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Rome, 14<sup>th</sup> March 2011

## **Report of the meeting on the Management Plans and the Control Regulation held in Rome on 30 November 2010**

Present: See enclosed list.

Apologies received from: Empa, Penelope Aktea, Slovenian Administration, Adriana Celestini, Hon. Fraga Estevez, Hon. Guido Milana, and Oriol Ribalta

Session Chairman: Mr. Mourad Kahoul

Secretary: Ms. Erika Monnati

1. Acting as Vice Chairman of the meeting, Mr. Buonfiglio opens the proceedings with an explanation of the absence of Chairman Kahoul who, because of a strike in France, is blocked at the airport and will arrive somewhat late. After approval of the agenda, Mr. Buonfiglio mentions that during the year the Mediterranean RAC has already expressed four opinions, and that the purpose of said group is to initiate a debate and discussion on the results of the annual session of the ICCAT, which ended recently, and on the Conference on the reform of the CFP organized by the DG MARE, held on 16 November, which officially closed the consultation period before the Commission begins formulating the proposal of a new set of regulations which will be presented in June 2011.
2. During the Conference of 16 November, the European Commission did not deal with the topics on the orientations it intends to turn into proposals. During the meeting, various scenarios were presented for each Member State: the experimentation of aquaculture mixed with fishing-related tourism in Hungary, the use of transferable individual quotas in Denmark and, for the Mediterranean basin, the setting up of a protected sea area in the Cyclades Islands. In all the presentations a possible future scenario for the European fishing sector is described. Unfortunately a representative of the European Commission is not present today to talk about these solutions, but the setting up of protected sea areas is a widespread practice in all countries, with the exception of Slovenia, mostly because of the limited coastlines, and Cyprus. According to Mr. Buonfiglio, the Conference held on 16 November was a disappointment and it will be necessary to wait until the summer of 2011 to fully understand what the impact of the reform of the CFP will be on the Mediterranean basin. The President of Pepma, Mr. Buontoukos, intervenes with regard to the presentation of the Cyclades, expressing some perplexity. Greece has a sizable national legislation and an extensive fish reserve. The Pepma President goes on to state that trawling, and purse seiners are prohibited in many gulfs, but considering the fact that our aim is the protection of the marine environment and the fishing sector, it is necessary to be able to explain and justify the setting up of any protected sea areas.

Mr. Gil de Bernabé suggests asking, on behalf of the Mediterranean RAC, the European Commission for a list of the names of those who made presentations during the Conference and, where possible, to have the translation of the various documents for all the Member States, in order to be able to arrive at the meetings prepared and to take part more effectively.

3. With regard to the management plans, Mr. Barron takes the floor for the presentation of the situation of the management plans in France. France has drafted a single management plan, with the collaboration of the IFREMER research institute and with other scientific researchers, which comprises various sectors and types of diesel trawlers. For the first time it has been possible to have specific maps and conduct an extensive compilation study, cataloguing all the species with the aid of an exploitation diagram. A datasheet was created for each fish species, and it was possible to estimate the composition of the catches and the impact of the fishing policies on each specific species. For some species, like cod, an integrated global effort at the EU level would be necessary. The second part of the plan is cartographic, summarizing the existing data on the activities and the protected areas, with, for the first time, a complete mapping of all the French and Corsican coasts. The third part concerns the regulatory framework of the meshes, areas, and special fishing permits. The regulations differ on the basis of the species to be caught, while guaranteeing the principle of polyvalence, and will also concern the purse seiners and fishing with the "*ganguï*", which has 20 mm nets, a derogation both for the meshes and for the fishing areas, as established in the Mediterranean Regulations. Derogations are also envisaged for shell dredges and the small 1.25 m dredges used in lagoons. At the present time, for actual implementation, only an initial analysis has been carried out by the European Commission, which had requested explanations on some of the scientific data, for which Ifremer will provide the details, but France has decided in any case to apply this management plan starting in 2011, with the installation of VMS systems that will make it possible to provide precise data on the location of diesel trawlers and their fishing activity. After the presentation, there were various requests for explanations on fishing with the "*ganguï*", a traditional fishing activity along the coasts of Provence and Languedoc. Mr. Ferretti asks if derogations are planned with regard to the meshes or the distance from the coast. Mr. Barron answers that several derogations will be requested for fishing boats but not for the meshes, for which the only difference will be the diameter (4 mm). Lastly, France would like to request another derogation for whitebait and sand eel fishing.
4. There being no further questions or interventions, the floor is taken by Ms. Encarnacion Benito of the Spanish Ministry, for the presentation of the Spanish management plan. Spain, following the line of the common fishing policy and of the various international bodies, aims to pursue the sustainability of the resources and the environment, while at the same time protecting a strategic and traditional sector. Spain has its management plan since 2006, it has been renewed through two Ministerial decrees, the last one being the ARM 143/2010 establishing a Comprehensive Management Plan for the conservation of fishing resources in the Mediterranean sea; the latter extends to minor gears thus covering the entire Mediterranean fleet and continues with conservation and recovery measures: the creation of geographic areas with permanent or temporary fishing bans for boat seines, trawlers and floating longlines, the reduction of the global fishing efforts by 10% at the end of the Plan's validity period (2012), the establishment of technical measures, fishing bans and protection zones for juveniles and breeding stocks. The results indicate that a big effort in reducing de fleet during the validity period of the Management Plan has been made. Similarly, the regulation of each type of fisheries it is being revised to adapt it to the EC Regulation 1967/2006, always prevailing over national rules, unless this one is more restrictive. She refers to specific management plans for specific fleets and fisheries and mentions the importance of the 7 Marine reserves for fishing

currently established in the Mediterranean. Like France, Spain presented its plan in 2007 and the European Commission requested further scientific and socioeconomic data, for the justification of which the Ministry is working together with the Spanish Oceanography Institute (IEO). Spain, also, has presented derogations for trawling within 0.7 and 1.5 miles, but is still awaiting an opinion from the European Commission. Mr. Esgleas Pares asks why the northern Atlantic basis is always taken as reference even when legislative proposals to be applied in the Mediterranean are proposed and, supporting this, points out that in Catalonia, depths of 70-80 metres are located very close to the coast, and that therefore it is difficult to comply with the minimum distances from the coast as envisaged by the Mediterranean Regulations. He stresses how Spain, due to the specific nature of its coasts, should be entitled to present a large number of derogations. Ms. Revuelta replies by stating that scientific studies have been undertaken to assess the consequences of any banning measures on the sector, but the Commission's response was that the analysis conducted showed the sector to not be representative. At o Ms. Papadopoulou's question on the use or non-use by Spain of derogations to the current situation, the Spanish representative replies that since there has not been a reply from the EC what established by the EC regulation must be applied.r. Ferretti asks if there are derogations with regard to the mesh or whitebait fishing, but not knowing in details the management plans presented by some of the Autonomous Communities concerning their internal waters, Mrs Benito doesn't give a a univocal answer. Mr. Buontoukos asks if there is a minimum distance from the coast at the national level. Spain responds that what is applied is the community legislation on minimum distances and depths: 3 miles from the coast and 50 metres depth for trawling (in addition national legislation is even more restrictive, given that it is prohibited to fish inless than 50 metres depths, no matter the distance from the coast). Mr. Gallart stresses that in any case, apart from the derogations, the inspection and control services in Spain are very severe and, even if many boats are encountering great difficulties, an attempt is being made to apply the European provisions. Mr. Dopico intervenes to say that the Commission, with regard to the request for an increase of the diameter of the mesh to 4 mm, is requesting further scientific information before accepting the proposal, which seems to be a fair compromise compared to the change of the mesh yarn, which would instead entail sizable investments in the sector without any certainty of the results.

5. There being no further contributions on this topic, the Greek administration begins its presentation of the Greek management plans. Greece has presented two management plans, one concerning purse seiners and the request of derogation to the norms of the EC Regulation 1967/2006 referring to its use, the minimum distance and depths from the coast (article 13), request that has not been accepted. In Greece the use of this type of equipment is very widespread, with around 290 boats with a number of landings totalling between 30,000 and 50,000 tons. From the environmental standpoint, it does not have a strong impact, since it does not fish on the sea bottom. The other management plan refers to trawlers and its use in derogation to the minimum distance and/or depth from the coast (art.13) and the minimum size of the mesh (art. 9). As far as this Management Plan is concerned the EC made some concrete observations on its deficiencies, in particular the prohibition to deviate from the minimum mesh foreseen in article 9 of the Regulation and the supervision and evaluation of fished quantities with the aforementioned tool. .
6. With regard to the presentation of the Italian management plan, Mr. De Martino specifies that Italy has launched a management plan for trawling nets aiming for the progressive reduction of the fishing activity. The plan has been prepared under a decree by the Director General of Maritime Fishing and Aquaculture. At the same time, there has been a commitment toward formulating management plans on purse seines and hydraulic dredges for the purpose of

requesting the derogations permitted by Regulation (EC) no. 1967/2006. The planned opinion of the technical-scientific Committee was formulated during the recent meeting of November and, pending a reply from the European Commission, the Administration is already evaluating the scientific dictates for deciding the necessary adjustments to the management plans. Several derogations to whitebait fishing, which is part of the history and culture of numerous local fishing communities, have been requested, in compliance with the regulatory provisions, and it intends to work toward the rationalization and reduction of the fishing effort for this specific species, so as to guarantee the attainment of an adequate sustainability – not only biological, but social and economic as well – of such fishing activities, and in keeping with the European Commission’s goal of protecting artisan fishing, tradition, selective fishing, and the enhancement of typical local products. The fishing of juvenile sardines (whitebait) is traditionally carried out along the coast by small-scale artisan fishermen using seines and surrounding nets without purse lines. The Italian Administration has requested a derogation to the distance of the seines from the coast provided the fishing in question is highly selective and has a marginal effect on the marine environment. The fishing of juvenile sardines is of particular importance in the marine communities in which it is practised, since it permits small boats to bring in considerable takings in the winter months, becoming a significant source of supplementary income for many coastal communities; it thus becomes important from the socioeconomic and employment standpoints, as is the case in Liguria and Calabria. Access to whitebait fishing will be granted only to authorized boats that use seines and surrounding nets without purse lines; moreover, it will be required to keep a logbook to record the daily catches, which will be handed over to the competent Authorities. The logbook will contain, in addition to the daily whitebait catches, the date, fishing area, and any catches of other species. For the same reasons, a derogation has also been envisaged for transparent goby fishing, an important resource of Italian artisan fishing. As with the whitebait, the aims are to keep the fishing on a small scale and to subsequently adopt adequate management measures to guarantee and maintain the commerce of this type of fishing, and in the case of declines in fish stocks, recovery measures are envisaged. Among the other derogations requested by the Italian Administration are those concerning how hydraulic dredges and boat rakes are used, especially for clamming.

7. At the end of the presentation, there is time for questions from the participants, and then the floor is taken by Mr. Gil de Bernabé for a presentation on the Regulation that sets up an EC control system. In December 2008 it was announced that the reform of the CFP would have included a proposal of a Control Regulation to ensure compliance with the CFP provisions. According to the Commission, this proposal would have entailed a simplification of the legal provisions and a harmonisation of the procedures, with the advantage of constituting a single regulation. In November 2009 the Control Regulation was approved (Reg. EC no.1224/2009). The Associations expressed their opposition and concern, in particular with regard to Article 119, which envisages that the Commission be assisted by two committees: 1) Committee on Fisheries and Aquaculture, which has decision-making power over the Control Regulation; 2) Management Committee, which adopts measures that will be validated by the Administration. In spite of the fact that the sector representatives have the possibility to take part in the ACFA, it seems that their opinions are not taken much into consideration and, with regard to the second committee, it seems it is not possible to make an evaluation of its functioning. Furthermore, Article 124 states that the Control Regulation went into effect on 1 January 2010, despite the fact that for some articles the reference is instead to the date the respective application provisions took effect, thus creating a time gap. From a more general standpoint, the organizational structure of the above-mentioned regulations is non-homogeneous, complex, and difficult to apply.

8. At the end of his presentation, Mr. Gil de Bernabé gives the floor to Mr. Cannizzaro, lawyer, of Federcoopesca, to explain the bases for the appeal against several provisions of the Control Regulation. According to Mr. Cannizzaro, several implementation measures of the regulation may easily be contested, since it is subject to the procedure envisaged by the Lisbon Treaty. Among the reasons for the appeal, he lists the invalidity of the following articles:
- a) Article 9, in which a dual monitoring system is envisaged: satellite-based and by automatic identification. Being two different monitoring systems but with the same function, the principle of adequacy of the measures is violated.
  - b) Articles 15 and 17, which envisage the obligation for fishing boats of a length of 12 metres or more to transmit certain information every day, and in any case before they enter port or even four hours before entering port. This obligation appears unreasonable, disproportionate, and impossible to implement. Especially for small-scale fishing boats operating in fishing areas just a few hours away from the ports, such an obligation would be impossible to meet unless they are made to wait idly outside of the port until the necessary time has elapsed.
  - c) The invalidity of the entire surveillance and inspection system, which envisages an unconditional obligation to tolerate the access to parts of the vessel and to electronic files and documents by control observers operating even without a mandate from a judicial authority.
  - d) Article 73, which establishes the possibility for States to charge the fishing operators with the financial costs of the surveillance system.
  - e) Article 92, which envisages a system of transferring liability for infringements which, committed by anyone, end up weighing on the vessel owner.
  - f) Article 103, which states that the non-compliance with its obligations by a State, by virtue of Regulation (EC) 1224/2009, may entail the suspension of the financial assistance. This measure seems entirely unfair, considering the fact that the individuals who are entitled to it will find themselves penalized for a behaviour for which they are not personally responsible.
- The European Council and European Commission maintain that the EC Regulation, albeit adopted prior to the taking effect of the Lisbon Treaty, is to be considered for all intents and purposes a legislative act, but if the arguments of the appeal were to be accepted, it would be the first case in which an individual files an appeal against a general regulation. The response will probably arrive around the spring of 2011.

9. Mr. Sacchi begins his presentation on the state of the fish resource stocks in the Mediterranean on the basis of the latest scientific report of the GFCM, "*New information concerning fish stock in the Mediterranean*". The scientific data on the fish resources are increasing thanks to the studies by the GFCM and the STECF and the FAO's regional projects such as CopemedII, Adriamed, and MedSudMed, even if there are still many species and geographic areas that are not yet totally monitored. According to the data processed from the GFCM study of 2009, which evaluated about 91% of the resources examined, 68% of these are overexploited and 23% are fully exploited, even if the data improve slightly for the small pelagic species. Much of the demersal fishing activity concerns juveniles that are unable to reach the age for their first reproduction. To reduce this type of mortality, it is necessary to draft yearly or long-term management plans and create protected marine areas to preserve the spawners and maintain the food chain. The reduction of spawner mortality would also guarantee the long-term economic sustainability of trawling. With the aid of pilot projects, it would also be possible to define the effectiveness of square mesh versus diamond mesh. It is of fundamental importance that the biological limits of the demersal species be respected in order to limit overexploitation of the stocks. With regard to this, Chairman Kahoul points out that for some species, whose reproduction zones span more than one EU State, it is necessary to draft a European regulation to guarantee their protection. Mr. Sacchi states that, for a biologist, the main objective is to avoid the excessive exploitation of juveniles and adults, and that to assess the effectiveness of

the measures envisaged in the management plans, there is a need for experimental studies, considering the fact that there are specific characteristics in the fishing systems and use of fishing gear that differ from country to country. Mr. Manuel Liberti adds that among the crucial factors for fish species there are also those deriving from anthropic pressure, and the focus should not be solely on the fishing activity. Mr. Buonfiglio points out that the studies conducted do not take into consideration many of the stocks present in the Mediterranean, even if it cannot be denied that there are signs of stocks in difficulty, but that it is important to concentrate on the measures to be undertaken for their reconstitution. For some species, it could be dangerous to concentrate only on the large sizes, especially when they are spawners, and the use of the larger mesh could be a solution. For example, in the Upper Adriatic, the use of the larger mesh has led to a decrease in the number of fish caught, but the weight-value ratio has tripled. The impact of the current management plans will be clear only in two or three years, a fact that has also been admitted by the EU. But the significant element is that at least there is talk about typical Mediterranean species and not merely a generalization of what is taking place in other situations. Mr. Pages adds that a desirable behaviour by the EU might be that of rewarding meritorious behaviours in order to prevent the spread of behaviours bordering on illegality. The Chairman points out that it is necessary to contribute to creating a climate of cooperation aiming to reduce the conflicts also with vessel owners, and enhancing the specific characteristics of every type of fishing system that is based on ancient traditions. The variety in fishing methods and gear is part of what makes up the richness of the Mediterranean, and the meeting's revelations contributed to shining a light on the situation in each country. The Chairman then thanks the participants, for the wealth of their contributions and presentations, thanks the interpreters and the Secretarial staff, and adjourns to the next day for the Executive Committee meeting. The meeting then ends at 5.30 pm.

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