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31st December 2009

**The Fisheries Commissioner,
European Commission,
Directorate-General for Maritime Affairs and Fisheries,
“CFP Reform”
B-1049 Brussels
Belgium**

Dear Sirs,

RESPONSE TO GREEN PAPER ON REFORM OF THE COMMON FISHERIES POLICY

1. Introduction

The SWFPO Ltd was established and registered in 1974 in the UK as a Fish Producer Organisation under the terms of the EU Common Organisation of the Market in Fisheries Products. The Organisation serves the needs mainly of the inshore fishing communities of Devon & Cornwall. However, the SWFPO Ltd has members based from as far away to the east in the North Sea Thames Estuary and northwards to west Scotland.

The fisheries of our members are highly varied, extending from the very close inshore and artisanal to those such as beam trawlers and scallop dredgers working sometimes at a considerable distance from their homeports. Members with larger vessels sometimes base their vessels in ports local to remoter fishing grounds for the seasons. Members use a range of gear types, static nets, handlines, conventional otter trawls, scallop dredges and beam trawls. Some such as those engaged in scalloping, have very little reliance (less than 5%) upon quota species for their income, others, such as the beam trawler operators rely much more heavily on quotas. Over the years, our members have reacted to the constraints of the CFP quota system and have diversified onto other lucrative non-quota fisheries, such as cuttlefish and scallops. Members holding the appropriate Defra fishing permits and having an effort

allocation have access to quota opportunities in virtually all ICES areas, having been highly nomadic in the decades of the 70s and 80s, during which time they developed fishing track records.

In 1983, the CFP was set up with the following aims:

- Monitoring fish stocks
- Protecting the standard of living of those in the fishing industry
- Securing the interests of the consumer
- Developing a responsible approach to fishing and developing a sustainable approach to the fishing industry in Europe
- Monitoring the environmental impact on the eco-systems and marine environment as a result of fishing activity

Under the post-1983 regime of fisheries management, SWFPO Ltd, along with other UK POs, has become a sub-contractor in the UK system of quota uptake control. A fair proportion of the UK national quota is distributed to each PO according to the historic performance of our members, in much the same way as the national quotas are derived from the TACs under the Relative Stability of the 1983 Agreement. We have seen at first hand the effects of CFP decision-making, some good, others not so.

We believe the SWFPO Ltd is uniquely placed to comment on the impacts of the “instruments of the CFP (post 1983)” on fleets and communities. That phrase is used because the real CFP - Equal Access to the Common Resource – is not the 1983 Agreement and neither is it the system of measures implemented in 1992 and 2002. The 1983 Agreement is derogation from the general rule of equal conditions of access to fishery resources and the principle of non discrimination laid down in Article 40 of the Treaty of Rome and is granted by default in the Accession Treaty of each Member State of the EU.

For the purposes of this response, from now onwards in this document and unless otherwise stated, “CFP” should be taken to mean “instruments of the CFP (post 1983)”.

2. General Remarks: The Need for Reform

The founding principles behind the CFP are noble and of long-standing. Their means of implementation have been reformed at least once each decade since 1972, but still the CFP has not succeeded completely in reaching its objectives. SWFPO Ltd agrees that there are ongoing problems in all sectors, there are still major challenges to be faced and in fisheries dependent regions there is unacceptable fragility in both social and economic terms, but we believe now is not the time to abandon the current arrangements agreed in 2002. Although there is great temptation to do so, the risks of “throwing out the baby with the bath water!” are far greater than those implied in biding time and taking incremental steps to success. The SWFPO Ltd believes that the instruments designed and developed over the decades have been the right ones, implemented poorly.

The main changes made to the CFP in 2002 included:

- moving towards a longer-term perspective on fisheries management by introducing recovery and management plans;
- increased commitment to integrate environmental concerns into fisheries management;

- increased stakeholder involvement by establishing the Regional Advisory Councils (RACs);
- a new fleet policy with national ceilings under which Member States are free to choose how they conduct their fleet policy;
- introducing fishing effort limits as a tool in fisheries management, notably in the context of multiannual recovery plans;
- more selective use of public funds to support the development of the sector by discontinuing the use of public aid to construct new vessels, by a structural policy more coherent with CFP objectives and with more emphasis on diversification in coastal communities;
- new bilateral fisheries agreements aimed at developing partnerships with the third countries concerned.

Those 2002 reforms arrived after extensive consultation and should not now be abandoned. Instead they should be revisited, strengthened and recycled. The managers of the implementation strategies of the post 2002 CFP have relied too heavily on centralised command and control. This approach to managing diverse and complex fisheries could never succeed. Even very recently the example of the proposed revisions of the Technical Conservation Regulation as “one-size-fits all”, was postponed by Council to allow more time for intelligent review based on conditions in regional seas. Other ongoing modifications, for example to the Control Regulation 2009, have been adopted by Council only very recently and their affects on CFP objectives will not be measurable until beyond 2012.

The Commission now considers there have been five main structural failings:

- deep-rooted problem of fleet overcapacity;
- imprecise policy objectives resulting in insufficient guidance for decisions and implementation;
- a decision-making system that encourages a short-term focus;
- a framework that does not give sufficient responsibility to the industry;
- lack of political will to ensure compliance and poor compliance by the industry.

This list is itself indication of the disdain the Commission has for the achievements over the decades of many Member States and associated fishing industries. The Commission pillories Member States for doing what the CFP requires of them, including seeking ways to protect the standard of living of the fishers while securing the interests of consumers.

Whilst it is fact that “Documenting, deciding, implementing and controlling the vast and diverse European fisheries through such micromanagement is increasingly complex, difficult to understand and very costly to manage and control.” it is a cop-out to blame only the Member States and their industries. The Commission cannot deny responsibility for their part in management failures.

SWFPO Ltd agrees that this reform offers opportunity to achieve CFP objectives over the next decade, but managers must not continue to be dislocated from the seas, the resources and the communities over which they have had unfettered dominion. Their approach to solving the complex problems inherent in fisheries management has served only to alienate and disenfranchise the communities they should have protected. The CFP post 2012 must be regional, relevant and responsive. SWFPO Ltd believes that fundamental to success the Regional Advisory Councils must be vested with management responsibilities and micro-management from the centre must be replaced. Also, if the CFP is to be incorporated

effectively into the Integrated Maritime Policy (IMP), regional and local fisheries authorities must be prepared to commit themselves in this area, and make a real contribution.

SWFPO Ltd agrees that reform of the CFP is required, but any changes must be anticipated, measured, proportionate and achievable without further disruption to dependent communities. The revised CFP must provide a plan for orderly transition over many years allowing growth to fishing and related enterprises where and when appropriate. Such planning cannot be done without involving all those who have financial investments at stake as well as those with responsibility for social wellbeing and those whose interests are driven by environmental considerations.

3. Addressing the listed failings:

Fleet over-capacity.

Capacity limitation was, for many years, addressed by the MAGPs. These had weaknesses, but much was achieved structurally by their guidelines. MAGP IV incorporated segmentation and clearly defined tonnage and power parameters. Member States had fleet targets in broad proportion to opportunities defined by TACs and Quotas. Whilst not perfect, they were less open to abuse than the looser system under FIFG that followed MAGP IV. Many Member States achieved their MAGP objectives, but those that failed to address fleet over-capacity were given *carte blanche* when the entry/exit regime took over.

It is our view that any future use of structural funding should include reintroduction of MAGP targets at Member State level, as a secure measure of targeted and cost-effective use of limited cash incentives. These targets would be mandatory and the funding would be dependent on achieving the appropriate levels to match resource opportunities. There should be no funding for fleet renewal, unless with significant scrapping to rebuilding ratio.

Any motivation towards “rights-based-management” should remain a competence at Member State level. It does not require central intervention at CFP level. A similar scheme has been used to good effect in the UK to help move towards better balance between fleets and opportunities. Under EU legislation, proven by the “Factortame” judgement, there are no water-tight non-discriminatory safeguards for vulnerable fishing communities. Many of the pitfalls revealed in this keystone ruling might have been avoided if there had been less penny-pinching in the early days of the CFP and if Member States had taken seriously their responsibilities. There is still much today that can be learned from the lessons of first ten years of CFP to 1992, but centralising fleet and opportunity policies to EU level would not be way.

Imprecise policy objectives; a decision-making system that encourages short-term focus.

It is not so much the policy objectives that are imprecise; rather it is the means of their implementation. A new political framework must be devised with clear objectives and with arrangements for taking medium-term and long-term decisions, making use in specific cases of the comitology procedure and, wherever practicable delegating the regulation of fisheries activity by decentralisation to the Member States, to the regions, and to self-management within the sector. There is also a need to enhance the sector's governance, to define enforcement mechanisms that provide a surer guarantee of compliance with the rules, and to foster a sector that is more committed to managing and implementing CFP measures and assumes greater responsibility in this respect. The CFP post 2012 must be regional, relevant and responsive. SWFPO Ltd believes that fundamental to success the Regional Advisory

Councils must be vested with management responsibilities and micro-management from the centre must be replaced.

A framework that does not give sufficient responsibility to the industry; lack of political will to ensure compliance and poor compliance by the industry

The 2002 reform of the CFP recognised the need for a stronger regional dimension and the Regional Advisory Councils have far exceeded expectations. The process should now be complemented by redefining RACs as Regional Seas Management Authorities with full authority to decide how best to manage the fisheries within their jurisdiction. Without taking this step, the mistrust and shortage of goodwill that has characterised the last three decades will continue. Conversely, by taking this crucial step, the decision-making process will move closest to those on whose livelihoods they depend. More responsible behaviour and compliance will follow full stakeholder engagement, involving social, economic, biological and political expertise.

Furthermore, the adoption of Long Term Management on Regional-Seas basis is critical for all in a reformed CFP. Effective and balanced, all-inclusive stakeholder participation in the early stages is critical to the success of adaptive fisheries management in general and to the development and implementation of LTMPs. This will allow sensitive monitoring and timely review to ensure measures continue to be appropriate.

4. Total Allowable Catches/ Relative Stability/ Effort Control

There are flaws in the TAC and Quota system and in the distribution keys of Relative Stability. Discards are the worst and most visible symbol of this keystone of the CFP. However, replacing one iniquitous system with another based on effort limits would not provide solution. There are those amongst the Member States who agreed the first CFP in 1983 who have never been fully content with the mechanism. Hague Preference, for example, has always been shrouded in mystery and the 1973 to 1978 reference period for Member States activity defies logic to this day.

The fact remains that any replacement system would firstly have to recognise the three decades of management based on Relative Stability, which also embodied from the outset the mechanism for transferring, without prejudice, under-utilised quotas from one Member State to another. International swaps and transfers have always been conducted in conditions of no prejudice and any attempt now to base allocations of quota or of effort limits based on a more recent period of catching activity and /or fleet structures would be doomed to failure once challenged in the Courts.

Any alternative approach would have, as a minimum requirement, to qualitatively equal or surpass the current system. Any change from the TAC and Quota fundamentals 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. None has yet been proposed.

Any motivation towards “rights-based-management” should remain a competence at Member State level. It does not require central intervention at CFP level. A similar scheme has been used to good effect in the UK to help move towards better balance between fleets and opportunities. In some member states some quite sophisticated systems of rights based management already exist. Such systems are compatible with the TAC and Quota 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.

5. Discards Policy

Skippers discard fish not for one but for a variety of reasons, including compliance with CFP regulations, such as minimum sizes, excess bycatch, quota excess or having insufficient quota. There can be no single solution to the problem of discards and how to bring about their reduction towards zero. Nevertheless, by intelligent use of incentives, discards can be significantly and progressively reduced. Discard levels and reduction targets must be assessed for each fishery and embodied in LTMPs. The key is close cooperation between scientists, fisheries managers, environmental groups and fishermen in designing solutions for specific categories of discard. The use of catch-based quotas for individuals undergoing total monitoring is an interesting and recent development that may influence the future CFP.

6. 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 Atlantic and Western waters contain few stock assessments in which there is a high degree of confidence. Addressing this core weakness is essential to ensure necessary confidence in policy implementation.

7. Differentiated Management Regimes

With regard to differentiated management, the SWFPO Ltd 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 at local level and in the fullest recognition of local conditions.

Such differentiation has no bearing on whether or not to retain the 6 mile and 12 mile limit derogations from equal access. SWFPO Ltd is unequivocal in its support for the retention of these limits.

8. Markets

The Common Market Organisation (CMO) is overdue for renovation. It should remain at the core of the CFP to ensure coincidence between the economic, structural and stock management policies.

SWFPO Ltd already takes seriously its devolved quota management functions and is striving now towards achieving fully certified sustainability of catches, maximised quality control at sea, ultimate traceability through the supply chain to consumer and maximum income for members. In this regard, the role of the POs should be fostered and prioritised over other marketing models as they are naturally the market-oriented bodies representing the catching sector.

SWFPO Ltd considers that aspects of traceability, food safety and control of catching activity must be considered as key elements throughout not only the CFP, but for all fish and fisheries products entering the EU from third countries. SWFPO Ltd supports the establishment of mechanisms within the CFP and in GATT to promote certification schemes that guarantee chain of custody from boat to throat.

Jim Portus,
Chief Executive SWFPO Ltd.