was said by the NWWAC and added that it will not be easy to apply art. 6.1 – Financial Contribution by AC in offering additional compensation for small scale fishermen first because a definition of small-scale fisheries has still to be provided and furthermore she pointed out that funding is already a big problem for the MEDAC and providing additional reimbursement to small-scale fishers is impossible with the current funding. Rosa Caggiano, added that it will create a problem if Member States will not be obliged to provide assistance as the MEDAC desperately needs more resources and is hoping to get more funding from the Member States. Therefore the word “may” in Article 7 should be replaced by “shall”. She also pointed out that MEDAC had a very positive experience with the Member States during the draft of the management plans on landing obligations where the involvement of Member States was indispensable. She further suggested that Member States should possibly pay for interpretation and translation requested by organizations from the specific countries. Finally referring to the composition of the General Assembly she claimed that imposing a 60/40 representation in the General Assembly is not only impossible to achieve, but it will also violate the “open door” policy.

The representative of the German Member State remarked that MSs have been involved in the ACs since they first have been established and the current discussion reminded him strongly of the discussions held ten years ago, both in relation to financing as well as composition. He believed the way art.7 is currently formulated is fully in accordance with the Basic Regulation. Nevertheless the German representative stressed that the role of the Member States is very important for the ACs, both in financial and organizational aspects and Member States take their role very seriously, e.g. by providing free meeting rooms and sending national scientists to AC meetings. Member States are active observers in the ACs, but not members and it should remain this way. He fully understood the difficulties some ACs are facing due to dealing with multiple languages, but did not consider this a valid argument to oblige Member States to more contributions.

Rosa Caggiano, replied reminding that with the CFP reform the role of the ACs changed and increased in importance because MS now “shall” consult the ACs, therefore such a mutual involvement should have a financial correspondence.

The PELAC representative remembered that there is a provision in the EMFF that creates funding opportunities for scientific projects to be carried out by ACs. He suggested including reference to this in the delegated act since the PELAC has from the beginning been struggling to find ways of financing scientific work.

The representative of the Spanish Member State expressed his sympathy for the issues raised by the MEDAC, but agreed with his German colleague. From a Spanish point of view Spain has been very active and supported the ACs even in a period of such a major crisis. He also announced that Spain will be willing to host the Markets AC.

The NWWAC representative said that different Member States approach the ACs in different ways. However, he feared that in order to maintain the commitment of the Member States the word “may” will not be sufficient.

Ernesto Bianchi summarized the discussion and apologized that some ACs did not feel sufficiently consulted. The Commission had been under the impression that it had received enough input from the ACs. In producing a delegated act the Commission is working with lots of constraints and has to take legal considerations into account. The choice of the word “may” is simply due to the fact that the Commission has no power to impose obligations on Member States. This had to be done by the Parliament and the Council. However, he was convinced that the Member States’ commitment will increase in the future as nowadays Member States are obliged to consult ACs and hence need the ACs in the future. He furthermore pointed out that the delegated act cannot cater for individual problems and therefore is written in a way that is applicable to all ACs. Regarding the definition of small-scale fishermen he suggested not to worry about it too much. He said that the AC members should simply ask themselves whether the people they represent indeed feel sufficiently represented. He admitted that the notion of equitable membership fees is vague, but suggested to check whether all people who



the ACs want to participate have the means to do so. If not the delegated act provides the possibility to think about how to improve the situation. In terms of increasing the number of ExCom seats to more than 25 he suggested discussing this bilaterally with those ACs affected. The 60/40 composition of the General Assembly cannot be changed since this is part of the basic regulation. However, at the same time the ACs have to ensure an open door policy. This means that on a single day in a single year the 60/40 composition might not be achieved, however, nothing will happen and this figure should rather be seen aspirational. Regarding a reference to the EMFF this cannot be included in the delegated act for legal reasons. Bianchi invited further questions in writing and promised that the Commission will reply to them as swiftly as possible.

2) Financial issues

Ernesto Bianchi referred to the Inter AC letter from June 2014 in which a number of queries were raised. He pointed out that all ACs have by now signed the new framework agreement and that this agreement is set in stone because it has to be in line with the financial regulation. There are some changes in the new framework agreement in order to achieve faster payment. All ACs receive the Commission contribution in three instalments which means that a guarantee is no longer needed. There is also no need any more for a separate payment request and signing the operating grant automatically triggers payment of the first instalment. A single paper copy of the application and reports and one electronic copy are sufficient as well. The timeframe for approving reports depends on two main factors: the quality of the report and the time when it is submitted. Generally August and late December are problematic due to holidays and the end of year closure. From the beginning of December until mid-January it is very difficult to work on the Commission's accounting system. However, Bianchi ensured that the Commission is doing all it can to speed up procedures and said that the ACs can always contact the AC desk officers with any questions there might be. He further explained that the basic principles for financing have not changed and the maximum amount an AC can receive from the Commission annually remains 250.000 EUR. This applies to all ACs and there is no flexibility possible in this regard. Any money not used at the end of the financial year has to go back to the Commission. In terms of participating in external (research) projects, whether they are funded by the Commission or not, the ACs have to keep in mind that they cannot obtain funding to directly or indirectly support operational costs. ACs also have to keep separate accounts for funding they receive from research projects. While this means an additional administrative burden it also provides opportunities. The Commission stressed to be willing to provide a forum of best practice for the AC secretariats.

The NWWAC representatives remarked that under the new framework agreement the deadlines for submitting reports are very tight now and wondered whether it would be possible to get an extension for reasons beyond the control of the ACs. They furthermore pointed out that when they changed from RAC to AC the legal advisers raised a serious concern of the status of AC staff and redundancy payments in the unlikely case that the organization goes into liquidation. They have been advised to build up a fund for this sort of problems. However, at the same time the Commission will consider this as profit or something that must not be done under the financial regulation as it would violate the annuality rule. The NWWAC representatives asked the Commission for giving a formal direction in this regard and providing information in writing.

Ernesto Bianchi promised to look into this issue in detail and to come back to the ACs on this.

Erika Monnati confirmed that MEDAC had the same problem as outlined by the NWWAC representatives as regards the TFR imposed by Italian Legislation (liquidation) and regarding participation of small-scale fishermen and third countries it was unclear what the ceiling for additional reimbursement should be. In addition she said that the MEDAC's financial year ends on the 31st of December and MEDAC doesn't know how to speed up the process of getting the new operating grant agreement approved in time before the Commission's financial system gets overloaded. MEDAC would try, however, to get everything approved before Christmas holidays. Regarding the possibility to get funding from the operational plans of the Member States, as per art. 36.2 of the EMFF Reg. she wanted to know whether it would be possible to apply for funding under the operational plan of one or more Member States.



Ernesto Bianchi replied that if there is anything the MEDAC can do to speed up application for the annual operating grant it should do so. Regarding the applicable ceiling of additional reimbursement for small-scale fishermen to take on a role in the ACs he pointed out that the Commission did not suggest any fixed amounts since these additional costs come from the AC budget. Therefore each AC should decide for itself what it considers appropriate. Referring to the OP funding by MSs he replied that there is no limitation as to where ACs can apply to several OPs provided that they are related to the AC. It will depend on the content of the Member States' operational programs whether ACs can receive funding from these programs or not and there will be more clarity once these programs have been submitted to the Commission.

The NWWAC representatives asked for half a day of training for the AC secretariats to know a bit better how things work under the new framework agreement. He envisaged a small group with some AC secretaries and a few DG MARE staff members. He pointed out that a lot of research projects would like to have the ACs as partners, but each time the ACs are afraid of asking too much money from these projects as they are always worried about double financing. The NWWAC request was supported by all other ACs

Ernesto Bianchi reacted very positively to this request and pointed out that the Commission could even turn this into an exchange of best practice. He concluded that the Commission will think about how to structure this training after the current meeting and will send an outline to the secretariats inviting comments. Regarding timing of the training session it might be necessary to have it in two chunks if part of it should take place before Easter since the work on the Member States' operational programs continues.

3) Consultation on the new technical measures framework

Bianchi explained that regarding the technical measures framework the Commission was busy finalizing the impact assessment and after that would write a proposal for a new technical measures framework. A few days prior to the Inter AC meeting a short paper has been circulated to the ACs and Member States outlining issues which the Commission would like to discuss with stakeholders in more detail. He pointed out that the Commission will take questions during the meeting and try to provide answers, but that written comments are also very welcome. However, these need to be submitted within the next 3-4 weeks.

Dominic Rihan took over and said that the kind of messages the Commission has received in terms of technical measures all point into the same direction, namely that there needs to be a complete overhaul and not just fixing existing measures. Micro-management and complexities as are currently in the technical measures must be avoided. The final overarching message the Commission received is that there needs to be a change in the logic by creating an incentive for selectivity and for compliance. In terms of scope the Mediterranean should be included too. The remaining issues as addressed in the paper are in regards to mesh size and catch composition rules as well as closed areas. Two STECF working groups dealt with the former one and the outputs were two different approaches that could replace mesh size and catch composition rules. The first approach would base everything around a catch matrix. The landing obligation introduced minimum conservation reference sizes and the limit could be set there as a proportion of catch. This could be in total, by trip etc. The idea would be to set a target, but to leave it to the fishermen how they achieve this target. Rather than focusing on things like mesh size etc. this approach would focus on monitoring and control. This idea seems sensible in light of the landing obligation, but also puts a lot of burden on the fishermen to show what they are doing. The second approach would use a selectivity profile for which a baseline gear is being defined which is based on the desired selectivity profile in the specific fishery. The drawback is how to demonstrate that the desired selectivity is actually met. The details of this approach could be left to regionalization. It might also be possible to have a combination of these on a regional basis and the Commission would like to receive input regarding this approach.



The other issue for which the Commission is seeking advice relates to closed areas. Many of them have been in place for a very long time with very little change and the Commission asked STECF to perform a review. In its conclusion STECF has grouped closed areas into different clusters:

- Not needed anymore
- Unsure about the objective, but was installed to protect something, therefore keep it
- Closure itself is ok, but so diluted by other measures that it is not working

The Commission would like to receive the stakeholders view on the functionality of the closures and while the focus has been on the North Sea and the North Western Waters other closures will be addressed in the discussion of multiannual plans. The Commission has also asked the Member States whether closed areas should be developed through regionalization or whether they should be agreed by Co-Decision. In any case there is no intention to re-open the discussion on Natura 2000 sites.

Bianchi added that the options presented are not exclusive and that other ideas can be brought up as well.

The chairman of the NSAC was not in a position to comment on the consultation paper as it has been received only recently. However, he promised to discuss this at the next NSAC meeting. He also requested an official translation into all languages. Nevertheless he guessed that the NSAC members might favor a more dynamic approach to closed areas which should be decided at the lowest level possible and not through Co-Decision.

One of the BSAC representatives was very concerned about the delay in legislation and pointed that there are only 60 days left before the landing obligation enters into force. She wanted to know how to proceed without technical measures. She furthermore pointed out that advantage should be taken of regionalization when it comes to driftnet fisheries and the proposed full ban.

The PELAC chairman agreed that technical measures need to have a proper revision. Catch composition applies mostly to demersal fisheries and not so much to pelagics. Another thing to be discussed relates to gears. From a pelagic point of view there should be a debate on being allowed only one specific gear on-board. There has to be a discussion on mobile fish plants. He realized that this is a highly controversial issue, but pointed out that the debate has to take place. In terms of closed areas the PELAC will have to think about it more.

The MEDAC representative said that the MEDAC need time to consult with scientists as well, before commenting on the consultation paper and that some very specific conditions apply to the Mediterranean. In terms of closures she said that the Commission missed what has been adopted by the GFCM in EU waters. There are closed areas as part of a management plan. Finally she emphasized that this matters should be left to the regionalization.

The LDAC representative had a little different perspective. The new technical measures regulation will only contain basic elements and talks about targets. However, it was not clear how targets could be achieved and he would prefer more detail on this. At the same technical measures should be flexible especially when a fleet has to deal with third countries

4) Update on the Omnibus proposal

Ernesto Bianchi explained that the PECH committee of the European Parliament has discussed the Omnibus proposal and their rapporteur has drafted a report. There is a large number of amendments which will keep MEPs occupied in the coming weeks. He pointed out that everyone is aware of the time pressure and he presented a possible scenario: on 3 December the PECH committee will vote on the proposal and there is still the possibility to have a political agreement if the two parties are not too far apart in their positions. If there will be a common position, then the Commission will be able to provide clear indications of what the rules will be and the Commission hoped that this scenario will take place. If not, the landing obligation will enter into force and there will be creative chaos with legislation applicable. At the moment there is no plan B and the Commission will only consider what to do if no political agreement can be reached closer to the deadline. He further emphasized that



the Commission is doing all it can to give fishermen the clarity they are entitled to. He encouraged people to talk to their MEPs, if possible, and pass on the message that a political agreement is urgently needed.

The PELAC chairman uttered huge concern regarding the situation. The pelagic fleets are about to embark on new legislation without clear rules and he was afraid that the hope expressed by the Commission is nothing more than hope. Therefore, as a practical solution he suggested splitting up the Omnibus into controversial and non-controversial issues. Eventually he suggested postponing the discard ban entry into force for pelagic fishes.

Bianchi replied that it is not possible to modify the Basic Regulation but there is still hope that MEPs can approve the omnibus proposal and solve the juridical uncertainties.

5) Update on the discard plans

Ernesto Bianchi explained that the Commission has adopted several delegated acts for discard plans and invited questions.

The SWWAC representative expressed satisfaction that the delegated acts are very much in line with what had been proposed by the Member States. He considered this a first important step of regionalization.

Susana Sainz-Trapaga was happy about the collaboration with the Member States and the Commission for the adoption of the delegated act for the Mediterranean and stressed out the importance of the involvement formally given to the MEDAC by MS, through official letters

On the contrary, the PELAC chairman explained that the PELAC thought it would be more embedded in the process of developing discard plan, whereas Member States didn't really involve them in the decision process.

Therefore he proposed to set up a regional forum that looks into practical problems composed by a small group people from the ACs, Member States, EFCA, the Commission and STECF.

The NSAC chairman could not speak on behalf of the NSAC in this regard, but said that obviously everybody should agree on the principle that if there was no such group dealing with arising matters in a fast and efficient way, then the landing obligation can definitely not be turned into a success.

The MEDAC representative agreed on the need to monitor the implementation of the landing obligation, but she would have to discuss this internally first.

The NWWAC representatives explained that the chairman of the NWWAC has participated in a technical group meeting of the NWW Member State group in the morning where he suggested to have this forum as well. Member States of the NWW regional group were all very supportive of the idea.

One of the SWWAC representatives understood that this proposal for a regional group has not been discussed within the ACs yet and he was concerned that a parallel structure to the ACs would develop. He rather wanted to take advantage of existing structures.

Ernesto Bianchi asked for clarification because he wasn't clear whether this forum would be a whole new structure or simply an existing one where people quickly discuss arising issues. He wanted to know more about how this would work.

The PELAC chairman clarified that this forum would specifically deal with problems coming up from the discard ban. He envisaged a very small group of people and a limited life-span for the forum, only to get over the initial problems that will arise.



The BSAC chairman said that the BSAC asked the Member States to have a special meeting, in November and the BSAC will propose having monthly meeting in BALTFISH to follow up exactly what is happening.

Bianchi agreed that BALTFISH obviously has a very similar idea. He asked participants whether it was clear what has been discussed and everybody confirmed that it was. He promised to take the idea back to others in the Commission and provide an update as soon as possible.

