



THE EUROPEAN COMMON FISHERIES POLICY (CFP)

A BRIEFING TO THE NATIONAL WELSH ASSEMBLY SUSTAINABILITY COMMITTEE

1 THE COMMON FISHERIES POLICY FRAMEWORK

Marine fisheries policy is an exclusive competence of the European Community (EC). This means that all decisions are taken at the level of the European Union. Member States cannot intervene in fisheries management unless they are explicitly delegated the powers to do so. At present the main area for which Member States have such powers relates to inshore fisheries (with a maximum of 12 nautical miles (nm) from the shore). Community waters beyond these coastal waters are regarded as 'one big pond' for fisheries purposes. The CFP thus provides *the* framework for European and national fisheries management activities.

2 ORIGINS AND BASIS OF THE CFP

The 1957 Treaty of Rome, which formed the then European Economic Community (EEC), contained a passing reference to 'the products of fisheries' within its definition of agricultural products (Title II, Article 38). At the outset, the primary aim of the then six Member States, Luxembourg, Belgium, Netherlands, Italy, Germany and France, was the establishment of a Common Agricultural Policy (CAP). The Member States had little reason to push for a Community fisheries policy. Their most important fisheries were largely in international waters, outside their national jurisdictions. Where these stocks were jointly managed by two or more Member States this was done under the auspices of multilateral agreements.

A number of founding objectives for a common agricultural policy were established by the Treaty of Rome, and by extension applied to fisheries policy (Article 33):

- Increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;

- Ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- Stabilise markets;
- Assure availability of supplies; and
- Ensure that supplies reach consumers at reasonable prices.

While the CFP has evolved in many respects, these underlying aims still apply today. It is unlikely however, that the authors of the 1957 Treaty anticipated the development of a separate and substantial common fisheries policy as exists today. It was not until 1966 that the Commission took its first steps towards the formulation of the CFP as a consequence of pressure from France and Italy whose fishing industries were not particularly efficient and faced increased competition. They were fearful of the prospect of forthcoming EEC enlargement which was to bring in the United Kingdom, Denmark and Ireland.

A CFP should have been adopted by the end of the transitional period for implementing the EEC Treaty, which was set at 31 December 1969. This deadline was not met as the 1968 Commission proposal was only adopted in October 1970. Any significant progress was blocked for two years in the EEC Council by the practice of the 'Luxembourg Compromise', which required a systematic quest for consensus amongst all Member State governments before measures could be agreed. This slow progress expressed the lack of enthusiasm in all Member States except France. The lack of interest is also to be explained by the limited fishing grounds of the six founding Member States. Fishing limits then generally extended only to three nm and 90 per cent of the catch by the original six was taken outside these limits. Beginning in 1969, applications for membership from Denmark, Ireland, Norway and the United Kingdom totally changed the terms of the negotiation process. The prospect of multiplying fishery production fourfold and the potential institution by the applicant countries of an exclusive economic zone or fisheries zone extending to 200 nm sparked new debate.

Since the first regulations adopted in 1970, there have been three major reforms of the Community's fisheries policy: in 1983, 1992 and 2002. Seven years of negotiations led to the adoption of Council Regulation 170/83 formally establishing a CFP in 1983. The 1983 reform introduced the principle of relative stability which underlies the division of the Total Allowable Catches (TACs) into quotas and their distribution among the Member States. The principle ensures that Member States are allocated a fixed percentage of the TAC for a given fish stock. The allocation key took into account the historical fishing patterns of the Member States, the loss of fishing potential in non-EC waters following the extension of fishing limits to 200 nm by third States, as well as specific needs of regions particularly dependent on fishing industries (*i.e.* the United Kingdom and Ireland).

A mid-term review of the CFP took place in 1992 resulting in the adoption of Council Regulation 3760/92. It attempted to address the imbalance between the fishing capacity of Member States' fleets and available fishing opportunities. The reform prescribed a

reduction in the size of the Community's fishing fleet, accompanied by structural measures to alleviate the socio-economic impact of such reductions. The CFP Regulation also introduced the concept of fishing effort, which provides a measure which can be used to limit the time vessels are allowed to spend at sea. The greening of the CFP, which began in the early 1990s, also moved forward in the 2002 review. The 2002 basic Regulation clearly stated its aims, namely to protect and conserve marine aquatic resources. Furthermore, it included a requirement to take account of the implications for the marine ecosystem when adopting management measures in parallel. European fisheries have changed dramatically during recent decades, with much more efficient fleets, higher fishing capacity and most European stocks deteriorating sharply.

3 REFORM OF THE CFP 2012 – NEW PROPOSAL FOR CFP REGULATION

The next reform of the CFP is in 2012. In preparation of this, the European Commission published on 13 July 2011 the reform proposals for the future of the Common Fisheries Policy (CFP). The reform package includes four proposals: a legislative proposal for a new CFP Regulation (COM(2011)425), a legislative proposal for a market policy (COM(2011)416), a Communication on the external dimension of the CFP (COM(2011)424), and a report on reporting requirements (COM(2011)418). The most significant of these is the legislative proposal for the CFP Regulation, which proposes a number of significant changes to the 2002 basic Regulation, including moves towards multi-species fisheries management, market based quota management, and decentralisation of the policy. Other major additions include a ban of discarding and the establishment of a new Aquaculture Advisory council to complement the current seven Regional Advisory Councils (RACs).

3.1 Key proposed changes

The most significant change proposed to the general objectives of the CFP is the aim to reach maximum sustainable yield by 2015. Another new objective in the proposal is that the CFP shall 'integrate the Union environmental legislation requirements'. An ecosystem-based approach to fisheries management, although present in the 2002 Regulation, has now been given greater prominence. Despite strong support from environmental organisations to prioritise environmental sustainability above economic and social sustainability, the three objectives remain equal within the proposal.

The Commission has proposed moving away from the establishment of single-species long-term management plans currently in place to 'multiannual plans', with the objective of producing maximum sustainable yield by 2015. Where possible these plans will apply to fisheries exploiting a mixture of stocks and take account of the interactions between the stocks and fisheries. By doing so the plans are likely to contribute towards the objective of ensuring an ecosystem-based approach to fisheries management.

Another major change within the legislative proposal is greater decentralisation of decision making powers to the regions. If adopted, Member States will have the power to develop

and propose conservation and technical measures (such as gear restrictions) for fisheries covered under multiannual management plans. Member States will have to notify the Commission and the relevant Advisory Council of the proposed measures for assessment and approval. The main decisions, on TACs and quotas, or the overarching objectives of the multiannual plans for example, will still be taken at the EU level. This is in direct response to calls during the Green Paper consultation for greater stakeholder input in the management of regional fisheries and is intended to ensure a greater sense of regional responsibility. However some critics view the proposed delegation of powers as not going far enough, especially as the role of the Commission in decision-making will be increased

One of the most significant changes proposed is the introduction of mandatory transferable fishing quotas (ITQs) for vessels over 12m in length, and vessels under 12m in length fishing with towed gear. Transfers would only be possible within a Member State, and Member States would be free to extend the system of transferable rights to vessels of less than 12m deploying other types of gear if desired. This is one of the most controversial changes to the Regulation, since questions remain over whether this more market based system is likely to reduce fleet capacity to be in line with resources, or the extent to which the system will favour the strongest and largest players in the sector.

The proposal that has attracted the majority of press coverage in the UK at least, is the planned phasing in of a discard ban. The Commission has proposed a timetable over which Member states will be obliged to land all catches of certain commercial fish species. The success of this measure will depend strongly on the details for implementation.

3.2 Other proposed changes

The proposal also suggests the establishment of a new Aquaculture Advisory Council to complement the seven RACs currently in operation. The Commission argues that the specific nature of aquaculture requires it to have a focused consultation body. Indeed, aquaculture generally receives greater attention throughout the proposal.

With respect to the financial instruments, the proposal introduces greater conditionality for public financial support to both Member States and to operators. Non-compliance by Member States with rules of the CFP or serious infringements by operators may result in reductions, temporary cessation or permanent suspension of financial assistance.

4 NEXT STEPS

The CFP proposed regulation now provides the basis of negotiation with Member States and the EU institutions including the European Parliament. The European Parliament has planned a series of hearings in the Parliament which will provide opportunities for debate on specific elements of the reform. It is expected that the Commission will also host a series of public meetings on issues including on the role of ITQs to address the EU overcapacity problem. In addition, NGOs and the fishing industry groups both in Brussels and Member

States are also planning debates on various elements of the reform package in the coming months.

At the end of 2012, the Council should adopt the new CFP regulation which will be implemented from 2012 onwards.

5 RELEVANT LEGISLATION

1. Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:358:0059:0080:EN:PDF>
2. Commission of the European Communities, Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy, (COM(2011)425 final), Brussels, 13/07/2011, http://ec.europa.eu/fisheries/reform/com_2011_425_en.pdf
3. Commission of the European Communities, 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 final), Brussels, 13/07/2011 http://ec.europa.eu/fisheries/reform/com_2011_416_en.pdf
4. Commission of the European Communities, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on External Dimension of the Common Fisheries Policy, (COM(2011)424 final), Brussels, 13/07/2011 http://ec.europa.eu/fisheries/reform/com_2011_424_en.pdf
5. Commission of the European Communities, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions; On Reporting Obligations under Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, (COM(2011) 418 final), Brussels, 13/07/2011, http://ec.europa.eu/fisheries/reform/com_2011_418_en.pdf

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