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To: MARE OLD CFP CONSULTATION
Subject: Contribution to the consultation 'Citizen

Contribution to the Consultation on the Reform of the Common Fisheries Policy 2009

The Commission asserts the next reform 'must 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.' Accordingly, radical reform must ensure that the basis on which the CFP operates is changed, substituting a user regime for the current regime of exploitation.

4.1

Capacity should be limited by legislation making illegal both Union and Member State aid which: directly or indirectly increases or maintains the capacity or effort potential of the EU fleet; subsidises the construction of new vessels or the modernisation of existing vessels; is granted temporarily because of economic situations, such as the 2008 increase in fuel prices. The automatic validation of de minimis aid should be abolished. The block exemption for small and medium sized fishing enterprises should be abolished so that aid is not misdirected with the unintended consequence of directly or indirectly increasing or maintaining the capacity or effort potential of the EU fleet.

4.2

The framing of the questions in this section assumes that a unified solution to the conflicting demands for ecological sustainability and socio-economic sustainability is possible. However, as these objectives are mutually incompatible and conflict with each other, a single legal instrument will not be able to accommodate and be capable of delivering all objectives. That this is so is demonstrated in the singular failure of the CFP to date.

The Commission observes that ecological sustainability is a basic premise for the economic and social future of European fisheries. This is a key statement and should inform the overhaul of the CFP. The fish resource has been exhausted and cannot support continuing exploitation. Until the ecosystem is restored and fish stocks recover, neither commercial demands nor socio-economic needs can be met from the fish resource.

Although the intention of the current Fisheries Regulation is that priority should be given to socio-economic need, it is not clear that furthering the exploitation of the fish resource benefits poor coastal communities. Employment in the sector is in decline and, as a result of improvements in the 'efficacy' of fishing enterprises, the ownership of fishing rights has been consolidated in fewer hands. This means that the benefits of the EU's investment in fisheries may be enjoyed by industrial, shareholder interests rather than individuals in traditional coastal communities. The mechanisation and industrialisation of the fleet is not the best way to create jobs or deliver wealth to coastal communities.

Socio-economic need should not be the decisive factor in decision-making under the CFP. Socio-economic need should be delivered through regional and rural aid policies which should be able to target monies and resources more easily to benefit poor coastal communities. If this is done, socio-economic considerations may be removed from fisheries instruments which can then be dedicated to the preservation and use of fish stocks. With the focus on the fish resource, policy-determination

should balance the private interest in the commercial exploitation of fish stocks against the public interest in and the cost of protection, preservation and regeneration of the resource for use by current and future generations.

4.3

It is difficult to assess whether the current decision-making process is effective or ineffective while the principles on which decisions are made are so ill-suited to delivering the objective of sustainability. The EU has already agreed that the basis of maritime decision-making needs to be changed and has devised and agreed the Integrated Maritime Policy. Currently, fisheries policy is to be determined independently of the IMP under the CFP. However, if the IMP is to be effective, decision-making in respect of fisheries needs to be subject to IMP control.

In order to integrate fisheries policy with the aims and objectives of the IMP, the membership of all advisory boards should require equal membership for the two conflicting interest groups, those seeking to protect extraction of the living marine resource and those seeking to protect the ecosystem. In order to enforce the policy, the Member State responsible needs to have an economic interest in its offshore resource which will not happen unless the offshore resource is reserved for the adjacent coastal community. While the Commission proposes the return of coastal waters to Member State control, the holding of fisheries as a common resource together with the overriding rights of EU citizenship and establishment mean that the Member States will have little interest in protecting the resource from excessive exploitation.

4.4

The Commission observes that 'the fishing industry has been given few incentives to behave as a responsible actor accountable for the sustainable use of a public resource.' Whilst accountability is desirable, there is a lack of definition here as to what the industry should be accountable for.

While the Commission calls for the accountability for the sustainable use of fish stocks, sustainable use is not the basis on which access to the fish stock is granted. The fisheries regime is not a 'use' regime but a regime of exploitation. A 'resource use' regime regulates access or enjoyment of a resource which replenishes from one season of harvest to the next. Neither 'use' nor 'harvest' describes the mode of extraction permissible under the terms of the CFP which instead calls for sustainable exploitation. The Fisheries Regulation is in line with international, EU and national fishery measures, all of which provide for sustainable exploitation and which may explain why fish stocks have become so depleted. Currently, the maintenance of the fish resource at ecologically sustainable levels is the responsibility of the EU institutions acting to fix the annual TACs. TACs are fixed to facilitate exploitation. This has led to extraction at the level of maximum sustainable yield. However, MSY does not mark a barrier to further exploitation. Fish may be extracted beyond that level to extraction at 'safe biological limit'. While determining both MSY and safe biological limits are a matter of scientific evidence, the information from scientists is not decisive in fixing extraction at these precarious levels. Instead, scientific information is treated as no more than one source of information to be considered alongside information from stakeholders.

If 'sustainable user' were to be made the basis of the fisheries regime, the commercial imperative that currently dictates extraction through the application of the concept of exploitation could be abandoned. The concept of 'user' would recognise the public interest of current and future generations in the resource. User of a resource requires that it is passed on to the next user in the state in which the first user would wish to find it. A user regime would require the responsibility for the health of the resource to be shared by those fixing the rates of extraction and those engaged in extraction from the resource. While the former would be accountable for ensuring extraction levels which permit replenishment, those extracting would be accountable for the health and integrity of the ecosystem from which extraction has been made.

If actors are to be made accountable, it must be decided to whom accountability is to be given. Fish is a public resource and accountability has to be made to the public with regard to current use and also to future use.

If accountability is to be effective, there needs to be a sanction for failure to safeguard the area for which responsibility has been accepted.

4.5

Consideration needs to be given to why there is a culture of non-compliance.

Fishing undertakings are not fishing in their own pool and have little interest in maintaining it for the future – the ‘tragedy of the commons’. With heavy investment in a highly technologised industry, a return on investment is demanded and gives the incentive to the greatest extraction that can be achieved.

Fisheries are no longer a national resource, so member States have little interest in policing and enforcing extraction restrictions. Conversely, where coastal communities are dependent on fisheries for employment, Member States will not want to interfere or restrict the activities of those communities.

The Commission does not have the resources to police the extraction of fish. The well-documented case of Atlantic tuna is a case in point.

It is not possible to police sustainable exploitation. The nature of the CFP needs to change. Effective penalties need to be instituted.

5.1

The Commission observes that; ‘many coastal communities remain dependent on fisheries for their income, some of them with limited potential for economic diversification.’ The Commission wishes to support poor coastal communities, but if waters are fished out and ecosystems destroyed, at some point in the near future, the potential of European waters to support a fishing activity will disappear.

The Commission’s proposal to bar the large-scale fleet from Community support must be adopted. Although the Commission envisages public funding helping small-scale segments adapt to changing conditions in the wake of CFP reforms, fisheries are a finite resource and cannot meet social needs. Communities must be given help to diversify and the funding that is currently made available to poor coastal communities through the Fisheries Fund should be redirected through rural aid so that other employment opportunities can be developed.

5.3

The Commission rightly observes that relative stability does not guarantee that fishing rights remain with their fishing communities. Although the principle was introduced to safeguard the particular needs of regions where local populations are especially dependent on fisheries and related activities, many coastal communities have become disconnected from fishing activity. Fishing activity is no longer reserved for local communities. The principle of relative stability has no relevance to the current fishing activity and should be abolished.

The coastal zone should be reserved to small-scale fishing vessels that are tied by residence in the coastal community where the fishing is being carried out.

5.5

The IMP has been set up to overcome the discord between competing demands on the marine environment. The scheme was devised in part to respond to climate change and the degradation of the marine environment. Fisheries are briefly addressed in one section called 'Maximising the Sustainable Use of the Oceans and Seas'. In this section the Commission indicated it would press for the CFP to take an ecosystem-based approach and limit extraction to MSY. However, the CFP is not made subject to the objectives of the IMP.

The Marine Strategy Framework Directive is to be given effect by the Member States, thus, it addresses matters within the competence of the Member States and does not interfere with policy devised at EU level. While in the implementation of the CFP, the Member States are urged to take account of the MSD, in devising the CFP the EU Institutions act under the terms of the Fisheries Regulation: Paragraph 39 of the preamble to the MSD observes that 'measures regulating fisheries can be taken in the context of the CFP' under the terms of the Fisheries Regulation, the which governs the conservation sustainable exploitation of fisheries. The MSD with its objectives of ecologically diverse seas sustainably used, does not displace or override the CFP which will continue to govern the sustainable exploitation of fish.

Although the MSD envisages the closure of fisheries for the purposes of enabling the integrity, structure and functioning of ecosystems to be maintained, under the terms of the current Fisheries Regulation there is provision for closure only where stocks have collapsed. The objectives of the IMP lie beyond the scope of the CFP and even if legislators wanted to give priority to the environmental considerations of the IMP, it is to be doubted that they could do so lawfully.

As a preliminary to achieving the objectives of the IMP, the regulation of fisheries must be made to accord with the objectives of the IMP and a new Fisheries Regulation must embrace the concept of sustainable use which should be substituted where, currently, reference is made to sustainable exploitation. The new Fisheries Regulation must be stated to have been adopted in accordance with the IMP and that in the event of a conflict between the objectives of the CFP and the IMP the objectives of the IMP prevail.

5.6

High quality scientific research is available and ought to inform decision-making. Although the Fisheries Regulation provides that decision-making will be made on sound scientific advice, ICES information is not treated as definitive, and information from the Scientific, Technical and Economic Committee is not necessarily followed. Scientific advice carries no greater weight than economic, social or technical advice. Currently, socio-economic considerations trump scientific information. Scientific information from independent sources should be treated as expert evidence rather than being dismissed as mere opinion.

5.7

The fisheries sector should be self-financing in the same way as any other commercial sector. No financial support should be given to the industrial sector and it should bear the management and administrative costs associated with its activities. Socio-economic support paid through EU Fisheries Funds or from Member State aid should be directed solely at the support of poor coastal communities with a view to conservation of the fish stock to the benefit of artisanal fishing. The fisheries budget should be transferred to the rural aid budget with a view to diversification away from fish exploitation.

5.8

The external dimension of the CFP should be driven by the amended objectives of the CFP to establish sustainable use of the seas, giving priority to the protection to the ecosystems of which the

fish stocks are part.

Free access to the high seas should be abolished and the EU should negotiate on that basis with in the UN on the amendment of UNCLOS.

It is not clear that Fisheries Partnership arrangements are a benefit to the Partner countries. The industrialisation and drive towards more efficient fisheries in Partner countries, will have the same damaging effect on stocks as experienced in EU waters. Joint ventures and mechanisation transfer no benefit to traditional artisanal fishers. Financial support for such ventures should be abolished.

Knowledge transfer for the protection of ecosystems should be transferred to third countries.

The establishment of marine protected areas should be supported and, in particular, regenerative schemes which bar the extraction of the living resource.

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