



Brussels, 24th January 2017

Open Letter to the European Parliament, Member States and Council on the EU Technical Conservation Regulation

Following the recent legislative developments, Europêche and EAPO feel the urgency to inform the co-legislators about the EU fishing industry opinion on the draft Technical Conservation Regulation. We hereby inform you about our immediate concerns and observations regarding the development of the Regulation.

Commission Proposal

The members of Europêche and EAPO broadly welcomed the Commission's novel approach to technical measures contained in its *proposal on the conservation of fisheries resources and the protection of marine ecosystems through technical measures 2016/0074(COD)*.

Regulation 850/98

The rules and requirements contained in the current technical measures framework regulation, Regulation (EC) No. 850/98, have proven to be complex and often very difficult to achieve. The existing regulation has been difficult for our fishers to understand and it has been difficult to enforce. In some respects, it has generated perverse outcomes, most notably by generating a pattern of regulatory discards. Some important parts of Regulation 850/98 are incompatible with the CFP basic regulation, Regulation (EU) 1380/2013, and specifically, the EU landing obligation. Most specifically, the current regime provides an impediment to the evolution of technical solutions as fishing vessels find ways reduce their unwanted catch to comply with the landing obligation.

Regionalisation

The Commission's proposal offers a radical break from the failures resulting from the current system, providing the prospect of a more dynamic, flexible approach, compatible with the overall policy objectives within the CFP basic regulation. This is achieved by making provision for the adoption of fisheries specific technical rules, where these are necessary, at regional seas level. Central to that approach is the alignment of the proposal with Article 18 of the CFP regulation. This provides a legal basis for Joint Recommendations on technical measures to be made by regionally cooperating Member States and to be adopted by the Commission through delegated acts.

Shift away from micro-management

Europêche and EAPO have systematically pleaded for a decisive shift away from prescriptive micro-management, which fails in many respects to deal with regional nuances, towards an approach focused on results and outcomes, within a system incorporating safeguards. There remain some aspects of the Commission's proposal that lack clarity or precision but these lower level concerns should not detract from understanding our support for the Commission's general approach!

Protection of marine ecosystems

As it follows from the Framework Regulation No 1380/2013, the technical measures framework applies for the conservation and sustainable exploitation of marine biological resources. This includes all stocks being fished. However, it stretches further than this, as technical measures also have a role to play to minimise the negative impact of fishing activities on marine biodiversity and marine ecosystems. Europêche and EAPO support the inclusion of technical measures that provide protection for these marine ecosystems, species and habitats, to be built upon through regionalised decision-making and consultation of stakeholders. We recognise that providing for such measures is also in line with the CFP objective of coherence with Union environmental legislation.

Strengths

As we see it, the strengths of the Commission's proposal lie in:

- The scope for responsive, adaptive management through regionalised policy formulation, avoiding the need for co-decision on many detailed technical rules
- The potential for a shift away from complex prescriptive rules towards a results-based management approach
- A framework that is open to a bottom-up approach, enabling those with appropriate expertise to participate in the development of solutions more suited to local conditions
- Recognition that the increased involvement of the relevant stakeholders should result in robust technical measures that are more clearly understood by these stakeholders
- Facilitating the effective implementation of the CFP by providing clear objectives with regard to environmental protection and legislation in general
- The attempt to speed up the process of addressing measures which are failing or where changes are needed, however improvements can still be made.
- The removal of obstacles that have to date obstructed more selective ways of fishing
- The removal of a number of closed areas for which the purpose was unclear, yet too many still remain.
- Confirmation that the Commission is to drop its plan to ban small-scale drift nets in favour of a regional evidence (results) based approach
- Simplification
- Recognition of the important role of technical measures in the protection of marine ecosystems as a whole, including sensitive species and habitats.

Industry Concerns

The EU fishing industry has identified a number of concerns that the Commission's proposal, insofar as it deals with the application of metrics (targets), would reintroduce an element of catch composition. We do not believe this target to be realistic and are extremely doubtful whether the target of 5% will be the right figure in all fisheries. This is a new and untested part of the proposal and we are of the view that it needs more thought and assessment to determine if a common threshold can be used for all fisheries or whether such a threshold should be determined at a regional seas level in close cooperation with stakeholders. We do not see how this can go hand in hand with the introduction of the landing obligation. We also recognise that an effective system of monitoring by Member States will be required to ensure this target is being met. Européche and EAPO agree that monitoring and targets are prerequisites for an effective results-based approach, but should be dealt with in the Framework regulation. There is clearly room for clarification of the detail would work in practice.

Even if mesh sizes presented in the regional annexes of the proposal seem to be simplified compared to the existing technical measures regulation, and to offer more flexibility within the context of the landing obligation, many of the mesh sizes proposed are not in line with current practices. Furthermore, those mesh sizes refer to the "directed fishing" definition (Article 6 of the proposal), and it is unclear how this definition applies in practice. Européche and EAPO are concerned that the proposal would require fishermen to adapt to new rules for which the basis is unclear and without a previous impact assessment on the environmental and socio-economic consequences of the new mesh sizes proposed.¹ Therefore, mesh sizes should remain unchanged unless justified by objective and sustainability considerations. Européche and EAPO hope that Member State discussions on 23 and 24 January will be highly constructive to maintain the right balance between simplification and continuity of fishing practice, particularly where vessels are currently using smaller mesh sizes than the 120mm baselines proposed. Likewise, the EU fishing industry does not agree with the introduction or extension of certain mitigation measures or new minimum fish sizes, without the necessary justification, to other areas where they did not exist.

It is also important that any discussion on the annexes and when to change the annexes (now or in the following regional process over the coming years) does not prevent fishermen from improving their selectivity and how to adapt to the landing obligation. Particularly, for pelagic fisheries the new Technical Measures Regulation should leave mesh size selection entirely open to the fishermen (i.e. no prescription of mesh sizes for pelagic fisheries). The process for having any gear or changes to gear with the aim of improving selectivity must not be too bureaucratic or costly for the fishing industry.

¹ In fact, some members of Européche believe that in view of the possibility to define regional technical measures within the framework of the multiannual plans, at the proposal of the Member States concerned, the Technical Measures Regulation should not to envisage a revision of the mesh sizes allowed as provided in Reg. 850/98.

A specific concern relates to the rule in Article 9. If this is implemented, it would prevent fishermen from increasing cod-end mesh size if they encounter large amounts of small fish. Européche and EAPO are concerned that this could be counterproductive and requests that the rationale for this provision is made clear.

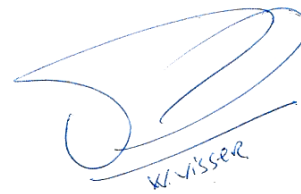
Conclusion

This letter may be considered as a timely intervention to signal our support for the essential approach contained in the Commission's proposal; and to voice our concern that as this proposal passes through the legislative process, we should not lose a coherent and effective approach to technical conservation that escaped us with Regulation 850/98.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'J. Garat', with a horizontal line underneath.

Javier Garat
President of Européche

A handwritten signature in blue ink, appearing to read 'P. Visser', with a horizontal line underneath.

Pim Visser,
President of EAPO