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WITH COMPLIMENTS

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North Western Waters Regional Advisory Council
Opinion on the Reform of the Common Fisheries Policy
Response to the Commission's Green Paper

December 2009

1. Introduction

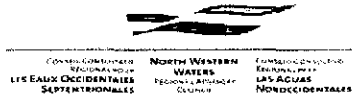
The NWWRAC provides advice on a large geographical sea area ranging from:

- ❖ ICES fishing area VIa,b to the west of Scotland and northwest of Ireland
- ❖ Area VII b,c,e-k to the west and south of Ireland
- ❖ Area VIIa the Irish Sea
- ❖ Areas VIId&e, the English Channel

These waters support a diverse range of fisheries and are harvested by fishers from Belgium, Netherlands, France, United Kingdom, Spain and Ireland. While operating within the global parameters of the existing Common Fisheries Policy, it will be noted that each member state's fishing industries come from diverse cultural and historical experiences, have distinct management regimes and varying levels of access to fisheries resources which colour perceptions of the operation of the current CFP and influence views of the desired outcomes from reform of that policy.

The constitution of the NWWRAC entails participation from fisheries interests and from other stakeholders including environmental organisations, women's networks and other relevant interests.

The NWWRAC's response to the EU Commission's Green Paper on reform of the CFP attempts to synthesise and reflect this diversity of interests. It is necessary to acknowledge that participants in the NWWRAC, in addition to their participation in the NWWRAC response, are also taking opportunities provided by national, sectoral and interest-group structures to input their views.



The NWWRAC input reflects the unique vantage point provided by the trans-national and trans-interest of the NWWRAC itself. It does not seek to address all the issues related to reform as expressed in the Green Paper or indeed relevant issues which may not have been included in the Green Paper. It seeks to delineate areas of common ground as well as pointing to key issues on which there are divergent views.

This submission has been unanimously adopted by the members of the Executive Committee of the NWWRAC following completion of a series of deliberations held throughout the year and taking account of written submissions and suggestions of the membership of the NWWRAC.

2. General Remarks

2.1. The Need for Reform

The NWWRAC agrees that the current Common Fisheries policy is dysfunctional and has delivered sub-optimal outcomes in terms of stock abundance, protection of marine biodiversity and industry resilience and profitability, although many industry members of the NWWRAC would take issue with the Green Paper's description of the status of many fish stocks.

It is clear that the policy, comprising as it does an increasingly complex series of legislative and management measures introduced over its lifetime, is inimical to the objective of biologically, socially or economically sustainable harvesting of fisheries resources which has appropriate regard to the national and sectoral imperatives which need to be accommodated.

2.2. The Reform Process

Reform of the CFP is urgent and imperative. However, reform must be considered and measured. The NWWRAC is strongly of the general view that there is no margin for error in a reformed policy given the potentially catastrophic biological, social and economic risks of failure to achieve policy objectives through appropriate legislative and management measures.

2.3. A Clear Trajectory and Timetable for the CFP

While a reformed CFP is scheduled to enter into force in 2013, the NWWRAC believes that it is unrealistic to expect that immediate resolution of all the salient issues can be put in place in one dramatic step. Therefore, the post 2012 CFP should incorporate clear trajectories with specific timelines in successive years. Such an approach would provide the necessary platform for the orderly and reliable planning of investments, improvements in scientific data and analysis and management of conservation measures which would benefit all stakeholders including the EU, Member State governments, Fisheries Scientists, Industry Organisations and most importantly, fishing enterprises.

2.4. Certainty vs. Flexibility: A Multiannual Approach

A key requirement of the reformed CFP is that it avoids insofar as possible the instability inherent in the current policy, which makes the job of fishing enterprises, fisheries scientists and managers impossible to perform effectively or profitably. This requires the anticipation of the key issues likely to arise over a series of years and provision being made for them in management. Annual adjustments will of course be required but excessive fluctuations would be an indicator of management failure.

2.5. Long Term Management

The adoption of a Long Term Management approach is critical for all stakeholders in a reformed CFP. Effective and balanced stakeholder participation and engagement in the early stages is critical to the success of fisheries management in general and to the development and implementation of LTMPs at regional level, in particular. This needs to be an all-inclusive process where Member State representatives, control authorities, scientists with relevant knowledge of the fishery, key catching sector representatives and environmental groups exchange their views on a co-operative basis in their collective formulation of LTMPs. This will allow the identification of the fundamental components of plans for shared stocks and adopt concrete decisions, whenever possible, by consensus.

2.6. Level of Fisheries Activity and Stock Exploitation

The current CFP has seen successive decreases in fishing opportunities in many key stocks in response to negative perceptions of stock levels. The reformed CFP should have as a core objective the biologically sustainable exploitation of stocks and protection of biodiversity. Fish, if managed sustainably, is a renewable natural resource and vital source of protein which is in ever-increasing global demand. Its sustainable exploitation is a crucial economic activity. The reformed CFP must be ambitious in this regard and not assume automatically further long-term decline.

2.7. Confidence and Participation

The new CFP must adopt a more participative, partnership approach if it is to overcome the enormous challenges being faced in practically all dimensions of the policy – social, economic, biological and political. The policy must have as a key tenet the creation of mutual confidence in the process itself as a key ingredient in making real progress. The vesting of responsibility on various actors will induce more responsible behaviour.

While a degree of tension between political decision-makers, managers, scientists, control agencies, environmental interests and fishers is unavoidable and perhaps even healthy, it is self-evident that the current low level of confidence makes progress extremely difficult

3. Total Allowable Catches/ Relative Stability/ Effort Control

Within the membership of the NWWRA two divergent views on the TACs and quota system have emerged. In summary these are:

- a) Replace the System of TACs and quotas by Effort Control: This point of view is linked to dissatisfaction with the principle of relative stability and a desire for an approach based more on the composition of the catches of the respective fisheries to the allocation of fishing opportunities. The supporters of this point of view are dissatisfied with the TACs and quotas system, principally because the allocation keys associated with the principle of relative stability are considered to give their member states an inadequate share of the EU's fisheries resources.

Moreover, it limits the ability to use market-based allocation of fishing opportunities as a mechanism to rationalise fishing capacity and create incentives for both economic efficiency and conservation of stocks.

In addition, it is argued that the application of a TACs and quotas system to demersal mixed fisheries will always be an inevitable source of discards. This group also argues that the current CFP based on TAC and quotas has proven to be failed, in the light of the current state of fisheries. A system based on effort control is seen as a potential alternative. Internationally traded TACs, replacing relative stability over time is seen as another alternative.

b) Retain the TACs and Quotas System and the Principle of Relative Stability:

Supporters of this view consider that the TACs and quota system, and in particular relative stability, is one of the cornerstones of the CFP, which provides the basis for a reasonably fair distribution of fishing opportunities to member states. The distribution of quotas between member states has been a fixed element for many years and while all are not satisfied with it, the alternatives are seen as engendering further instability. This view suggests that although there are deficiencies in the Community's fisheries resource management policies, it is simplistic to attribute these to the resource allocation system.

The TAC and quotas system is seen by this group as the bedrock of the CFP and therefore it should be retained at the heart of it. However, an enhanced control of this system would be necessary to ensure a more strict enforcement of article 20 point 3 of the current CFP regulation, which invites Member States to inform the Commission on their rules of allocation of fishing opportunities, by asking Member States to report their quota management rules at the beginning of the year.

Notwithstanding these apparently polar positions within the RAC, the NWWRAC is determined that the issue of the TACs and quotas in a reformed CFP should be approached in a rigorous and systematic fashion. To this end the RAC would like to stress that the TACs and quota system is regarded by many of its members as the "least worst" way of distributing scarce fisheries resources to member states and to different groups of fishermen.

Any alternative approach would have, as a minimum requirement, to qualitatively equal or surpass the current system in this core function. Any change from the fundamentals of the current member-state distribution of access to fisheries resources would require being demonstrably superior in terms of equity, effectiveness in achieving economic efficiency as well as in the conservation and restoration of fish stocks.

In some member states some quite sophisticated systems of rights based management already exist. These systems are compatible with the TACs system allowing operators to obtain additional quota from market exchanges and to maximise the economic value of their catches while encouraging a long-term interest in the resource. It is important that CFP reform should build on these rather than undermine or destabilise them.

- An allocatory system based on effort (restricted time at sea) would have to be sensitive and minimize the economic impact for the fishing operators to be effective and overcome potential disadvantages (e.g. differential price for different species; setting of efforts level in relation to the weakest stock in the fishery; relationship between reduction of time at sea and fishing mortality; complementarity and effectiveness of landing controls). If the replacement of TAC and quotas resource allocation by fishing effort is to be considered, it would be vital for this approach to be comprehensively tested in agreed pilot areas or fisheries. In line with long term management, effort levels should be determined within the framework of the agreed long term management plans.
- The resource allocation system cannot be viewed in isolation from the issue of overcapacity and the need to strike a broad balance between the capital invested in the industry and the available fisheries resources.

If TACs and quotas were to be retained as the primary resource allocation system, it is possible to identify areas of consensus. The system could be improved / adapted in the following ways:

1. Additional flexibility could be provided in the area of transfers, and swaps to ensure full utilisation of the Community's fishing opportunities.
2. Careful modification of the relative stability keys, in select areas, with the agreement of the parties involved to adjust to altered conditions since 1983.
3. Addressing areas of overcapacity, where these exist, in a measured and targeted way to reduce pressure on quotas and quota management systems.

4. Regionalisation of the CFP

The NWWRAC perceives the exclusively centralised current CFP decision making process as too remote and unresponsive to provide the effective and adaptive fisheries management required on economic, social or biological grounds

An important step forward would be a move from the present rigid command and control model, based on global measures (that are often undermined by derogations) to decisions made closer to the fisheries concerned, through a form of regional decision making.

There are legal, constitutional, financial, as well as practical dimensions to the question as to the institutional form which regionalised management might make. The NWWRAC recognises to this respect the difficulty in amending treaty provisions.

Central to a regionalised approach is the recognition that there is a hierarchy of responsibilities and competences and that overall oversight and ratification of regionally devised management decisions would be required at European Commission, Council of the EU and European Parliament level at appropriate times.

The key headline targets and parameters for fisheries, fish stocks and environmental dimensions would continue to be set at the centralised level. Decisions as to the best means of achieving these targets should be taken at the appropriate regional level by relevant and involved member states, scientific agencies and control authorities in conjunction with the fishing industries, NGOs and other stakeholders.

It is understood that there would need to be commonality in the range of acceptable management tools, but crucially, the choice of localised / regional management tools specific to the conditions pertaining would be made at regional / local level.

In framing a regionalised approach, there is a need to avoid over-complicating the overall regulatory / management framework and the creation of "mini-Caps" which would be counterproductive. The NWWRAC is confident that this can be avoided by careful construction of such an approach along the following lines:

1. The European institutions would be responsible for oversight and set broad standards, principles and objectives.

2. CFP decisions, where appropriate, should be devolved to regional sea basin bodies that hold *de facto* management responsibility. This approach would help to break with micro-management and highly prescriptive regulations. It may be necessary to develop an innovative legal framework to achieve this but the core idea is that fisheries managers from the member states which hold entitlements for a given sea basin, would engage in *administrative cooperation* at the regional level. The RACs, with the necessary changes on its composition and functions aiming to enhance its advisory role by bespoke scientific advice, would also sit on the regional management bodies together with other entities such as control authorities or non-ascribed fishermen. Decisions on this basis would be adopted whenever possible by consensus and based on best available science.

For those situations where consensus is not possible, alternative pre-defined procedures would be triggered. This would provide a strong incentive towards consensus creation.

The responsibilities for the new regional management bodies could include setting TAC levels –provided that the TAC system is kept-, technical measures or developing long term management plans and the accompanying approval and audit process to ensure that these plans are appropriate to achieve set stock and environmental targets.

3. The fishing industry members of the NWWRAC believe that a high degree of self-regulation through bespoke agreed, approved and audited sustainable fishing plans, offers a way of simplifying the CFP and developing a high degree of responsibility for the resource. However, it must be noted that any movement in this direction needs to be thought through carefully to avoid a parochial approach at fishery rather than at stock level or an increased complexity; likewise, the transition process will be critically important.

The benefits would be a highly responsive system in which the burden of proof for compliance will lie with the industry but the massive complex of ineffectual regulation that currently applies could be removed.

In advocating a move to regional management and providing an option for a high degree of self-regulation, it will be important to avoid a range of problems and pitfalls along the way: these include local protectionism and excessive complexity; the particular case of highly migratory species will require special arrangements.

5. Future Role of the RACs

The role of the RACs should be intimately linked to the regionalised structure chosen. The RACs have proved to be one of the major successes of the current CFP and thus have the potential to become an enhanced advisory body either embodied in or closely linked (although autonomous) to the new regional management bodies.

Furthermore, the RACs would be also required to provide advice and commentary on specific issues as well as the broad EU level standards that should apply.

In any case, a clear set of objectives would be stated in the new regulation or implementing decisions to adapt the revised status or responsibilities assigned to the RACs, allocating the necessary funding and resources for carrying them out.

It will be essential that the resourcing of the RACs be commensurate with the requirements for them to provide authoritative advice, including the access as of right to appropriate scientific support on an ongoing basis, which is assumed to be totally necessary to quantify the level of possible catches in the different fisheries.

The EU Commission should be committed to take more accountability of RACs evidence-based advice and address on its responses all the questions posed by the RACs by providing a detailed explanation and motivation of its decisions.

6. Overcapacity

Although fleet overcapacity has long been a problem for the CFP, the Commission's unqualified and differentiated view as expressed in the Green paper is inadequate, even as a starting point.

Some key elements in an approach to addressing overcapacity can be identified:

- There is a lack of clarity in the definitions of overcapacity employed to date.
- Fleet overcapacity needs to be redefined and a more useful concept than those used to date needs to be agreed. The sector needs to have a “clear picture” of the fleet size in each fishery by having access to the data available to compare the development of fleet capacity in each MS with the development of fishing possibilities first of each MS and subsequently of each geographical fishing area, once the necessary adaptations are carried out within the frame of the new CFP, as the ones suggested in point 7 in order to reduce discards.
- A more useful definition would focus on the concept of “sustainable capacity”, i.e. obtaining a balance between capacity and the available resource. This further implies the need to (a) define capacity by qualitative (e.g. environmental and carbon footprints, employment generated, etc.) as well as quantitative criteria; (b) take account of technological creep whereby the technical advancement of retained vessels and their gear may outstrip the capacity reduction attributable to those decommissioned.
- Regarding the means on how to allocate fishing opportunities in relation to an adequate level of sustainable capacity, it should be up to the fishing operators to take these business decisions at Member State level in compliance with the capacity assigned as a result of compliance with EC regulations.
- Identify appropriate options:
 - Some form of rights based management with transferable entitlements, if this is proved to be appropriate within each Member State
 - Some hybrid form of public/private capacity reduction
 - An approach compatible with a decentralised CFP
 - Publically funded decommissioning schemes
- A workable solution that takes into account that stocks can have a greater or lesser carrying capacity depending on environmental conditions.
- An action that takes into account that the resources, if sustainably managed, are renewable and that can be recovered.

- A means of overcoming the fact that fleets (and overcapacity) are international in scope and operation but capacity solutions generally lie at member state level. In other words, how to make EU member states take ownership of their share of overcapacity?
- Markets can have a very direct and significant impact on vessel revenue and therefore economic overcapacity. As markets (supply and demand) fluctuate in response to various factors, such as high operational costs, tariff regimes and success of resource policies, it will be important to avoid an overly simplistic approach.
- An effective approach to overcapacity would:
 - Develop a more sophisticated definition of overcapacity
 - Identify areas of overcapacity via a comprehensive audit of fleets across Europe, sector by sector.
 - Focus policy on those specific areas where overcapacity is a problem
 - Make explicit the assumptions underpinning a structural policy
 - Develop a trajectory over time through which structural objectives could be achieved
 - Develop an approach based on the “triple helix” involving the administrations, scientists and the fishing industry. This would be necessary for an effective approach
 - Embed the capacity reduction strategy, where appropriate, within a long term management plan

7. Discards Policy

The NWWRAC recognises discards to be a waste of a scarce resource and damaging to the fishing industry’s reputation. It also recognises that vessels discard not for one but for a variety of reasons, including compliance with CFP regulations by reasons such as quota excess or non-quota. Consequently, there is no single solution to the reduction of discards. Nevertheless it is our conviction that discards can be significantly and progressively reduced.

It can be argued that a “high-grading” ban or a “discards ban” can be counter-productive as they do not deal with the real drivers for discarding, be they regulations, economics, quality of assessments, selectivity of gear, or market demand.

The practicality of forcing all fish caught to be landed must also be considered carefully with respect to the considerable increase of workload for the crew and the limits on vessels’ capacity to store the additional bulk this would entail, possible difficulties engendered by the need for disposal of non-commercial catches post landing and the need for available stowage space to be used to transport commercial catches essential for commercial viability. On the other hand, while being conscious of the necessity to reduce discards, it is worthy to note that discards do not always constitute an inert waste.

Therefore, the key to reducing discards therefore is a targeted approach based on a sound and comprehensive understanding of the reasons for discarding in each fishery. Discard levels and targets must be assessed on a fishery by fishery basis and discard reduction should be a key tenet of the LTMP for that fishery. There are already good examples of improved assessments resulting from better discards information from the fleets and this should be built on. The key is close cooperation between scientists, fisheries managers, environmental groups and fishermen in designing solutions for specific categories of discard.

Discards can be reduced through:

- Improved gear selectivity
- Better design of management measures and stronger marketing
- Temporal and spatial measures implemented with the involvement of the fishermen affected.

The NWWRAC would suggest the possibility of considering, for reduction of discards purposes, that TACs for two or more linked species might be interchangeable or substitutable in mixed fisheries within certain parameters which might relate to market prices and or related management / conservation objectives. Examples might be:

- Haddock and whiting
- Hake, monkfish and megrim

The advantage of the combined quota would be to increase flexibility to keep more of the catch that is being caught and killed anyway. We suggest that this option could be explored through pilot studies and then expanded if proved successful. This example demonstrates that real progress can be made by a metier approach (i.e. type of gears used, area covered, targeted species and dynamic of the fishery) rather than by grandiose measures that actually deliver very little if not actively counter-productive. The example of Norway in reducing (but not eliminating) discards is useful but it is important to emphasise that Norwegian conditions, especially in relation to mix of demersal species are similar to those found in the fisheries of North Western waters and that the successful policy of discards in Norway is only applied to the cod, haddock and pollock fisheries.

8. Fisheries Science

Sound biological advice must be at the core of the new CFP. All management decisions should be guided by reliable scientific advice.

North Western waters contain a low number of stock assessments in which it is possible to have a high degree of confidence and high number of stock assessments in which is not possible to have a high degree of confidence. Addressing this core issue is absolutely essential for sound policy, management and securing the necessary confidence of fishers and other interests.

For those whose livelihoods depend on fisheries resources and the access that is afforded through TACs, the current uncertainty is an intolerable problem. To advance this process of rebuilding stock assessments we consider that it would be imperative to have a comprehensive audit of fisheries science to identify problem areas and develop the means for addressing deficiencies.

The development of alternative assessment models to provide reliable data in a shorter timeframe than is currently possible is essential for the proper development of fisheries management.

To this end, reviewing data requirements and prioritising the most critical needs is urgently required. Adequate funding could be provided through funding under the Research and Technological Development framework programme. Timely delivery and publication of the outcomes of completed research funded or carried out by the EC is also essential.

The NWWRAC is involved in a process of improving engagement with fisheries scientists (e.g. through science-industry partnerships) to put conditions in place that would progressively lead to the recovery of the stock assessments. Such an initiative can make a valuable contribution but it must take place in the context of an overall process for it to be effective.

The EU Commission should formally thoroughly review and revise the terms of reference in which ICES & STECF advice is requested, to determine whether better questions can be posed in consultation with stakeholders and within a wider context of the Maritime Policy and the ecosystem-based approach in relation to fisheries management.

9. Differentiated Management Regimes

The Green Paper addresses the desirability or otherwise of a differentiated management regime for small scale inshore fisheries. Alternative dualisms are presented: offshore/inshore, large vessels/small vessels, large catches/low environmental impact, artisanal/industrial fishing. The issue as posed in the Green Paper is that inshore fisheries could be managed locally whilst the large scale/industrial fleets could be subject to a more market based approach.

There are however other considerations such as the desirability of maintaining national exclusive fisheries zones in coastal areas on grounds of scale, proximity and the social fabric of coastal communities.

The position of differentiated management of fisheries is therefore separated from consideration of the retention or otherwise of national limits.

With regard to differentiated management, the NWWRAC agrees that there are fisheries in which a clear differentiation between an offshore zone and an inshore zone would make sense. But this decision must be taken in the fullest recognition of local conditions.

The NWWRAC is therefore strongly opposed to a blanket line through the fishing industry, whether this is by fishing zone or size of vessel or any other potentially arbitrary criteria.

Cognisance would need to be taken of the following circumstances in deciding whether or how to frame differentiated management regimes:

- Large vessels that fish for part of the time in inshore waters.
- Small vessels that fish well outside the inshore zone.
- The dangers of a preferential regime on one side of an arbitrary line attracting increased effort.
- Fisheries in which a high proportion of the catch is taken by the inshore fleet.

10. Markets

Fishing is primarily an economic activity, and there is a close relationship between the profitability or otherwise of fishing fleets and the achievement of biological objectives. To put it simply, the volume of fish required to make profit, and the consequent level of pressure on target stocks is partly a function of producer prices. Indeed, it also has a central relationship with fleet size and fishing technology. In this context, fisheries management and conservation policies cannot be effective without a strong and effective common organisation of the market for fisheries policy.

The EU market for fisheries products is in turn heavily impacted by trade policy and the competitive position of EU fleets vis-à-vis producers in third countries. The management and regulatory conditions faced by third country producers therefore is centrally interrelated with the operation of the Common Fisheries Policy both on environmental, social and economic grounds.

There is a need for a robust and substantially revised Common Market Organisation (CMO) dimension to the reformed CFP which aligns the economic policies to other elements such as stock management. In this particular, a key internal component of a reformed CMO “pillar” of the CFP is traceability and the fostering of consumer confidence in the sustainability of EU produced fisheries products. Measures to promote and sustain adequate producer prices must also be a central component of a revised CMO.

While acknowledging the introduction of IUU regulations in recent times, it is the opinion of NWWRAC that there remains a substantial disadvantage in the trade for fisheries products between a highly regulated EU fishing industry and third country producers with substantially lower cost bases and indeed lower or non-existent environmental controls. We should wonder if a new CFP should not contemplate that the fish that enter the Community markets is obtained under the same social conditions than those demanded to the EU producers, so that they can compete under the same conditions of requirement and not in a disadvantage position.

This is adding to pressures on stocks and economic viability within the EU fleets while contributing to both environmental and social degradation (in numerous occasions contributing to keep the poverty) in third countries.

These realities must be reflected in EU trade policy, while recognising the substantial shortfall in EU fisheries production to meet consumer demand within the union.

In summary, traceability, food safety and control of catching activity must be considered as key elements to tackle those practices of social and economic dumping which allow substitute products to displace the European production from EU markets.

In this regard, we support the provision of tools within the CFP to foster certification schemes (such as Marine Stewardship Council one) that guarantee chain of custody from net to plate. To this end, the CFP should set a set of minimum criteria for eco-labeling schemes.

The reform needs to define the appropriate tools for a vertical integration of the catching sector in the value chain of fishing products so its participation can be ensured in the commercialization and market access in line with those existing in other international organizations.

In this regard, the role of the POs might be fostered and even prioritized over other marketing models as they are naturally the market-oriented bodies representing the catching sector.

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