

CONSULTATION ON THE REFORM OF THE COMMON FISHERIES POLICY

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SUMMARY

1. If *'Ecological sustainability is a basic premise for the economic and social future of the European fisheries.'* than **'Responsible human behaviour is a basic premise for ecological sustainability'**. The fisheries system (nature and men) should be viewed in a holistic way. Precedence should not be given to one component over the other.
2. Overcapacity is a consequence of economic processes. **Legislation** is unlikely to constrain it effectively.
3. Willingness to decommission a vessel depends on economic conditions, where state of stocks is only one of many aspects. **One-off scraping scheme** is neither efficient nor effective approach to elimination of overcapacity. Overcapacity can be reduced, without significant public funding by:
 - Introduction of tradable user rights;
 - Introduction of payments for access;
 - Creation of a temporary 'compensation fund' to pay the decommissioning premiums and to be financed from the payments for access.
4. Introduction of payments for access is an option to maintain the **relative stability**, i.e. the benefits accruing to each MS.
5. **Promotion of sustainability is an inescapable public responsibility** of EU and national governments. Delegation of this responsibility to private stakeholders requires a well defined system of powers and responsibilities. The nature of the stakeholder organizations makes such delegation it at present questionable.
6. It seems inconsistent to expect the industry to assume greater responsibility and at the same time prescribe that this should be implemented through the **Producer Organizations**. Furthermore, it seems unlikely that the POs will be effectively able to impose restrictions on their own members.
7. It should be recognized that **MSY** is a simplistic concept, not suitable for dealing with complex situations, and that it cannot be defined scientifically.
8. The argument of **'social concerns'** to ease restrictive measures is not based on empirical evidence. The role of fisheries for coastal regions has been repeatedly overestimated
9. The fishing fleets would adapt their production to the **market demand** if they would be less protected from the market forces.
10. Restrictions on catches of fish in EU waters should be accompanied by **eco-tax on fish consumption** to avoid increasing imports and overexploitation in other parts of the world.
11. **CFP should focus** on the fundamental problem of exploitation of a common resource (resolving the tragedy of the commons). All other components of the CFP can be equally well addressed by other EU policies.

1. INTRODUCTION

'Fisheries' is an intricate system of interactions between 'men and nature' in the broadest sense of the meaning of the two words. 'Men' are not only fishermen, but also fish consumers as well as all other stakeholders, while 'nature' covers the entire food chain, including the conditions which maintain it (e.g. water temperatures, currents, etc.). It seems desirable and necessary to view this system in a holistic way, without giving one component precedence over the other. Healthy ecosystem maintains healthy fish stocks and sustainable fisheries. Efficient, profitable, responsible and accountable catching sector, environmentally aware consumers and stakeholders willing to engage in a constructive dialogue are a *sine qua non* for avoiding excessive use of the available resources.

The Green Paper states that *'Ecological sustainability is a basic premise for the economic and social future of the European fisheries.'* It must be also recognized that **'Responsible human behaviour is a basic premise for ecological sustainability'**. Fisheries policy affects in the first instance the human behaviour. It may be relevant to define policy objectives and sustainability constraints within which the society must function. The most direct policy objective should be to promote and assure responsible behaviour. Ecological sustainability in general and sustainability of fish stocks in particular are the constraints within which this behaviour must take place. Science may assist in delineating the boundaries of 'responsible behaviour' and 'ecological sustainability'. The complexity of the system and its multitude of dimensions leave scope for a large number of choices which are inherently political (dealing with dilemmas and conflicts of interest between different groups at given time or between different generations).

In most respects the fisheries system is not different from any other system where men interact with nature. It is only a small-scale reflection of what is taking place on large scale in relation to global warming, CO₂, deforestation and many other processes. It is equally dynamic and the future cannot be foreseen – during the herring moratorium in 1977 nobody expected that 30 years later herring would become the most abundant stock of the European seas. Any policy to be formulated should be evaluated against the autonomous dynamics of the system. A policy is likely to be successful when it is consistent with the autonomous functioning of this system. On the other hand it is less likely to succeed if it attempts to act against these dynamics. History shows that men are not 'gods' able to recreate the nature.

For a successful policy, the catching sector and its (over)capacity need to be approached as it would be done in relation to any other economic sector – i.e. through clear definition of enforceable rights and responsibilities (incl. property rights) and economic incentives (incl. payment for access to a common resource and possibly eco-tax on consumption of fish). It seems necessary to shift from detailed regulations (which are difficult to enforce) to generic, strict and enforceable rules.

Addressing overcapacity has proved to be elusive because overcapacity is not a constant phenomenon, but depends on time and place. The level of technical overcapacity moves up and down with the stocks and it may be very different in different fisheries.

The response to the following points is based on the considerations outlined above.

2. APPLICATION OF LEGISLATION TO CONSTRAIN OVERCAPACITY

The fleet capacity has been constrained at EU and national level since the introduction of the Multi-Annual Management Plans in the 1990ies, the EU fleet register and various other measures. The size of the EU fishing fleet has gradually decreased, but this process was driven by economic performance rather than the state of the stock.

Two types of overcapacity must be distinguished:

1. Short term overcapacity: Level of fishing effort in relation to size of stocks. Legislation on restriction of effort already exists and at least in some cases (management and recovery plans) it proves to be effective.
2. Long term overcapacity, i.e. number of vessels (or GT's). In this respect it is not clear how European or national legislation could deal with the variety of situations in the EU fisheries and the changing conditions in time. Legislation would have to allow the managing authorities to stop vessels from fishing permanently. However, in practice the manager can at best hope that vessel owners will respond to incentives (e.g. decommissioning schemes), but he is not in the position to select and force specific companies to stop fishing.

To conclude, addressing long term overcapacity through legislation is unlikely to be effective. It would require continuous adaptations at ever increasing level of detail, making itself unmanageable.

3. ONE-OFF SCRAPPING FUND

Offering scrapping premiums is a subsidy which leads to undesirable distortions of the market. It sets a bottom on the prices of second hand vessels and can be even considered by the banks as guarantee of the level of loans which they are likely to recover from an already economically weak client. This may lead to an extension of the economic life of a fishing firm rather than its shortening.

Effectiveness of a one-off scrapping fund depends on the objective which it should achieve. If the objective would be to eliminate overcapacity 'once and for all', the effectiveness of the fund is unlikely to be high, for the following reasons:

1. Managing authorities cannot force the vessel operators to apply for decommissioning.
2. Vessel owners apply for decommissioning on the basis of their poor economic outlook, which does not only depend on the state of stocks, but equally so on fish prices, fuel price, costs of other inputs, technological developments, etc. Therefore decommissioning would not necessarily take place in fisheries where the imbalance between stocks and fleets is highest, unless additional conditions in this respect would be imposed.
3. Success of the one-off scrapping scheme would significantly depend on its timing in relation to general economic situation, in particular the fuel price.
4. Elimination of long term overcapacity, to achieve its goal, is likely to be extremely costly to the tax payer. A sufficiently high decommissioning premium would have to compensate the potential future gross value added¹ of the vessels on the basis of its net present value. In that case elimination of only 10% of the EU fleet may cost about 3.5-6.3 billion euro². To be compared to 3.8 billion euro EU funds available for EFF 2007-2013, of which less than 1 billion has been allocated to priority axis 1.

One-off scrapping scheme may be more effective if the EU legislation would determine that no future scrapping schemes would be permitted, i.e. priority axis 1 of EFF would not be continued beyond 2013.

¹ Net income is the sum of remuneration of labour (wages) and capital (profit) plus depreciation and interest.

² This estimation is based turn-over of EU fleets of 7.5 billion euro per year of which about 60% is gross value added. To buy-out 10% of the GVA (i.e. 450 mln euro/year) at a high interest rate of 10% and discounting over a relatively short period of 15 years gives net present value of about 3.5 billion euro. Discounting at 5% interest and over 25 years gives 6.3 billion euro.

An alternative to one-off scrapping fund would be a ‘compensation fund’ (one-off or set up for several years) which would be funded from payments for access by the active fleet. This approach would have several advantages:

- It would not burden public finances. In order to get the fund ‘up and running’ the EU treasuries would make a first contribution, of about 500 million euro, to be gradually recovered during the operation of the fund.
- The principle of payment for access to a public resource would be introduced and would be continued after the abolition of the fund.
- The firms which would remain in operation and would be the greatest beneficiaries of the reduction of the size of the fleet would pay for their own future.

Introduction of tradable fishing rights, prior to the creation of the scrapping fund, could significantly reduce the total costs of the scrapping. Part of the scrapping premium would be contained in the price of these rights.

4. TRANSFERABLE FISHING RIGHTS

Transferable fishing rights will allow redistribution of the fishing opportunities among the producers. In their own right they will not protect stocks from overfishing. There would still remain the need to determine how much fishing can take place, either in tonnes of fish or in units of fishing effort. The speed of the redistribution (and consequently concentration) will depend on the extent in which economies of scale can be achieved in the short and medium term. This will undoubtedly be different in different fisheries.

Introduction of fishing rights will facilitate a general improvement of efficiency of the catching sector. It would also make individual fishing firms accountable for their catches – a significant improvement from the present situation in many MS. If they are distributed free of charge, they will form new assets on the balance sheets of the fishing companies and make them more credit worthy. This fact may extend their economic life, but at the same time it will make it economically easier to stop fishing, as they will be in the position to sell these fishing rights. To facilitate such trade, it may be necessary to create a clearing house, particularly if trade on EU level would be allowed.

It does not seem appropriate to offer special protection to small scale fishermen or communities³. Similarly to general economic trends, consolidation takes place ‘across the board’. Small scale fishermen or communities can create various types of organizations or companies to protect and promote their interests and manage their allocation of fishing rights. This offers them in fact better opportunities to shape their own future than public protection, which is likely to end sooner or later.

Introduction of tradable fishing rights must be accompanied by two other measures:

1. Clear definitions of rights and responsibilities attached to these rights. This has been described in various studies.
2. Introduction of payment for access, if the rights should be tradable in the EU as a whole. In this way the relative stability of the benefits accruing to the Member States from their national resources can be maintained. Otherwise private interests would be able to trade in national natural resources, which is not appropriate and is not practiced in any other natural resource.

Open tradability of fishing rights implies that also ‘non-fishermen’ could acquire these rights, e.g. organizations of leisure fishermen, environmental organization, fish processors, non-EU interests, etc. This can be considered as a positive development. The new entrants would bring new capital into the sector and new dynamics. Indeed there does not seem to be any reason to allow only a ‘closed club’ to exploit a public resource.

³ Several studies have demonstrated that the number of communities which heavily depend on fisheries is very small in the EU, and then it is not always ‘small scale fishing’ (i.e. vessels below 10-12m).

The concentration of the rights, which will follow from tradability, will control and accountability probably easier. It will lead in the long run to a 'European' catching sector and to facilitate this it will be convenient if the MS would agree on a common (or at least similar) definition of the fishing rights. This does not need to compromise the fact that legislation on property is an exclusive competence of the MS.

Considering that many fisheries are managed with quota and effort measures, and it cannot be foreseen yet which of the two may become predominant in the future, the fishing rights should be defined in both these dimensions:

- Individual quota allocation can be defined as a share in EU TAC (although continuation of management on the basis of single species could be questioned).
- Effort allocation may be defined in terms of 'standard' GT-days-at-sea (or kW-days). Standardization is necessary as 'nominal' transfer of effort units between different types of vessels and gears may lead to distortions. Effort units will also have to be attached to a geographic region, in order to avoid migration of fleets.

5. ROLE OF THE MEMBER STATES IN RELATION TO FISHING RIGHTS

Fishing rights are entitlements to use national resources, pertaining to individual MS (they are user rights, not property rights). Legislation on property and use of national resources is an exclusive competence of the MS. Therefore, in order to remain consistent with general national legal systems, definition of fishing rights will have to remain the responsibility of the MS. The Commission could facilitate a process so that the MS agree on an consistent EU system of fishing rights. Although fishing rights as such must be attached to a geographic region, it seems preferable to pursue one common system within the EU, in order to avoid complications in 'border areas'.

6. RESPONSIBILITIES OF INDUSTRY AND GOVERNMENT

Management of natural resources requires making political choices, based on democratic decision making processes. This implies that the governments bear the final responsibility for all issues regarding sustainability. To delegate such responsibility to any significant degree to the industry (or any other stakeholder group), which pursues its own interest (not necessarily parallel to the public interests) does not seem to be consistent with the fundamental role of the government as a guardian of public interests and parliamentary responsibility in this respect.

Furthermore, at present (and most probably also foreseeable future of 5-10 years) the fishing industry is highly fragmented and its organizations are not strong enough to assume public responsibilities. It does not seem likely that change of organizational structure and nature (from lobbying to management) can be imposed by the governments. It has to be awaited whether the industry would be capable of triggering an autonomous process which would lead to such a new organization. Such process needs evidently time, energy, will and recognition of its need.

7. ROLE OF PRODUCER ORGANIZATIONS IN RELATION TO FISHING RIGHTS

In the light of the above, expecting POs to assume an active role in fisheries (self-)management and does not seem to be next logical step from their historical background, which lies in the Common Market Organization. The role of CMO policy has decreased, which has further reduced the role of the POs. Active role in fisheries management means that the POs would have to control and impose restrictions on their members, a quite a different task from providing price support.

If an EU-wide system of tradable fishing rights is introduced, it can be expected that the position of the POs will come under further pressure. The economic rational will require that the producers organize

themselves in a way which will be best suited for the new situation, which may be based on many different considerations, not only stocks but also for example markets. Such organization will be almost certainly international. The first step is that the industry must organize itself on the basis of its own considerations. To define already at this stage how the industry should be organized is not only premature. It is also internally inconsistent – the governments / EU cannot ask the industry to assume greater responsibility and at the same time prescribe how this should be done.

8. MSY AS A POLICY OBJECTIVE

MSY is a simple (static / steady state, single-species) theoretical concept, which can be barely applied in practice. In principle in multi-species situations MSY does not exist or cannot be determined, because MSY is not and cannot be properly defined. This has been illustrated by various authors, but especially by ICES where MSY as a measure of quantity of fish (tonnes) has been interpreted as a level of fishing mortality (percentage) and even that is not known for many stocks.

The following specific reasons can be put forward why MSY is not suitable as a guiding policy principle:

- Maximum yield cannot be achieved for ‘all species’ simultaneously. Consequently ‘political’ decisions are required to specify which species should be used as a benchmark. Such political benchmark can be always disputed by different stakeholders.
- Despite intensive scientific research, it was not (yet) possible to estimate ‘yield’ (in terms of tonnes of ‘fish’) empirically. One of the reasons is that recruitment of a fish stock is random, statistically independent of the size of the stock.
- All three terms in MSY would require further definition:
 - Maximum – needs to be related to something – tonnes of fish, tonnes of specific species, production value, net benefit to society, and over which period.
 - Definition of sustainability depends on risk perceptions and acceptance of natural or man-made fluctuations, etc. Danger of extinction is probably the only ‘bottom line’ where sustainability has an absolute meaning, but that is not an issue under MSY approach.
 - Yield is in principle a utilitarian concept. As such it is not independent of to whom that yield is allocated.

This brief evaluation shows that MSY is not an objective measure and that political decisions are required on all aspects.

MSY could be applied as a policy benchmark if it would be elevated to a higher level of aggregation, namely if it would be interpreted as the amount of energy (calories) or protein produced by the environment for human use. This would indeed be a suitable measure from the perspective of food production, although this is undoubtedly far fetched for the present stage of the policy discussion.

Despite international commitments (Johannesburg Summit), focus on MSY as a policy objective is likely to lead to controversies, as this concept is not suited for such purpose in practice.

9. SOCIAL CONCERNS

Since approximately 1990 various consecutive EC commissioned studies regarding the role of the fishing industry in coastal regions have demonstrated that the number of regions where fisheries play an important role for the local economy is very small and decreasing. The argument of ‘serious social consequences’ has been repeatedly misused for reasons of political convenience to avoid imposing the necessary restrictions. Furthermore, artificial protectionist measures may avoid short term economic pain, but are also likely to lead to much more difficult adaptation process later on. Continuous autonomous restructuring processes are taking place in the economy and society continuously and the strengths lie in the ability to adapt. It is questionable whether a policy should attempt to protect fishing communities from inescapable process of change.

New opportunities for adaptation arise in areas entirely alien to the CFP (industry in general, trade and services). Fishermen who lost their job and must shift to another profession are not different from any other unemployed person. Therefore policies regarding social issues, training, promotion of alternative economic activities, etc can be probably better implemented by other EU and national policies.

10. PRODUCING FOR THE MARKET

Introduction of fishing rights will in the end steer the production of the fishing fleet towards the demand from the market. It may be expected that gradually new trading patterns will arise, based on contract fishing, eco-labelling, tracking & tracing requirements, etc. Furthermore, large interests (e.g. multinational processors) may acquire part of the rights to assure themselves of supplies according to their quality requirements. This process may be best facilitated by making sure that administrative regulations do not impose constraints on it. Public involvement should focus on facilitation (and if necessary corrections) of the market processes, e.g. through rules on eco-labelling.

In addition, it can be argued that overfishing is a consequence of market demand, or in other words the consumer price of fish does not reflect its ecological scarcity or sustainability of production. The fish prices are too low, partly as a consequence of international trade and development of aquaculture. Consequently, it would be ecologically desirable to discourage fish consumption, which would be achieved by introduction of eco-taxes on consumer level.

11. REGIONALIZATION

Discussion of options for regional management and creation of RACs has created an impression among many stakeholders that decisions on fisheries management could be taken at regional level. However, considering the legal framework, in particular the decision making procedures set in the Treaty of Lisbon and the fact that CFP is an exclusive competence of the EU, it seems very questionable that regionalized decision making is a feasible option. In order to create clarity and avoid frustration among the stakeholders, it seems of utter importance to define the possibilities and the limitations of regional management as soon as possible. Evidently, at such occasion it could be also analysed what the consequences would be if the CFP competences would be given back to the Member States.

12. RELATIVE STABILITY

Relative stability is a confirmation of the entitlement of the Member States to their natural resources. In view of the mobility of fish stocks and the shared seas, such special arrangement is required at EU level. Therefore relative stability needs to be adapted to the new conditions which may arise as a consequence of the introduction of a system fishing rights.

Until present the MS benefited from their quota allocations as only their nationals were entitled to exploit them (disregarding the limited level of reflagging / quota hopping). This will not be the case any more once the fishing rights would be openly tradable. One of the ways (if not the only one) to allow the national states to benefit from their natural resources would be to introduce payments for access. This can be done in different ways:

- Auctioning exploitation licenses on annual or multi-annual basis;
- Application of a fixed price per unit of fishing effort, per vessel, per unit or catch, etc.;
- Imposition of taxes on production.

13. AQUACULTURE

The EU aquaculture sector has been stagnating for several decades, despite the fast development of this activity in other parts of the world, particularly in developing countries and despite continued EU and national stimulation policies. The reasons are well known: competition for space with other users, restrictive regulations, shortage of suitable locations, etc. Successful companies move their new production facilities outside EU, as the conditions are often more attractive there. The EU has a services orientated economy, where primary activities (farming, fishing, aquaculture, etc.) are economically less attractive due to their lower productivity (earning capacity). Therefore, from economic perspective it seems logical that aquaculture has not been thriving in the EU and is unlikely to do so in the future. Consequently support to aquaculture deserves critical re-evaluation before it is continued, apart from the fact that subsidies as such have a distorting effect and are not desirable.

14. INTERNATIONAL DIMENSION OF CFP

In order to minimize risk of overexploitation and to protect environment and fish stocks the EU may opt for a relatively conservative approach to fisheries management, i.e. setting fishing opportunities at a relatively low level and accepting the adverse economic consequences for the EU fisheries sector. Relatively low fish production is likely to lead to higher prices on the EU market and attract additional imports from other parts of the world. This implies new opportunities for the producers outside the EU and consequently also danger of excessive fishing pressure on stock elsewhere in the world. Clearly, most countries in the world do not have the ability to control their fisheries as strictly as the EU to avoid overexploitation of their stocks. This creates a real dilemma on international scale – protection in the EU leading to over-exploitation elsewhere

To address this undesirable development two measures need to be considered:

1. If the EU decides to reduce the catches of fish from its seas, it should also restrict its fish consumption by imposition of an eco-tax on consumer prices.
2. The relation between global overexploitation of fish stocks and international trade should be tabled within the WTO / Doha trade negotiations. In case of a relatively fragile resource like the fish, there may be good sustainability reasons to restrict international trade for wild caught fish. Trade in farmed fish is evidently another matter and does not need such restrictions (unless it is accompanied by environmental deterioration on another level).

15. CFP FOCUS

CFP can be expected to achieve greater effectiveness and efficiency if it is well focused. Therefore it may be desirable to return 'back to basics' and to redefine its scope and its 'raison d'être'. CFP was created to organize exploitation of a common resource and divide it among the Member States. It was created under the recognition that the principle of 'mare liberum' would lead to a collapse of stocks and fleets and would be a source of conflicts. The need for such an arrangement in the EU seas is still present and will remain so in the future. CFP should focus on creation of cooperative arrangements to facilitate sustainable exploitation of shared stocks and to prevent the 'tragedy of the commons'.

At the same time, CFP included policies regarding fish processing, aquaculture, markets, regional development, and third countries, which are only related to the 'problem of shared stocks' as they also deal with 'fish', but in an entirely different context and for entirely different reasons. Fish, once landed, is a product like all other products. The rationale of including all other aspect of 'fish production' under CFP should be re-evaluated in order to allow focus on the core problem