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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 Organisation of the Markets in Fishery and Aquaculture Products [COM (2011) 416]

At the EAPO member meeting in Edinburgh September 29th – 30th a delegation from the European Commission presented the proposal for a regulation of the European Parliament and of the Council on the common organization of the markets in fishery and aquaculture products.

This is a position paper that summarizes the EAPO unanimous opinion on the Commission's proposal for a Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products.

The representatives from the Commission pointed out that the proposal is only one part of the framework. The remaining and very important part of the funding is essential to evaluate the entire framework in an optimal way. Therefore this position paper only addresses the part of the proposal that was known to the EAPO at that time in September. Once the funding part of the proposal has been presented EAPO will comment the entire proposal in detail.

The proposal is extremely serious and puts a huge onus on the PO's without any incentive or clear financial support. The proposal effectively requires POs to implement and fund measures to either eliminate or dispose of discards and unsold fish; the use of storage aid for fish withdrawn from the market is not a viable option. Given that PO membership is voluntary, this could mean that it no longer make sense to be part of a PO. The reality is that it is not POs themselves that have been strengthened but the Commission's objectives for POs, effectively delegating the discard problem and the market support scheme onto POs – "sink or swim!".

Empowerment of the PO's and changes in the role step by step

In general EAPO shares the visions of sustainability and empowerment of the PO's which are to be found in the proposal. However it is EAPO's opinion that these aspirations should be taken on a step by step approach over the years taking full

account of the starting position of each individual PO. EAPO fears that the sector will grind to a halt if the PO's have to adhere strictly to the first part of the framework set out in the proposal in the years 2013/2014. It is the responsibility of the Commission and the enforcement authorities of the member states to introduce and apply measures to eliminate discards.

Regionalization is a must

It is important to note that the PO's in EU operate at a wide range of levels. Therefore the regionalized approach which is frequently emphasized in the CFP and the COM proposals is strongly supported by the EAPO. However it is disappointing to find that there is almost nothing tangible in this respect in the proposals. It seems to be that the good intentions have vanished into thin air.

In fact only confirmation of the responsibilities in respect of MAP's appear in the proposal document, however there is no mention in the document of who in fact is responsible for the preparation and implementation of these plans and conservation measures.

EAPO is of the view that a meaningful and effective regionalisation model can be developed, once which is consistent the Treaty requirements and is therefore legally possible and wishes to collaborate with the Commission and other relevant stakeholders in the development of such a model.

One size does not fit all

In EAPO there are many different PO's with thousands of members engaged in all types of fisheries. Within EAPO's own structure the different working groups look after the specific and particular interests of their members.

EAPO acknowledges that PO's continually have to develop their structure and act more and more professionally, not just in relation to catching but also in the handling, processing and trading of fish. At the same time EAPO would emphasize given the range in capacities within POs that no single model fits all of the PO's of the EU. It is essential that PO's in EU are allowed to continue to develop at different speeds, different levels, and that existing support tools are retained with the intervention mechanism remaining as the key element.

The intervention mechanism is a key element

EAPO fully agrees that the money of the taxpayers cannot be spent on the destruction of food; however EAPO would point out that the current withdrawal system does not in fact engage in the destruction of food. The withdrawn fish is transformed into good quality oil and meal which, for example, are essential elements in foodstuffs used in the aquaculture industry and are a very important source of protein and omega3 for the food industry. Therefore EAPO finds that in the COM there should be a provision to allow for intervention for non human consumption purposes.

Since the introduction of the “withdrawal” price a significant quantity of fish has been sold just above this withdrawal price and so it has in a number of instances become a “minimum” price. EAPO fears that an intervention mechanism which consists solely of a “trigger price” and a single storage element will remove the safeguard of the catching sector and will lead to deterioration of the economic sustainability of small scale mixed fisheries. Whilst EU producers strive to be competitive, the import of cheap substitute species such as Pangasius into the EU continues to undermine the market, reducing prices for our fishermen.

For decades the intervention mechanism with the system of withdrawal prices has played a crucial role in the catching sector, the auctions and the thousands of employees of the industry connected to this sector. Without this intervention system prices would have fallen below a level that could maintain an economically sustainable fishery, especially for small scale mixed fisheries and the coastal fishermen.

The amounts that the existing withdrawal system in EU accounts for out of the entire financial support to the sector is very small; and when compared to the support to the entire primary sector, is negligible.

Should the EU be of the view they cannot support a withdrawal system then it is very important that the PO's have the option to manage and fund a similar type of withdrawal system on a private basis where the financial support is funded by the Industry itself.

The narrow path through the law of competition

PO's have clear objectives: Improving the conditions for the placing on the market of their members' fishery products; stabilizing the markets and improving producers' profitability. To pursue these objectives, PO's plan their members' fisheries, adjusting production to meet market requirements and to channel the supply and the marketing of wild captured fishery products. However, these activities are not seen by all Member States to be compatible with competition laws.

Today, PO's find that the competition authorities of their individual member states constantly question the role of the PO's in respect of pursuing the objectives in the existing COM regulation (Regulation 104/2000). Competition authorities seem to consider the fishing industry as a 'normal' industry, ignoring the specifics of the situation in relation to wild caught seafood supply from natural resources within a natural environment. EAPO is therefore deeply concerned by the inconsistency between the proposed COM and the way the competition authorities in some member states act at present. The current proposal does not seem to address this issue.

EAPO urges the Commission to clearly create a workable situation for the PO's so they can act in accordance with the objectives and measures of the COM and to ensure that this is acknowledged and accepted throughout all member states as not being in conflict with Competition Law.

Delegating and implementing acts

As has already been stated above the document in its current form is extremely vague in relation to the detailed rules and requirements and presumably these will be provided by means of delegating and implementing acts. EAPO wishes to emphasize the importance of early consultation with key stakeholders such as EAPO in the drafting of such acts.

Recognition for existing PO's

It is unclear from the proposal whether existing POs will have to reapply for recognition once the new COM is implemented and if so what criteria will apply in order to qualify for such recognition. EAPO's position is that existing PO's recognition should be continued under the new system given such POs have demonstrated over a number of years their commitment to fulfilling the obligations placed on them under the existing COM. To require existing POs to reapply for recognition is to place an additional burden on organizations at a time when they will be heavily involved in supporting their members to adapt to the requirements of the new CFP.

Detail in relation to marketing and management plans

The proposal places responsibility for the development and implementation of marketing and management plans on POs in its proposal however there is a considerable lack of detail in the proposal as to what should be included in such plans, how they are to be implemented and where funding for same will come from. EAPO therefore requests the Commission to provide further details in relation to this aspect of the proposal by means of a non paper.

Market Advisory Council

In light of the demise of ACFA under the reformed policy EAPO is proposing that an additional Advisory Council be created to deal specifically with market issues i.e Markets Advisory Council (MAC). EAPO will put forward proposed detailed rules for operation and functioning of such an Advisory Council.

Discards

Article 7(b) of the proposal places the handling of unwanted catches as one of the objectives of POs. In relation to the Commissioners proposed discard ban EAPO has repeatedly pointed out that this approach is flawed and will not be effective in producing the desired results. Instead of a landing obligation a focus should be on avoidance. The requirement that POs be responsible for the disposal of all unwanted catches by their members places an extremely onerous obligation on POs without any obvious support to them to achieve this obligation. There is also an issue in relation to who will be responsible for the handling of such unwanted catches from non-PO member vessels.

Uncertainty re funding

At the time of the meeting in September the Commissions proposal for the EMFF was not available and there was a result considerable uncertainty in relation to the funding available to PO's to achieve the objectives set out in the COM. We note the publication of COM 804/2011 and will comment on this document and the issue of funding in general in a separate document.

Customs and Tariffs

The proposal does not contain any reference to Customs and Tariffs in its current form. EAPO has queried this omission with the Commission and communicated its' concern to the Commission that there is no provision in relation to Customs and Tariffs in the proposal and have been advised that same will be dealt with in a separate proposal. We await sight of this proposal which we note is due to be issued before the end of the year.

TFCs interaction with POs Operational Plans

Article 7(a) of the proposal creates an objective for POs of promoting the viable fishing activities of their members in full compliance with the conservation policy laid down in the Regulation on the Common Fisheries Policy and environmental legislation. However at the same time in its current form the CFP proposal document requires Member States to implement a mandatory system of Transferable Fishing Concessions. If individual fishermen are granted individual quota allocations it will be impossible for POs to both prepare and implement any meaningful form of operational plan for its members activities as is required in the current version.

***EAPO
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