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**Position Paper on the European Commission Proposal for a  
Regulation of the European Parliament and of the Council on the  
Common Fisheries Policy [COM(2011) 425/4]**

**1. General**

EAPO welcomes the opportunity to comment on the Commission's proposal and looks forward to an active engagement both with the Council and the Parliament in order to amend this proposal so that the general objective of a reformed CFP supported by the stakeholders is achieved; that is to provide long-term sustainable environmental, economic and social conditions and contribute to the availability of food supplies. The purpose of this position paper is to highlight the major concerns that EAPO has with the Commission's proposal and put forward solutions that will deliver on the stated general objective.

In respect of the impact assessment of the current proposal the foremost item we note is the lack of specific data. The most recent economic data are based on the year 2008, meaning that an assessment of alleged overcapacity and overfishing is not on a sound basis. It is EAPO's view that much more detailed analysis is needed on why and where overcapacity may exist and that a 'one size fits all' approach is not appropriate. EAPO has frequently proposed that a bottom-up approach be employed in undertaking this analysis that takes into account the specificities of the different fisheries and areas.

In the current proposal the Commission deviates from the earlier indicated approach on different topics. For example, the Maximum Sustainable Yield (MSY) by 2015 is not in accordance with the Johannesburg Declaration which very importantly includes the words 'where possible' in the Declaration. Similarly the proposed discard ban time table which is a flawed approach has not been submitted to other bodies for input. This suggests to EAPO that it is the Commission's wish to impose this, thus avoiding possible input from stakeholders.

To EAPO an important step towards adoption of a CFP will be to update the scientific analysis of socio-economic data on a fishery by fishery basis and preferably in close cooperation with the sector.

EAPO generally finds that the accomplishments of the policy since 2002 are worth mentioning and the target should be to use those accomplishments as a basis to build upon.

## **2. General & Specific Objectives (Art. 2 & 3)**

It is EAPO's view that the general objective should be to achieve ecological, social and economic sustainability. In article 2 most of the items are specific objectives, not general ones. Generally EAPO agrees with the objectives but we also note that some items are not even mentioned. It is a concern that what is mentioned and the way it is laid down, leads to a top-down approach. If there is an agreed objective - and problems arise in achieving this - it is appropriate that fishermen are supported in resolving the problem.

Fishing is food production and a management policy around this should be kept simple. However, the Commission's proposal is too complex. EAPO asks that more common sense is applied in this respect in order to allow the stakeholders a range of options on how to reach agreed objectives.

In the proposed regulation there is a contradiction between the MSY objective and the ecosystem approach objective. EAPO questions the link with biomass in references like  $B_{msy}$  and finds that yield based on  $F$  is the correct objective for the policy. A precautionary approach is not so much in relation with MSY but merely with biomass. Furthermore there still is a lack of consensus on how to define an ecosystem approach and how this can be achieved in the content of an MSY objective for all stocks.

In respect of MSY, as repeatedly stated by EAPO, when referring to Johannesburg 2002 and the 2015 target, the caveat 'where possible' must be recognised and should not be omitted. Particularly in mixed fisheries it is not possible to reach MSY for all stocks at the same time and prioritisation is needed for MSY to take into account the interaction of the species. We should learn from experience and remember that going too fast leads to problems.

On the text put forward by the Commission EAPO disagrees specifically that 'restoring the stocks is the main objective. Monitoring the stocks should be the aim. Furthermore EAPO does not accept that there is general overexploitation of the stocks and questions the reasoning behind this statement given that many stocks are classed as 'data poor'

## **3. Principles of Good Governance (Art. 4)**

EAPO finds that the regional/decentralised approach should be included as an item of good governance. EAPO considers that the word 'decentralisation' better reflects a bottom-up approach as regional can be interpreted as geographical only thus excluding a stocks approach such as pelagic.

#### **4. Definitions (Art. 5)**

In EAPO's view, the definitions for ecosystem approach, precautionary approach and MSY should be rewritten to fully reflect the interaction between these concepts.

#### **5. Multi-Annual Plans (Art. 9, 10 & 11)**

The Commission's proposal does not contain a reference to the responsibility for Multi-Annual Plans (MAPs) or a framework on how this should be conceived. EAPO finds that in respect of MAPs it is not always possible to have full data available and therefore an alternative is needed for use in data poor situations. To EAPO it is confusing to note that in article 9.2 (b) reference is made to a plan to prevent something. How can this be done? Also, it is unclear in the MAP content proposal what the Commission means with safeguards and criteria activating those safeguards [Art 11 (i)]. It is very disappointing to note in the proposal that for MAPs no reference is made to the socio-economic requirements.

#### **6. Conservation Measures (Art. 7)**

In the Commission's proposal it is not clear who will be responsible for conservation measures, specifically in view of the Lisbon Treaty establishing the co-decision principle. To EAPO, it looks like POs will be required to implement this. Technical conservation measures (TCM) are one of the cornerstones of the CFP, so it should be clear from the start that TCMs will be monitored and enforced by the Member States. Based on characteristics by fishery, looking at an area based approach is very useful in this respect. EAPO suggests that reference should be made in the proposal to delegating the responsibility to the regionalized/decentralised level. Landing all catches is not in itself a conservation measure and can be seen as a possible individual TCM within the objectives of a CFP. Thus it should not be considered as an objective simply to impose measures. The reference to pilot projects according to EAPO does not fit in a framework document like this proposal.

#### **7. Discards (Art. 15)**

EAPO considers the solution to this problem (land all catches) as put forward in the Commission's proposal to be seriously flawed.

The focus should be put on the avoidance of unwanted by-catch and the overall minimisation of discards. Enforcing rapid measures rarely leads to positive results and therefore EAPO recommends to focus on agreeing a gradual reduction in discards. Viable incentives for fishermen to actively work on this aim must be included.

Art. 29 part 3 in the document states that fishing activities can only be undertaken when vessels are in possession of sufficient individual fishing opportunities to cover all their potential catch. This is considered by EAPO to be a very significant piece of text. This basically means in a catch quota system that where there is no quota left of one stock, the vessels must cease fishing. The problem with this policy is that it does not recognise data poor stocks which may in fact be underexploited, e.g. healthy stocks but low TACs.

EAPO requests the European Commission to fully take into account the knowledge of experienced fishermen who state that fishing without discarding is impossible. The public opinion on discards should not be feared, but corrected based on this experience. This public opinion has been driven by publicity-seeking celebrities and officials using inaccurate and misleading information. An analysis of the impact of discards should also take full account of the survival rates of some species and the possible negative impact a discard ban would have on the eco-system. Discarding is a multi-faceted complex issue that cannot be solved using the simplistic solution of banning all discards.

## **8. Regionalisation (Title III)**

The announced regionalisation and decentralisation principles do not appear in the proposal document, only confirmations of the responsibilities in respect of MAPs and conservation measures. EAPO is of the firm view that the development of possible decentralising and regional approaches in conformity with the Treaty is legally possible and wishes to be actively involved in the process.

## **9. Advisory Councils (Art. 44, 52, 53 & 54)**

EAPO proposes the creation of a new Markets Advisory Council complementing the proposed AC structure and securing continued input and dialogue on issues on market and trade policy. The Markets Advisory Council should replace ACFA WG 3. It is appropriate that EAPO is the key member of this AC. In the absence of the Advisory Committee for Fisheries and Aquaculture (ACFA) such an AC is required. It is noted the proposal provides for an Aquaculture AC (art. 44) which is presently one of the working groups of ACFA.

## **10. Transferable Fishing Concessions (Art. 27-33)**

EAPO agrees that the principle of subsidiarity should apply to transferable fishing concessions where it is matter for the Member State to apply it or not. This finding is basically a status quo compared to the current quota or concession management system, which recognizes that good working Member State management should not be affected. In this respect there is no need to generalize a principle which reportedly worked well in a specific Member State. It can be noted that the content of these articles appear to be somewhat contradictory to the proposal on a Common Organisation of the Market regulation in which it is stipulated that the POs are to manage the production.

## **11. Data Requirements and Scientific Advice (Art. 37)**

EAPO is disappointed not to find any provisions in the Commission's proposal for addressing the existing data poor situation or for the lack of potential to handle the data. New approved approaches are urgently needed for stock assessment methods. A consolidated analysis of technical, economic and social data according to EAPO remains necessary to fine-tune fisheries policies. It is a concern that the tasks currently assigned to the STECF are not specifically mentioned in the proposal, nor is the STECF itself.

For many years EAPO has advocated that the science base for fisheries management should incorporate much more of the information available from fishermen. Currently there are no details on how this science base will be funded and EAPO is anxious that in the forthcoming proposal all aspects of the scientific data requirements will be covered so that the data poor situation can be corrected.

## **12. Delegated Acts (Art. 55)**

For EAPO there is not enough detail in the proposal to find the proposed exercise of delegation acceptable. Specific references in the listed articles would enable a clearer analysis of the requirement for delegated acts.

## **13. External Policy (Art. 41)**

EAPO finds a totally new strategy in the Commission's proposal centred around the concept of 'surplus' for FPA's. It is therefore important to obtain further clarification on what the Commission considers to be a 'catch surplus'. What we can see at this moment is that the EC already is implementing this proposed art. 41 in the negotiations with the most important FPA (Mauritania) in a way that the EC defines surplus in a much more restricted way, i.e. in terms of 'available surplus', which means the entire catching possibilities minus the needs of the local fishermen of the partner country and minus the needs of the non-EU third country fleets active in the partner country. This in fact puts the EU fleet at the lowest end of the available catching possibilities and in this way it jeopardizes the future of the EU external fleet.

EAPO also wishes to stipulate that there is no provision in the proposal for the bilateral fisheries agreements of the EU with the other coastal states in the NE Atlantic Ocean. EAPO requires an explanation as to why these bilateral agreements are left out.

EAPO wishes to underline the need that there should be a level playing field between the EU and non-EU fleets in the external waters of all countries with whom the EU has conducted either an FPA or a bilateral fisheries agreement.

## **14. Control and Enforcement (Art. 46)**

EAPO is supportive of the proposal to enhance a culture of compliance but under the condition that these (often far too detailed) rules will encourage compliance. Rules should be tough but sensible. Although the proposal clearly takes into account the existing control and I.U.U. regulations and their implementation rules, EAPO regrets that there is no mention of a level playing field objective in the CFP proposal. Taking into account the objective to increase the self-supply in the European Union, an important item to mention in a control chapter of a policy is a provision for trade sanctions when irresponsible behaviour of third countries is established. In this respect the I.U.U. regulation should be amended taking this into account when confirmed within the new CFP.

## **15. Union environmental legislation (Art. 12)**

EAPO finds the article to have insufficient detail and is in effect giving a blank cheque to the Commission. As the fisheries measures in protected areas can have huge negative impacts not only on fisheries, fishers and their livelihoods but also on stocks due to displacement, it is imperative that such measures are balanced and that the stakeholders are actively involved in the process and fully consulted.

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