

Concerns

The Commission's Green Paper "Reform of the Common Fisheries Policy"

The following are the comments of collaborators of the Belgian Federal Public Service Public Health, Food Chain Safety and Environment – DG Environment – Marine Environment Unit - on the Commission's Green Paper "Reform of the Common Fisheries Policy"¹.

The main tasks of the Marine Environment Service are:

- The coordination of marine-environment policy at national level and in relation to EU and international fora;
- The protection of marine biodiversity;
- The prevention and mitigation of the pollution of the marine environment;

These comments do not bind, in any way, the Belgian competent authorities, neither at the political level, nor at the administration level, but only reflect the view of the collaborators of the Environment Unit, who are daily involved in the marine environment policy (and its relation to fishery issues).

We focus our comments on those aspects that are of particular relevance for the protection of the marine biodiversity resources.

As regards this consultation and the further preparation and implementation of the Common Fishery Policy, the main concern we wish to express is that fishery and environmental administrations have to be equally involved. This is an important institutional issue to be solved. Both fishery and environment authorities have to collectively consider and address the environmental problems and available resources to find common solutions, thereby respecting each others competences and expertise.

Overall comments

1. We welcome the Commission's Green Paper on the reform of the Common Fishery Policy and agree with the analysis of the outcomes of the current CFP, in particular that the objectives of the 2002 reform of the CFP have not been met overall.

2. We support the Commission in its proposal to address the five structural shortcomings of the current CFP:

- The problem of the fleet and fishing overcapacity: in 2007, independent fishery scientists assessed that 88% of Europe's commercial fish stocks are overfished (above the MSY)². Taking into account the "precautionary principle" and the Johannesburg Declaration to manage fish stocks at MSY level by 2015, this is a

¹ EC. 2009. Green Paper "Reform of the Common Fisheries Policy". COM(2009)163 final: 27p.

² Sissenwine, M. and D. Simes. 2007. Reflections upon the Common Fisheries Policy. Report to the General Directorate for Fisheries and Maritime Affairs of the EC. 74 p.

- deplorable situation. Despite some minor progress in recovery or long-term management plans, overfishing continues, resulting in low economic resilience and political and economic pressure to increase fishing opportunities at the expense of future sustainability of the fishing sector and of the marine environment;
- The lack of precise policy objectives: whilst the CFP aims for sustainable economic, sustainable environmental and sustainable social conditions, the current CFP does not set clear priorities for these objectives and in particular does not clearly establish how the CFP will contribute to the objectives of the wider environmental EU-policies;
 - A focus on short-term decisions: policies on fishing issues have overall been developed with specific sectoral objectives in mind and disregarding the long-term ecosystem effects. An integrated approach on fishing policies should allow us to re-orient the current short-term and primarily economy-driven management of the fishery sector towards longer-term sustainable fishery management with far less environmental and socio-economic costs;
 - Insufficient responsibility and accountability of the industry: in the top-down approach of the CFP-decisions, the fishing industry has been given few incentives to behave as a responsible actor accountable for the sustainable use of public resources. More efforts have to be made to involve the fishing sector, if possible via a bottom-up policy, in the development of a sustainable fishery. Incentives for the fishing industry to assume responsibility might be initiated by the consumer market. The possible role of consumer organisations and market mechanism should be strengthened;
 - Lack of political will to ensure compliance and poor compliance by the industry: The 2007 Court of Auditors Report³ concludes that (1) “catch data are neither complete, and the real level of catches are thus unknown (which prevents the proper application of the TAC and quota systems), (2) the inspection systems do not provide assurance that infringements are effectively prevented and detected; (3) the procedure of dealing with reported infringements do not support the assertion that every infringement is followed up still less that infringements attract penalties; even when penalties are imposed their deterrent effect is, on the whole, limited.

3. We support the Commission’s objective and share the view that a wholesale and fundamental reform of the CFP is needed to reverse the current situation. It may not be yet another piecemeal, incremental reform but a sea change cutting to the core reasons behind the vicious circle in which Europe’s fisheries have been trapped in recent decades with the detrimental environmental, societal and financial consequences.

4. The 2002 reform gave the CFP a new and fundamental orientation towards sustainability; but the CFP did far from achieve this goal, both at the economic and institutional level. If the EU wants to overcome these shortcomings, then the EU needs to be prepared to question every aspect of the way the system operates. From the marine environmental perspective, it is shortcomings of both **policy** and **institutional** aspects that have to be addressed. Indeed, while economic and social sustainability are important goals of the CFP, ecological sustainability is necessarily more fundamental, for it are the ecological processes and their conservation that determine whether fishing activities are sustainable or not.

- Art 2.3 of the amended Treaty of the European Union mentions that “*the Union shall establish an internal market. It shall work for sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of*

³ Court of Auditors. 2007. Special Report n°7/2007 on the control, inspection, and sanction systems relating to the rules on the conservation of Communities fisheries resources together with the Commission’s replies. (C2007/C 317/01): 33 p.

*protection and improvement of the quality of the environment.” This means in **policy terms** that the CFP has to put the health of the marine environment at the heart of its policy objectives. This is particularly important in terms of the current structural shortcomings of the CFP and the need for an ecosystem approach. In other words, this implies that all relevant EU-environmental protection requirements are essential cornerstones of the framework that will shape the new CFP. In the context of the Marine Strategy Framework Directive, Member States are committed to achieving a good environmental status (GES) of Europe's seas. Consequently, the reform of the CFP must now, for instance, enable Member States to actually meet this goal with respect to activities and impacts that relate to fishing. We believe that the new CFP should emphasise that the protection and conservation of the marine environment, including fish stocks, is a prerequisite for the achievement of sustained social and economic benefits. Hence, the CFP will provide a basis for effectively contributing to the recovery of the marine ecosystems.*

- In **institutional terms**, this means that fishery and environmental administrations have to be equally involved in the preparation and the subsequent implementation of the new CFP. **This is an important institutional issue to be addressed.** Both the fishery and the environment authorities have collectively to consider and address environmental problems and available resources to find common solutions, thereby respecting each others competences and expertise.

5. The environmental administrations at Commission level, in the European Parliament, at Council level and at Member State level have to contribute to the entire process leading to the adoption of the new CFP so as to ensure that the EU-environmental protection provisions are adequately integrated from the outset of the CFP policy discussion. Moreover, they also have to be kept involved in the further implementation and subsequent follow-up of the CFP⁴.

The environment administrations at Member State level have to date not been sufficiently involved in the conception of the CFP, its implementation and related policies. We consider this a missed opportunity for the successful implementation of the CFP. The environment administrations and the fishery administrations often work in isolation, unable to reach their respective objectives, whereas there are opportunities to support each other.

Specific comments

A new focus in the policy setting

- Towards an ecosystem-based approach: the fishing sector has enjoyed a privileged status in its use of the sea. However, this is now changing in light of important marine environment policy issues at stake: the implementation of the European Marine Strategy (Marine Strategy Framework Directive-MSFD), the extension of the Natura 2000 network of protected areas into the marine environment, the Integrated Maritime Policy, the Marine Spatial Planning and ICZM guidelines and finally the climate change policy. These new policies, all of which relate to the marine environment, may pose challenges to fishing policy, but should not be viewed as an obstacle. Supported by political authorities they can create the basis for an effective

⁴ See also comment on “delegation of power”.

collaboration between environmental and fishery policy makers to work towards an ecosystem based management approach;

The EU Marine Strategy Framework Directive (MSFD), based on a recommendation by ICES, consistently defines EBM as *“the comprehensive integrated management of human activities based on the best available scientific knowledge about the ecosystem and its dynamics, in order to identify and take action on influences which are critical to the health of marine ecosystems, thereby achieving sustainable use of ecosystem goods and services and maintenance of ecosystem integrity”*.

Within this context, in July 2010 the MSFD-Committee will decide on the criteria to achieve a good environmental status (GES) of the marine environment by 2020. One of the qualitative descriptors selected to determine this GES concerns the establishment of healthy stocks for all commercially exploited fish and shellfish. In order to implement this descriptor, ranges of standards will be set and should be integrated in the proposed new CFP.

In order to assess the impact of fishing under the future CFP, the proposed CFP should be subject to a Strategic Environmental Impact Assessment. Additionally, at the Member State level, fishing activities should be subject to an EIA prior to the allocation of access rights, fishing permits and equivalent licences or permits;

- A fully transparent policy: fishery management and decision-making processes should be made fully transparent to support accountability of fishing operators, managers and decision-makers. They should be well documented and accessible to all stakeholders and the public. Transparency is a prerequisite for the integration of environmental and fishing policies. Lack of transparency obscures accountability of the sector and increases the likelihood of political decisions that are contrary to the broader policy objectives.
- A science-based CFP: policy options and subsequent decision-making should be science-based and must be evaluated against the overarching objectives of the CFP. In particular, in relation to the setting of catch and effort limits this has not been practiced adequately. By giving scientific advice more weight in the decision-making, the EU will strengthen the value and credibility of this science, which will positively reflect on the quality of the advice. In this context, we wish to refer to the US Magnuson-Stevens Fisheries Conservation and Management Act, which contains provisions that institute a binding cap on Total Allowable Catches at the level of scientific advice in US fishing policy.

While long-term management plans (LTMPs) may continue to be a useful and necessary tool for the management of individual stocks, these should in future be framed in the context of regional fisheries plans (one per marine region). The latter should set out an integrated fisheries management strategy for each of the marine regions established under the MSFD. It should contain a projection of the available marine biological resources, an access regime and fleet adjustment plan that is consistent with these projections and any other overarching management and conservation measures, such as spatial and temporal fisheries closures, etc.

- A culture of compliance: It is of the up-most importance to integrate fishing regulations and environmental regulations and to strive for a common enforcement strategy. Only if the two policies are consistent and mutually supportive of one another, will they be respected. Contradictions between them will undermine common objectives. Access to resources and fishing permits should be granted to those operators that comply with EU fishery and environmental legislation. In addition, the new CFP should set up

incentive schemes that provide benefits, such as preferential access to fishing rights or fishing grounds, to those operators that show initiative in terms of practising more selective, less environmentally damaging fishing practices. Fisheries that provide sustained benefits for coastal communities should also be granted preferential access.

- The external fishing policy in line with the domestic policy: The external dimension of the new CFP should be based on the same objectives, principles and targets as the domestic fishing policy of the EU. In particular, the new CFP should require that the EU's external and domestic fishing fleets are monitored in an equivalent fashion and that there is proper surveillance of the fishing vessels outside EU waters. In addition, it is highly important that EU fishing fleets do not deprive other countries and coastal communities of their ability to sustain their livelihoods and benefit from sustainable fisheries. In this context, it is also important to ensure that the EU's seafood imports meet sustainability criteria and social standards.

We also believe that it is necessary to provide clear and transparent mandates that are consistent with the EU's environment policies to EU negotiators in international meetings. The EU's external position must be consistent with its internal policies, and the EU should aim to lead by setting a good example through domestic action and implementation.

- A safe environment: improving health and safety on and off-board vessels, and achieving fair working conditions, should become a core objective of the CFP, resonating not least similar objectives of the European Maritime Policy. All jobs should comply with the standards of the International Labour Organisation about working conditions in the fisheries sector⁵. We further support the establishment of a broad training package for the fishery sector aimed at improved knowledge and application of health and safety rules, environmental regulations (good example is 'Fishing for Litter') and also support a diversified education package that allows prospective fisherman/women to opt for a wide range of marine and maritime job opportunities.

Overcapacity

- The current excessive levels of overcapacity in the EU fishing fleet has rightly been identified as one of the biggest obstacles to meeting marine and fisheries conservation targets. We therefore believe that robust and time-bound fleet adjustment plans are necessary to achieve a better balanced fleet without unnecessary delay. Adjustments should be made in terms of the size and catch capacity of the fleet, and in terms of the potential for impact of different fleet segments. Fuel efficiency standards should also be considered an important goal of the restructuring. The size of the future EU fishing fleet should be determined on the basis of a thorough scientific assessment of available resources per marine region, as well as science-based projections of future stock levels. (See also comment on "science-based policy" above)
- Discards: we agree with the Green Paper that the practice of discarding must be ended with the new CFP. The regulation in place needs to have clear guidelines, criteria and time table.

⁵ The Work in Fishing Convention (ILO Convention 188) of 14 June 2007 and Recommendation 199.

Delegation of powers to the regional or Member State level

- At present, all decisions are taken in Council at the highest political level, resulting in short-term decisions at the expense of long-term environmental, economic and social sustainability. This has also led to detailed – possibly too detailed - Council Regulations; In view of the Lisbon Treaty (co-decision procedures) and in view of the increased demands on the DG MARE from stakeholders, government administrations and general public, a centralised top-down controlled approach is no longer tenable;
- We support the delegation of power to the Member States, with a well-defined responsibility for the competent EU-bodies and a regional authority:
 - European Commission, Parliament, Council level: agree on overall policy and give more emphasis on objectives, principles, targets and timelines;
 - Regional level: multi-member groups involving the competent fishing and environment authorities which e.g. agree on measures under the LTMPs.
 - Member State level: in relation to the objectives to implement environmental legislation, Member States are currently in a situation where they are not able to comply. The new CFP should address this problem by looking at the scope of the national competencies.
- The advisory bodies (ACFA, RACs) should in future have a balanced membership (government bodies, scientists, industry sectors, NGOs and other stakeholders) so as to ascertain that an ecosystem-based managed approach can be fully implemented. Finally, the fishery sector should be made accountable for its part in the implementation of the CFP.

Nature conservation issues (EU-Habitats and Birds Directives, Natura 2000, OSPAR)

- The overcapacity in the EU fleet combined with the non-selective fishing methods allowed under the current CFP has very negative impacts on marine ecosystems (species and habitats). By-catch has been killing significant numbers of protected species (sea mammals and birds in particular). Bottom-contacting fishing gear has significantly disturbed and in some parts destroyed the sea floor area of the Belgian part of the North Sea, thereby fundamentally altering our entire benthic ecosystems and our baseline for future recovery. Overfishing and discards have resulted in a significant disturbance of the trophic levels and species composition of the marine ecosystem. These negative consequences have to be fully addressed and solved under the new CFP.
- Fishing efforts in marine protected areas and in sensitive areas (spawning or nursery grounds) must be restricted to allow the protection of these areas or the recovery of their conservation status;
- While the Green Paper seems to propose that the industry may be made responsible for demonstrating that it operates in a responsible way (reversal of burden of proof) before being granted access to fishing grounds, current Commission guidelines⁶ for the management of fishery measures in Natura 2000 contradict this. The guidelines currently require Member States (i.e. the competent nature administrations) to defend their case and provide reasoned evidence why certain fishery practices do not contribute – in fact are often detrimental - to the maintenance or restoration of the site's favourable state of conservation. We believe that the full introduction of the reversal of burden of proof is necessary, also in relation to the protection of Natura

⁶ European Commission. 2008. Fisheries measures for marine Natura 2000 sites : a consistent approach to requests for fisheries management measures under the Common Fisheries Policy

2000 and other sensitive sea areas. We further believe that it is the Member States' obligation and mandate to ensure that these sites are protected, but we currently lack the necessary power;

- Measures to maintain and or restore habitat types and/or species in view of the EU-Habitat or Bird Directive, including where they relate to the fishery sector, should be viewed as environmental protection measures and not as fishery measures. This being said, national authorities would aim to involve the fishing sector – as well as other sectors – in the preparation of the necessary measures to reach the objective of both nature conservation directives.
- Full transparency of and shared access to fishery data and information on species/habitat characteristics is needed to propose and implement the most appropriate fishery and conservation measures ;
- As stated above, Member States have the duty to achieve the protection of species and habitats under the nature directives. However, it is not always certain where and by what a habitat or species has been damaged or injured. For instance, in the case of species with a wide geographic range, it may not be possible to tell with any certainty where the animal has been injured or killed. Similarly, a site may deteriorate as a result of transboundary impacts. Where these uncertainties arise in the context of fisheries management, the new CFP should address this at the right level, including through discussion in regional fora.