

FISHERIES AND AQUACULTURE NEWSLETTER

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2015 has just started and the fisheries sector is already under turmoil. The landing obligation for the pelagic stocks has been in effect a month already and fishermen are at a loss as the omnibus regulation has not been finalized despite the political agreement reached between the EU institutions this month.

Italy has stepped down from the EU presidency with several accomplishments on its back, whilst the new Presidency, Latvia, has already a packed agenda, where its priorities were presented before the January Fisheries Committee (PECH) of the European Parliament by the Latvian Fisheries Minister. Additionally, Commissioner for Environment, Maritime Affairs and Fisheries, Karmenu Vella, came before the same PECH committee to present his Directorate General's work plan regarding issues like the discard ban/omnibus regulation, the proposal on the ban of driftnets and multiannual management plans.

On an international level, World governments agreed last week that the U.N. Convention on the Law of the Sea (UNCLOS) should be expanded to include a new legally binding instrument on the conservation and sustainable use of marine life in areas beyond national jurisdiction (ABNJ).

Enjoy the reading.



Despina Symons
Director, EBC

European Parliament



Landing Obligation

On the 29th a press conference was held at the European Parliament, where MEP Alain Cadec (FR, EPP) gave an update on the outcome of the 2nd round of the inter-institutional negotiations regarding the landing obligation regulation (omnibus regulation).

He stated that an agreement was reached between the European Parliament and the Latvian Presidency of the Council of the European Union (latter still needs to present it before the Committee of the Representatives-COREPER for endorsement).

The decisions reached at the trilogues were a potential “split” of the regulation (into a first part regulating the discard ban until the end of 2015 and a second part for the later implementation dates) was dropped; Member States will introduce storage measures for the juveniles caught by the fishermen; Member States will provide detailed data to the European Commission, which in turn will draft annual detailed reports to the Council and the European Parliament (annual impact assessment reports);

fishermen will have two years to “adapt” before sanctions for failing to comply with the new Common Fisheries Policy (CFP) discard ban take effect. According to MEP Van Dalen (NL, ECR), this measure will allow the European Parliament to “keep an eye on things”.

This regulation will cover the period up until 2020 (therefore will apply for demersal and other species as well; discard ban for demersal enters into 2106 and other species in 2017).

Next steps: A technical meeting is to be held on the 6th February 2015 between the European Parliament and Council to clear out any details. Next, the agreed text will be presented for vote in the Fisheries Committee on the 23-24th February. Then, it will be put forward in April plenary (allowing a minimum of 6 weeks for legal and juristic checks) for adoption.

European Commission



Karmenu Vella at the European Parliament

Commissioner for Environment, Maritime Affairs and Fisheries, Karmenu Vella, presented the views and upcoming actions of the Commission on several topics of importance to the fisheries sector during the last PECH Committee that took place on 21-22 of January.

Omnibus regulation. Commissioner stated that it intends to facilitate negotiations between the co-legislators (European Parliament and Council) so as to reach a swift decision. Time is of the essence as this problem will re-emerge next year when the discard ban for demersal species comes into effect.

Proposal on the ban on driftnets: More data and information have surfaced allowing the Commission to take a more rational approach to this issue. Commissioner stated that he is aware of the impact this proposal has on coastal communities and traditional fisheries. The chair of the Fisheries Committee, MEP Alain Cadec, asked the Commission to withdraw its proposal; his position was backed by almost all of the MEPs present, asking for a complete withdrawal of the current proposal and coming back with a new one which will take into account the regional approach, better evaluation of data and impact assessments on the impact on fishing communities.

Multiannual management plans: Commissioner stated that these plans are essential to ensuring the sustainability of the stocks and are always based on the best available scientific advice. The Baltic Sea is the first basin which will see

management plans for pelagic species, followed by demersal species by the end of the year, then demersal species in south western waters and last, a management plan for horse mackerel and anchovy (early 2016).

Technical measures framework: Commissioner noted that this is an issue of great importance and urgency and a new and updated framework is expected to be adopted by the end of 2015.

Illegal, Unreported and Unregulated fishing (IUU): The legislation is set to be reviewed in 2015 and Council and Parliament will be informed of the results.

In conclusion, Commissioner noted that there is always room for improvement and his aim is to reach a wide consensus in all these issues. He would be looking forward to receive any questions and suggestions from all stakeholders.

Council



Italian Presidency Achievements

The Italian Prime Minister presented on 13 January 2015 the summary document of the results of the Six-month Italian Presidency of the Council of the European Union. Regarding fisheries, according to this summary, the Italian presidency stated that “Fishing quotas for 2015 were fixed for the Union fleet on the basis of the innovations introduced by the new common fisheries policy (CFP). Negotiations on the Regulation concerning landing obligation of all catches were concluded. The fishing quota for bluefin tuna, established during the annual meeting of the International Commission for the Conservation of Atlantic Tunas, will allow for an increase in catches for all European fleets, especially the Italian one, from 2015 to 2017. As far as the external dimension is concerned, multiannual fisheries partnership agreements were signed with Guinea-Bissau and Senegal. The Presidency dealt with the consequences determined by the Russian embargo on fisheries in August. Moreover, the Presidency immediately ensured availability of financial resources from the European Maritime and Fisheries Fund for product storage and the search of alternative output market”.

Priorities of the Latvian Presidency

The Fisheries Committee organized this month an exchange of views with Jānis Dūklavs, Minister of Agriculture and President-in-office of the Council, on the priorities of the Latvian Presidency, which were:

Omnibus regulation: The Presidency stated the need to adopt simple and practical rules for fishermen to align to. A political agreement was reached on the 29th of January between the three institutions (the European Parliament, the Council of the European Union and the European Commission).

Regionalisation: The Latvian Presidency stated that it will do its utmost to ensure that regional approaches are followed and that no “one size fits all” approach is implemented. Technical and legal issues will be resolved on a regional level rather than on a holistic one. A number of dossiers will need to go through that process, such as the proposal for the ban on driftnets, the landing obligation, multiannual management plans and discard plans.

Multiannual management plans: This is a topic of importance and urgency to the Latvian Presidency and the discussions on the first plans will pave the way for the next ones. Baltic Sea will be the first basin which will see proposed plans, followed by the South Western Waters and the Mediterranean.

Sustainable Fisheries Partnership Agreements (SFPAs): The Presidency will continue its negotiations on the protocols with Kiribati, Seychelles and Mauritania (which ends December 2015).

Proposal on the ban of deep sea fishing: The Latvian Presidency stated that it will continue its internal discussions to reach a general approach to allow for negotiations between the institutions

to take place but it is not expected to finalise this agreement under its presidency, although it is expected to be addressed at a technical level in March 2015.

Proposal on the ban of driftnets: The presidency noted that this proposal has not been dealt with a positive view from the Council and it does not reflect the real problem, neither does it solve it. It also fails to follow the regional approach under the new CFP. Therefore, the Presidency intends on discussing closely with the other institutions (Commission and Parliament) to make sure a viable and regional solution is found.

AGRIFISH Council outcomes

On 26 January the first Agriculture and Fisheries Council under the Latvian Presidency took place. The Member states fisheries ministers held a debate on a proposal for a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea. The plan, based on a multispecies approach, was generally welcomed by Member states and it will be a blueprint for the ones to follow, though some articles raised some concerns.

The Latvian Presidency reached an agreement with the European Parliament on the Omnibus regulation proposed by the Commission.

Environment

Protecting the marine environment- Committee of the Regions

This month at the Committee of the Regions in Brussels, a meeting was held regarding an own-initiative opinion, drafted by rapporteur Mr Hermann KUHN (DE/PES), Member of the Bremen City Parliament, related to the ongoing implementation process of the Marine Strategy Framework Directive- MSFD (Directive 2008/56/EC and Report of the European Commission COM(2014) 97). Members invited were NGOS, industry, European Commission, European Parliament representatives, local/regional/national administrations, scientific bodies who expressed their concerns and views regarding the various aspects of the MSFD directive.



In general the paper and the discussions around it included issues such as:

- 1) Improving governance and assistance to Member States on how and what they need to do to achieve the MSFD and Good Environmental Status (GES) objectives. The paper asks the European Commission to submit assessments of the MSFD implementation on a more regular basis and to a wider stakeholder group to allow larger participation in the decision process

- 2) Better assessing the implementation status of the directive: The paper emphasizes the need for clearer goals, of a general scope that will allow local national authorities to implement the directive according to their specific needs. No “one size fits all” approach was expressed from many attendees.
 - 3) Ensuring the exchange of knowledge between all involved stakeholders and strengthening cooperation: The paper emphasizes that all stakeholders need to be involved in the decision making process, from the local level to the international one. Although MSFD is a European level directive, it has implications to other non-EU countries (e.g. Black Sea and Mediterranean Sea). Additionally, it was noted that, for the MSFD Directive to succeed, more information/data/experience/best practices is needed and has to be made available across Europe. Expertise from Advisory Councils should be sought where one of the attendees asked that this opinion paper should be circulated to the Advisory councils for comments.
 - 4) Establishing Marine Protected Areas based on scientific, environmental, economic and social basis. On this topic, an NGO (BirdLife Europe) asked that the eco-system based approach should be included in the directive, as well as other directives, like Natura 2000 and Habitat. An IUCN representative raised the issue of establishing MPAs in the high seas but it was stated that, although it being an issue of importance, it does not fall under the scope of the MSFD.
 - 5) Ensuring the harmonization of legislation: Several concerns were raised on the numerous directives currently in existence that make it harder for Member States and other stakeholders to prosper, such as Habitat directive, Natura 2000, Blue Growth, etc; as is the case of MSFD and Blue Growth agenda who have the same scope but are not linked.
 - 6) Better protecting against non-native species (descriptor D2 of MSFD)
 - 7) Better protecting commercially exploited species (descriptor D3 of MSFD)
 - 8) Better protecting biodiversity, food webs and seabeds (Descriptors 1, 4, 6 of MSFD)
 - 9) Better protecting against eutrophication (Descriptor 5 of MSFD)
 - 10) Better protecting against pollution and reduce marine litter (Descriptors 8, 9, 10 of MSFD)
- Using of the existing funding mechanisms to boost research and data collection on the marine environment, as well as taking into account the existing regulations and assess their relation (e.g. Maritime Spatial Planning, Habitat directive, Natura 2000, Water Framework Directive, etc).

Advisory Councils

Advisory Councils: state of play

Under the new Common Fisheries Policy (CFP), 4 new Advisory Councils (ACs) have to be established; Aquaculture, Market, Outermost regions, Black Sea. Advisory Councils are public

bodies with stakeholder participation whose purpose is to contribute in ensuring that “fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies” (Art 2.1 of the CFP).



For those ACs to become operational, according to Art 45.4 of the CFP, “the Commission shall be empowered to adopt delegated acts, in accordance with Article 46, laying down detailed rules on the functioning of Advisory Councils”. Hence, in early October, the European Commission proposed a delegated act on the functioning of the ACs and a deadline of the 10th December was given to the co-legislators (European Parliament and Council of the European Union) to object to this act. Two of the already existing ACs (North Western Waters and Mediterranean) raised concerns regarding these rules and sent a joint letter to the Chair of the EP Fisheries Committee, MEP Alain Cadec and to the Member States representatives of the Council. Reacting to the EC delegated act on the grounds that it overstepped its powers, the EP following procedure asked for a 2 months delay to review, so the deadline was pushed back to the 10th

February 2015. So far the EP has not included this dossier in its February plenary which will be after the deadline. It is not laid down how the EP can object (via email, letter, plenary vote, committee vote). Council of the EU has not objected so far but it is unsure whether it will further down the road if elements of the delegated act change.

Therefore, as the situation stands now, the new Advisory Councils have no regulation allowing them to enter into force and to be funded (existing ACs do not have this problem as they can receive funding via the European Maritime Fisheries Fund-EMFF). The scenarios that could play out are:

- No objection is raised by the co-legislators by the 10th February. Delegated act is published and the new ACs can be established following normal procedure.
- Either one of the co-legislators objects and the delegated act is rejected. Then, EC will have to check whether it is legally possible for the new ACs to be established using the previous regulation (2004/585/EC), which allowed the other ACs (Long Distance, Mediterranean, etc.) to be established. It is unsure whether this is possible as this regulation was adopted under the previous EU treaty (before the 2009 Lisbon Treaty and the introduction of delegated acts-2008/C 115/01).
 - If it is legally possible, then the new ACs will be established and a new delegated act will be drafted later in the year laying down more specific and up-to-date rules. This scenario, although allowing the ACs to be established, will be time-consuming

due to the necessary legal checks that will have to be made.

- If it is not legally possible, then the EC will have to go back to the drafting table and propose a new delegated act that will again undergo all the necessary procedures (check by internal departments, legal checks, check by the co-legislators, deadlines for objections, publication, etc.). Time-wise, this will push the establishment of the new ACs well into 2016.
- 1. Aquaculture Advisory Council (AAC): After the summer break of 2014, an “interim” Executive Committee was established with the task of drafting the Rules of Procedure, the statement of objectives and the statutes of this AC and send them to the EC for its establishment. EBCD has been an active member in the discussions and has been acting as interim secretariat. As the situation stands now, this interim ExCom has reached a final version of these documents awaiting wider stakeholder approval. They are expected to be sent to the EC and EU Member States before the start of 2015 spring.
- 2. Market Advisory Council (MAC): After a stakeholders’ meeting in October, it was decided to create a Working group charged with the task of drafting the Rules of Procedure, the statement of objectives and the statutes of this AC and send them to the EC for its establishment. As the situation stands now, a final version of these

documents was drafted on the 9th January 2015 and sent to the Commission for a first check on the 16th January. After this, the task of paving the way for the first General Assembly meeting follows, as well as the drafting of a first budget, laying down potential Working Groups to be established, setting down membership contribution/fees and other operational details (same applies for the AAC). EBCD offered to provide the interim secretariat until the MAC is fully established and operational. Following a meeting on the 9th January where it was approved, EBCD will be expected to assist in these tasks from end of January.

- 3. Black Sea Advisory Council: Discussions between interested stakeholders have turned out to be extremely fruitful and a final meeting to approve the necessary documents is planned for end of January 2015.

Outermost Regions Advisory Council: Discussions have been slow on this particular AC, as a first meeting between stakeholders happened in October 2014 and the next one is scheduled for 12th February in parallel with a working group meeting of the South Western Waters AC in the Azores.

International

Governments reach agreement on United Nations Law of the Sea on a new agreement under UNCLOS on biodiversity

The **Ad Hoc Open-ended informal Working Group on Biological Diversity Beyond Areas of National Jurisdiction of the United Nations** at its 9th meeting last week in New York, national administrations of countries from all corners of the world, after long strenuous negotiations, reached an agreement on launching negotiations for the development of a potential legally binding international instrument focused on conserving marine life in the high seas and seabed; **a new treaty under UNCLOS, as mandated by the 2012 UN Conference on Sustainable Development (Rio+20).**



To this effect the Ad-Hoc group agreed to recommend the launch of a formal Preparatory Committee to develop this instrument. This Preparatory Commission will start its work in 2016, with a decision on the timing of the Intergovernmental Negotiating Committee to be taken by the 72nd session of the United Nations General Assembly. Questions that remain to be answered regarding this new international

instrument are benefit sharing, area based management tools including MPAs, environmental impact assessments, capacity building and transfer of marine technology.

Reactions: NGOs (Pew Charitable Trusts, Greenpeace, Mission Blue, Natural Resource Defense Council) welcomed this agreement with enthusiasm despite the fact that no designated date was given for convening an intergovernmental conference. IUCN expressed its high hopes for this new treaty, despite the uncertainty of the final results and hailed this agreement as a way of ensuring a healthy, resilient and productive ocean for all.

Next steps: The agreement must now be adopted by the UN General Assembly by September 2015, after which a formal preparatory committee will start work in 2016 to develop this treaty. No deadline was decided on this committee's work schedule but a decision will have to be taken by September 2018 under the umbrella of an inter-governmental conference, organized by the United Nations.

How will the new treaty affect the marine sectors in the high seas and deep seabed remains to be seen?
