

# Review of the Balance of Competences between the United Kingdom and the European Union

## Fisheries Evidence Submitted

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This document is a record of the evidence submitted to the Department for Environment, Food and Rural Affairs call for evidence on fisheries.

A report on this evidence can be found at:

[www.gov.uk/government/consultations/fisheries-review-of-the-balance-of-competences](http://www.gov.uk/government/consultations/fisheries-review-of-the-balance-of-competences)

The Report is part of the UK Government's Review of the Balance of Competences between the United Kingdom and the European Union.

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## Introduction and questions

The Call for Evidence period ran from 21 October 2013 to 13 January 2014. In total we received 51 responses including evidence submitted through workshops and bilateral meetings. Of these 10 were submitted through the online questionnaire. There were five workshop notes and four bi-lateral meeting notes. The remainder of responses were sent by email.

The Call for Evidence questions consisted of eight questions included below.

### **Where should decisions be made?**

**Q1** At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the

- i. EU level?
- ii. regionally?
- iii. Member State level?

### **Advantages and disadvantages**

**Q2** How does the EU approach to fisheries management, including recent reforms to the Common Fisheries Policy

- i. benefit the national interest?
- ii. act against the national interest?

**Q3** How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?

### **The external dimension**

**Q4** Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them

- i. help the UK's national interest?
- ii. hinder the UK's national interest?

### **Current legislation**

**Q5** How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?

## **Funding**

**Q6** What evidence is there that rules around support for the fishing industry through EU funds

- i. help the UK in meeting its management objectives, or the wider goals of the Common Fisheries Policy?
- ii. hinder the UK in meeting its management objectives, or the wider goals of the Common Fisheries Policy?

## **Internal market and economic growth**

**Q7** How does access to EU markets and adherence to common standards on fisheries products

- i. benefit UK businesses, both domestically and when exporting abroad?
- ii. hinder UK businesses, both domestically and when exporting abroad?

## **Future challenges and opportunities**

**Q8** Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?

## Angling Trust

### What types of decisions should be made at:

#### i. EU level?

Being either migratory or wide ranging, and without respect for member state boundaries, most fish stocks within EU waters are shared between EU member states and non-EU nations. In fact this consultation's call for evidence confirms that the only stocks fished exclusively by the UK are the Clyde, Thames and Blackwater herring stocks.

A system of management which attempts to find common solutions to problems that cannot be solved solely at the national level is therefore crucial if European fish stocks are to be managed sustainably. There is no evidence that, should the UK achieve exclusive competence for fisheries management in UK waters, the UK would achieve better results than the 'broken' Common Fisheries Policy; the decline and overexploitation of many stocks commenced, and was well developed, many years before the UK signed the treaty of Rome and the CFP was introduced. To curb overfishing in an efficient manner requires an even and equal effort from all member states. In this sense, "the CFP—for all its flaws – is a step in the right direction." (The EU's Common Fisheries Policy: the case for reform, not abolition, Centre For European Reform, 2005).

#### ii. regional level (groups of Member States)?

Centralised decision making in Brussels in a 'top down', 'one-size-fits-all' approach has failed to reflect the huge variations in fishing practices across Europe and the CFP has been slow to respond to changing conditions (ten year review cycles don't help to provide adaptive management). Any EU-wide policy should act as a framework with overarching objectives which leave discretion on management to regional bodies or member states on how these overarching objectives should be enforced and achieved. It is hoped that regionalisation, as part of the 2013 reform package will introduce greater flexibility into the system which would allow the huge variation in member states' fishing sectors to be taken into account, while simultaneously achieving the goals of sustainable exploitation of fish stocks and providing support to fishermen.

On this basis regional management should play an increasingly important part therefore in management of stocks at a regional or sea area level. However, the failures to agree fisheries management plans on the Dogger Bank, and the current deadlock on how to manage European bass, do not provide encouraging evidence of how regional management, under the framework of the EU, has worked in the past or how successful it will be in the future. Despite this there is even less evidence to demonstrate successful regional agreements made on a bilateral basis outside of the framework of the CFP.

### **iii. Member State level?**

Conservation measures taken by Member States should be applicable to all vessels fishing within that Member states waters.

The inability for the UK to take conservation measures that apply to all vessels (vessels of other member states cannot be disadvantaged) within the 6-12nm limit has worked against the national interest of the UK. This can be demonstrated by the 2004 ban on pair trawling in area VIIe due to high levels of cetacean by catch in the bass fishery. The ban could not be applied to non-UK vessels resulting in an unsatisfactory scenario where UK vessels were being disadvantaged while at the same time the protection measures for cetaceans were being undermined by non-Uk vessels continuing to pair trawl.

## **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy?**

### **i. benefit national interest?**

The UK's national interest in EU fisheries is fundamentally reliant on healthy and productive fish stocks in EU waters. To curb overfishing in an efficient manner requires an even and equal effort from all member states. There is therefore a fundamental interest in being part of, and having influence over, the management of these stocks through the CFP – or any other common EU policy on fisheries management. However, the short-term decision making that has blighted the CFP, and which is largely a result of the influence of politics over science, means that for too many years the economic and social considerations of the CFP have taken precedence over environmental considerations.

The requirement for the EU and its member states to achieve good environmental status by 2020 through the Marine Strategy Framework Directive is another example of where even and equal effort is required by all member states. The achievement of GES, in terms of fisheries and other descriptors is something that would be monumentally difficult to achieve with Member states acting alone. The benefit to the UK's freshwater fisheries can be evidenced by the requirements of the UK to adhere to the requirements of the Water Framework Directive. Implementing these requirements independently at a UK level would most likely have proved to be politically undeliverable. It is hoped that the MSFD, when fully implemented, will achieve similar benefits to the UK through the ecosystem goods and services provided by the European marine environment achieving good environmental status.

### **ii. act against national interest?**

From a recreational fisheries perspective, the failure of the EC and the EU to recognise recreational fisheries as a valid stakeholder in marine fisheries

management, and take measures to support and develop it through the CFP, means that England's recreational fishing sector (despite generating a total estimated annual spend of £2.1b and supporting 24,000 jobs (Sea Angling 2012 – a survey of recreational sea angling activity and economic value in England, Defra, 2013) has never directly benefited from EU fisheries management. The failure of the CFP, and the EU, to recognise the value of including management measures that would support and develop the recreational sector, and the species of interest to it, has undermined the economic, health, environmental and community benefits that could be accrued by all member states.

In theory, the management of many migratory and wide-ranging European marine fish species through a common policy benefits the UK by protecting shared fish stocks from over-exploitation by other member states. In reality the CFP's TAC and quota system has overseen a sustained and dramatic decline in fish stocks across Europe with a negative impact for the UK's national interest. The influence of politics in the TAC and quota system, such as the failure of the Council to adhere to scientific advice when fishing opportunities are agreed, has resulted in long term decline in fish stocks and the UK's fishing sectors and communities reliant on EU fish stocks. Evidence by the University of York demonstrated that, over a 23 year period, politically agreed quotas exceeded scientific advice by an average of 33 per cent. In addition, over the same period, due to evidence of the threat to fish stocks, 72 moratoria on fishing were recommended by scientists – not one was implemented by politicians.

The two other main pillars of the 2013 reform package, commitments to fish at sustainable levels (MSY) and to phase out discards, are likely to result in short term difficulties and changes in practices for the UK's catching sector. However, the long term benefits of these reforms are intended to benefit both fish stocks and the catching sectors of all member states. The collective benefits of these reforms being made across the EU's fleets mean that every EU member state has a long-term economic interest in remaining part of the Common Fisheries Policy.

Finally, the EU's approach to implementing the CFP's fishing rules – relying on each member state to take effective and consistent measures – has led to mistrust of the system and between member states that each one is being disadvantaged by the failure of national authorities in other member states to enforce the regulations on their own fleets (often for political reasons). However, there is a strong argument that this is less a failure of the EU's approach to fisheries management and more a failure of member states to enforce the rules of the policy.

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

The UK's recreational fishing sector benefits from not being subject to the CFP's TAC and quota system (the inclusion of recreational fishing in the CFP need not involve inclusion in the TAC/ quota system). However, the failure of the system, and the inability of the recreational sector to influence the EU management of important recreational species, means that the quality of the UK's recreational fishing has declined over the course of many decades resulting in a negative impact on the UK's national interest as the economic and social contribution of increased recreational fishing participation is lost.

The creation of 'community waters' managed by the EC originally helped the UK to mitigate the loss of fishing grounds caused by the action of some states adopting 200nm EEZs, including Iceland, in the 1970s. At that time the UK was a beneficiary of the way fishing opportunities were decided due to preferential treatment as a Member State particularly dependent on fishing and losses of catch resulting from the exclusion of community vessels from the waters of third states, following the extension of fishing limits to 200nm. Today Britain's commercial fishing sector benefits from access to the EU market and in many cases it is strongly dependent on this export market to the EU. In addition, the UK benefits from the CFP through imports (approximately 75 per cent of fish consumed in the UK is imported, much of it coming from the EU). Therefore, in order to maintain the diversity and quantity of fish and fish products demanded by UK consumers, access to the EU market through the CFP plays a large role. In addition, Net Benefits (a report published in the UK in 2004 by the Prime Minister's Strategy Unit) predicated that if the UK continues to enjoy access to waters of other EU states it could benefit by £11b-£19b over the next 50 years.

Finally, the UK also benefits from the Commission negotiating access to non-EU members' waters on behalf of the entire EU. Should the UK ever choose to withdraw from the CFP, and restrict access of other EU members to UK waters, in addition to having no influence over the EU management of stocks of high importance to the national interest, the UK would also risk losing access to all other EU member states' markets while lengthy and complicated bilateral access negotiations to re-establish access were agreed – if at all.

### **Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

#### **i. help the UK's national interest?**

The role of the EU in facilitating negotiations between the EU and non EU nations, and supporting the UK as an EU member (such as the ongoing dispute between the UK, Iceland and the Faroes over mackerel) should not be underestimated. It should also be noted that UK access to this quota in the first instance is the result of being members of the EU and subject to the CFP.

## **ii. hinder the UK's national interest?**

The external dimension was largely overshadowed by other factors in the recent CFP reform. Agreements with third party states such as Norway benefit the UK catching and processing sectors as well as consumers. Other examples, such as the failure of the EU to properly oversee agreements with third party states such as Somalia have been attributed to contributing towards the rise in piracy in the Indian Ocean with a very negative impact on the UK's national interest in terms of shipping, fishing, public safety and national security. A report produced by the United Nations in 2006 described an international "free for all" off the coast of East Africa with French, Spanish and Italian owned tuna boats reportedly fishing within Somali waters without official agreements. Whilst this may be an extreme example it does serve to illustrate the wider, social and economic impacts that international fisheries mismanagement can have.

The current ongoing dispute between the UK, Iceland and the Faroe Islands over access to mackerel quota has highlighted the fragility of these third party agreements and the exposure to changing climatic conditions. Continued overfishing of mackerel quota or a relinquishment of UK quota could both be termed as negative impacts to the UK's national interest.

### **How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

The inability for the UK to take conservation measures that apply to all vessels (vessels of other member states cannot be disadvantaged) within the 6-12nm limit has worked against the national interest of the UK. This can be demonstrated by the 2004 ban on pair trawling in area VIIe due to high levels of cetacean by catch in the bass fishery. The ban could not be applied to non-UK vessels resulting in an unsatisfactory scenario where UK vessels were being disadvantaged while at the same time the protection measures for cetaceans were being undermined by non-uk vessels continuing to pair trawl.

In addition, the allocation of TAC at Member State level, based on historic landings (and used as a means of fairly allocating quota in the past), is also acting as a disincentive for individual Member States to take national conservation measures. This is currently being highlighted by the discussion at EU level on the management of European bass where the UK and Ireland, having taken conservation measures to reflect local concerns (bass nursery area legislation in the UK and a limitation on all commercial bass fishing in the Republic of Ireland), are then disadvantaged by the EU's traditional allocation key of the TAC.

### **What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

The vote on EMFF funding taken by the European Parliament in October 2013 went in favour of providing more funds for data collection and control and enforcement – both areas that can benefit the UK's interests. In the example of European bass, funds provided by the EU could have allowed the pre-recruit surveys in the UK and beyond to be continued after they were halted by the UK administration due to financial constraints. Had this been the case the decline in bass in northern European waters, which is now of a high priority to the EU, could have been detected at an earlier stage.

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

Funds provided by the EU for the decommissioning of vessels, in order to reduce fleet over capacity, were in the past used to finance the purchase of newer, more technologically advanced, vessels; thereby maintaining, or even, increasing fishing effort across the EU fishing fleet and fundamentally undermining the UK's objectives and responsibilities through the CFP to reduce fishing effort and restore depleted fish stocks.

The European Parliament's vote in October last year on the funding of the CFP through the European Maritime and Fisheries Fund (EMFF) went in favour of funding engine replacement and business start-ups for young fishers – something that will only serve to work against the UK and other member states as they seek to reduce their fleet sizes and work towards achieving maximum sustainable yield. However, the votes by MEPs in favour of this were presumably taken on the assumption that this would benefit local fishing fleets and the catching sector – arguably not in the national interest.

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

The creation of 'community waters' managed by the EC originally helped the UK to mitigate the loss of fishing grounds caused by the action of some states adopting 200nm EEZs, including Iceland, in the 1970s. At that time the UK was a beneficiary of the way fishing opportunities were decided due to preferential treatment as a Member State particularly dependent on fishing and losses of catch resulting from the exclusion of community vessels from the waters of third states, following the extension of fishing limits to 200nm. Today Britain's commercial fishing sector benefits from access to the EU market and in many cases it is strongly dependent on this export market to the EU. In addition, the UK benefits from the CFP through imports (approximately 75 per cent of fish consumed in the UK is imported, much of

it coming from the EU). Therefore, in order to maintain the diversity and quantity of fish and fish products demanded by UK consumers, access to the EU market through the CFP plays a large role. In addition, Net Benefits (a report published in the UK in 2004 by the Prime Minister's Strategy Unit) predicated that if the UK continues to enjoy access to waters of other EU states it could benefit by £11b-£19b over the next 50 years.

**ii. hinder UK businesses, both domestically and when exporting abroad?**

No response.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

Whether or not the shift in distribution north of mackerel into Icelandic and Faroese waters is the result of climate change and sea temperature rise the issue should focus attention on the potential benefits and losses of changing fish species distribution to the UK fishing sectors. Funds provided by the EU in the future to model potential scenarios and map out potential impacts would help the UK to be best placed in adapting to sea temperature changes in the future.

The implementation of multi-annual management plans should help the catching sector by providing certainty over fishing opportunities in the future as well as benefiting the UK in terms of achieving maximum sustainable yield restoring depleted fish stocks.

Any future reforms could recognise that EU fisheries management measures take no account of the interests of the EU's recreational angling sector despite the CFP having a direct impact on the resources the sector (estimated to generate approximately €25b in annual spend across the EU) relies. However, there would be no benefit from being included in the current, failing, system. We are yet to see if the current package of reforms will be sufficient to achieve the objectives of the CFP and those of the UK. If not then a much more radical change is needed but the fact remains that a common policy of managing fish throughout Europe appears to be the only realistic solution to tackling overfishing and managing Europe's fish stocks in a sustainable way.

## Anglo Northern Irish Fish Producer's Organisation

Any comments I have are best summed up by what happened at the EU's December 2013 Fisheries Council.

As you know Area 7 nephrops is the most important species to our fishery. In advance of the Council and at the Council the 2 member states with the biggest interest in this TAC gave priority to securing a rollover on the 2014 TAC; against the background of a Commission proposal for a 24% cut in the TAC. I repeat (for effect) a ROLLOVER.

Unfortunately, despite the best endeavours of the UK Minister, the Greek, Latvian, Finnish and numerous other EU Fisheries Ministers who have no interest in the Irish Sea, let alone Area 7 nephrops were able to over rule Mr Eustice (and his Irish colleague) and our prawn quota suffered a 9% cut.

In brief that is what is wrong with the current balance of competencies within the EU in terms of fisheries. Combined, every other EU Fisheries Minister had more influence on what happens in the Irish Sea, which is practically surrounded by the UK, than what the UK Minister had.

## Atlantic Salmon Trust

I am responding to this consultation on behalf of the Atlantic Salmon Trust. The Trust is a UK based charity working for the conservation of wild atlantic salmon and sea trout, and their habitats, throughout their ranges.

As the consultation document states, salmon and sea trout spend a large part of their lives at sea, and fall within the ambit of the CFP while they are at sea. The CFP bans all fishing for these fish outside the 12 mile limit and in the UK net fisheries for salmon and sea trout are restricted under national legislation to particular areas within the 6 mile limit.

It is essential to regulate exploitation of salmon and sea trout at sea. Salmon and sea trout river contain genetically distinct populations of these fish (larger rivers may contain a number of separate populations) that have evolved to optimise their chances of survival in the environment of a particular river. Ideally, exploitation of a population should be managed at the level of that population. This is not usually feasible in large rivers with several populations, but management at the river level enables managers to take account of the impact of exploitation on different components of the river stock. This is not possible with coastal mixed stock fisheries exploiting stocks from a number of rivers, and for this reason such fisheries are being phased out in England and Wales, a policy we strongly support.

We believe that the current balance of competences between the UK and the EU works well for anadromous fish, and we would not wish to see it changed. We strongly support the EU wide ban on fishing for salmon and sea trout outside coastal waters. Because salmon and sea trout from one member state can migrate through, or in the case of sea trout feed in, the coastal waters of another member state we are content for the EU to retain the power to intervene if fisheries in one member state threatens stocks of anadromous fish originating in another. An example here is the decision of the Irish Government to ban drift net fishing for salmon off the West coast of Ireland, as this, among other things, was taking fish from English rivers, although this was in fact a response to a challenge under the Habitats Directive rather than under the CFP.

Salmon are also potentially subject to exploitation outside EU waters, with fisheries operating historically in international waters and off the Faroe Islands and Greenland. The North Atlantic Salmon Conservation Organisation (NASCO) was established to regulate these fisheries, and prohibits all fishing for salmon by signatories in international waters and regulates the Faroes and Greenland fisheries. NASCO falls within the EUs international fisheries competence; so far as regulatory measures are concerned the system works well and we see no case for change.

In recent years NASCO has increasingly involved itself in developing non- binding protocols on a range of salmon conservation issues. As these often deal with matters

that are within the competence of member states and outside the knowledge of the Commission, it is important that member states are fully involved in discussions on such issues. This is normally the case, but it would be helpful to have formal recognition that in such cases mixed competence is involved.

Another area where we believe that action through the EU is helpful concerns possible by-catches of emigrating salmon post-smolts in pelagic fisheries. This is an issue the AST has raised with the Commission and within the Pelagic RAC, seeking support for additional research into the potential impact of by-catch on salmon stocks. We also sought assistance in gaining more information on the migration and distribution patterns of salmon at sea, and outlined actions which might be taken by the pelagic fleet to avoid the high density areas of salmon smolts during their annual migration from the British Isles, France and Spain. We plan to apply for membership of the new Pelagic Advisory Council, and are firmly of the view that action at the European level offers the best chance of securing effective action to establish the extent of salmon by-catches and, if necessary to reduce them.

While the AST is not directly concerned with eels, we believe that there are strong arguments for continuing to take action at the European level to address the drastic decline in eels stocks. The European eel stock is panmictic, with a single stock apparently distributed randomly across its range, and should be managed and conserved accordingly.

## British Ports Association

We welcome the opportunity to feed into this Review and thank you for accepting a late submission. The British Ports Association represents around 100 port authorities which manage more than 350 ports and harbours of all size located throughout the UK, many of which will, to varying degrees, accommodate fishing vessels and landings. In terms of both quantities and values of landings the Association represents 29 of the busiest 30 UK fishing ports and is well placed to respond on their behalf. We have decided not to specifically respond to the questions but instead to make some short general points.

We recognise that with one collective Common Fisheries Policy there will always be disagreements. The value of designing one level playing field across the EU is often watered down by a lighter touch approach to fisheries enforcement in some member states. The system of quotas has caused a lot of issues. The actual quota limits and species decisions and the growth monopolies of quotas remain controversial. Without being drawn into that debate a particular concern we have on quotas is in relation to the tradability and transfer of quotas. Notwithstanding the controls Defra has on UK allocations and free market rules the simple fact that quotas can be sold to foreign vessels means that there is a continuing danger that UK fishing ports and the connected fish processing sector miss out on income if UK-caught fish is landed on the Continent. We are therefore keen that the Defra takes a firm enforcement approach in terms of its 'economic link' obligations on UK quota allocations and support the UK's recent indication that it will not implement the option under the CFP Reform Package to introduce longer-term transferable quotas.

Rightly or wrongly there is a sense in the UK fishing ports sector that the UK Government does not negotiate with a firmer hand at the European Fisheries Council and also that the interests of the catching and landing sectors are often neglected in relation to the strong European environmental lobby. There are also concerns that the scientific evidence used to set quotas is not always challenged vigorously by UK representatives. The Days at Sea requirements have been particularly unwelcome and are viewed with strong displeasure by many in the catching sector.

Recently with the 2013 reform package provisions on discards in relation to ports it is not clear about what arrangements will need to be in place for over landed catches. There remain questions as to what might happen with such landings and who should take responsibility and bare the full costs of such.

On a positive note the allocation of grants from European Fisheries Fund and the FIGF to port infrastructure projects has helped UK ports modernise their facilities to the benefit of the fishing industry, easing the negative financial impacts caused by quotas. Any problems ports have experienced accessing grants have tended to be due to conditions placed on applications by the UK authorities. The revised

European Maritime Fisheries Fund scheme will focus on CFP discard ban schemes and port projects will no longer have their own separate axis. It remains unclear as to if the EMFF will be flexible enough to support the wide variety of fishing industry bodies that could be impacted on as a result of the discard ban.

Finally in relation to red tape some ports have raised concerns over issues such as the Compulsory Weighing of Fish Regs and the Common Organisation of Markets Regs which have introduced extra costs and over burdensome requirements for labelling and information for consumers.

We would be happy to discuss these issues further should it help.

## British Trout Association

### Aquaculture

It was noted that applying certain aspects of the CFP methodology to aquaculture has limitations. The diverse nature of EU aquaculture production (in terms of species farmed, production methods and geographical location) makes certain provisions less applicable. Furthermore, and similar to terrestrial animal farming, aquaculture operates on the principles of a planned production system and therefore does not require regulation for a wild common resource. (Regulation of the aquatic environment, aquatic animal health etc. is covered by alternative EU and UK legislation).

An example was provided for this with the proposed new Aquaculture Advisory Council which is intended to perform the same functions as a RAC for the capture sector, but which is envisaged to operate across the whole EU. (All 28 EU MS have aquaculture production businesses) It will need to reflect the diversity of species and husbandry methods that make up the aquaculture industry across the EU, in addition to the different routes to market and regional consumer preferences. It will also have to consider farming in diverse geographical locations and different climates. (EU Aquaculture includes finfish, shellfish and algae; production from the southern Mediterranean to above the Arctic Circle; production in freshwater and saltwater, at sea, on land, in lakes, rivers, flow through farms, tanks and recirculation units.) It will also have to address processing, market issues, NGO issues etc. Yet it is suggested all this is to be done with the same budget and resource as for one RAC.

The new national MS Multi Annual Plans for aquaculture production required by the reformed CFP have reflected in their scope in the regulation the need to take a more flexible approach. Care will be needed in implementing the plans to take account of the diversity in the aquaculture sector within individual MS and across the EU. This should be reflected through flexibility of approach and not setting detailed rules such as production targets, minimum market prices etc. Again, MS annual plans are not concerned with a need to manage a common resource and should not be used to manage the commercial operations of private enterprise.

The UK industry favour a “toolbox” approach to regulation – that is to say the creation of various enabling measures to help deliver CFP objectives, but on the proviso that they remain optional / at the discretion of industry to invoke such powers / measures (for example, through establishment of POs etc). Responsibility for production should remain with industry and not be dictated at the EU or MS level. From a market context aquaculture was felt by certain aspects of the UK production industry to be vertically integrated into the supply chain in the UK in contrast to certain other EU states.

Aquaculture planning is not centrally controlled / planned and any EU intervention in doing this wouldn't be necessary or welcome. The current planning process is designed to address and reflects local needs and local issues.

## Campbell Bannerman, David MEP

This Submission proposes a new relationship for the UK with the EU outside of EU membership entitled 'EEA Lite'; one which lies between Norway's EEA Agreement and Switzerland's bilateral agreements (closer to its proposed new framework agreement). EEA Lite would maintain access to the EU Single Market for UK Exporters whilst allowing the UK to save EU gross membership contributions of £20 billion a year and by leaving the EU Single Market, allow substantial reduction in EU red tape for the 92% of the UK economy that is not involved with trade with the EU (8% of UK economy is involved with trade with the EU and 12% with the Rest of the World and rising). The benefits of EEA Lite are tailored to each FCO request for submissions. Fuller details on EEA Lite are available on the [www.timetojump.org](http://www.timetojump.org) website.

If the UK was to leave the EU and instead have an alternative set-up such as an EEA Lite Agreement that would mean:

- Economic benefits outside the Common Fisheries Policy (CFP) to the UK of £2.8 billion per year in terms of UK regaining fish in UK waters;
- Revitalising and restoring many fishing communities and fishing jobs left devastated by joining the EU's CAP, just as fishermen in Norway and Iceland continue to prosper: In 1970, there were 21,443 UK fishermen employed full or part time in the fishing fleet. Despite changes to international law extending national waters (which instead fell under CFP management and joint access rights), by 2006 there were only 12,934 UK nationals so employed – a drop of 40% - with a quarter of the workforce aged over 55. There are more than 4 times more fishing-related jobs on land such as fish processing;
- Regaining British fishing grounds and stocks: Some estimates suggest 85% of stocks and perhaps 60% of value comes from UK waters, owing to the particularities of the comparatively shallow waters of the shelf and their rich and varied sea beds. Yet under present EU CFP arrangements British fishermen only receive 37% of catch amounting to 12% by value;
- Making fish affordable again. Fish used to be part of the diet of working people but is now too often an expensive delicacy. The estimated increased cost of food products on the average household bill thanks to the impact of the CFP is calculated at £186 per household per year – or £3.58 a week. This could be slashed;
- The opportunity to meaningfully restore conservation principles to the North Sea and its endangered stocks, using proven and successful fish management practices of fellow EFTA members such as Iceland and Norway. These

countries are not, for example, burdened by the appallingly wasteful practice of discards as the EU is. A practice which has been rightly attacked by Hugh Fearnley-Whittingstall's excellent 'Fish Fight' campaign (which the Author has endorsed);

- The restoration, over the medium to long term, of the UK fishing fleet and its associated industries, operating in extended British waters under international law and rebuilding an important UK industry.
- The Common Fisheries Policy (CFP) was not part of the original Common Market at all. It was bolted on by the Six, with Dutch reservations, in anticipation of the 1973 joiners (which would have included Norway) having to surrender to EEC fishermen equal access to their rich fishing grounds.
- The CFP only came into existence in 1982 with measures introducing the national quota system and with it the policy of dumping excess Total Allowable Catch (TAC) per species in huge numbers dead back into the sea. Contrary to UK Ministerial statements made in 1972, these did end up being introduced under an early form of QMV and without any UK veto safeguard applying.
- CFP problems were exacerbated with the accession of Spain and Portugal to the Community in 1986. Because of their huge fleets, it was decided to cut the whole Community fleet. But this was done more through a national headcount than by a share of fleet sizes. This meant that the UK had to cut its fleet by 19% by the end of 1996, while Spain had to cut it's by 4%.
- Danish vessels were long permitted to continue 'industrial fishing' of upwards of a million tonnes of sand eels for use as animal feed, with considerable damage to the marine food chain. It was even being used to fuel a power station. Industrial fishing was still being permitted in areas that had otherwise been closed to protect endangered species.
- The fisheries agreement with Greenland, for instance, allows limited access to EU vessels within certain quotas in return for €15.1 million annually, plus €2.7 million to develop fisheries policy locally. The Faeroes, Iceland and Norway all have their own bilateral EU fishing agreements.
- By 1990, there were an estimated one million tons of herring in the North Sea. Five years later there was an estimated 24,000 tons. That same year, in 1995, it was estimated that EU boats had discarded 27 million tons of fish – equivalent to China's entire consumption over a year and a half.
- In 2000, cod catch had been set at 80,000 tons, but actual landings were only 50,000 tons and total surviving adult cod estimated to actually be running at

70,000 tons – less than half what was estimated as the minimum stock levels to secure the species.

- The Royal Commission on Environmental Pollution's report identified a number of very specific failings of management of the seas: For every kilogramme of North Sea sole caught by beam trawl, 14kg of other species were killed and mostly discarded; In the North Sea, 22% of cod by weight and 49% by number, and 36% of haddock by weight and 49% by number, were being discarded – essentially the dumping of juvenile fish; Cetaceans, including porpoises and dolphins, but also rare whales, were being caught in sufficient numbers to impact on overall species figures, perhaps up to 5% of total numbers in some cases.
- The discards of just three named species, only by UK-flagged vessels, in these zones and counting just the types of fishery with highest quantities of discards, in the one year of 2007, amounted to 41,203 tonnes. That's about the same displacement weight as the Bismarck when it was launched.
- It's now generally forgotten that a number of European states had already signed up in 1966 to the London Fisheries Convention, establishing the six and twelve mile limits and a system of arbitration to settle disputes. Co-operation on fisheries between countries is not new, and will continue even under EEA Lite when the UK leaves the CFP.
- The United Nations Convention on the Law of the Sea (UNCLOS), 1982, confirmed national control over the majority of the world's Continental Shelf and ninety per cent of the world's fisheries. It also sets the co-operation ground rules to preserve fish stocks - including establishing an international tribunal to arbitrate disputes. Once the Convention entered into force in 1994, it ended the last objection for scrapping CFP.

## **EEA Lite Explained**

The EEA Lite Agreement proposed is thus legally feasible. It parallels many aspects of the EEA Agreement in terms of institutions and relationships but contains fundamental differences in terms of its treatment of the EU acquis and free movement of persons.

I present here a new model of association with the EU, which I have called in somewhat marketing parlance, 'EEA Lite', in contrast to the existing, full 'regular' EEA Agreement. These sorts of models of association are legalistic, technical and not very people friendly, but EEA Lite is designed to sit somewhere between the successful but over-prescriptive EEA Agreement launched in 1994 post the EU single market and the Swiss-style set of bilateral agreements, which are far more

democratic but less structured, more idiosyncratic, and less clear institutionally in terms of surveillance and dispute resolution and provide only agreed sectoral access to the EU single market through additional agreements.

I am seeking to suggest a viable option, to show that the model is pretty much in existence and proven now and can be readily adapted, and to demonstrate how that option could unlock a great deal of benefits for the UK in terms of greater freedoms, opportunities and reduced costs - whilst maintaining friendly relations and full access to the EU single market for UK exporters of goods and services. What I have subsequently been surprised at is how comparatively straightforward the proposed amendments are. For example, the EEA Joint Committee between the EU and EFTA nations and the EU-Swiss Joint Committees are up and running and the notion therefore of an 'EU-UK Joint Committee' handling an EEA Lite Agreement would be comfortably based on proven practices and existing, successful operating institutions and procedures.

In setting out a strong case for a new Negotiated out relationship with the EU, I am not necessarily ruling out a Renegotiated In. It is true that I believe personally it is easier to negotiate an acceptable new deal for Britain under a legal exit framework agreed under EU law – Article 50 of the Lisbon Treaty – and using a revised version of an agreed and operating EU Agreement with European states – the EEA (Lite) model – than to seek to negotiate substantial return of powers from within the EU. Even avowed Federalists fear renegotiation and would prefer the UK to withdraw, their nightmare being that powers offered to one major member would open up a can of worms, which emboldens every member to seek some renegotiation of powers. But it is legally and technically feasible to renegotiate powers from the EU as part of a new Eurozone Treaty – after all it is a negotiated Protocol (an annexe or amendment) in the Lisbon Treaty that has allowed the UK the chance to opt out of 130 Justice and Home Affairs measures such as the European Arrest Warrant, and the effect is similar to taking the UK towards an EEA Agreement position in this one area of Justice and Home Affairs. So if the EEA Lite model and arguments here help deliver an EEA Lite position but carved out from within the EU, then that might be acceptable, though it is my belief that it is time for Britain to end all EU fudges and have the courage to opt for a sustainable and liberating form of independence.

EEA Lite is a more flexible version of the existing EEA Agreement signed between three EFTA states and the EU on 1<sup>st</sup> January 1994. This EEA Agreement I term 'EEA Regular'.

'EEA Lite' differs from EEA Regular in 3 critical respects:

- 1) The UK will remain a member of the European Economic Area but will leave the single market ('Internal Market') itself – i.e. the UK single market will no longer be part of the EU single market but will remain fully open to goods and services from the

EU under this agreement, whilst UK goods and services exported to the EU will still be subject to EU single markets rules for the 8% of the British economy that trades with the EU, but the UK will be able to remove these rules for the 92% of the UK economy that does not relate to EU trade, and 80% of which is trade within the UK. This is more relevant to the UK as the Norwegians export to the EU five times per head more than the UK, and the Swiss three times as much per head.

For these reasons and also for reasons of the sovereignty concerns expressed by the Swiss, the UK will no longer seek to be part of a 'homogeneous European Economic Area based on common rules' but be fully open to the rest of the EEA in terms of trade, but with only UK exporters adopting EU common rules and homogeneity. UK standards, such as imperial measurements, would be restored within the UK single market and UK trading standard officers would enforce UK standards and not be agents of the EU. The existing EEA Regular agreement already allows members to retain their own customs unions. Other non-trade and non-essential aspects such as over social policy would be removed from the agreement, and be decided at national level.

2) The UK will be able to repeal existing EU legislation (Acquis Communautaire) and no longer be required to enact new EU legislation, as the UK Parliament thinks fit for the 92% of the UK economy that is not concerned with trade with the EU. This will bring huge economic benefits within the UK from cutting back over-regulation assessed at £118 billion a year, such as excessive social, employment, health & safety legislation – a sum equivalent to the NHS annual budget. The UK would also end its membership contributions to the EU of £20 billion a year (£12.2 billion net), though it will make contributions separately through a new UK Grants body to assist Eastern European states to develop.

3) This agreement will bring the UK closer to the Swiss position on immigration opt outs, enabled by safeguard clauses in the 1999 EU-Swiss bilateral agreement, and also determined by Swiss referenda. These clauses allow restrictions on long-term residence permits for different EU nations (Bulgaria and Rumania are very strictly restricted, the newer 8 EU nations restricted from April 2012 to a cap of 2,180 for 12 months on B permits granting foreign nationals residence status for 5 years, but with older 17 EU nations much less restricted with a cap of 53,700 for 12 months) once a certain worker limit is reached. The caps do not apply to short term residence visas of up to a year, and is estimated to have reduced numbers of mainly low skilled East European workers by 4,000-5,000 plus some dependants. There are no such visa restrictions on citizens from 15 member states such as Germany, France, Britain, Italy, Spain (these countries have unrestricted access to the Swiss labour market).

Reuters reported the reasoning was that, “Prosperous, non-EU Switzerland has seen the net influx of workers rise to up to 80,000 a year, contributing to a house price bubble and prompting criticism from right-wing parties.” This shows what a helpful control lever the visa system provides, though the EU reaction was predictably hostile: Baroness Ashton claimed it was “a breach of the Agreement on the Free Movement of Persons as amended by the Protocol of 2004. The agreement does not allow for any differentiation between EU citizens.” One in 4 people living in Switzerland is a foreigner, 1.87 million with over 1.2 million from EU states so the country is clearly not anti-immigration. EEA Lite would amend the 4 key freedoms to replace the Freedom of Persons by a Freedom of Workers.

This Freedom of Workers refers to those who contribute to national insurance and healthcare provision or who are studying in the UK, and allows for a visa system for individual EU countries, but removes any automatic right to entry to the UK or to receive UK benefits merely because they are EU citizens. There will also be more restrictions on the self-employed where the intention is to evade UK visa controls and/or UK taxation. In addition, there will be quality checks from UK professional bodies, such as the British Medical Association (BMA), when it comes to the mutual recognition of diplomas, certificates and formal qualifications to ensure that British residents are not exposed to dangerous practices such as over the Dr Ubani case with the deaths of patients such as Mr Gray in my constituency, where the doctor concerned should never have been allowed to practice in the UK.

### **Key Points about EEA Lite**

EEA Lite builds on the existing freedom of control offered by the EEA Regular Agreement:

Freedom of control over Agriculture/ Fishing / Justice & Home Affairs (but opting in to special policing agreements such as over Europol co-operation separately, and leaving the European Court of Human Rights, which while being separate from the EU, membership of which is now required for members under the Lisbon Treaty) / Foreign Affairs & Defence / the Customs Union / over Economic and Monetary Affairs, and Trade (using EFTA). To these powers, EEA Lite adds back national control over Immigration and Borders, and control over many single market related areas such as Social policy, Employment, Health & Safety and Financial Services. EEA Lite confines the UK’s relationship with the EU to that of trade and access to the ‘common market’/EU Internal Market with friendly economic and cultural co-operation. These aims were all the British people wanted in the first place.

The UK would rejoin the EFTA Council, its ruling body, as a member. The UK would sign the updated EFTA Convention, ensuring free trade between EFTA countries including Norway, Switzerland, Iceland and Liechtenstein (this the UK helped create in 1960), in a separate agreement to the EEA Lite model.

The UK would regain its individual national seat and voice at the World Trade Organisation (WTO), already enjoyed by EEA States and Switzerland, and which it is presently barred from doing by EU membership, thereby enhancing its international status and influence. The UK would either sign up to EFTA's range of 26 FTAs covering 36 nations (33 outside the EU including Canada, Gulf Cooperation Council, China (Hong Kong plus the mainland for Switzerland and Iceland), Singapore, South African Customs Union covering 680 million consumers outside the EU), or retain existing EU 53 FTAs amended for the UK and then negotiate new FTAs through EFTA but with the UK in control of the ultimate decisions on the negotiations. UK control of free trade agreements would ensure they are truly free trade, and remove the EU's increasing political and social control over trade agreements – such as the sustainability clause regarding human rights demands and emissions targets, which do not belong in agreements meant to further jobs and investment.

The EU and UK would establish a new EU-UK Joint Committee - along the lines of the EU-Switzerland Joint Committee, founded in 1972 as part of the free trade agreement with Switzerland, and which has met nearly 60 times over 41 years - to handle issues of trade and relations between the EU and the UK.

The UK would not join the existing EEA Council nor the EEA Joint Committee, as these bodies oversee the existing EEA Regular Agreement, but attend these meetings as the Swiss do, both in a representational capacity when it comes to discussion of EEA Lite Agreement matters, and as an observer on EEA Regular Agreement matters.

The UK would form a new, independent UK Surveillance Authority, similar to the EFTA Surveillance Authority and the proposed new Swiss Surveillance Authority (proposed on 20th March 2012), to oversee the implementation of the EEA Lite Agreement in the UK in a non-partisan manner, but without being subject to non-British remote oversight such as the EU Commission.

The UK would establish a new UK Trade Court, similar to the EFTA Court, to rule on any trade, competition, Intellectual Property or similar disputes under this agreement. The Court may take into account judgements of the European Court of Justice (ECJ) and the EFTA Court by means of informed opinion, but would not be bound by those Courts. There shall be an ultimate appeal to the UK Supreme Court, building on the UK's fine international tradition of an independent judiciary. This is similar to proposed new arrangements in Switzerland.

The EU and UK would form a new EU-UK Joint Parliamentary Committee, along the lines of the EEA and Iceland Joint Parliamentary Committees, which shall be composed of EU MEPs and British Westminster MPs and Lords to help oversee the smooth workings of the EEA Lite Agreement.

The UK would in principle seek to continue to provide support for the 'reduction of economic and social disparities' within the EEA area but through a non-EU mechanism directly under UK control. Similar to the Norway Grants and EEA Grants body the UK would establish a new UK Grants body which would dispense UK grants to worthy causes directly and not be paid through the wasteful and fraudulent EU system. The value of these contributions would be negotiated in a separate agreement with the EU, just as Norway and the EEA negotiate such voluntary contributions. They would not be express terms of the EEA Lite Agreement.

Just as EFTA countries sign up to certain EU Programmes and contribute expertise and financial contributions, so would the UK sign up to EU Programmes where the UK Parliament thought it desirable. A list of EFTA participation and proposed UK participation is shown below The EU Programmes the UK may decide to keep within are proposed to be:

- The Seventh Research Framework Programme (FP7)
- Competitiveness and Innovation Programme
- Lifelong Learning Programme
- Erasmus Mundus II (Actions 1 and 3)
- European Statistical Programme
- European Institute of Innovation and Technology
- Intermodal Transport (Marco Polo II)
- Civil Protection Financial Instrument
- Implementation and Development of the Internal Market
- Consumer Programme
- MEDIA Mundus Programme
- Drugs Prevention and Information Programme
- Modernisation of EU Enterprise and Trade Statistics (MEETS)

It is not proposed to continue with EU programmes with current EFTA state participation in fields of: Lifetime Learning Programme (e.g. ending Jean Monnet scholarships), Galileo Programme (Norway only), Youth in Action, MEDIA programme, Employment and Social Solidarity (PRoGRESS), Culture Programme, Programme of Community Action in the field of Health, European Employment Service (EURES), Fight Against Violence (Daphne III), Interoperable Delivery of European eGovernment Services to Public Administrations, Businesses and Citizens (IDABC), Safer Internet Plus Programme, Marco Polo Programme.

Just as EFTA countries sign up to certain EU Agencies and are involved in their operation and assist with financial contributions, so the UK would sign up to supporting certain EU Agencies where the UK Parliament thought it desirable.

The EU Agencies the UK may decide to keep supporting are those primarily to do with trade or activities spreading across European borders, and these are proposed to be:

- The European Aviation Safety Agency
- European Centre for Disease Prevention and Control
- European Chemicals Agency
- European Food Safety Agency
- European GNSS Agency
- European Maritime Safety Agency
- European Medicines Agency
- European Network and Information Security Agency.

It is not proposed to continue with EU Agencies with current EFTA state participation in fields of: the European Agency for Safety and Health at Work, European Centre for the Development of Vocational Training, European Environment Agency, European Foundation for the Improvement of Living and Working Conditions, European GNSS Agency, and the European Railway Agency.

The UK would seek to continue to influence the EU legislation now limited in effect to the 8% of the British economy that trades with the EU. As with EEA States, the UK would influence EU legislation at an early stage by participating in the EU Commission's comitology committees on new legislation – as EFTA states sit on 500 comitology committees and expert groups and who have 1,500 organisations, public bodies and entities participating in EU programmes (such as 15,000 students who have studied through Erasmus), but on a reduced scale owing to a reduced commitment to such programmes and agencies.

The EU Commission will also be duty bound under EEA Lite to seek advice from UK experts in as wide a participation as possible, and on the same basis as EU member states experts, and transmit this to the EU Council as necessary. The legislation will then be examined by an exchange of views at the EU-UK Joint Committee, and be further discussed at significant moments in what is described as a 'continuous information and consultation processes. The fact that the UK will be able to set its own legislation for the UK single market again, as the US, Japan, China and other nations do whilst trading with the EU without tariffs, will in itself be influential on EU legislation that departs greatly in scope and cost burdens from UK domestic legislation.

The UK would also participate in the Standing Committee of the EFTA States and its working groups, as required. The main features of the EEA Lite Agreement, which include modifications to the EEA Regular Agreement, include: The UK will leave the European Union as a member and rejoin the European Free Trade Area (EFTA),

which the UK co-founded in 1960 to counterbalance the formation of a more protectionist European Community. The UK and EU will enjoy the benefits of trade and economic cooperation.

The EEA Lite Agreement will remain true to the main features of the EEA Regular Agreement. It shall:

- Secure the main Objectives of the EEA Agreement: the 4 Freedoms: Freedom of Goods, Freedom of Services, Freedom of Capital and Freedom of Peoples - but with caveats that make Freedom of Persons essentially a Freedom of Workers, for workers and students, and introduce a new visa system for EU citizens, where required, and restrictions on welfare benefits limiting them to a contributory basis only.
- Ensure competition is not distorted and the rules are equally respected.
- Deliver close co-operation in other areas such as research and development, education and the environment.
- Work to World Trade Organisation guidelines such as the World Customs organisation's Harmonized Commodity Description and Coding System and Rules of origin (i.e. establishing where goods were made where multinational input).
- Be subject to a 2 year review period.
- Be a customs free area.
- Have no quantitative restrictions on imports or exports (i.e. no quotas).
- Allow prohibitions or restrictions based on grounds of public morality, public policy or public security, on health grounds, national treasures or protecting industrial or commercial property, but without arbitrary discrimination or disguised restrictions.
- Not allow internal taxation as means of protectionism.
- Not allow discrimination by State monopolies, or any unfair State trade practices.
- Simplify border controls and correct customs law application.
- Support Freedom of movement for Workers: to allow workers to accept offers of employment, to move freely in the EEA area for this purpose, to stay in a state

for that purpose, though public sector employment is excluded, but not to remain in a state having being employed there automatically and no right to benefit unless entitled to by contributions made and not applying to self-employed if for the purposes of avoiding visa controls and UK taxation.

- Not discriminate against workers based on nationality.
- Ensure mutual recognition of diplomas, certificates and evidence of formal qualifications but subject to agreement of UK professional bodies as to what qualifies on mutuality to ensure proper standards are maintained.
- Not allow restrictions on right of establishment of companies in EEA member states, and have no discrimination on grounds of nationality, with exception of special treatment being allowed on grounds of public policy, security or public health.
- Have no restrictions on right to provide services within EEA states and pursue the provision of service under the same conditions as a State's own nationals.
- Allow no restriction on the movement of capital belonging to persons resident in EU Member states or EFTA States such as the UK, with exceptions where movements of capital could lead to disturbances in the functioning of the capital markets or if a state is in difficulties such as suffering disequilibrium in balance of payments.
- Support an exchange of views and information, and discussions, regarding integration of economic activities and the conduct of economic and monetary policies on a non-binding basis. This is in marked contrast to ongoing economic and fiscal union in the Eurozone region.
- Allow some transport coordination measures, where necessary, such as no discrimination against carriers on grounds of country of origin, or subsidised operations and no charges or dues for crossing borders.
- Not allow the prevention, restriction or distortion of competition by undertakings (businesses), such as through fixed purchase or selling prices, market limits or controls, unfair selling prices, limiting production or other such devices. Infringements by businesses or by a State are subject to investigation by the surveillance authority, such as by the proposed new UK Surveillance Authority. Concentrations are controlled.
- Not allow State Aid that distorts or threatens to distort competition by favouring certain undertakings or production of certain goods – these are considered incompatible with the agreement unless aid is social and non-discriminatory, for

natural disasters etc. Aid is allowed to promote economic development in areas with low standard of living / high unemployment, to assist certain economic activities or areas, or where of vital national interest or in other special cases. This to be constantly reviewed by the surveillance authorities, including the proposed UK Surveillance Authority with appeals via the EU-UK Joint Committee to seek fast remedies. Rules apply to Public Procurement and to Intellectual, Industrial and Commercial Property.

- Delete the EEA's Social Policy provisions from EEA Lite on the grounds that this area is not directly about trade and should be left to the nation state to decide. Deletions include areas of health and safety law, labour law, employment law, pay discrimination and national minimum wage setting which are all to be decided in the UK.
- Have consumer protection provisions.
- Agree broad environmental objectives such as preserving, protecting and improving the quality of the environment, on human health, ensuring a prudent and rational utilization of natural resources, based on principle of taking preventative action, reducing environmental damage and the polluter paying. But EEA Lite will ensure environmental action in the UK becomes a UK sovereign matter again, including setting of any UK environmental targets, in line with international agreements and not be dictated by EU-wide targets and agreements. Environmental and Energy policy will no longer be an EU competence in the UK.
- Ensure that the Contracting parties cooperate to ensure the production and dissemination of coherent and comparable Statistical information to monitor all relevant economic and trade aspects of the EEA. To this end, harmonised data and common programmes will be supported, where appropriate.
- Encourage friendly co-operation outside the 4 Freedoms. This covers a range of appropriate activities such as: research & technological development, information services, the environment, education and training, consumer protection, small and medium-sized enterprises, tourism, the audiovisual sector and civil protection.
- Encourage other co-operation including EU framework programmes, projects, co-ordination of activities, exchange of information, parallel legislation of similar content, and coordination with third parties / international organisations.
- Where the UK chooses to participate in EU framework programmes, it shall have access to all parts of the programme, shall have a sufficient status on those committees assisting the EU, and have its financial contributions

recognised. At the project level, institutions, undertakings, organisations and nationals of the UK will have the same rights and obligations in an EU programme as their equivalents in other EU member states, as with exchanges, and also the same rights as regards to the dissemination of results, and information. Financial contributions shall be made according to commitment appropriations and payment appropriations entered each year into the appropriate budget line in the EU Budget, and agreed in the EU-UK Joint Committee.

- Establish a new EU-UK Joint Committee, in the manner of the EEA Joint Committee, to ensure the effective implementation and operation of the EEA Lite Agreement. It shall carry out exchanges of views and information, consultations and take decisions on cases provided for in this Agreement. The EU-UK JPC shall meet monthly; have a President alternating between the UK and a representative of the EU, such as an MEP or a Commissioner. It will set its own rules of procedure and may establish any subcommittee or working group to assist its tasks. The EU-UK Joint Committee will issue an annual report on the functioning and development of this Agreement.
- Establish a new EU-UK Joint Parliamentary Committee, composed of equal numbers of EU MEPs and UK MPs and Lords, and vary where it holds sessions between the EU and the UK. Its aim shall be to contribute to a better understanding between the EU and the UK, express its opinions in the form of reports and resolutions, and examine the annual report of the EU-UK Joint Committee. It may hear presentations by the President of the EEA Council and EFTA representatives as appropriate. It shall determine its own rules of procedure.
- EEA Lite will not formalise co-operation between economic and social partners but handle this under the EU-UK Joint Parliamentary Committee business.
- Ensure continued influence over EU legislation that is of ongoing relevance to the UK, such as single market legislation affecting the 8% of the UK economy trading with the UK of consequence to UK exporters of goods and services. As with EEA states, who sit on 500 comitology committees and expert groups and who have 1,500 organisations, public bodies and entities participating now in EU programmes (such as 15,000 students who have studied through Erasmus), the EU Commission will be duty bound to seek advice from UK experts in as wide a participation as possible, and on the same basis as EU member states experts, and transmit this to the EU Council as necessary.

As soon as new legislation is drawn up in a field governed by this Agreement, it must informally seek advice from experts from the UK in the same way as it seeks advice from experts in the EU member states on the elaboration of its

proposals. When transmitting its proposal to the EU's Council of Ministers, the EU Commission shall transmit copies to the UK. The legislation will then be examined by an exchange of views at the EU-UK Joint Committee. At the request of either Contracting Party, the legislation shall be further discussed at significant moments in what is described as a 'continuous information and consultation process'. The British opt out on the mass of EU legislation within the UK representing 92% of the economy means Westminster regains control over most laws, and claims of a lack of influence over EU laws in the EEA Regular Agreement ('faxed democracy' claims) will not apply. British organisations, public bodies and entities will also continue to participate in a number of EU programmes, as now.

- Confirm that the requirement for homogeneity on the UK side only applies to UK exporters of goods and services to the EU. As stated, the UK intends to regain control of its own core UK single market – 80% that is trade within the UK, and 12% being trade outside the EU. As a result, the UK would establish a new UK Trade Court, similar to the EFTA Court, to rule on any trade, competition, trade mark or similar disputes under this agreement. The Court may take into account judgements of the European Court of Justice (ECJ), the EU's General Court and the EFTA Court by means of informed opinion, but would not be bound by the decisions of those Courts.

There shall be an ultimate appeal to the UK Supreme Court, building on the UK's fine international tradition of an independent judiciary. This is similar to proposed new arrangements in Switzerland.

- Establish a new, independent UK Surveillance Authority, similar to the EFTA Surveillance Authority and the proposed new Swiss Surveillance Authority (in Swiss Confederation proposals of 20th March 2012) to oversee the implementation of the EEA Lite Agreement in the UK in a non-partisan manner and to provide a suitable surveillance procedure.

The UK Trade Court would be competent in particular for: (a) actions concerning the surveillance procedure regarding the UK (b) actions concerning decisions in the field of competition taken by the UK Surveillance Authority and (c) the settlement of disputes between two or more EFTA States. The UK Surveillance Authority will cooperate and both monitor aspects of this agreement. A pecuniary obligation on persons shall be enforceable if a decision reached by the UK Surveillance Authority and EU Commission, and be enforced using rules of civil procedure in relevant state.

- Regarding settlement of disputes, allow the EU or the UK to bring a matter under dispute before the EU-UK Joint Committee, which may settle the dispute using all information necessary for an in depth examination of the situation. An

appeal may be made to the UK Trade Court or UK Supreme Court, as required, for a resolution of any impasse within 3 months after it has been brought before the EU-UK Joint Committee and has not been resolved - but not to the ECJ as with the EEA Regular Agreement.

- Make unilateral Safeguard and other measures available, if necessary. If serious economic, societal or environmental difficulties of a sectoral or regional nature are liable to persist, appropriate safeguard measures can be taken, but the EU-UK Joint Committee must be notified, and immediate consultations held. These measures would be subject to a three monthly review. Proportionate rebalancing measures that are strictly necessary are allowed, and that least disturbs the functioning of the agreement.
- On the Financial Mechanism side, confirm that the UK would in principle seek to continue to provide support for the 'reduction of economic and social disparities' within the EEA area but through a non-EU mechanism directly under UK control. Similar to the Norway Grants and EEA Grants body entitled the EFTA Financial Mechanism office, the UK would establish a new UK Grants body, the UK Financial Mechanism office, to work closely with the EFTA Financial Mechanism office, based in the UK which would dispense UK grants to worthy causes directly and not be paid through a wasteful and fraudulent EU system, one which the Norwegians used to use but stopped doing so for this reason. The value of these contributions would be negotiated in a separate agreement with the EU, just as Norway and the EEA negotiate such voluntary contributions. They would not be express terms of the EEA Lite Agreement.
- Allow the extension of relations between the parties, or their reduction, as desired by the parties. To extend or to reduce relations, a reasoned request to the other Contracting Party/Parties would be made and be submitted to the EU-UK Joint Committee for consideration.
- Allow Contracting parties to take any measures which it considers necessary to prevent the disclosure of information contrary to its essential security interests, or for products indispensable for defence purposes, providing they do not compromise competition, or if essential to its own security in the event of serious internal disturbances or in times of war.
- Include all the territories of the European Union, including Croatia as a recent accession nation, and include on the UK side the territories of the United Kingdom of Great Britain and Northern Ireland. It may also include Crown dependencies such as the Channel Islands, if these dependencies opt to join the EEA Lite Agreement, as they are not members of the EU and are semi-independent within the UK.

- Specify a minimum 12 month notice of withdrawal from the Agreement. It shall also state that immediately after such an intended withdrawal, the other Contracting Parties shall convene a diplomatic conference to envisage the necessary modifications to bring to the Agreement.
- Allow for the EEA Lite Agreement model to be extended to other parties if they apply to join the Agreement, and are a European nation outside of the EU, including any EEA member - such as the Swiss Confederation - who wishes to apply, or non-EU and non-EEA European nations or indeed existing EU member states who also wish to leave the EU under Article 50 of the Lisbon Treaty, as the UK will have done. It may address its application via the EU and the EFTA Council.
- Give an anticipated date for signing of this EEA Lite Agreement (EEA Agreement (UK Variation)) as July 2018, post a UK In/out Referendum to be held by the end of 2017, with a proposed implementation date of 1st January 2019.

**What types of decisions should be made at:**

**i. EU level?**

The Treaty of Lisbon<sup>1</sup> confirms and establishes the terms of EU competence. This Treaty came into force on 1 December 2009, it was agreed by all Member States - including the United Kingdom – and is based on the principles of subsidiarity and proportionality. For these reasons, questions relating to ‘what should be’ within EU competence are irrelevant and will lead to politicisation and an assumption of options that don’t exist.

Therefore, in accordance with the existing and lawful terms of EU competence enshrined in the Treaty of Lisbon, the following decisions can and should be made in respect of fisheries at EU level:

- High-level objectives regarding management of shared natural resources (such as fish stocks), wider biodiversity and the environment.
- High-level objectives regarding the distribution of quota within Member States to encourage greater social equity and benefits, and to incentivise reducing environmental impacts of fishing.
- Decisions or regulations that affect trade (or products traded) between Member State (for example environmental/safety requirements for aquaculture producers, fish processors, etc.).
- Minimum labelling requirements of fisheries and aquaculture products sold in the EU.
- High level objectives regarding requirements for data collection, monitoring, enforcement and control activities. These should be coordinated by the EU across Member States for greater coverage and efficiency, particularly for data collection so that data collected by different Member States can be compiled easily and compared across the EU.

**ii. regional level (groups of Member States)?**

We refer to our introductory paragraph in response to question 1 and confirm that we support the existing and lawful allocation of EU and Member State competence under EU law, which allows the following decisions to be made at regional level:

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<sup>1</sup> Treaty of Lisbon [2007] OJ C 306, 17.12.2007

- Specific management measures for fish stocks shared between more than one Member State in the same regional area (for example the Channel, North Sea, Celtic Sea, etc.). These must complement and assist with the attainment of the high-level EU objectives.
- Identification of measures to meet region-specific conservation or environmental objectives in 'shared' waters.
- Coordination of data collection, monitoring, and enforcement of fisheries regulations.

### **iii. Member State level?**

We refer to our introductory paragraph in response to question 1 and confirm that we support the existing and lawful allocation of EU and Member State competence under EU law, which allows the following decisions to be made at Member State level:

- Management measures for fisheries that are only exploited by vessels flagged to that Member State, which must still adhere to the high-level EU objectives.
- Development and implementation of measures to meet national objectives or commitments regarding conservation of habitats and/or species.
- Distribution of quota to domestic vessels with a view to meeting high-level EU objectives regarding social, environmental, and economic criteria.

## **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

### **i. benefit national interest?**

- A more regionalised management framework should allow the UK to play a greater role in the decisions that affect it, particularly as regards the development of multiannual management plans and the obligation to land all catches.
- Ensuring a more level playing field across the EU in relation to managing fisheries at sustainable levels.
- The new EMFF should make available more public funding for bycatch reduction schemes and other fisheries management measures, and possibly aquaculture development as well.

## **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

### **ii. act against national interest?**

No comment.

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

The continuation of relative stability as a method for allocating fishing opportunities for fisheries within EU waters to Member States is also likely to benefit the UK's national interest by ensuring an ongoing share that can either be used or exchanged for more desirable quota.

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

They help the UK's national interest by providing an EU subsidised source of fishing opportunities for UK vessels, and downstream fishing activities such as processing and domestic sale for UK businesses.

**ii. hinder the UK's national interest?**

No comment.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

No comment.

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

No comment

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

In many ways, the European Fisheries Fund hindered the objectives of the CFP by incentivising over-capacity in fisheries which increases pressure to overfish. For example, since 1994 EUR 1.7 billion in public aid has been spent trying to reduce overcapacity through schemes such as scrapping, yet fishing capacity has not actually decreased in most EU fisheries.<sup>2</sup> Subsidies doled out under the EMFF have

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<sup>2</sup> Proposal for a Regulation of the European Parliament and of the Council on the European Maritime and Fisheries Fund [repealing Council Regulation (EC) No 1198/2006 and Council Regulation (EC)

had a negative impact on fish stocks and industry profits in at least some EU waters.<sup>3</sup> Furthermore, there was no requirement for vessels to comply with the rules of the CFP to be eligible for funding, representing a significant missed opportunity to incentivise industry and Member States to contribute to achieving the goals of the CFP.

### **How does access to EU markets and adherence to common standards on fisheries products**

#### **i. benefit UK businesses, both domestically and when exporting abroad?**

Access to EU markets and adherence to common standards benefits UK businesses since a large proportion of UK catch and processed products are exported to the EU.<sup>4</sup> Adherence to common standards also means that domestic producers will benefit from a level playing field with other EU producers.

#### **ii. hinder UK businesses, both domestically and when exporting abroad?**

No comment.

### **Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

No comment.

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NO 861/2006 and Council Regulation No XXX/2011 on integrated maritime policy. COM(2011) 804 Final, Brussels 2.12.2011.

<sup>3</sup> Heyman, J. J., Mackinson, S., Sumaila, U. R., Dyck, A., Little, A. (2011). The impact of subsidies on the ecological sustainability and future profits from North Sea fisheries. *PLoS ONE* 6(5): e20239

<sup>4</sup> "The UK exports most of the seafood it catches" and the 8 of the top 10 export markets are EU Member States. From 'Market summary' by Seafish [www.seafish.org/research--economics/market-insight/market-summary#exports](http://www.seafish.org/research--economics/market-insight/market-summary#exports)

## Coalition for Fair Fisheries Arrangements

**What types of decisions should be made at:**

**i. EU level?**

Not answered

**ii. regional level (groups of Member States)?**

Not answered

**iii. Member State level?**

No comment.

**How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

**i. benefit national interest?**

Not answered

**ii. act against national interest?**

Not answered

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

Not answered

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

Under reformed CFP, there is an increased coherence between the negotiation of SFPAs with developing countries and EU/UK development cooperation objectives, in particular the promotion of sustainable fisheries development. This furthers UK goals in terms of development cooperation.

EU SFPAs are the most transparent (compared to other agreements with Distant water fishing nations). Public debate created by the negotiations of EU agreements

also helps, in particular in ACP countries, to raise awareness about fishing agreements in general.

The latest EU-Mauritania fishing agreement protocol is an example of how the new CFP external dimension will be implemented. It has been widely welcomed by Mauritania stakeholders. In that context, SFPAs may help set up a basis for (re) building trust and collaboration between EU and third countries involved - an essential element for joint struggles, such as the fight against IUU fishing.

Several elements in this EU-Mauritania agreement are remarkable - in particular the inclusion of a 'non-discriminatory clause' - which ensures all foreign fleets have to respect the same conditions (access, financial) than EU fleets. In that sense, such agreement helps create a level playing field between EU operators and other foreign operators active in the same fisheries.

**ii. hinder the UK's national interest?**

The sector's possibilities to access third countries waters may be limited by the conditions set up under SFPAs, and the fact that they don't have the alternative of fishing outside the SFPA, under other conditions, if there is an SFPA (exclusivity clause).

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Not answered

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

Not answered

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

Not answered

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

Not answered

**ii. hinder UK businesses, both domestically and when exporting abroad?**

Not answered

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

Not answered

## Davies, Chris MEP on behalf of the Liberal Democrat MEPs

The reform of the Common Fisheries Policy (CFP) (the 'Basic Regulation') provides a fine demonstration of how the UK can secure improvements in European Union policy through negotiation, and by building on a position strengthened through effective communication and partnerships established within both the Council of Ministers and the European Parliament. The achievements are very much in accord with UK policy and very definitely in our national interest.

Critics of the EU have long held the CFP in contempt, using the initials as a shorthand summary for all the alleged failings of the body as a whole. In the House of Commons debate on a potential EU referendum bill in October 2011 it was one of just four specific EU measures singled out for criticism in 5.5 hours of discussion<sup>5</sup>.

It is rare for critics of the current policy to acknowledge that UK fish stocks, which peaked in the late nineteenth century before a steep reduction during the First and Second World Wars, before peaking once again during the 1950s, were already in steep decline when the UK joined the EEC. The new arrangements did nothing to arrest the problem. However, disadvantages that the UK suffered through having to share access to fisheries over which it formerly claimed exclusive entitlement can be attributed in large part to our joining late an established club whose members naturally wanted to use their strong bargaining position to promote their national fishing interests.

Our experience 40 years ago should be a salutary reminder of the penalties that the UK paid for joining the European club late. They should also provide a warning to those who suggest that, should we choose now to leave the organisation, EU Member States would find ways of imposing a penalty by disadvantaging British interests to the benefits of their own. Why should they not?

Still, the reduction in potential access needs to be put into perspective. The British public are not renowned for eating a wide variety of fish; the 'Big 5' continue to dominate the domestic market. Some of the most lucrative fishing by British vessels is for species that are supplied to continental businesses. Access to the EU single market is an important element in these transactions.

It is also important to recognise that the distribution of access to national fishing opportunities between large fleets and small scale vessels is determined annually not by the EU but by the Government and administrations in Scotland, Wales and Northern Ireland. If small scale fishermen are treated "unfairly" it is within the ability of these bodies to act.

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<sup>5</sup> [www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111024/debtext/111024-0002.htm#1110247000001](http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111024/debtext/111024-0002.htm#1110247000001)

Over the years the European Commission attempted to make changes to protect fish stocks and secure the future of the industry. Quotas were introduced, a measure that had honourable intentions but also had perverse consequences and promoted the practice of discarding fish.

The objective benefits of quotas were often undermined by the exercise of national self-interest at the December meetings of the Agriculture (and Fisheries) Council when Total Allowable Catches and Quotas were set. Ministers competed to get the best possible deal for the particular fishing industry they regarded themselves as representing, in doing so sacrificing for short term gain the long term security that the industry could gain from a sustainable approach. Expert advice from marine scientists about the state of fish stocks was routinely ignored.

Fishermen should not escape this criticism. They were (and often continue to be) the ones who first dismissed the scientific advice and then put strong pressure on ministers to accede to their demands. From a long term perspective it can be seen that fishermen were often their own worst enemies.

CFP reform was driven by the European Commission, which despite its obligations to apply the existing policy became one of its most outspoken critics. However, the discards ban proposal had a particularly UK heritage, albeit one that stemmed initially more from the work of NGOs and single issue campaigners than from the Government or fishing industry (the latter being strongly critical of the proposal).

The UK Government was slow to announce its fulsome support for the reform package, dwelling on details rather than promoting the big picture at a time when an embattled Commission was in need of vocal support. Eventually however, when decisions had to be taken in Council, it positioned itself as a leader amongst the reformers.

Although it was often able to count on support from Germany and Scandinavian nations, the impression was that the UK never deployed its diplomatic strength to maximum effect to build a stronger alliance and counter the efforts of France and Spain to resist reform. We were fortunate in having, in Richard Benyon, a committed minister who I suspect was popular with Council colleagues. But his position was not high in the ministerial hierarchy, and, with fisheries matters rarely commanding the political attention they merit it is unlikely he had the resources to devote to much networking around national capitals.

While the overall outcome of the negotiations was satisfactory, there were many times during the process that the UK could have been a more proactive in winning support from other governments, particularly those with little pressure from vested interests within a domestic fishing industry.

Within the European Parliament there was generally strong support for CFP reform from Conservative, Labour and Liberal Democrat MEPs, with even UKIP's Nigel Farage breaking precedent by making a unique visit to the Fisheries Committee in order to vote (for three hours) on hundreds of amendments, some of them positively.

Key to the success of reform within the European Parliament was the 'Fish for the Future' group, a cross-party group founded by Liberal Democrat MEP Chris Davies, that played a significant role in raising awareness amongst MEPs of the need for Common Fisheries Policy reform. Its work contributed to the fact that early in 2013 a total of 502 MEPs voted in support of ambitious reform proposals.

The reformed CFP introduces significant improvements. A new legal requirement to secure the rebuilding of fish stocks above maximum sustainable yield is established, which will provide a framework for the annual setting of quotas. A long term management plan (multi-annual plan) will be established for every fishery, helping to ensure that decision-makers work towards clear objectives and are less likely to be influenced by short term demands. Member States will be required to report annually on their data collection programmes, emphasising the need for future decisions to be based on the best available science.

Much attention has been paid to the phased introduction from January 2015 of the ban on discards. Although a small margin for discards will remain the policy change is dramatic, effectively reversing the burden of proof. Instead of fishermen being forbidden from landing fish if their quota has been exhausted there will instead be a specific obligation to land all fish caught, even if they have little or no commercial value. Besides helping to ensure that better use is made of the fish caught this will allow more accurate assessments to be made of the state of fish stocks.

New rules requiring information in the fishing fleet register on vessel ownership and gear characteristics, and restricting financial assistance if Member States or vessel owners fail to comply with CFP rules, are long overdue and a welcome improvement.

For some, the attempt to reduce micro-management from Brussels and instead encourage day to day issues about fisheries management to regional bodies is a highlight of the reform. Fish pay no respect to national boundaries so a management approach built around the common characteristics of shared fishing grounds offers good potential for success. Whether this approach proves to be effective in practice may depend upon the personalities of those involved in the organisations and their success in building a sense of common purpose between fishermen and others involved. I note that representatives of some fishermen's organisations are now complaining that the responsibilities involved may prove too onerous.

All of these improvements were welcomed and supported by the UK.

However, reform of the Common Fisheries Policy should be regarded as a work in progress. There remain many uncertainties about how it will operate in practice. There are loopholes still to be closed.

The procedure for agreeing long term management plans has yet to be agreed, although an inter-institutional taskforce is now seeking to resolve the differences. Implementation of the landing obligation poses many practical difficulties, but the requirement is already encouraging the design of new equipment and development of new techniques.

Issues also remain about whether the new policy will be implemented and effectively enforced by all Member States, and whether penalties laid down by national bodies will be comparably dissuasive to those in the UK. It would be very much in the Britain's interest to insist on the introduction of common minimum penalties. By its refusal to endorse this approach the UK risks putting its own fishermen at a disadvantage compared to those of other nations.

## Department of Agriculture and Rural Development, Northern Ireland

**At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the**

- i. EU level**
- ii. regionally**
- iii. Member State level?**

DARD believes that the provisions within the recently adopted review of the Common Fisheries Policy (CFP) with regard to regionalisation are appropriate.

Under the old CFP many decisions were made at EU level covering all EU waters and involving all Member States. Often the particular circumstances of regional seas such as the Irish Sea and their fishing fleets and fisheries were not dealt with effectively in an effort to reach agreement across all Member States. This tended to lead to regulations being applied at regional level that were inappropriate, inflexible and difficult to amend. As the EU has expanded the ability of the CFP to accommodate regional differences declined further. A case in point are the proposed amendments to the Cod Recovery Plan that have been held up due to constitutional issues. It is to be hoped that plans and measures developed under the new CFP are progressed in a timely manner.

There is potential in the new CFP to develop regional fisheries management plans and technical conservation measures that are more adapted to regional fisheries and fishing fleets. For areas such as the Irish Sea there will be fewer Member States involved in developing plans and measures and potentially greater involvement from the fishing industry. This should lead to better management that has improved industry support and greater potential for plans and measures to be more responsive as circumstances in the fisheries change.

As access to most fisheries are shared between several Member States, Member State level decision making is inappropriate. At worst, if individual Member States introduce measures and plans independently there is a significant risk that one State may gain competitive advantage over another or fish stocks may be put at risk if plans and measures in one area are inadequate to maintain stock levels. At best the fishing industry could face additional costs through having to comply with a multitude of local regulations as a vessel passes from one jurisdiction to the next.

**How does the EU approach to fisheries management, including recent reforms to the CFP**

- i. benefit the national interest**
- ii. act against the national interest?**

The main potential advantage of the CFP, is that common management plans and conservation measures should apply to waters shared by a number of Member States. This should ensure that all have common fish conservation objectives and that fishing fleets from different Member States are treated equally.

The recent difficulties concerning external agreements between the EU, Norway, Iceland and the Faroe Islands highlight what can happen when individual States act unilaterally to the potential detriment of fish stocks.

### **How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

In relation to the Irish Sea, given its relatively small size, it is likely access would still have to be negotiated between neighbouring Member States with or without a CFP. Given the long standing access arrangements it is unlikely that access would be significantly changed.

### **Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

- i. **help the UK's national interest?**
- ii. **hinder the UK's national interest?**

DARD had a relatively small interest in external fisheries and is not in a position to offer an opinion on the effectiveness of external negotiations.

### **How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

There is no evidence that DARD is aware of to suggest that the existing arrangements or those incorporated in the reformed CFP and Common Market Organisation Regulations do not provide for a level playing field.

DARD welcomes the new provisions for regionalised fisheries management and does not believe plans and measures tailored for regional sea will significantly affect competition for business throughout the EU as fisheries products from various sea areas should remain unchanged.

### **How does access to EU markets and adherence to common standards on fisheries products**

- i. benefits UK businesses, both domestically and when exporting abroad?**
- ii. hinder UK businesses, both domestically and when exporting abroad?**

Successful businesses must deliver products that match customer requirements. These can be above minimum EU standards. However common standards across the EU appear to reduce cost to businesses as potentially discriminatory standards are removed from a potentially large market. We have experience in dealing with some external countries that from time to time standards and requirements are changed that create additional costs for business in order to maintain export markets.

### **What evidence is there that rules around support for the fishing industry through EU funds**

- i. help the UK in meeting its management objectives, or the wider goals of the CFP?**
- ii. hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

Funding in support of the fishing industry has been beneficial in terms of moving towards sustainable fishing, improving local port infrastructure, and improving the efficiency, safety and working conditions on board fishing vessels. However the fishing industry perceive that the level of bureaucracy associated with applying for funding and delivering it is burdensome.

DARD has to balance necessary checks and monitoring against the drive to reduce “red tape” and overall objectives to develop fisheries are being met. The Department suspects that the current rules add to cost and slow down the process of delivering funding.

### **Bearing in mind current EU arrangement and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

As stated previously, the main benefits of the reformed CFP are the potential to develop regional fisheries management plans and technical conservation measures that are more adapted to regional fisheries and fishing fleets. This should lead to better management that has improved industry support and greater potential for plans and measures to be more responsive as circumstances in the fisheries change,

The new system must effectively take account of regional differences, provide for faster decision making and allow greater flexibility to change plans and measures quickly if problems are identified.

## Eastern Inshore Fisheries Conservation Authority

Will the IFCAs have formal representation on the proposed RAC? This is important as we are the people on the ground for application of fisheries regulations, and conservation regulations, within the six mile limit. (and this will continue, as the derogation from the “equal access” principle for the 0-12 will continue for a further 10 years (text box on page 13).

There is a strong perception among the fishing community that enforcement measures are not applied equally across the EU, with the UK applying these measures more rigorously than some.

Page 13 Defra Fisheries Call For Evidence document text box:

- CMO provision to “*harmonise minimum marketing sizes with minimum conservation sizes*” – no date is given there for this. It’s important to have this in place – or at least be moving strongly towards this – before lifting of minimum landing sizes associated with discards elimination. Note also that many IFCAs use a minimum landing size as guide for recreational anglers, and we would probably wish to continue to do so in the future even if MSL are removed from commercial operations.
- “*EMFF is by far the smallest of the European.... It is important to focus on a few key priorities....*”. It is important to differentiate between “a few key priority **areas**” and “a few key priority **projects**”. There is a danger with “flagship” projects (which tend to be expensive) that disproportionate amounts of the budget are spent on these to the detriment of other areas. This is important to our area, where a lot of our fishermen – especially finfish – are small operators without much individual clout when it comes to applying for grants etc.

It is good to see acknowledgement of the importance of the catching sector to the wider economy and community – this is often difficult to quantify, but it’s important to recognise it.

“...*creating a legally binding commitment to ensure levels of fishing in the EU are set on a sustainable basis*”. The devil is in the detail – “Sustainable” – from a fisheries management point of view, or a wider, ecosystem based assessment of sustainable? Eastern IFCA support the utilisation of MSY as the defining measure for “sustainable”.

“...*help the fishing industry adjust to a “land-all” policy under the forthcoming discards ban*”. We recognise the need for such action, and would ask that small individual operators – small in their own right, but making up a considerable portion of the fishery overall - be considered when projects are being implemented.

This paragraph recognises the value of flexible management (and therefore legislation), within a framework. This is in line with the approach that Eastern IFCA has taken with bye-law design for the management of European Marine Sites.

### **Overall**

The forthcoming modifications to the CFP will be a major change. It is important in all such change that there be ongoing and effective feedback and support between those “on the ground” and those driving and managing the change. What mechanism is there in place for this?

## European Movement

This submission is from the European Movement, a not-for-profit, independent, all party and grass roots organisation. We call for closer integration and co-operation at the EU level in areas where collective EU action can deliver better results than individual member states can when acting on their own. We also want more powers to be given to the democratically elected institutions of the EU and more popular involvement in its intergovernmental decision-making structures. A strong EU must have its people at the centre of where decisions are made.

### **At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the EU level, regionally, or at Member State level?**

There are two reasons for an EU competence in fisheries.

The first reason is that of the single market. There is a consumer interest in cross-border competition in food and drink products, including products made from fish. Common rules need to apply across borders to facilitate that competition. It should never be neglected that the purpose of fishing is to produce food for consumers, and that regulation should not be written simply for the benefit of producer interests.

Retail sales of fish and fish products in the UK (£5.6 billion) are much greater than the value of the fish landed (£770 million) and the value of imports and exports of fish and fish products within the EU is also greater than that of the landed fish.

The second reason is that fish do not respect national borders. Fish stocks move from the territorial waters of one member state to another quite naturally, which means protecting those stocks must be a joint activity.

The picture is further complicated by the fact that the natural ranges of these stocks are themselves changing, very possibly as a result of climate change. Mackerel fisheries are moving northwards, for example. This means that any existing international arrangement must always be open to change.

The history of whaling shows what can happen to marine resources that are not properly protected: a population of more than 1 million sperm whales was reduced by two-thirds before protection was introduced, and the number of blue whales was reduced by more than 90 per cent. It would be intolerable for fish species such as cod and haddock to be put at risk in this way.

Long years of experience tell us that the best way to protect common interests is through shared and democratic institutions. For the people and the countries of Europe, that means the EU. The suggestion sometimes advanced that bilateral

agreements will suffice does not survive scrutiny of the mathematics. There are 28 member states within the EU, which implies 378 bilateral agreements. (As mentioned above, the purpose of these agreements includes protecting the interests of consumers, which is why land-locked and non-contiguous countries will need bilateral agreements.) A single, multilateral agreement makes much more sense.

**How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

The British experience of fisheries management as part of the EU needs to be put into a longer-term context. The number of people employed in fishing has halved since Britain joined the EEC in 1973 (down from 22,000 to 12,000), but it halved in the same number of years before Britain joined the EEC, too (47,000 in 1948). Decline in the size of the British fishing industry is not due to the CFP. Similarly, catches have been on a downward trend since the late 1940s, i.e. well before Britain joined the EU.

The EU itself has changed its approach to fisheries management substantially over the years since the CFP was first introduced. The prevailing assumption underpinning fisheries management – in the EU and also round the world – was that fish stocks could replenish themselves easily. Fish species can breed so prolifically that even reduced to a very low level, a period of time would see stocks recover.

The error in this assumption was to neglect competition between species. The niche in a marine ecosystem vacated by an exhausted fish stock might be filled by another, more rapidly growing, species, rather than waiting for the original fish stock to replace its numbers. If that replacement species is less valuable commercially, then the fisheries management policy will fail.

This error was not limited to the EU – exploitable fish stocks have collapsed in numerous seas around the world (the Grand Banks off Newfoundland, for example) – but this error is now recognised and the size of permissible catches is now set much more prudently. Of course, the reduction in allowable catches has led to rising prices, which in turn has added to the controversy.

A suggestion that breaking away from the CFP could lower fish prices to consumers must confront this basic point: the reason why fish prices have risen faster than, for example, meat prices, lies in scarcity. To reduce the price of fish means to increase fish catches and deplete stocks from their already low levels.

A fishing policy must balance out three objectives: preserving stocks, reducing costs, and maintaining employment levels. No policy can achieve all of these three perfectly. Critics of the current CFP must explain which of them they are willing to concede.

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

No comment.

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

No comment.

**How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

No comment.

**How does access to EU markets and adherence to common standards on fisheries products benefit or hinder UK businesses, both domestically and when exporting abroad?**

No comment.

**What evidence is there that rules around support for the fishing industry through EU funds help or hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

No comment.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

No comment.

### Background

The FDF Seafood group represents the UK's major fish processing businesses. With a combined turnover of more than £2 billion a year they supply over 80% of the UK fish market. They also operate throughout the EU and benefit substantially from the access afforded by the Single Market.

The EU is, however, a deficit market. Around two-thirds of supplies are imported from third countries, rising to around 90% for the main commercial whitefish species<sup>6</sup>. This is not explicitly recognised in the provisions of the Common Fisheries Policy (CFP), which focus mainly on the management of EU fish stocks and support for the catching sector. The needs and interests of the processing sector are largely ignored, even though it carries significantly more economic weight and generates more employment. Similarly consumer concerns receive relatively little attention, despite the widely acknowledged health benefits that eating more fish could bring. The Review questions also do not directly reflect these considerations. The FDF answers should therefore to be seen in the wider context of the role of global supply chains and markets in meeting consumer needs.

### Where should decisions be made?

#### At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the

- i. EU level
- ii. regionally
- iii. Member State level?

Fish stocks do not respect national boundaries or administrative divisions. They need to be managed and decisions taken at the most appropriate level for the stocks concerned. This will frequently be at a regional or sea basin level. Past experience shows that centralised management at EU level produces sub-optimal results. The most recent reforms are designed to address this, but it is not yet clear how effective they will be.

The most recent CFP reforms were the first to be agreed under the full provisions of the Lisbon Treaty. The nature of that process, in particular the so-called trilogue mechanism for resolving differences between the institutions, introduces a very real lack of transparency in the latter stages of decision making. It can also result in provisions being agreed which have not benefitted from the degree of consultation and impact assessment at earlier stages.

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<sup>6</sup>AIPCE Finfish Study 2013:  
[aipcecep.drupalgardens.com/sites/g/files/g402611/f/201312/FinFish%20Study%202013.pdf](http://aipcecep.drupalgardens.com/sites/g/files/g402611/f/201312/FinFish%20Study%202013.pdf)

## **Advantages and Disadvantages**

**How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

Even according to the European Commission, the CFP has so far failed to provide adequate protection for fish stocks or to prevent the relative decline of the industry. The recent reform package provides a framework for more effective management and more scientifically based, longer term decision making. It is, however, still too early to assess how successful this will be in overcoming the deficiencies of the past.

As a very large majority of EU fisheries resources would fall under UK national control in the absence of the access provisions of the EU treaties and other CFP measures, it is arguable that past policy failures have impacted disproportionately on UK national interests.

But the existence of historic fishing rights for other Member States, and the need for stocks to be managed on a joint or regional basis, make it difficult to say what might have happened under other arrangements.

The key priority going forward, both in terms of the management of the resources themselves and the livelihoods of those who depend on their exploitation, is to put in place more effective policies for the future. The reformed CFP is designed to achieve this. Fundamental change in respect of competences would give rise to many new uncertainties, the effects of which would be extremely difficult to assess.

## **The external dimension**

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

EU policy for external waters should be guided by the need to ensure sustainable exploitation of the relevant fisheries resources and, where appropriate, the development needs of local communities. In terms of managing stocks shared with third countries, the EU's role in negotiating them does not obviously hinder the UK's national interest and is consistent with the need to manage fish stocks on a regional rather than national basis.

## **Current legislation**

**How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Adhering to EU standards clearly imposes costs on business, although those costs would be substantially higher if different member states applied individual standards on their markets. As large businesses operating widely across EU markets, UK fish processors gain substantial benefits from access to a single European market as well as the growth and innovation that competition from Europe has encouraged. Consumers too benefit from a greater choice of products from other member states that were less available before the creation of the EU single market. EU legislation does not adversely affect processors' ability to meet local and regional needs.

**Internal market and economic growth**

**How does access to EU markets and adherence to common standards on fisheries products benefit or hinder UK businesses, both domestically and when exporting abroad?**

The UK's major fish processors have a significant presence in a number of Member States, so access to EU markets is vital. Common standards in respect of labelling and consumer information also facilitate trade. Any benefits that might accrue from the UK introducing its own standards, would be more than outweighed by businesses' need to comply with EU standards to ensure continued access to other Member States. The possibility of the UK or individual Member States operating different individual standards would make business considerably more difficult and hinder trade.

In common with their counterparts elsewhere in the EU, UK processors depend heavily on third countries for supplies of raw material. In theory businesses might benefit from the UK being able to set its own lower import tariffs. But that would clearly be incompatible with a single European market and the loss of easy and tariff free access to other Member States' markets would be seriously detrimental to both UK fish processors and consumers.

Our catching sector also benefits from the Single Market by being able to export substantial volumes of fish to Europe, particularly of species which are in greater demand elsewhere and thus command higher prices than the UK market can offer.

**Funding**

**What evidence is there that rules around support for the fishing industry through EU funds helps or hinders the UK in meeting its management objectives, or the wider goals of the CFP?**

Continuing financial support for the fishing industry has led directly to the inefficiencies caused by the overcapacity in the EU fishing fleet. Modernisation grants work against conservation objectives by improving performance or reducing operating costs. Direct aids to reduce capacity through decommissioning have proved both expensive and ineffective in reducing fishing mortality. They can also serve to increase the efficiency of the remainder of the fleet, thus increasing pressure on stocks. Support for the fishing industry has therefore hindered the achievement of wider CFP goals.

### **Future challenges and opportunities**

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

However successful recent CFP reforms prove to be in terms of conserving and rebuilding stocks, the reality is that EU supplies alone will not be able to meet total consumer demand. UK fish processors would welcome more explicit recognition of this through improved access to third country supplies to help maintain continuity and choice for consumers.

More widely, fisheries policy needs to be better integrated into the management of marine ecosystems and resources, which are likely to assume greater importance in the face of pressures resulting from climate change. The role of oceans in this respect needs to be better understood.

### **Fresh Start Project**

Fresh Start submitted a report 'Manifesto For Change, a new vision for the UK in Europe' (2009). This is available at:  
[www.eufreshstart.org/downloads/manifestoforchange.pdf](http://www.eufreshstart.org/downloads/manifestoforchange.pdf).

## Heylin, Michael - Individual

### **At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the**

#### **i. EU level**

Strategic stock measures and enforcement policy. Council of Ministers should have no further involvement in determining TACs or negotiating MS quotas. That should be determined by the Commission under guidance from CITES and science based datasets. The involvement of MS Ministers simply leads to deal making and over-exploitation of available stocks.

EU should set the enforcement policy/practice and ensure that MS apply it.

EU should determine that no subsidy be paid to any fleet for any purpose. Other industries have to subsist on their potential to earn revenue and invest to do so. It is inequitable to everyone working in any industry to pay taxes in order to subsidise a business which simply exploits a free resource to which it is given preferential access.

#### **ii. regional level (groups of Member States)?**

There are good grounds for suggesting that the CFP is too complex for managing the seas around Europe, given their own complexities.

The Baltic, Mediterranean and the North Sea are separate and distinct in the management issues they each present. The MS around those fisheries and those with fleets participating in those fisheries should be responsible for determining tactical measures to preserve and enhance stocks while maintaining the food chain from them.

Where agreement cannot be reached between MS in these circumstances then the Commission should act as referee or decide on behalf of MS to stop the horse trading which is likely to ensue in such circumstances.

#### **iii. Member State level?**

Within the tactical decisions made at a regional level the MS should be able to determine methods and acceptable gears to be used in its local waters. These measure should apply to all fishing those waters not just vessels registered in that MS.

Local fishers should not be put at a disadvantage over visiting fishers to those waters and the preservation of the stocks should be the priority. Within MS waters (out to 12NM) the MS should be the final determinant of gears, methods and species/sizes to be fished.

There must be parity between all stakeholders to the fish and the size at which it is permissible to land them. Recreational fishers should have equal access to stocks and an equal say in their management. The fish are a common and all citizens have equal rights to exploit them. To give undue weight to the views of commercial exploiters, who pay nothing for the right to take the fish and who trade quota as a market mechanism to make more money from an asset they do not own is inequitable and against natural justice, especially when the landings for most fleets do not reach the value of the subsidy they receive from the EU.

### **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

#### **i. benefit national interest?**

Unless the Minister is exceptionally good at horse trading decisions in other areas of EU policy for benefits under the CFP system there are no benefits to national interests.

There are benefits to the fleet in that it continues to be able to trade quota issued under the CFP, even though that quota is supposedly for 12 months only.

#### **ii. act against national interest?**

It does not. Our national fish stocks had previously been destroyed by the uncontrolled participation in the fishery by British fleets.

"Our" fish have not suffered any more under the CFP than they would have done if we were outside the EU. If you want proof of this refer to *The Unnatural History of the Sea* - Prof Callum Roberts Chapter 9 - The Great Fisheries of Europe.

National interest would comprise of managing the fish stocks first to preserve, enhance, ensure reproduction and habitats and then controlling the access and exploitation levels of those stocks to ensure they were continually improving. Successive governments over generations have failed to implement that policy and stocks have continued to decline, so the EU approach is certainly no worse than the "national" approach.

### **How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

The UK is unable to determine how all fishers exploit what might be considered to be UK stocks, i.e. those fish in waters within 12 NM of the shoreline.

The UK governments can impose local conditions on those waters but those conditions apply only to UK registered vessels. Vessels from other MSs, fishing

under grandfather rights, may fish to EU regulations which in most cases are laxer than those we seek to protect local fish stocks.

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

Is it in the UK's national interest for effectively unregulated fishing to be happening in third world waters under the EU or UK flag?

Having failed to manage fish stocks in our own waters we now seek under these external agreements to over-exploit the fish stocks of third world nations, deny local artisan fishers safe access to inshore stocks, force them, on frail craft, to fish further out to sea than was the case historically, reduce the food supply in the local fish market and effectively through economic power negotiated between governments keep them in poverty and potential hunger. This is the modern form of colonialism. That is not in our national interest whether negotiated by the EU or the UK government. The price of a few jobs at sea for UK Ltd is the continued exploitation of people who for the most part are not represented by the governments which sell their access to fish for a healthier bank balance in the depths of Switzerland.

**ii. hinder the UK's national interest?**

See the previous answer.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Inside the 12 NM limit there is no level playing field, see my previous concerns about MS vessels visiting local waters.

Where a MS chooses not to be too rigorous in enforcement then that un-levels the playing field in favour of the MS's fleet to the detriment of other MS fleets. Effectively there is no level playing field and never has been.

Only by removing enforcement from the MS to the Commission could a level playing field be provided but we have already seen that when EU officials are on vessels for monitoring purposes they are subject to harassment, bullying, threats against them and their families etc etc. When owners and skippers. crews act like that the only solution is to impound the vessel, remove all quota and stop that vessel/crew from fishing in future. We should not be playing games with our fish stocks or those who seek to profit from their exploitation. Enforcement should be serious and the consequences of breaking the law or preventing a government agent from going about his/her lawful business should be serious enough to stop it happening.

## **What evidence is there that rules around support for the fishing industry through EU funds**

### **i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

None. Subsidies paid in the past to decommission vessels have since been used to build new additions to the fleet, enhance the power and potential of the fleet. No other business in the world receives the level of subsidy which does fishing. There is no justification for any subsidy in a market economy and any politician who thinks there is knows absolutely nothing about how markets operate. As long as subsidies are paid the market for fish is tainted and the objectives of any MS government cannot be met by a tainted market, in terms of employment potential, investment potential, food security or preservation of the basic stocks.

### **ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

Simply looking back at the history of subsidy for fleets under the CFP and the wish to reduce exploitation levels we can see that the number of vessels has declined in MS fleets but the capacity to catch has increased beyond the capacity of the previously larger fleet. Subsidy does not work at any level which an economist could or would justify.

## **How does access to EU markets and adherence to common standards on fisheries products**

### **i. benefit UK businesses, both domestically and when exporting abroad?**

Common standards? So the Swedes selling dioxin contaminated salmon to France is a common standard? I think not.

There is no lack of regulation but no noticeable enforcement in most MS's. The Commission seems to be adept at regulation but with no provision for centralised enforcement which rather destroys the intention of the regulation.

### **ii. hinder UK businesses, both domestically and when exporting abroad?**

Too much regulation, without enforcement in many MS is unfair to those countries which do regulate and enforce. It costs industry profits, the workforce jobs and stops the market working effectively.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

Unfortunately UK goals for fisheries management appear to be as limited as those of the EU. The history of control of UK fish stocks by UK governments is as bad as anything the EU has managed to impose, and has been since before the advent of steam applied to the fleet.

A complete ban on trawling by any method would be the best way of ensuring future food security, not worrying about whether or not we should continue to be part of the EU. Trawling was introduced around 1370 and petitions were made in 1376 to Edward III asking him to ban the method, since it damaged the ground, rooted up the substrates on which fish and their spawn depend, destroyed habitats and killed juvenile fish in vast quantities. The method continues to do so now, only now the nets are no longer 10 feet (3 metres) wide, they are as wide as the technology allows them to be made and fished, the length of a rugby field (120 metres). Vessels now have the power, subsidised by the EU taxpayer, to draw nets so vast that acres of sea bed is destroyed at one pass of the vessel.

Other nations have restricted trawling to a greater or lesser extent but the only closure to trawls in EU or UK waters appears to be off Scotland.

You ask for relevant experience or science to support the answers consultees give to this questionnaire. Why? The UK and the EU have consistently avoided really using science to drive fisheries management unless it satisfies the requirement of continual stock depletion to the short term benefit of commercial interests and what are now very few jobs at sea.

Observation and understanding of the data, knowledge of how biological systems work, reference to writings and data all inform the arguments used here and fifty years or more experience of the state of British fish stocks and the damage being done around the world to our natural habitats by unregulated, and uncontrolled fishing.

## Institute for Archaeologists

The Institute for Archaeologists (IfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

IfA has over 3,000 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

In matters relating to maritime archaeology IfA is advised by its Maritime Affairs Group (MAG), to which most professional maritime archaeologists belong. The Group exists to:

- advance the practice of maritime archaeology by promoting professional standards for the management, conservation, understanding and enjoyment of the maritime archaeological resource;
- provide advice and commentary to IfA on matters relating to maritime archaeology;
- aid in the development of professional guidelines and standards for the execution of maritime archaeological work;
- promote the training of archaeologists and others in maritime archaeological practice; and,
- facilitate the exchange of information and ideas about maritime archaeology and to communicate these to the wider profession.

IfA's evidence focuses on the EU's effect on the management and protection of the historic environment.

## Review of Balance of Competences – Fisheries

### General

The 'historic environment' is defined in the UK Marine Policy Statement (2011):

*'2.6.6.1 The historic environment includes all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged. Those elements of the historic environment – buildings, monuments, sites or landscapes – that have been positively identified as holding a degree of significance meriting consideration are called 'heritage assets'.'*

Heritage assets can be either designated (for instance, through the scheduling of an ancient monument, the designation of a wreck under the Protection of Wrecks Act 1973 or the designation of a historic marine protected area) or undesignated. It is important to note that the vast majority of the historic environment (around 95%) is undesignated.

The UK Marine Policy Statement continues:

*'2.6.6.2 The historic environment of coastal and offshore zones represents a unique aspect of our cultural heritage. In addition to its cultural value, it is an asset of social, economic and environmental value. It can be a powerful driver for economic growth, attracting investment and tourism and sustaining enjoyable and successful places in which to live and work. However, heritage assets are a finite and often irreplaceable resource and can be vulnerable to a wide range of human activities and natural processes.'*

One of those activities is fishing and work is continuing better to understand the relationship between fishing and the marine historic environment (see, for example the report of Seafish (Ref.CR643), *Underwater Cultural Heritage, An Assessment of Risks from Commercial Fishing* (2011)).

There is scope for EU provision through the Common Fisheries Policy to support the management and protection of the marine historic environment (in a similar way to the support for the terrestrial historic environment through the Common Agricultural Policy). However, at present the measures to safeguard or improve the environment are confined to the natural environment.

### **How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

The EU approach to fisheries management acts against the national interest insofar as it fails adequately or at all to address the management and protection of the marine historic environment.

The importance of the historic environment, generally, is recognised in *The Government's Statement on the Historic Environment for England 2010* which sets out a vision

*'That the value of the historic environment is recognised by all who have the power to shape it; that Government gives it proper recognition and that it is managed intelligently and in a way that fully realises its contribution to the economic, social and cultural life of the nation.'*

Those sentiments continue broadly to be echoed by all administrations throughout the United Kingdom. IfA would like to see this recognition reflected in the Common Fisheries Policy.

### **INTRODUCTION**

The Institute for European Environmental Policy (IEEP) is an independent research organisation concerned with policies affecting the environment in Europe and beyond. Our aim is to disseminate knowledge about Europe and the environment and to analyse and present policy options. We undertake research and consultancy on the development, implementation and evaluation of environmental and environment-related policies in Europe. We work closely with the full range of policy actors from international agencies and the EU institutions to national government departments, NGOs and academics.

We are a charity with offices in London and Brussels and a network of partners in other European countries. The London office of IEEP was founded in 1980, the Brussels office in 2001. A presence was established in Finland in 2008.

### **SOURCES OF EVIDENCE**

The evidence underpinning the response that we are making to the consultation is drawn from several sources. These include:

- More than 30 years of experience of EU policy, primarily in the environmental domain, by staff, associates and trustees, stretching back to the 1970s. This has included an extensive range of activities, amongst them both academic and applied research work, sustained interaction with the European Institutions, national officials engaged in EU matters and other stakeholders from civil society, business, science, research and elsewhere. A number of published reports covering both specific issues and the broader generality of EU policies related to the environment. . Amongst the latter is the Manual of EU Environmental Policy in Britain, later published as the Manual of European Environmental Policy (IEEP, 2011).
- Experience gained in undertaking work relating to fisheries and marine legislation commissioned by various sponsors and clients, including different DGs within the European Commission. Relevant topics have included the impact assessment associated with the most recent CFP reform, reviewing implementation of the CFP and EFF, examining issues where EU intervention might have a role, etc.
- Many of the observations below are difficult to reference to specific reports because they are responding to questions framed in very broad terms. Nonetheless we include some specific examples.

### **ISSUES OF COMPETENCE AND NATIONAL INTEREST**

Before providing answers to some of the detailed questions, we would like to clarify two overarching issues that we deem important for the overall Balance of Competences review process:

- There is a need to ***distinguish between three different questions*** while performing the review: one relates to establishing the right level at which competences in a given sphere of policy should be established in principle (ie European, national, or global). A second concerns the relevant EU and Member State structures and institutions and their capacity to exercise competence in an appropriate way. The third is a different question about whether good policy decisions have been taken in the past by actors at those levels. This helps to clarify the point that bad decision-making in the past, as has arguably been observed at the EU level as well as nationally and regionally, does not necessarily imply that responsibility is allocated at the wrong level, and vice versa.
- The second point of clarification relates to ***defining the UK's interest***, a phrase that is repeatedly used in the consultation documents. Given the UK is a part of the EU, it is clear that good outcomes for the EU are also good outcomes for the UK. In other words, entirely separating UK and EU interests is not helpful. Indeed, the debate over what would be appropriate for the 'national interest' in the fisheries context is problematic, from an environmental sustainability perspective at least, since the UK interest cannot easily be divisible from other neighbouring Member States' interests – they have shared fish stocks and thus a shared interest alongside some legitimate purely national concerns. There are situations in which, although some competences would be better being conferred at the Member State level for some countries from a purely nation-state perspective, actually moving the competence to the Member State level would not, overall, be advantageous for the environment and the wider public interest, neither in particular countries nor in the EU as a whole. This is because moving competences might well lead to a situation where more Member States would perform worse rather than better compared to a situation where environmental legislation is in the hands of the EU. The counterfactual is general.

In considering the national interest in the context of potentially different relationships between the UK and the EU it is perhaps most relevant to weigh up the advantages of pooling aspects of sovereignty in a policy domain, such as fisheries, allowing for the compromises this usually entails, with the alternative, of pursuing greater national autonomy outside the EU. The latter path has many implications, including a continued need to negotiate fresh relationships with the EU and a number of its policies given its role as a powerful neighbour. This is a different judgement to make than assessing whether a particular set of EU policies is better or worse than those which could have been made within any given period given current competences. It is this last question which often receives the greatest attention but it should not be

confused with the more fundamental issues of competence which the review appears intended to address.

## QUESTIONS

**Where should decisions be made?** The level at which decisions on fisheries management should be taken depends on the fisheries management issue in question and the type of decision required. With respect to establishing objectives for the conservation of marine biological resources and allocating large fishing opportunities, the primary reason for EU intervention and management is that EU Member States share a number of fish stocks, it is therefore necessary to manage these stocks jointly. An alternative, counter-factual system whereby all EU Member States would have to negotiate bilateral or multilateral agreements with all other countries with which they share a fishery would clearly be complex, burdensome and inefficient. In addition, there is no reason to suggest that such a system would produce more long-term or sustainable outcomes than the current CFP. The ongoing dispute between the EU and Iceland and the Faroe Islands over shared migratory mackerel is evidence itself that bilateral agreements are not necessarily going to prioritise sustainability or lead to efficient resolutions. The failure of negotiations between the EU and Norway, Iceland and the Faroe Islands led to the suspension of the Marine Stewardship Council certification of the stock. In addition there have been at least 15 rounds of talks attempting to resolve this issue (Scottish Fishermen's Federation and Scottish Pelagic Fishermen's Association, no date) indicating how burdensome bilateral negotiations could potentially be. In our opinion, if the UK were to attempt to negotiate agreements with all the countries with which it shared stocks it would be inefficient and costly, and might well give the same if not lower regard to the sustainability of stocks compared to the current arrangements.

The large number of stocks that are shared by EU Member States is also a reason for setting common standards at the supranational level, in order to create a level playing field for Member States and industry as well as pursuing sustainable management. Without a common agenda the incentives would not be there to act in the long-term interest, and standards would be reduced to the lowest level. The CFP is often criticised for having a governance structure which has led to short-term decision-making and the prioritisation of short-term economic gains over long-term economic, social and environmental sustainability (O'Leary et al, 2011; Daw and Gray, 2005). While these criticisms have some merit (most notably the poor track record of the Council in setting fishing opportunities in accordance with scientific advice), following the introduction of effort controls and more enforceable management measures during the 2002 reform exploitation rates have reduced continuously in the North East Atlantic. This has led to increases in biomass and demonstrates the potential for stock recovery in an area under sustained pressure from fisheries if appropriate measures can be agreed and implemented (Fernandes and Cook, 2013). Subsequently, the 2012 reform has introduced more regionalised

decision making on TACs and quotas, as well as legally binding commitments to fish at sustainable levels. Although the effectiveness of these reforms remains to be seen, it is likely that they will enable the recent reversal of fish stock decline and the rebuilding of stocks to continue, if not quicken over the next decade, of course from a low base.

Decisions relating to technical conservation measures, such as rules on gear types, minimum landing sizes, spatial measures, etc, have also historically been decided in Brussels. These measures are generally regarded as being too complex and difficult to understand, control and enforce (European Commission, 2011). For example, European legislation required all vessels engaged in the North Sea brown shrimp fishery to have sieve nets or separator grids fitted to their trawls in order to reduce bycatch and discarding of juvenile flatfish. However, effectiveness varied considerably between different fleets. The UK, Belgian and Dutch fisheries in southern Dutch coastal waters experienced benefits to fish stocks, but the measures were not considered to be effective in the Wadden Sea, as the size of juvenile flatfish caught there was smaller which meant they were not effectively sieved out (Suuronen and Sardà, 2007). Clearly one technical solution is not necessarily applicable in all sub-regions. Suuronen and Sardà (2007) also observed that many technical conservation regulations were enforced inconsistently and their implementation was often less restrictive than originally intended, and that trying to solve one problem frequently created new ones. Furthermore, successful use of technical conservation measures appears to depend largely on their acceptance by industry (Suuronen and Sardà, 2007).

In practice the issues related to failure of certain technical conservation measures do not relate entirely to the level of decision making, but to other factors such as implementation and enforcement. However, the example above demonstrates that a lack of understanding of the specific characteristics of stocks and fisheries is an important contributing factor, and this is likely to be exacerbated through reliance on a high level and centralised decision making framework.

Since the recent reform of the CFP the approach to technical conservation measures has been regionalised, with a framework regulation on broad technical measures being agreed at EU level (which would be less detailed than current technical measures). Member States, in conjunction fishermen, stakeholders and Advisory Councils will design national technical measures to manage stocks sustainably. Member States will discuss and agree on common measures at the regional sea-basin level and will subsequently enact them nationally. It remains to be seen whether this regional approach will achieve the outcome of effective technical conservation measures, but it clearly presents an opportunity to develop more informed and regional or locally appropriate solutions to fisheries management, while facilitating the harmonisation of objectives and enforcement.

Briefly considering the issue of whether the EU institutions have the capacity to exercise competence in an appropriate way, the ongoing deadlock between the European Parliament and Council regarding multi-annual plans has led to very significant delays to the adoption of management plans and threatens the implementation of the reformed CFP. This is clearly problematic, and the institutional arrangements have meant that decision-making is cumbersome, highly politicised, and not sufficiently attuned to very technical and scientific debates. This begs the question as to whether these sorts of delays and issues are an unintended but necessary outcome of the increased democratisation of decision-making afforded through the increase in power given to the Parliament via the Lisbon Treaty. The answer to this is not obvious and nor is this just a fisheries policy issue; clearly there are going to be winners and losers across the span of EU policy as a result of the new regime. However, the increased transparency and accountability which is afforded to the decision-making procedure as a result of the greater role of the European Parliament should not be overlooked.

### **Advantages and disadvantages**

#### **How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

It would be easy to assume that returning regulatory powers over fisheries to the national level would be entirely to the benefit of the UK and its national interest. However the position is more complex. Maintaining fish stocks in other countries' waters in a favourable state, particularly when those stocks are migratory and span UK waters, is a fundamental part of the UK's national interest. In several respects, the current (reformed) EU approach to fisheries management provides the better framework to ensure that sustainable levels of exploitation are implemented and enforced. This becomes clearer when considering the counterfactual whereby Member State(s) set their own fisheries objectives for waters under their control, in line with their own economic agenda. If this was the approach taken by other Member States with which the UK shared a stock it would not provide the UK or other countries with an incentive to act sustainably if it entailed forgoing short-term economic gain. Without a common agenda the incentives would not be there to act in the long-term interest. As a result standards might well be reduced to the lowest level in order to avoid giving others the opportunity to free-ride. Some transnational framework for shared waters and shared stocks is necessary although it would not have to be set at the EU level.

This is not to say that the current arrangements are satisfactory. In our view the objectives and procedures that have been decided at EU level are not as ambitious as they could have been. For example the objective of setting fishing levels at maximum sustainable yield levels by 2015 where possible and 2020 at the latest was only introduced in the recent reform, despite the 2015 deadline being an international

obligation since 2002, and MSY being on the agenda for many years previously. In addition, the allocation of resources by relative stability and annual negotiations leads to political compromises and deals which don't reflect the nature of mixed and multispecies fisheries. This has led to increased rates of discarding as the quotas have not been aligned with the composition of catches. Nevertheless, we remain convinced that with their flaws the current institutional arrangements are better for the sustainability of fisheries (and thus the UK) than a complete renationalisation of powers to the UK and other governments.

### **Future challenges and opportunities**

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

It remains to be seen how effective the most recent reforms of the CFP are going to be, so it would be premature to suggest further regionalisation at this point, although amendments may be appropriate in due course. In terms of future changes that could benefit the UK, it may be the case that further regionalisation and decentralisation of decision making would be advantageous, however it is too early to tell how successful the current framework will be and whether this will be the case. It is clear that the UK would not benefit from nationalising fisheries management completely due to the shared nature of the resource and the problems this would present (namely the incentives against long-term decision making, and the added burden of negotiating fisheries agreements with all countries with whom the UK shares stocks). We need a period to try the new framework and then develop further in the direction of regionalisation if this proves viable.

Daw, T. and Gray, T. (2005) Fisheries science and sustainability in international policy: a study of the failure in the Union's Common Fisheries Policy. *Mar. Policy* 269, 189-197.

European Commission (2011) Roadmap: Proposal for a Regulation of the European Parliament and of the Council for the conservation of fishery resources through technical measures for the protection of marine organisms.

Fernandes, P.G. and Cook, R.M. (2013) Reversal of fish stock decline in the Northeast Atlantic. *Current Biology*, 23, 1432-1437.

IEEP (2011) Manual of European Environmental Policy 2010, Earthscan  
O'Leary, B.B., Smart, J.C.R., Neale, F.C., Hawkins, J.P., Newman, S., Milman, A.C. and Roberts, C.M. (2011) Fisheries mismanagement. *Mar. Pollut. Bull.* 62, 2642 – 2648.

Scottish Fishermen's Federation and Scottish Pelagic Fishermen's Association, no date. Mackerel dispute Q&A

Suuronen, P., and Sardà, F. (2007) The role of technical measures in European fisheries management and how to make them work better. – ICES Journal of Marine Science, 64: 751–756.

**At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the**

- i. EU level**
- ii. regionally**
- iii. Member State level?**

The CFP is a common policy because fish stocks tend to straddle the boundaries of national waters. However, only few fish stocks actually straddle multiple regional seas. Given the political, cultural and ecological differences between different seas, it does make sense to apply measures at a regional scale instead of a European scale. However, previous experiences with implementing European rules on a regional scale in e.g. Natura2000 and MSFD, do point out that the regional decision-making process is facing substantial challenges in getting to shared agreements on future policies. How this will work out is not clear yet; at the regional level there is ambiguity related to the institutional set-up (Van Leeuwen et al 2012). An example can be found in the delineation of the boundaries of the Dogger Bank Natura2000 area and in the (attempted) development of an international management plan for that area. A study on the delineation of the Dogger Bank was carried out in the context of the JAKFISH research project where it was found that large differences existed between the German and the UK methods to define those boundaries, even though they were based on the same European directive (Degnbol, 2012). The development of an international management plan for the Dogger Bank was partly followed within the MASPNOSE project where it was found that the lack of a formal and accepted decision-making procedure (including description of mandate, responsibility, stakeholder engagement) lead to a protracted and unclear process (Pastoors et al, 2012)

Degnbol, D. 2012. Slightly covered all the time. The science of sandbanks on the Dogger Bank. In Department for Development and Planning - Innovative Fisheries Management. Aalborg University.

Pastoors, M. A., Hommes, S., Maes, F., Goldsborough, D., de Vos, B., Stuiver, M., Bolman, B., et al. 2012. MASPNOSE final report. Judith van Leeuwen, Luc van Hoof, Jan van Tatenhove<sup>a</sup> (2012) Institutional ambiguity in implementing the European Union Marine Strategy Framework Directive. *Marine Policy* 36(3):636-643

**How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

The most recent reform of the CFP (2013) introduces a different logic to the management of fisheries in Europe. Where previously the policy was aimed at

improving selectivity of fisheries by forbidding fishermen to keep unwanted or over-quota by-catch on board, in the new policy it will become incrementally obligatory to keep unwanted by-catch on board, to land them and to subtract them from the quota. The complexity of monitoring and enforcing the new policy has been identified by several researchers (e.g. STECF 2013, Johnsen and Eliassen 2011, Condie et al 2013) who have highlighted the need to (better) align the implied incentives with the objectives of the policy. Because the landing obligation makes it both illegal and attractive to discard and because the support for the landing obligation in the fishing sector is very low, it could be expected that the quality of the catch information will be lower and that the cost of monitoring and enforcement will be higher (Pastoors et al 2014). The complexity of the new regulation could generally provide a challenge to an effective implementation of the policy (Pastoors, subm).

The Regionalisation part of the reformed CFP decentralises certain responsibilities back to the member states. Member states hereby get more room to manoeuvre, which may or may not benefit national interest. How this exactly will work out, is not clear yet. The member states also have the task to cooperate with regional member states (Van Leeuwen et al 2012).

Condie, H. M., Grant, A., and Catchpole, T. L. 2013. Does banning discards in an otter trawler fishery create incentives for more selective fishing? *Fisheries Research*, [//dx.doi.org/10.1016/j.fishres.2013.09.011](https://doi.org/10.1016/j.fishres.2013.09.011)

Johnsen, J. P., and Eliassen, S. 2011. Solving complex fisheries management problems: What the EU can learn from the Nordic experiences of reduction of discards. *Marine Policy*, 35: 130-139.

Pastoors, M. A. (subm.). Exponential growth in the number of words used for the European Common Fisheries Policy (CFP): does better management require more text? *Marine Policy*, accepted for publication

Pastoors, M. A., Buisman, E., van Oostenbrugge, J. A. E., Kraan, M., Van Beek, F. A., Uhlmann, S., Van Helmond, A. T. M., et al. 2014. Eindrapportage Fasering discard ban. In press.

STECF. 2013. Landing obligation in EU fisheries (STECF-13-16), Varese, 9-13 September 2013. 13-16.

Judith van Leeuwen, Luc van Hoof, Jan van Tatenhove<sup>a</sup> (2012) Institutional ambiguity in implementing the European Union Marine Strategy Framework Directive. *Marine Policy* 36(3):636-643

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

No specific comments

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

No specific comments

**How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

No specific comments

**How does access to EU markets and adherence to common standards on fisheries products benefit or hinder UK businesses, both domestically and when exporting abroad?**

No specific comment

**What evidence is there that rules around support for the fishing industry through EU funds help or hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

No specific comments

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

No specific comments.

## Leftwich, Chris, Chief Inspector at the Fishmongers' Company

In my capacity as chief inspector to the Fishmongers' Company I have been extremely active in all the discussions on the CFP and am an active member of several working groups on this and many other aspects of fish and shellfish both wild and farmed.

### **Where should decisions be made**

The evidence on decisions on fisheries management being made at EU have shown it to be a complete disaster which has led to the collapse and/or depletion of many stocks mainly due to having to satisfy the political demands of individual member states who were more interested in maintaining and keeping the interests of their own sector content rather than look at the bigger picture and the damage that their actions might create. With the continued enlargement of the EU the decision making process within Brussels gets more and more bureaucratic and takes longer and longer to get to a consensus opinion. The fisheries climate is constantly changing and delays in the political decision making process can have a profound effect on the status of stocks. However, to have an overarching policy set by Brussels does mean that member states should all be working towards the same goals.

When dealing with a mixed stock fishery as exists within the EU waters there are obvious benefits in the decision making process being transferred to the various regions for management of the fishery in that area. Fish stocks can change quite quickly particularly with climate changes and there is a need to be able to react quickly as stocks move in or out of an area, or as stocks start to contain more juvenile fish. If the management is carried out regionally this should enable the decision making process to react rapidly to the changing needs of the region. However, the regions should be granted the power to make regulations to control the stocks and fishing effort within their area if they are to have any real benefit. Under the present EU set up this is not possible and must be done by consensus with the power reverting to Brussels if consensus cannot be reached.

There is also a strong argument that the 0-12 n miles should be controlled exclusively at member state level. This would enable real conservation measures to be introduced for the inshore sector, which in time would help to re-generate our coastal communities who rely on fishing for their living. This would not restrict historic fishing rights from other states that have fished within that 12 nm but would ensure that there is a single set of rules as opposed to the existing situation which only allows member states to set rules for their domestic fleet within the 6-12nm. Having two sets of rules governing a fishery makes a complete nonsense of fisheries management. A member state might wish to introduce a conservation measure within the 0-12nm but would only be able to enforce it on their own vessels with other

state vessels continuing to fish to a lower EU standard thereby negating the effect of the measure.

### **Advantages and Disadvantages**

The current reform of the CFP is intended to improve fisheries management and has many laudable aspirations but that is exactly what they are, aspirations. The reform does not contain any measures that detail how the changes are to be made and how the obligations can be met. This could result in many fishermen unwittingly breaking the law through no fault of their own. They also do not acknowledge the very real changes already initiated by our fishermen in many areas to improve the sustainability of their catch and the resultant improvements in the status of the stocks. In a mixed stock fishery a landing obligation could work against the fishermen due to choke species. As fish migrate into an area there is a need for rapid changes to be made to the management of the fisheries in that area. This is another argument for fisheries management becoming a regional function as opposed to an EU competence.

The annual quota negotiations are a complete lottery and definitely work against national interests. More often than not the science is lagging behind the reality of the situation.

### **The External Dimension**

There is probably not much to be gained by the EU negotiating third party agreements on behalf of member states. The advantage is more likely to the third party who can negotiate with one body as opposed to many different bodies. The problem only develops once the EU negotiations have been completed and ensuring that there is fairness in the allocation process. Depending upon the outcomes this may or may not be beneficial to the UK interest.

### **Current legislation**

Much of the current legislation is far too prescriptive and it is becoming really difficult for small operators to be able to comply and therefore to remain in business. Enforcement of the legislation is almost a post code lottery. Many Authorities around the Country interpret the requirements differently and are more likely to challenge a small operator than a large one who can afford to challenge the decisions. It is also much easier for a large operator to initiate audits on suppliers which makes it much easier for them to comply with the various requirements such as standards, traceability etc. There is also an argument that much of the new legislation is of little benefit to the consumer which means that there is greater compliance costs to the industry which either squeezes profit margins or produces higher costs to the consumer who is then reluctant to purchase the product. Both of these scenarios mitigate against business and ultimately the consumer who may end up with an inferior quality product if all the other costs are pared back.

## **Internal Market and Economic Growth**

In spite of there being free access to European markets, Countries around Europe still introduce and enforce their own rules, a good example being when the Italian authorities banned the importation of live crab due to heavy metals. This was done without any prior consultation or discussion with other member states resulting in significant losses to UK companies.

When exporting outside of the EU it makes little difference as it is the requirements of the importing country to which the exporter must comply.

## **Funding**

The funding is definitely advantageous in modernising the industry and bringing up to a standard whereby it can compete with other Countries. However, in the early days the UK did little to encourage the industry to apply for grants and in fact did very little to advertise the availability of grants which meant we were often underspent. This is in contrast to other EU countries who were actively encouraging their industry to apply. The current major issue with grant funding is the bureaucracy attached to claiming the money and the delays in recouping the grant money. These often act as a deterrent to applying. For smaller amounts, the amount of administration required is often disproportionate to the level of grant.

## **Future Challenges and Opportunities**

The five main changes that would benefit the UK would be:

1. Re-nationalisation of the 0-12nm as this would allow real opportunities for improving the sustainability and viability of the inshore sector.
2. Once control out to 12nm is reverted to the member states, giving the IFCA's total control of the fishery out to 12nm but at the same time ensuring that there is good representation on the IFCA's from the fishing community.
3. Removal of the total competency for fisheries control from Brussels, granted under the Lisbon treaty and passing some real authority back to the regions to enable them to introduce regulations specific to their area of control.
4. Simplification of the administration of small grants.
5. Simplification of the process by which people/companies can be approved to start up aquaculture businesses in line with the EU policy to encourage more aquaculture and ensure that there is a simplified grant aid mechanism for new businesses.

## Marine Conservation Society

### **At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the**

#### **i. EU level**

Moving away from centralised management at the EU Commission level could assist in removing the burden of micromanagement of fisheries by DGMARE in one of the world's largest and most complex fishing zones (Symes, 2012).

Achieving agreement between Member States, may on occasion prove difficult. Precautions must therefore be in place to ensure that effective and timely decisions are arrived at. This may remain the role of the Commission, stepping in as a facilitator where compromise remains difficult.

Symes, D., 2012. Regionalising the Common Fisheries Policy: context, content and controversy. *Maritime Studies*, 11:6.

#### **ii. regional level (groups of Member States)?**

The introduction of regionalised fisheries management should allow the flexibility to apply conservation and management measures which are most appropriate to local stock, habitat and fishery conditions, without relying solely on one Member State making the decisions. Symes (2012) suggests that regionalised fisheries management will, “create a more logical framework for decision making, but it should also provide an effective mechanism for delivering other elements of the reform package”. Europe’s seas may be divided in a variety of ways, but what will be important no matter the division will be the coordination and co-operation of Member States with fishing and other interests and responsibilities in the region.

Symes, D., 2012. Regionalising the Common Fisheries Policy: context, content and controversy. *Maritime Studies*, 11:6.

#### **iii. Member State level?**

There is a strong possibility that decisions made solely at the Member State level could result in a mixed bag of outcomes with some Member States setting ambitious, long-term targets to the benefit of the fish and fishermen who rely on them, while others barely putting into place the legally required legislation. An example of this is the lack of ambition being shown when setting targets for litter under the Marine Strategy Framework Directive - which varies from State to State - with considerable differences in what is considered “Good Environmental Status.” Member States should be aiming to exceed the minimum requirements for legislation to the long-term benefit of all interested parties.

## **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

### **i. benefit national interest?**

The EU approach to fisheries management should ensure that all stakeholders with fisheries interests in the EU are subject to the same legislation described by Hegland (2012), as a binding principle of non-discrimination, equating to a standard set of regulations. This may have previously contributed to the centralisation of management, but may also ensure that any form of regionalised management is fair and has some element of standardisation. As the protection of living aquatic resources is an issue under exclusive competence of the EU it is important to recognise that many stocks are mobile and cross Member State boundaries, often moving out of EU waters altogether. Therefore the setting of fishing opportunities should remain a central decision guided by appropriate science, but the distribution and management of these opportunities should be applied in a way most appropriate to the region.

Hegland, T. J., et al, 2012. Why and how to regionalise the Common Fisheries Policy. *Maritime Studies*, 11:7

### **ii. act against national interest?**

No response

## **How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

The UK has a strong maritime history and an enduring love of the sea. The allocation of fishing opportunities means that several Member States have the right to fish in UK waters. It is therefore in the UK's national interest to make sure that environmental legislation is applied to all vessels in UK waters – and that it is appropriate for each individual situation. Marine biological resources are not unlimited and many fisheries can severely impact the populations of the target species, non-target species and the marine habitats that they are fishing in. It is therefore of utmost importance that the UK's national interest remains in the sustainable management and recovery of stocks – within and out with the UK's national waters.

## **Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

### **i. help the UK's national interest?**

Agreements with non-EU countries play a significant role in fisheries for a number of different reasons. Our agreements with countries such as Norway, the Faroe Islands

and Iceland are often mutually beneficial, but can also result in feuds over the distribution of quota (e.g. the current disagreement over mackerel).

Third country agreements - which include countries outside of the “Northern agreements” - include agreements on tuna stocks and on mixed catches. Importantly, any fishing that takes place in these 3rd country’s waters should include an element of resource conservation and environmental sustainability. EU vessels should be subject to the same rules within and outside of the EU EEZ, as well as paying these countries for access rights to their waters and sectoral support. Sectoral support includes the promotion of sustainable fisheries development in the partner country, as well as provisions to strengthen administrative and scientific capacity with a focus on sustainable fisheries management, monitoring, control and surveillance

The UK’s national interest should play only a significant role in determining the “Northern agreements”. Other third country agreements have significantly higher impact on the other country than the EU and UK. Many of these countries have extremely poor economies and so the UK should be a responsible user, fishing only on an excess of stock within sustainable levels set using the best available scientific advice.

**ii. hinder the UK's national interest?**

No Response.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Not Answered.

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

Not Answered.

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

Not Answered

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

Not Answered.

**ii. hinder UK businesses, both domestically and when exporting abroad?**

Not Answered.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

The UK fisheries industry would benefit from greater support for trialling new gear adaptations and importantly, getting these adaptations and gear modifications affordably onto the market and used as common practice in the industry. Gear adaptations will allow fishermen to adapt to upcoming changes such as the landing obligation and to reduce their impact on the seabed. The upcoming reform should allow greater access to subsidies to low impact operators. These operators should not be forgotten about simply because they already practice low impact fishing. The UK should take responsibility for making good practice the most attractive option for the fishermen in the first place. The UK has a responsibility as a major fishing interest to ensure the future of our fish and fishermen. To do this they must embrace long-term change to ensure the protection of the fisheries that they have an obligation to and beyond.

## Marinet

These are the comments of Marinet, the Marine Network ([www.marinet.org.uk](http://www.marinet.org.uk)) with regard to the UK Government's public consultation on the fisheries aspect of the UK Government's review of the balance of competences between the UK and the EU.

Our understanding of this review, based on the advisory consultation papers, is that it is trying to try to arrive at an assessment of the balance of advantages and disadvantages between the UK's fisheries being managed by the EU under the Common Fisheries Policy (CFP) relative to their management entirely by the UK (e.g. as prior to the UK's entry into the EEC [EU] and the development of the CFP). Central to this determination are Defra's own criteria that fisheries need to be assessed in terms of healthy fish stocks, a prosperous fishing industry and a healthy marine environment. We offer the following observations.

### Historical Perspective.

It is probably true, and certainly so statistically speaking, that UK fish stocks have declined during their period of time under EU (CFP) management, and that the size of the UK fleet has declined similarly and thus, by definition, the health of the seas has also declined because if a key order of marine animals in the ecological structure of the seas is in decline then the total ecological structure must also be under severe stress.

However, was the pattern in any way different prior to EU management e.g. pre-1973 when the UK entered the EU?

The reality is that fish stocks in UK seas have been experiencing relentless decline, with associated consequences on the industry and the ecological structure of our seas, for at least the past 100 years, and probably since the advent of the introduction of steam-powered fishing vessels c. 1880.

Marinet's research into the data has recorded this decline, see Table below:

**Table: Estimated Total Stock in the North Sea in tonnes**

Species	1880 stock size, tonnes *	2010 stock size, tonnes	% Decline between 1880 and 2010
Haddock	916,000	849,000	7%
Whiting	454,000	334,000	26%
Plaice	3,561,000	520,000	85%
Mackerel	148,000	20,000	86%
Sole	545,000	50,000	91%

Cod	2,427,000	212,000	91%
Herring	16,836,000	217,000	99%
Bluefin tuna	177,000	0	100%

Note to Table \* Maximum estimated stock level. Measuring stock sizes is an imprecise science, so there is a large measure of uncertainty around all estimates. The 1880 figures are extrapolations based on catch data recorded at the time. The extrapolations are calculated as a maximum, middle and minimum stock level, and thus cover a range in their estimation. The 1880 figures recorded above are the maximum figures in the range, and the middle and minimum figures are provided further on in this briefing. The scientific sources of the 1880 and 2010 figures are recorded on our website, see [www.marinet.org.uk/campaign-article/the-decline-in-north-sea-fish-stocks-between-1880-and-2010](http://www.marinet.org.uk/campaign-article/the-decline-in-north-sea-fish-stocks-between-1880-and-2010)

Whilst there have been significant developments relating to sovereignty and the management of fish stocks since 1880, not least the expansion of territorial waters to 200 nautical miles following the establishment of the United Nations Law of the Sea (UNCLOS) in 1994, it is clear from the above table concerning North Sea stocks that the UK's own record of management of its stocks has been far from reproach. Continuous over-fishing had been allowed to occur whilst the UK itself superintended the management of stocks prior to entry into the European Economic Community (EEC/EU).

This is not just a matter of declining stocks, and consequential decline in the fishing industry. If we take a species like herring, this species occupies a key position in the predator-prey relationship of the sea's ecological structure, and therefore a decline in the abundance of this species (once enormously abundant and fished to the point of commercial extinction) has huge consequences for the health of the seas.

A ban on the fishing of the herring stock following its near commercial extinction has led to its partial revival, and fishing has resumed. However the fishery is still a shadow of its former self.

This therefore raises the question of what constitutes a sensible fisheries management regime, not just for herring but for all species, and thus penetrates to the heart of this public consultation.

So, what are the features of a sensible fisheries management regime, leading to healthy stocks, a healthy industry and healthy seas overall? And, are these more or less likely to be achieved under EU management, or under UK sovereign management? We turn to these questions now.

## **Sensible Fisheries Management Regime.**

From a national perspective (i.e. genuine sustainability whereby economic, social and environmental needs are met and are regarded as interdependent and of equal importance) the minimum requirement of a sensible fisheries management regime is that it is able to meet the nation's need for food security - in this case, for fish. This is a minimum requirement, and one would expect to go beyond this in order to ensure that the fishery had plentiful reserve resources (stock size) in order to withstand unforeseen perturbations (e.g. the consequences of climate change and acidification), and in order to ensure a sizeable export potential in fish (thus supporting the national economy, the industry itself, and the robust health in the ecological structure of the sea which supports this abundance).

From a biological perspective (i.e. the health of the stocks and the ecological condition of the seas in which they are living) the minimum requirement is an abundance of stock (not just for the economic health of the fishing industry and the obligation to deliver food security, but also so that the predator-prey relationship in the wider ecological structure is in a sound condition), and also an age profile in the stocks which is in accord with natural characteristics (thus ensuring that the fecundity of the stock and its adaptability to changing ecological conditions is secure). Both of the foregoing objectives require management actions which will deliver these results e.g. in-depth and ongoing scientific assessment of the health of the stocks, the use of closed areas to fishing in order to protect the reproductive capability and age profile of the stock, and catch levels that are sufficiently restrained (i.e. total fleet size, use of selective gear, monitoring and recording of catch levels) to allow a stock to live at or near the maximum level of abundance that ecological conditions will permit. When stocks are maintained at or near maximum levels of potential abundance, then catch levels (the harvesting of the wild stock) can be assured at genuinely sustainable levels over a very long period of time.

Let us now consider whether the foregoing requirements pertain in the fisheries management regime at the present time, and how the balance in EU/UK competences affects this matter.

### **The National Perspective**

The need and obligation to meet food security, in this case in fish, appears to have slipped of the agenda of both the UK and the EU.

The principle of food security as a primary, indeed over-arching objective of the Common Fisheries Policy was not evident before the current 2012 reform process, and has not been evident in the 2012 reform process either. Indeed, the new CFP agreed in mid-2013 makes no reference to food security as a fundamental objective of fisheries management.

This principle was not only not advanced by the EU (and other Member States), it was also not advanced by the UK either. Thus both parties (UK and EU) are culpable for its absence.

As mentioned above, significant consequences follow from the adoption of the principle of food security as a cardinal principle of fisheries management – it results in the restoration of secure and abundant stocks which re-invigorate the fishing industry, the economic and social fabric of the national population, and the health of the ecological structure of our seas.

In Marinet's opinion, the disregard (perhaps ignorance) of this fundamental fisheries management objective by the both the UK and the EU is a dereliction of duty in the service owed to the people of the Members States and the well-being of our seas. In terms of the balance of competence, we can see no evidence that either the EU or the UK is more competent. All we perceive is a failure to perform their duty (incompetence) by both parties, in equal measure.

Food security has existed in the past, when stocks still retained to a large degree their natural characteristics of abundance. This level of abundance notably increased as a consequence of the cessation of fishing activity during the periods 1914-1918 and 1939-1945 (World War I and II), and is an important indicator how closure of fisheries, used selectively as an instrument of management policy, can sustain abundant stocks and deliver a fisheries management policy predicated on the delivery of food security.

### **The Biological Perspective**

The restoration of fish food security – the cornerstone of sensible fisheries management – can be delivered by a number of management tools.

Foremost amongst these is the protection of the spawning and nursery grounds of fish stocks.

Reproductive success is essential if fish stocks are to be rebuilt. It is therefore logical and imperative that the breeding areas of species are protected. The principal instrument for this is the closed area (marine reserve).

Under the present fisheries regime spawning and nursery grounds are the centres of fishing activity due to the fact that fish aggregate in these sites to breed – although in some cases action has been taken to close these areas because a stock is approaching commercial extinction (e.g. cod, herring). The view of the present fisheries regime is that the economic return of fishing is maximised when open, unrestrained fishing of these sites is permitted.

However the consequence is over-fishing, with enormous adverse effects both for the industry, the stocks themselves, and the wider ecological structure of the seas.

Equally important, this form of unrestrained exploitation of stocks has destroyed the age profile of nearly all commercial stocks. The age profile is key to the abundance and reproductive health of all stocks.

The older the fish, the more fecund it is in terms of reproductivity (the general rule is that when an adult fish doubles in size then its capacity to deliver eggs/sperm also doubles). Thus the presence of older fish, and the presence of fish in a stock which are capable of living their full natural life span, is essential for the reproductive health of the stock.

Intensive fishing of spawning grounds has destroyed the age profile of stocks. For example, cod (*Gadus morhua*) in the North Sea will live to the age of 25 years, and becomes sexually mature at around 6 years. Present management policy, endorsed by both the EU and the UK, is to allow an age profile for this stock where adults are allowed to live for just one year of adulthood (i.e. sexually reproductive for just one year) before being fished from the stock. Thus the cod stock contains virtually no adults beyond the age of 6 years, and the reproductive capability of this stock is fundamentally compromised.

This pattern of the destruction of the age profile of the adult stock is virtually universal throughout all commercial stocks in UK and EU seas.

Marinet has likened this policy to asking the human population to survive on the reproductive capability of its teenagers, with all adults over 20 years being culled. This appears absurd, but is in fact the nature of the regime in use for the management of fish stocks throughout UK and EU seas.

It might just be possible to fish spawning grounds – although this is not our recommendation given the current condition of commercial stocks throughout most of UK and EU seas – if the fishing gear which is used allows older fish to escape capture and so allows the age profile of the stock to re-establish around a natural profile.

However given the present reality, it is imperative that nearly all spawning grounds are closed until two fundamental conditions are met. Firstly, the natural age profile of the stock is restored. Secondly, the stock is rebuilt so that it approaches its maximum levels of abundance under current ecological conditions. Only by this means can fish food security, the rebuilding of the fishing industry and the ecological structure be achieved. Viewed in terms of a sensible fisheries management regime, there is no alternative.

Is there any evidence that either the UK or the EU is adopting such policies?

In the first instance, this could be achieved – indeed, in theory legally is required to be achieved – under the terms of the EU Marine Strategy Framework Directive (MSFD). The Directive requires the restoration of all EU seas to a sound and healthy condition by 2020, and in respect of commercial fish and shellfish stocks (MSFD Descriptor 3) it is a requirement that all stocks display the age profile of a healthy stock e.g. display the age profile of a stock in natural conditions, with older fish being an essential feature of that age profile.

However both the UK and the EU (all its Member States, excepting perhaps Germany) have sought an interpretation (a re-definition) of the legal requirements in respect of Descriptor 3 which ignores the obligation to secure a natural age profile in all stocks. In short, this new definition has corrupted MSFD Descriptor 3.

Marinet can verify this assertion because it has attended meetings of Defra, OSPAR and the EU where we have presented proposals that the natural age profile of a stock be endorsed – as the legislation itself specifies - as a fundamental component of the definition of MSFD Descriptor 3, and at all of these meetings Marinet's proposal has been rejected.

Therefore, in terms of the balance of competence between the UK and the EU in this fundamental aspect of fisheries management of commercial fish stocks (and the attainment of other management objectives that are linked to and dependent upon it) there is no difference. The UK and EU display an equal absence of competence.

With regard to the use of closed areas (marine reserves) to protect spawning and nursery grounds, this provision exists within the 2012 version of the CFP (and existed also in the 2002 version), but does not do so in any mandatory form. Thus the use of closed areas as an essential tool of fisheries management policy remains wholly discretionary. This is not a plus in terms of EU competence (except in terms that the provision exists) because there is no coherent strategy within the CFP for the use of this management instrument to return stocks to a level of abundance which present natural conditions will permit.

Nor is it a plus in terms of UK competence because the UK did not earnestly seek the adoption of this management provision within the reformed CFP; and, in terms of the UK Marine and Coastal Access Act 2009, the UK has proved to be extraordinarily reluctant to advance the use of Marine Conservation Zones (marine reserves), establishing in 2013 only 27 out of the 131 recommended to it by its statutory nature conservation agencies and appointed scientific advisors.

Other key management features show an equally dismal performance by both the UK and EU.

In respect of the collection of scientific data about the health of commercial fish stocks, the EU states that it does not know the true status of around 50% of these stocks because of a lack of adequate scientific data needed to be able to draw up a management plan. The provision of this scientific data is the responsibility of the Member States in whose seas the stock is to be found. Thus the overall competence of the CFP to manage commercial fish stocks, and thus the wider health of the EU's seas, is seriously flawed. Moreover the EU has taken no enforcement action to ensure that this absence of scientific data is remedied.

The extent to which the UK is blameworthy with regard to its provision of data to the EU about UK stocks is not specifically known by Marinet, but Defra's publication *Charting Progress 2* (2010) which reported on the health of UK fish stocks within the context of the EU's Marine Strategy Framework Directive (MSFD) advised that no or inadequate scientific data also existed in around 50% of UK stocks thus preventing a proper assessment of the health of the stocks to be determined.

In respect of setting annual catch levels (Total Allowable Catch/TAC, also known as "fishing quotas") the EU and Members States have sought to use - since early on in the life of the Common Fisheries Policy - this management tool as a means of restraining fishing within levels that will not damage the reproductive capability of the stocks. In more recent time, this has also been supplemented by restricting the number of days that vessels may be at sea, and regulations regarding catch gear (e.g. type of net and mesh size). However EU Members States, the UK included, have serially ignored scientific advice concerning the annual level at which TACs for specific stocks should be set, with the result that over-fishing has continually undermined the management regime proposed by the CFP.

In terms of the balance of competence between the EU and the UK, there is little distinction to be made. Both have been complicit in this, neither attempting to restrain the other.

Under the 2012 reform of the CFP, it is now asserted that the setting of annual catch levels will accord with the "maximum sustainable yield" (MSY) of the stock, and that a MSY figure must be set for all commercial stocks and be in force by 2020. However the 2012 CFP definition of MSY is not simple. It is a complicated mathematical and statistical tool, dependent for its accuracy on sound data, and uses an approach which claims to be able to lift a stock from remaining at its current baseline level to one where the stock's baseline level will rise over time. This is not a strong definition of sustainable fishing, and yet the UK appears content with it. Indeed, it is to be noted that stocks which have been closed due to excessive fishing pressure have been reopened to fishing (under CFP rules) once the "safe baseline"

is deemed to have been restored. Such action is permitted under the reformed CFP's definition of MSY, is endorsed by both the EU and UK and, alas, repeats all the old mistakes.

For MSY to mean anything – to be a serious component of a sensible management regime – the annual level of a stock that can be sustainably fished must, in Marinet's belief, be referenced to the maximum, or near maximum, levels of abundance of the stock which current ecological conditions will permit. The requirement to define MSY in this way is fundamental to restoring food security in fish, to rebuilding the fishing industry not just in the UK but also throughout the EU, and to restoring the damaged ecological structure of both UK and EU seas.

We see no evidence of such a definition of MSY in either UK or EU fisheries management policy. Once again we have to observe that, in terms of this specific absence of competence, both are equally blameworthy.

Also of importance is the use of monitoring and data collection systems on fishing vessels, both to ensure that vessels are fishing legally (i.e. that all Member States are observing the law) and to ensure that good data exists to inform the development of future management policy. The current reform of the European Maritime and Fisheries Fund (EMFF, and formerly the European Fisheries Fund) is expected to make funds (tax-based subsidies) available to the fleets of Member States to ensure that this data collection and monitoring system is effectively installed and made operational.

However such EMFF disbursements do require match-funding from national governments and, to be effective in an operational sense, do require the collation of the data and review of monitoring information by staff onshore. In addition, this data is required to be transmitted by the governments of Member States to the EU for centralised tabulation.

At the present time, this system is not working well. The EU is failing to satisfactorily record an overall picture of fishing practices and data in EU seas because, firstly, not all Member States are submitting this data (although in theory they are legally required to do so), and secondly, there is no common format throughout Member States for the collection of the data with the result that data and experience is not readily comparable.

In short the system has been failing and, unless seriously reformed, will continue to fail. EU competence in this matter is poor. The measure of UK compliance is unknown. However, there is no evidence known to Marinet that the UK has challenged this deficiency in EU competence, or that the UK would perform better if competence rested solely with the UK for its sovereign seas.

Marinet regards this as a depressing state of affairs. Governments, of whatever jurisdiction, can pass laws; but if the enforcement of laws is not made a matter of paramount importance then their existence just become meaningless.

The preceding comments have been made, for the most part, with regard to fish stocks under CFP management. However we turn, in conclusion, to European Sea Bass (*Dicentrarchus Labrax*). This stock lives primarily in the North Sea, English Channel, Celtic and Irish Seas and also is to be found in more southerly waters including the Bay of Biscay. For present purposes, we consider its management in all the above areas, save Biscay (ref. ICES WGCSE Report 2013). It is a test case for our purposes – the competence between UK and EU, and the delivery of a healthy stock, industry and marine ecological structure – because the species has remained outside CFP management and is an important catch within UK territorial waters (12 nm), largely to recreational anglers. However because there are no restrictions on its harvesting, it has been targeted by fishermen seeking a commercial catch when quotas for other species are exhausted. Hence the stock now urgently needs active management and so the question arises, is this best undertaken under UK or EU competence?

### **Test Case: Sea Bass**

European Sea Bass has a life span of 28 years. Sexual maturity for females is around 6 years old, and at a length of 41cm 50% are mature and at 44cm 75% are mature. In the case of males, sexual maturity is around 4 years, and at a length of 35cm 50% are mature and at 36cm 75% are mature.

The current minimum legal landing size is 36 cm. Thus female fish can be landed in nearly all instances before they are sexually mature, and amongst males around one-quarter are landed before being sexually mature. This minimum legal landing standard is accepted by both the UK and the EU.

Fishing pressure on the stock has been intense. In 1985 ICES estimated the Spawning Stock Biomass at 9822 tonnes, and in 2012 at 5716 tonnes. In 2012 ICES estimated the total catch – commercial and recreational - in the North Sea, English Channel, Celtic Sea and Irish Sea at 4060 tonnes, and noted that French commercial trawling of the spawning grounds in the English Channel accounted for 65% of this total catch figure. The recreational catch (largely UK sea anglers) is estimated at 20% of the total catch, and this catch is largely taken within UK territorial waters (12nm) and outside spawning grounds.

As a result of this fishing pressure, the age profile of the stock has altered.

In 1985 the number of 15 year olds was measured at 20% of the stock, but only 1% in 2011.

In 1985 the number of 20 year olds was measured at 8% of the stock, but 0% in 2011.

There is now pressure to conserve the stock under CFP rules. It is understood that France wants to set a total allowable catch (TAC) for fishing the spawning grounds, and that other countries including the UK prefer a different management strategy. A deadlock has resulted at EU level on the kind of regime to adopt, so existing fishing practices remain in force whilst further scientific surveys and assessment are conducted.

Would this stock, which has great value to UK sea anglers and inshore fishermen, best be managed under UK or EU competence?

At present, failure at EU level to agree an appropriate management regime is allowing fishing pressure on a declining stock to continue unabated, in full knowledge that the spawning stock is now under very severe pressure.

At the same time, both the UK and the EU are allowing a minimum legal landing size which is clearly damaging the stock's ability to reproduce (see data above on females), and both the UK and EU have allowed the natural age profile of the stock to disintegrate.

Both of these foregoing facts are characteristic hallmarks of failure in the management of other commercial stocks supervised by the EU under the CFP; and, equally importantly, they are facts in the mis-management of European Sea Bass to which both the UK and EU have acquiesced.

Therefore in terms of the balance of competence, it once again appears that both the EU and UK are displaying inertia and an inability to manage. Neither appears capable of managing this stock sustainably, or to possess sufficient resolve to halt the decline towards commercial extinction of another economically valuable species - a species and stock which is also a potential mainstay of a sustainable fishing industry and an important element in the overall ecological structure of the seas.

And so, we turn to our conclusion concerning this public consultation.

### **The Balance of Competence: The UK or EU/CFP?**

From a historical standpoint, we can see no evidence that either the UK or the EU has displayed action and thinking which displays a greater competence.

With regard to the need to observe the framework of law under International and European Treaties (including legal responsibilities to fish sustainably under

UNCLOS) and the manner in which the UK and EU have responded, there is little to differentiate between the UK and the EU. Both the UK and EU have allowed the situation to deteriorate, and have avoided appropriate remedial management (such as reduction in the over-capacity of the fishing fleets) whilst asserting that they are acting effectively and responsibly.

Indeed in this respect the EU fishing fleet has throughout recent years continually remained over-sized relative to stocks and yet, via fishing subsidies (European Fisheries Fund and other nation-based subsidies with respect to fuel costs), the action to reduce fishing capacity has continually fallen short of the imperative requirements (viz. objective facts about fleet size relative to the size of stocks). Moreover it is estimated by commentators that around 80% of the EU fleet is only able to put to sea because of subsidy support. In other words, without this support the industry would be bankrupt and over-fishing (excessive fleet size) has been sustained by subsidies.

Much has been promised over the years by both the UK and EU in terms of fisheries management. However the truth is different, and the reality delivered by both parties has been one of relentless decline in stocks, the industry and the ecological structure of our seas.

Turning to the future perspective, we now have a new Common Fisheries Policy.

Much is claimed by the EU for the new terms and principles embodied in the reformed CFP. The restoration of stocks to health by 2020 is a principal feature, along with other management measures, including near-zero levels for the discarding of by-catch under the quota system.

Is delivery of this a realistic expectation? In 1992, and again in 2002, the CFP was reformed and conservation was installed as a central management feature. However, in practice, the actual delivery and implementation of the CFP during these years failed - despite the legal framework - to deliver this result. In fact the reverse occurred and many stocks have descended to historically low levels, with some in a worse predicament and facing commercial extinction.

One must therefore view the promise of a brighter future with a strong degree of scepticism.

It is doubtful that restoration of stocks, along with the fishing industry and the ecological structure of the seas - as promised in various statements by the EU during 2013 – can actually be delivered. This is because the legal commitment to healthy commercial fish and shellfish stocks by 2020 under the Marine Strategy Framework Directive (MSFD Descriptor 3) has been traduced and corrupted by the EU with the consent of the Member States, including the UK.

It is also doubtful that a better future can be delivered because the agenda for the delivery of a real regeneration in stocks, the industry and the ecological structure as advanced by Marinet has been largely rejected by the CFP reform process. Neither the UK nor EU in its tripartite form (Parliament, Council and Commission) has shown a serious commitment to such a fisheries management agenda<sup>7</sup> [see footnote].

Without the principles advanced by Marinet being installed in law (CFP), it must be very doubtful that the claims by the EU for restoration of stocks, the industry and ecological structure can be delivered. Any analysis based on logic and informed by experience leads to this conclusion.

Would the restoration of sovereignty in these matters to the UK offer a different conclusion?

Evidence has shown that the UK has often been an active partner of the EU in the historic decline of fish stocks, the industry and ecological structure. The wilful abuse of the legal requirement under international and trust law by the UK to implement fishing quotas in accordance with scientific advice is testimony to this. The integrity of the UK in these matters – sensible fisheries management – is therefore very questionable.

When Marinet has put it to the UK Government that it should pursue a CFP reform agenda based on the restoration of food security via the maximisation of stocks and the protection of spawning and nursery grounds, the UK has replied that it needs to be pragmatic and pursue a solution for which it can get majority agreement – the implication being that the reform agenda Marinet has advanced is too radical and therefore unrealistic.

However the Marinet reform agenda is one that is based on science, experience and, in all truth, common sense.

The UK plea that it could not deliver this agenda under existing EU rules, and therefore that UK fish stocks/industry/seas would improve under UK competence rather than EU competence, would have greater strength and credibility if the UK had **actually argued** for this agenda during the CFP/EMFF reform process. It could then assert the claim that the UK had been thwarted by the EU, and that a better future for our fish stocks could and would be delivered under UK competence.

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<sup>7</sup> : Namely, the restoration of food security based on the restoration of fish stocks to maximum levels of abundance and delivered, in large part, by protection of spawning and nursery grounds; and, with EU subsidies (EMFF) being redirected from sustaining over-capacity in the fishing fleet to a new conservation-based priority centred on the funding of displaced fishermen as managers of the closed areas, along with significant (not just token) investment in data and monitoring of fishing practices which are, in turn, supported very actively by an adequately funded enforcement agency (European Fisheries Control Agency).

However, the UK did not pursue this course. It pursued a course of compromise without flagging up these principles. As a result the outcome is a result with which the UK appears to be content, and towards which it has shown little evidence of dissent.

So yes, the EU looks unlikely to deliver real restoration of health to our fish stocks and seas, and hence its competence remains in serious question.

So yes, there is an alternative whereby the UK could seek to reassert sovereignty in these matters and thus offer the prospect of a new management regime and a better standard of competence.

However, is the UK's record of competence such that the delivery of this outcome is likely? Alas, the evidence says no.

This is a dismal conclusion. However, it is the truth as Marinett perceives it.

It is to be profoundly hoped that both the UK and the EU will reflect deeply on these matters and, in this spirit, acquire the determination and integrity which has been hitherto absent in order to secure the healthy, prosperous and sustainable future for our fish stocks, industry and seas which so urgently requires to be delivered. Continued failure, regardless of where the balance of competence lies, is a grim prospect. Most regrettably, this grim and dismal prospect continues to confront us.

## Murphy, Nick – Individual

### **At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the**

#### **i. EU level**

- Where stock is known to be seasonally mobile across borders (e.g. mackerel).
- Where fish migrate to spawn, crossing territorial water boundaries in order to do so.
- Where species are endangered or numbers are seriously depleted (e.g. undulate ray)

#### **ii. regional level (groups of Member States)?**

As above, where there are issues over group area stock numbers; which are for species suffering in their group area. For example bass in the English Channel

#### **iii. Member State level?**

Fish species are relatively immobile and resident within territorial waters; which therefore can only be adversely managed at a national level. For example Grey mullet. Where stocks of a species are not being sustainably harvested in that area and EU quotas have no interest in control. For example bass in the English Channel and grey mullet along the South Coast of England.

### **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

#### **i. benefit national interest?**

No opinion

#### **ii. act against national interest?**

It fails to consider species that are of low commercial yield. The policy also exposes some species to undue pressure as commercial fishermen look to other revenue streams. When this involves slow growing and species limited in biomass then the results can be devastating. For example flounder along the south coast of England and grey mullet

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

French pair trawlers can have a huge impact on UK coastal bass populations as those fish move to spawn in mid-channel. The sharing of what was once UK territorial waters accommodates this activity. The same point is made for grey mullet (*Chelon Labrosus*)

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

No opinion.

**ii. hinder the UK's national interest?**

No opinion.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Current legislation does not consider the impact on fish stock with regards to unlicensed inshore gillnetting. Thousands of unlicensed operators are practicing along the UK south coast; on what is essentially a black-market activity. This will considerably disadvantage the legitimate commercial fishermen, not least due to income tax

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

Why should an unsustainable fishery be supplemented by EU funds; which are simply redirected national domestic taxes!

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

No opinion

**How does access to EU markets and adherence to common standards on fisheries products**

- i. benefit UK businesses, both domestically and when exporting abroad?**

No opinion

- ii. hinder UK businesses, both domestically and when exporting abroad?**

No opinion.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

Tighter control over migrating species and extend this to species with low biomass and low economic value. Control of unlicensed gillnetting.

## National Federation of Fishermen's Organisations

### General

The National Federation of Fisherman's Organisation welcomes the opportunity to contribute to the Government's review of the balance of competence between those held at EU level and those which might better be held at UK level.

We understand that the Review will not attempt to come to definitive conclusions but rather provide a stronger evidence base for a debate on the terms UK's membership of the EU after the next General Election.

Even if the review has been spawned as a way of resolving tensions within the coalition Government, a focus on the failure of fisheries governance under the present Common Fisheries Policy and the contribution of over-centralised decision making to that failure would be welcome. To some degree that failure has been recognised in the present reform of the CFP. However, it is clearly too early to say whether the scope within the reformed CFP for policy formulation by member states cooperating at regional seas level will prove to be a viable counterbalance to micro-management by the European institutions.

From a fishing industry perspective the timing of this consultation, clashing as it does, with the all-important autumn negotiations has been appalling.

### Evidence

Against this background, and taking into account our limited resources at this time of year, we have given a substantial amount of thought to how we might provide evidence for the Review.

We have come to the conclusion that the open-ended form of the Review makes it very difficult to make definitive evidence-based statements because each assertion will depend on the assumptions underpinning it. The answer to a question for example about the fishing opportunities available to the UK fleet, should the UK depart the EU would depend, at a minimum on:

- The new *relative stability* allocation keys negotiated between the UK and the rest of the EU
- The form of new bi-lateral international fisheries agreements and the reciprocal quotas between the UK and for example Norway, Faeroes and Iceland
- The trade-offs between access to EU markets and access to resources (Norway for example explicitly pays in access to the NE Arctic cod quota for access to EU markets under the EEA agreement)
- The policy towards UK quota holdings by non-UK EU nationals

- The trade conditions under which fish exports from the UK to the EU continue
- The place of UK fisheries within the hierarchy of trade-off between fisheries and other UK economic and policy interests

Without any idea how these issues would be resolved (and leaving aside the minor question about whether there will be a United Kingdom after September 2014) it is simply not possible to present credible and relevant evidence. Anything that we could say would be speculative guesswork.

Whilst we appreciate that this contribution will not take the Review very far forward, it will we hope focus it on some of the realities involved.

## New Under Ten Fishermen's Association

I write on behalf of the New Under Ten Fishermen's Association (NUTFA), the organisation specifically dedicated to the support and survival of the under ten metre fleet.

As a fisherman of some 30 years experience as catcher, manager and regulator, it is difficult to comment on the relationship between the UK and Europe, especially with regard to the CFP, without descending rapidly into a diatribe against the inconsistencies and imbalances that have so dogged sustainable fisheries in our waters since the 1980's.

At the same time, it is also worth commenting at the outset that there is of course no guarantee that we would have benefitted from any improved level of management had we not joined the EU, but at least we would have been more in control of our own destiny than abrogating control to remote third parties in far away Brussels.

For the sake of clarity, we will respond to the specific questions posed within your Call for Evidence.

**At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the**

- i. EU level**
- ii. regionally**
- iii. Member State level?**

I am confident that many responses you have received will follow a similar pattern of highlighting the inequity and lack of a level playing field across the range of CFP issues.

Amongst these comments, the clear failures of a remote and bureaucratic micro management system will come towards the top of the list and it is clear that a recognised and welcome change within the most recent CFP reform process has been a potential move to a more regionalised approach to decision making, despite concerns that such a devolution of decision making runs counter to the Lisbon Treaty.

Against such a background, it seems common sense to devolve decision making in this way but it will be little more than exchanging one ineffective and counter productive management system for another in the event that a regional management structure is not developed appropriately.

Within such a structure, the Advisory Councils appear to be given a much greater role. In that case it will be of paramount importance that these bodies are truly representative and not effectively controlled by a small cadre of individuals and

organisations. It will be important therefore that sufficient resources are allocated across the board to guarantee that the AC's are not dominated only by those with sufficient existing resources. Support in this respect should go further than simple travel and subsistence but include an element of support for the development of proposals and policies.

So NUTFA is entirely supportive of a move to a more regionalised basis for management with the proviso that if the AC's are going to make such an improved contribution to policy development then it is of particular importance that they are constituted in such a way as to ensure an appropriate balance of interests across the fisheries spectrum.

There will of course need to be checks and balances and this should be done primarily at Member State (MS) level so we would envisage the production of draft management plans by the AC's and for those plans to then be subject to genuine discussion and debate between the AC's and MS's before being put to the Commission.

In terms of the evidence available in support of a move from the current centralised command and control system employed since the inception of the CFP, one has only to consider the dramatic failings of that policy over the last 30 years or so as evidenced by the reduction in both fish stocks and fisheries related employment in that time.

### **Advantages and Disadvantages**

On balance, and notwithstanding the earlier comment regarding what may have happened in the event that the UK had not joined Europe, we consider that the UK fishing industry, and the fish stocks on which it relies have suffered from entry into the CFP.

From an inshore perspective, the under ten fleet has suffered disproportionately from the lack of effective management under the CFP that has resulted in year on year reductions in stocks and therefore quotas. This aspect has been particularly frustrating as the under tens have not of course been responsible for the overfishing under the CFP that has resulted in lower and lower quotas on an annual basis but have paid the price for others having done so. In essence, the situation could only have been better under direct UK control as it could not have been much worse.

This situation has been further exacerbated by the historic rights of access claimed by many other European nations to UK waters. I am unable to quantify the net gain or loss to UK PLC from this situation overall but it is clear that the UK was caught napping at the outset and this has resulted in very significant access rights being granted to large and more powerful EU vessels. This situation not only puts added pressure on stocks in UK waters but also effectively hems passive gear effort into the 6 mile limit. Any number of static gear fishers around the coast will state that to

leave pots or nets unattended even fractionally outside the 6 mile limit invites significant losses from many of the EU vessels granted rights between the 6 and the 12 mile limits.

It does rather add insult to injury when the “temporary derogation” in terms of equal access within the 12 mile limit is flaunted by the EU as a “specific privilege” for the small scale fleet. I need hardly remind DEFRA that fish do not recognise arbitrary borders and having heavy beam trawlers and other large vessels operating on the 6 mile limit is not deemed to be a privilege by the under ten fleet. There is no doubt that access by powerful EU vessels within the 12 mile has done significant damage to both stocks and the wider marine environment over many years, to the undoubted detriment of the smaller scale fleet.

NB: I quote in this respect from a recent EU Non Paper: Ares 997262 06 05 2013  
EC:

*“Even before the entry into force of the Common Fisheries Policy of the Union (in 1983) the small-scale fleets have enjoyed specific privileges under a temporary derogation to the rules on equal access within the 12 nautical miles zones of the Member States. The rules have preserved traditional fishing activities on which the social and economic development of certain coastal communities is highly dependent”.*

A singular disadvantage for UK operators has been the global approach to TAC's and quotas. There is little doubt that the initial share out of quotas within the European pool disadvantaged the UK. As just one example amongst many, the balance of distribution of cod quota in Area VIID has singularly disadvantaged fishers on our side of the Channel. The use it or lose it methodology where although UK fishers, for instance in VIIE have utilised all the available quota allocated to them have nevertheless been penalised by the lack of take up by other EU MS's.

Yet another example of disadvantage is the current situation relating to Sea Bass stocks. There is fundamental agreement that the fishery with the biggest negative impact on the status of this stock is that of pair trawling by the French fleet, importantly within UK territorial waters. As you will be aware, for reasons mainly pertaining to the unacceptably high by catch of cetaceans within this fishery, as well as the overt impact such a method has on this stock, UK pair trawl fishers were stopped from prosecuting this fishery. At the same time, French fishers were not requested to stop by their Administration. It is now all too clear that the more sustainable elements of the coastal catching sector in UK, Netherlands and France are suffering and this suffering will increase unless the aforesaid French effort is curtailed without delay. This is unlikely to be the case as the CFP effectively requires the agreement of the MS concerned before the UK could implement a ban on all MS's effort in this and similar regards. This is of course the marine equivalent of asking Turkey to vote for Christmas. The net result of this failure will undoubtedly

be a significant reduction in fishing opportunities for other more sustainable fishers. At the same time, the French are now clamouring for a TAC and quota to be imposed on this stock. I am sure that it is purely a coincidence that they would be awarded over 70% of any allocation, simply rewarding those who have done, and continue to do the most damage.

So it is our contention that the derogation with respect to the 12 mile limit should be made permanent and that the CFP should ensure that any MS wishing to introduce protective measures that would affect other MS interests should be able to do so without needing the agreement of the MS concerned.

With reference to access by EU vessels once again, it is clear that fish stocks in the Irish Sea, as well as in other UK waters have suffered from the aforementioned access arrangements. This has been of particular importance with regard to Ray stocks therein. Belgian beam trawl effort in this area over many years and under historic rights has resulted in the landing of many tons of juvenile Ray of a size that would fit on the palm on one's hand. Landings data are available that illustrate a dramatic reduction in both size and numbers of the Ray species. Whilst Ray until recently was not a quota species and therefore not subject to much interest by EU regulators, it did make up 70% by value of the catch of smaller Welsh based effort. The local Sea Fisheries Committee for South Wales did implement a minimum landing size within the 6 mile limit in an effort to protect the species but despite written requests to the EU to introduce a MLS and other controls, those responsible persons in Brussels did not consider such effort worthwhile. One would hope that if the fishery had been managed by the UK rather than the EU that more notice may have been taken of our requests.

It is also true to say that inspection of EU vessels by land based fisheries inspectors doesn't appear to be particularly rigorous when the main inspections are undertaken when the fish landed has been transported back to the home port of the vessel concerned. I will not list the long history of abuse via hidden fish rooms etc of some EU vessels but although one would hope that such instances are now rare, there is little doubt that home country inspections are significantly more lax in some MS's than others. Whilst I will mention this under "a level playing field" question, the abject failure of some MS's to inspect robustly and a regulation that permits inspections only after fish landed has been put on trucks and transported to the home port clearly leave much to be desired and are a major disadvantage to those seeking to act responsibly.

A singular disadvantage of successive CFP's has been the increasing weight and complexity of regulations imposed on fishers. Apart from the sheer number of rules and requirements, the abject pedantry of some have served only to bring the whole policy into disrepute and this has led in turn to a reduction in respect for and compliance with the regulations.

One final example of disadvantage is with respect to the Registration of Buyers and Sellers legislation. NUTFA liaises with similar fishing interests across Europe and to date, we have found no similar approach to the use of this legislation in any other MS. There is no doubt that the approach taken by the UK in terms of allocation of quota as well as the more general management of the smaller scale element of national fleets differs widely from other MS's, with only the UK appearing to focus to such an extent on this sector..

It is very likely to be the case that despite some ostensibly positive and proactive changes to the reformed CFP, a balanced and fair implementation across all relevant MS's of all the requirements is little more than a pipe dream.

So overall in relation to this section, the CFP has acted against the national interest.

### **The external dimension**

We are not aware of the balance of benefits, if any, to the UK with regard to our activities within external waters and we are therefore unable to comment in that respect. It is however abundantly clear that EU policy in respect of access to external waters by the EU fleet has been a singular benefit to some MS's and a shameful indictment of former access policies. There are changes in the new CFP that will hopefully address these concerns and the UK should take the lead in ensuring that any such access agreements are in fact based on genuinely sustainable fishing effort and provide a net benefit to the third countries concerned.

### **Current legislation**

Ask any UK fishermen about a level playing field and they will undoubtedly laugh. Whether with regard to European funding or the genuine utilisation of existing legislation, there appears to be a gulf between the UK approach and that of some other MS's.

In terms of this question specifically, current arrangements do not generally favour the UK although having said that, demand for UK fish and fish products from Europe does underpin significant UK economic activity. The lack of tariffs and import requirements across EU borders have also been a very significant positive of EU membership.

A major concern, especially for smaller scale interests remains the threat of the introduction of transferable fishing concessions under the CFP. It is already the case that under tens cannot compete with the far better resourced larger scale interests with regard to the acquisition of FQA's and this imbalance is likely to only increase when the landings obligation comes into force, pushing the cost of FQA's, to either lease or buy well outside the financial range of smaller scale interests. In the event that FQA's were able to be traded on a wider marketplace, across Europe, this would serve only to exacerbate the current fundamental imbalance of access to fishing opportunities.

NUTFA considers that the benefits that accrue from the resources in the UK's coastal waters should advantage the coastal communities concerned. The rapid increase in what amounts to foreign ownership of access to the resource through flag ships et al effectively gives away those benefits. This is true not only in terms of the basic fish stocks but also in relation to the social and economic benefits that derive from access to those resources that underpin often vulnerable communities and maintain jobs and the culture associated with indigenous coastal fishing activities.

Just one example of flag ship intransigence was the O Genita. The owners of the flag ship were convicted in July 2012 by a crown court in Cornwall of lying about the size of their catches, manipulating quotas by swapping fish from one boat to another, and abusing the system for weighing fish at sea, whilst fishing in UK waters, with UK fishing quota. They were given penalties totalling £1.62 million. At the current time it does not appear that this vessel has been subject to any further restriction in terms of its fishing practices by either the MS concerned or its PO (Fleetwood).

It remains to be seen how the requirements under Article 17 of the reformed CFP will address these imbalances on the basis that MS's are now required to allocate fishing opportunities on a wider basis than merely historic track records and the status quo.

The regionalisation of management should in theory provide a more proactive and dynamic approach to meeting local and regional needs. It will, as mentioned previously, need to ensure a level playing field at regional, as well as EU level. We remain concerned that some less well resourced interests may be disenfranchised within the process unless MS's provide sufficient support. The development of long term management and regional plans must meet the requirements of all sectors of the industry, not just those with the most influence.

### **Internal market and economic growth**

A requirement for a high standard of fisheries products undoubtedly favours those who produce to a high level, such as the UK. Although the EU imports approximately 80% of fish and fish products consumed internally, there remains a need to ensure that any such imports meet the existing high standards within the EU.

It is clearly disadvantageous if UK & EU producers, already unable to compete in many instances with cheaper external products are then challenged by inferior and unsafe products from further afield. At the same time, the EU needs to be robust when faced with third countries putting up unfair barriers to trade that disadvantage UK producers, often for reasons unconnected with the products themselves.

Overall, the EU must provide sufficient protection to EU producers to ensure that these operators can maintain healthy and profitable businesses.

### **Funding**

We assume that there is no need to list the vast array of failings of European fisheries funding over many years, from providing 100's of millions of euros to support the pillage of external waters by large trawlers, to providing modernisations grants to a Spanish vessel that subsequently received even more EU funding for scrapping only 17 days later. We will equally avoid comment on the serious imbalance between funding available under the CAP as opposed to the CFP although of course that debate is equally relevant.

The EU Court of Auditors highlighted the main failings of EFF in their report:

[eca.europa.eu/portal/pls/portal/docs/1/10544728.PDF](https://eca.europa.eu/portal/pls/portal/docs/1/10544728.PDF)

Suffice to say that it is the view of NUTFA that there remains a serious imbalance in the approach to and the allocation of support under EFF rules. We would hope that the improved approach in this respect for the EMFF will provide more support for smaller scale fishers and not maintain the corrupt approach illustrated so clearly in so many examples over past years.

On the basis of the above, European subsidies have been poorly focussed and have undoubtedly contributed to over fishing in both EU and external waters and have therefore hindered the UK in meeting its management objectives and the CFP in meeting its wider goals.

### **Future Challenges and Opportunities [Conclusions]**

Within the context of EU membership generally, and for many of the reasons provided above, there is a clear need to reconsider and renegotiate the UK's relationship with the CFP.

The UK has undoubtedly been a net loser by being part of the EU "pond" and whilst operating independently of the CFP would not inevitably have resulted in improved management within UK waters, not least in light of the reduced capacity of DEFRA et al in terms of staff and resources, the fact is that we are stuck with the CFP for the foreseeable future. On that basis, we need to make the best of it but in the short term, as the Sea Bass example above illustrates, there is an urgent need to reconsider some aspects without delay. No one should misunderstand the urgent need for change in some such areas if stocks, and fishers are to survive and prosper.

The reformed CFP now extant does ostensibly provide significant opportunities for the more sustainable exploitation of fish stocks and the resultant improvement in profitability for the fishing sector within the UK. This will only happen in the event that the reformed requirements within the new Regulation are implemented pragmatically and in a timely manner. There is a real threat of the creation of a long list of unintended consequences should the reforms be introduced without a robust and

transparent foundation based on real science and research, largely provided through improved engagement with the catching sector and supported under EMFF.

This engagement with fishers must include all sub sectors of the industry, especially those who can provide the greatest benefits to wider Society from the harvesting of a finite resource. At the same time, this engagement, including that at AC level must be supported to ensure a level playing field for all concerned.

In conclusion, the CFP has largely been a disaster for UK interests over decades and whilst it is probably unrealistic to expect any withdrawal from it in the immediate future, a root and branch reconsideration of many of its facets is a vital necessity if it is to be fit for purpose for the future.

## North Western Inshore Fisheries and Conservation Authority

### **What types of decisions should be made at**

#### **i. EU level?**

Overarching fisheries and nature conservation policy at global and ocean scale. Where the main stocks are, how big they are, analysis of trends of sustainability. Where MPA are needed and what they should protect. EU should require reasonable co-operation between states to develop sustainable marine and fisheries management. Should devolve decision making to states for inshore out to median lines or edge of shelf with checks to ensure policy at regional area levels is effective, working and sustainable.

#### **ii. regional level (groups of Member States)?**

Decisions affecting groups of members states, regional sea management for example, Irish Sea states should be responsible for sustainable use and management of Irish Sea. Member states should agree detailed fisheries and conservation policy for Irish Sea as a whole with detailed MPA, fishing limits and other management regulations.

#### **iii. Member State level?**

Member states should have responsibility and competency for fisheries and nature conservation policy and management to median lines or the edge of the continental shelf. Historic rights allowing fishing in waters of other states are unsustainable, because they require excessive travel, and should be abolished. At present member states cannot manage MPA out to 12 miles and the EU has not the capacity or the agreed mandate so MCZ outside 6 miles are likely to be ineffective.

### **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

#### **i. benefit national interest?**

No benefit to UK interest. CFP has failed to conserve stocks at EU level and failed to deliver a fair share of fisheries to UK while allowing other states unreasonable rights to UK waters.

The latest proposals including the discard ban remain untested and are likely to be applied in a way which is too blunt and untargeted to work properly. There needs to be much better understanding of how fisheries can be sustainably exploited case by case and area by area. EU does not have the mandate or capacity to develop the detailed local solution that are needed.

**ii. act against national interest?**

As above

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

Little or no overall benefit and encourages unsustainable fishing. The hugely complex structure of regulations is incomprehensible to the public and most fishermen. The purpose of it all is unclear and the overall outcomes in terms of sustainability and good management are impossible to assess or measure. The system appears to deliver economic damage to the fishing industry and leaves it feeling it has no say or control over its own activities which are driven by centralised and incomprehensible targets and measures

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

No comment

**ii. hinder the UK's national interest?**

No comment

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Current arrangements appear largely unsuccessful as measured by the decline in the fishing industry in the UK and the protection for fishing in other members states. Historic rights and quota allocations appear to drive unsustainable fishing.

Other marine industries and priorities such as MPA and Wind farms are having an increasing and largely unplanned impact on the fishing industry but are not yet helping the sustainability of fisheries. This occurs unfairly in some areas compared with others leading to loss of fishing jobs and displacement of fisheries in an arbitrary manner.

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

EU funds appear to be used badly. They appear to promote unjustifiable replacement of vessels and over fishing while failing to promote sustainable fishing, fisheries enforcement or marine nature conservation.

As a relatively wealthy member state, UK does not receive a proportionate share of EU fisheries fund so is disadvantaged compared with other member states

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

As above.

**How does access to EU markets and adherence to common standards on fisheries products**

**i) benefit UK businesses, both domestically and when exporting abroad?**

No comment

**ii) hinder UK businesses, both domestically and when exporting abroad?**

No comment

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

Devolution of management to UK of territorial waters to median lines or 12 miles.

Abolition of historic rights. Creation of regional management fora such as for the Irish Sea with powers and duties for sustainable management at the right scale.

## RSPB

### Introduction

The RSPB believes that we have a responsibility to protect our environment. This is a view supported by over one million RSPB members, but also by many people throughout the UK. The RSPB is the lead Partner in BirdLife Europe for development and advocacy of policy for ecologically sustainable fisheries in UK and EU waters, for the benefit of fish stocks, the viability of fishing communities and the wider marine environment.

As such, we strongly support the UK vision for 'clean, healthy, safe, productive and biologically diverse oceans and seas'<sup>8</sup> and were stakeholders in developing the associated *Fisheries 2027 – a long-term vision for sustainable fisheries*.

The RSPB promotes ecologically sustainable fisheries to all the devolved administrations. We have also, from the outset, represented BirdLife on the North Sea RAC (in which we chair the Spatial Planning Working Group) and the NorthWest Waters RAC. In Scotland, we are a stakeholder on Scottish Government's *Fisheries Management and Conservation Group (FMAC)*, the *Scottish CFP Reform Steering Group*, the *Inshore Fisheries Management and Conservation Group (IFMAC)* and the *Scottish Discards Steering Group*. In Wales we sit on the *Wales Marine and Fisheries Advisory Group (WMFAG)* and the *Inshore Fisheries Group (IFG)*.

### RSPB response to consultation questions

#### Where should decisions be made?

##### Benefits or disadvantages of acting at EU level

The CFP framework for ensuring the protection of marine biological resources and the reduction of the impact of fishing on fish stocks and on marine ecosystems remains the exclusive competence of the EU, while decisions on specific measures will be delivered under multi-annual plans set at regional sea basin level.

The RSPB welcomes the Union's exclusive competence on the conservation of marine biological resources and associated legal obligations and objectives and sees overwhelming advantage in maintaining this status quo. Given the highly mobile, trans-boundary nature of fish stocks and other elements of the marine ecosystems (e.g. seabirds and cetaceans), there is clear advantage in decisions on horizontal legislation residing at Union level.

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<sup>8</sup> [archive.defra.gov.uk/environment/marine/documents/science/defra-role.pdf](https://archive.defra.gov.uk/environment/marine/documents/science/defra-role.pdf)

The alignment of the CFP with EU-wide environmental conservation legislation (Habitats Directive, Birds Directive, Marine Strategy Framework Directive) is necessary to deliver coordinated environmental protection, good environmental status and economically vital ecosystem services across EU waters. The unprecedented environmental integration of the new CFP is a benefit to civil society at large, reliant as it is on healthy, biodiverse seas.

There is no advantage, indeed quite the opposite, in subordinating this high level legal obligation to a lower level of decision-making. It would be impossible for the UK or any individual Member State alone to deliver many of the environmental, social, and economic benefits that are currently enshrined in the Union framework of fisheries policy. Decision-making at any lower level invites a race to the bottom in terms of environmental standards, given the abject failure of many Member States hitherto to embrace the goal of ecologically sustainable fisheries.

Even before the 2002 reform of the CFP, a senior official in DG Mare was fond of saying that “there’s nothing fundamentally wrong with the CFP, if only it could be implemented as written”. If there was more than a grain of truth in it way back then when the policy itself was flawed, it’s a much more credible perception now that the CFP is a significantly improved policy instrument. The failure of implementation is indeed the key area of breakdown in the ‘broken system’ criticism often levelled at the CFP. For example, we have witnessed Member States deviating widely from aspiring to any reasonable balance between fleet capacity and marine biological resources by investing public aid in vessel construction in denial of the 2002 CFP reform<sup>9</sup>, and at the same time deploying EFF support contrary to their approved national operational programmes.

Collectively, these departures from high level objectives have fuelled over-exploitation such that 88% of Mediterranean stocks and 39% of Atlantic stocks are judged by the Commission to be overfished, with an EU fleet some 2-3 times in excess of available resources<sup>10</sup>. These statistics make it unsurprising that the EU must import 60% of its fish.

We foresee that EU competence will always be needed to serve as a legal backstop to hold errant Member States to account. Deviation by Member States (or groups of Member States under regionalisation) from the CFP’s objectives or failure to meet them should result in sanctions by the EU such as withholding or removal of funding.

Such a strong framework, with compliance properly enforced, should be welcomed as an incentive to the UK (and other progressive Member States) to keep ‘playing by the rules’ and be innovative, e.g. about introducing low impact gears and better selectivity. Without the drive at EU level to achieve a level playing field, Member

<sup>9</sup> [oceana.org/sites/default/files/reports/OCEANA\\_State\\_aid\\_factsheet\\_072013.pdf](http://oceana.org/sites/default/files/reports/OCEANA_State_aid_factsheet_072013.pdf)

<sup>10</sup> European Commission. 2008. Press Release: Common Fisheries Policy: Commission launches a mid-term review. 17 September 2008, Brussels. IP/08/1339.

States will resort to the lowest common denominator, and any aspiration of the UK to pursue best practice will potentially be undermined.

In terms of implementing fisheries management measures for Natura 2000 sites, it is in the UK's interests that decision-making should not get bogged down in (slow) co-decision. Under the new CFP's Art 12, the Commission is now empowered to adopt a joint recommendation under a delegated act for sites in which several Member States have a direct management interest and submit a joint recommendation. Thus the new CFP provides a much faster track than would co-decision for decision-making under these circumstances.

### **Benefits or disadvantages of acting regionally or at Member State level**

In principle, the RSPB supports changes in CFP reform that will reduce top-down 'micro-management' and tailor decision-making more closely to regional and local spatial scales and (with the aid of stakeholders) knowledge. However, in operational terms there remains considerable uncertainty as to what regionalisation will look like and how much bottom up engagement there will be in practice. The RSPB therefore reserves judgement on regionalisation under the new CFP (and considers decision-making by the Commission to be the default) until regional models and their bodies have demonstrated fitness for purpose.

To achieve this, the (R)ACs will need to have better (EMFF) funded, enhanced engagement and influence with the Member State groupings (of which the UK is part) than the RACs experience now with the Commission. The worst outcome would be the insertion of a new bureaucratic layer at regional level that is no more inclusive of genuine stakeholder input and traction than the RACs have experienced with the Commission. No-one is under the delusion that regionalisation represents 'co-management' but at the very least a genuinely participative engagement is sought such that the stakeholders feel they have a transparently high stake in decision-making.

Just as RAC stakeholders will complement the role of Member States in influencing the CFP, so can civil society. The role 'FishFight' played in influencing decision-making on discard policy in Brussels is not in dispute and, judging from the current CFP reform, the UK public has demonstrated more potential than in any other Member State to assist the pursuit of objectives which are in the national interest. This dimension expands the context of modern decision-making.

Were the UK to seek nationalised decision-making for all fisheries policy, outside the CFP (which appears unlikely within the Lisbon treaty), we foresee major disadvantages and no significant benefits. The UK would need to seek bilateral agreements with other Member States on shared access to fishing opportunities. Reciprocal access to the waters of other Member States under historic fishing rights might be jeopardised. The UK negotiating position for, e.g., access to mackerel

stocks shared with Nordic countries would be even harder without an automatic EU platform. In a competitive marketplace and with growing global demand for fish, the UK would presumably lose advantages of CFP-membership in terms of fish imports from third countries.

There would also be a business risk of losing the CFP's legislative framework. Significant precedents of CFP case law would be lost to the UK, undermining the legislative stability which maritime businesses value and expect for smooth running, planning and regulating their activity.

All things considered, the RSPB thinks the evidence is compelling that the UK should continue to strive to improve the CFP from within.

### **Advantages and disadvantages**

#### **How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest?**

Several of our responses to this question are captured in our answer to the first question. Overall, the RSPB considers that the CFP acts strongly in the national interest. The main policy objectives of the reformed CFP (on MSY, strengthened coherence with environmental legislation, the landing obligation, regionalisation, long term management plans etc) are all to the ultimate advantage of the UK's interest to achieve 'clean, healthy, safe, productive and biologically diverse oceans and seas', as also required by the MSFD. More fundamentally, this objective is aligned with the UK Government's and devolved administrations' sound stewardship of a public good, our national seas.

None of the key outcomes of the CFP reform would have been achieved without the strong lead taken by the UK in concert with other enlightened northern Member States. The RSPB and other NGOs publically acknowledged<sup>11</sup> the UK as having set an ambitious agenda and contributing to achieve a good outcome for CFP reform. It is self-evident that the UK pushed for a CFP which was in keeping with its national interests; to have done otherwise would have been perverse.

It is in the UK's interests that the % of overfished stocks in the NE Atlantic fell from 95% in 2005 to 39% in 2012; here the UK evidently benefits from pressure exerted by the CFP on the activity of fishing fleets other than its own.

The RSPB also welcomes the stronger policy coherence afforded by the EU Integrated Maritime Policy. Both the CFP and the EMFF are now aligned with the IMP. This will afford the UK greater scope and resourcing flexibility for, variously, data collection<sup>12</sup>, control and enforcement, incentivising gear selectivity to deliver the landing obligation, and other kinds of adaptation for meeting the conservation objectives of the emerging Natura 2000 network.

<sup>11</sup> [www.wcl.org.uk/docs/Link\\_Nature\\_Check\\_Report\\_November\\_2013.pdf](http://www.wcl.org.uk/docs/Link_Nature_Check_Report_November_2013.pdf)

<sup>12</sup> In the context of the 2014 revision of the DCF regulation 199/2008 and, once the new framework is adopted, subsequent revision of the Multiannual Programme.

The new CFP (Art 18<sup>13</sup>) also devolves a new obligation on Member States to apply environmental, social and economic criteria to allocate fishing opportunities, and to 'endeavour' to provide incentives, to those fishing in the most environmentally responsible way. This can potentially serve the UK's national interest for generating more responsible, low impact fishing.

In this regard, the Commission's adoption (Nov 2012) of the EU Plan of Action for reducing incidental catches of seabirds in fishing gears<sup>14</sup> serves as a good example of a horizontal set of EU-wide actions for proportionate implementation by Member States, according to the severity and nature of seabird bycatch in their respective EEZs. This issue would not have been proactively addressed by the UK and other Member States (for many of which it was not even on their radar) without the advent of an EU-wide policy. Insofar as the UK's internationally important seabird populations disperse across multiple EEZs and also into waters external to the EU, the national interest is served by this action plan.

In the context of regionalisation, the UK and other Member States are now empowered to adopt national technical measures within multi-annual fishing plans. We anticipate that here the UK will derive significant decision-making benefit from the 2014 revision of Regulation 850/1998 for the North Sea and Atlantic, while ensuring coherence and competitive parity with Member States in shared fishing grounds.

In summary, the RSPB considers that the new CFP strikes an unprecedented balance (or has the potential to) between setting over-arching frameworks and devolving responsibility and opportunity for agreeing specific measures to Member States, and that with due diligence this arrangement benefits the UK national interest.

### **How does the EU approach to fisheries management, including recent reforms to the CFP, act against the national interest?**

The most significant disadvantage to the UK is the potential for competitive deficit given that its vessels generally comply with the rules of the CFP more rigorously than do some other fleets, inviting a particular form of the 'tragedy of the commons'. It is for this reason that the RSPB argued for amending Art 50(2)<sup>15</sup> of the new CFP to state that '*Non compliance by Member States with the rules of the Common Fisheries Policy shall result in the interruption or suspension of payments or in the application of a financial correction to Union financial assistance under the Common Fisheries Policy*'. However, this level of conditionality was not carried and the finally agreed text was '*may result*'.

<sup>13</sup> [www.parliament.gv.at/PAKT/EU/XXIV/EU/12/75/EU\\_127580/imfname\\_10418550.pdf](http://www.parliament.gv.at/PAKT/EU/XXIV/EU/12/75/EU_127580/imfname_10418550.pdf)

<sup>14</sup> [eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0665:FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0665:FIN:EN:PDF)

<sup>15</sup> 'Conditions for financial assistance towards Member States'

## **How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

It is a given that 'national interest' applies to the UK's civil society at large and not just the fishing sector. In terms of access to fishing opportunities, all of us are, or should be, beneficiaries of the advances made in the new CFP reform, not least in the requirement (see 2.1 above) on Member States to use transparent access criteria, including social and environmental, in the allocation of fishing opportunities. Providing the UK develops and strictly applies such criteria, and the EU enforces the requirement, there will be an unprecedented incentive for fishing responsibly, helping to meet national obligations under both the CFP and the MSFD.

In numerical terms, the UK fares relatively well from the allocation of fishing opportunities. As the background document (§19) states, the UK (along with the Isle of Man and Ireland) benefits from the 'Hague Preference' under which it suffers smaller reductions of quota, and therefore additional fishing opportunities relative to other Member States which share the fishery, in years when stock assessments dictate a lowering of TACs. In the past, the UK has also been commendably proportionate, refraining from invoking the Hague Preference in cases where its application would be to the severe disadvantage of other Member States<sup>16</sup>. The Hague Preference will be invoked less as stocks recover but nevertheless it remains a valuable concession which, over the years, has survived sustained opposition from non-beneficiary Member States.

One factor going forward that may call for changes in the allocation keys of relative stability is climate change, should this significantly alter the distribution of fish stocks and thus fishing opportunities. The Commission has acknowledged the possibility of new allocation mechanisms in this regard<sup>17</sup>. Given the highly dynamic nature of trophic change already manifest in UK and other EU waters to which UK-registered vessels have access, the RSPB considers that an EU-wide framework would best serve any such potential mechanism and its equitable application to UK interests.

### **The external dimension**

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

The UK and especially the Scottish fleet is the major beneficiary of the EU-Norway agreement. (p.18, box on EU-3<sup>rd</sup> country bilateral agreements). The other main

<sup>16</sup> [www.publications.parliament.uk/pa/cm200405/cmhansrd/vo041216/text/41216w02.htm](http://www.publications.parliament.uk/pa/cm200405/cmhansrd/vo041216/text/41216w02.htm)

<sup>17</sup> House of Lords, 2008, HL Paper 146-II, p 196 (European Commission's evidence).

beneficiaries are Germany, Denmark, France and Netherlands. Spain and Portugal are not beneficiaries as they had no fishing rights in Norwegian waters in the years preceding their accession to the EU. So the UK is part of a quite exclusive club and has a seat at the head of the table.

Because long term plans are in place for many joint stocks under the bilateral agreement, in most cases the annual negotiations are bound by the harvest control roles for each of the plans. The embedding of multiannual plans in the EU-Norway fisheries agreement is a significant step forward which benefits all parties to the agreement, including the UK. In addition to the reciprocal quota-sharing, the UK can also avail itself of quota swaps with Norway.

The UK also benefits from wider cooperation as a result of the agreement, such as Norwegian expertise in monitoring, control and surveillance, and R&D in fishing technology. The recently established EU-Norway working group to address the latter is particularly helpful in efforts to advance the development of more-selective gear in advance of the new EU landing obligation.

The UK's membership of this and other third-country agreements derives benefit from the backing of the whole EU to enforce agreements in terms of, e.g. (a) settling disputes arising with beneficiary EU countries, and (b) influencing the management of fisheries in the seas adjacent to the UK's EEZ (also facilitating management of straddling stocks). For the converse were the UK to have sole jurisdiction over its own EEZ, see footnote<sup>18</sup>.

## **Current legislation**

**How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

As the 'UK responsibilities' section (§§25-34) of the background document (Call for Evidence) describes, the UK retains significant autonomy under the CFP to manage its fisheries. The RSPB considers that the division of responsibilities strikes a good balance between the need to set an EU-level legislative bar and the flexibility to meet needs at national, regional and local level.

The potential for such flexibility is enhanced by the new CFP, especially in respect of regionalisation, the development of multiannual plans for fisheries and the incorporation of technical measures under the revision in 2014 of Reg 850/1998

<sup>18</sup> [www.parliament.uk/briefing-papers/RP13-42.pdf](http://www.parliament.uk/briefing-papers/RP13-42.pdf)

(whereby the Commission proposes to not only simplify the rules but also to empower Member States to adopt national rules reflecting local and regional specificities).

In this regard, the levelness and playability of the playing field will depend much more in future on the ability of the UK to cooperate successfully with its nearest neighbour Member States, e.g. within the North Sea Scheveningen Group. The modus operandi of such sea basin groups is only now developing but the RSPB, as a stakeholder through the RACs, urges that the emergent regionalisation model does not introduce a new layer of bureaucracy that replicates the command-and-control concerns levelled at the Commission. As stakeholders, we look for genuine accessibility and engagement with regionalised fisheries managers if their decisions are to truly meet local and regional needs in a more effective, inclusive and transparent way than under the old CFP.

## Funding

**What evidence is there that rules around support for the fishing industry through EU funds help or hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

The RSPB welcomes that the EMFF aims to meet the objectives of not just the CFP but, for the first time, the Integrated Maritime Policy (IMP), reflecting the Commission's position that maritime policies can no longer function in isolation from one another but rather need to be subject to much greater coherence. As such, the fund should foster environmental protection (notably Natura 2000) as well as co-financing the fishing sector.

The IMP supports cross-cutting priorities which not only generate savings and growth but are less conducive to being taken forward by the UK or any other Member State on its own, rather they call for Member State cooperation. These priorities include a number of horizontal issues germane to sustainable fisheries, e.g. marine knowledge, maritime spatial planning and integrated maritime surveillance. That said, we understand the UK Government's early concerns about potential diversion of funds from actions designed to support CFP reform towards the Commission's wider IMP objectives<sup>19</sup>.

We also welcome the strengthened conditionality between the EMFF and CFP objectives such that compliance with the CFP's rules and targets should have a bearing on the availability of funds. The European Parliament took a strong position

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<sup>19</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/88395/emff-consult-response-20120921.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/88395/emff-consult-response-20120921.pdf)

on conditionality, passing most amendments with a large majority, some exceeding 600 votes. The RSPB considers that, in order to ensure the provisions on conditionality in the CFP Basic Regulation (Article 41) can be effectively implemented, EMFF payments should be suspended and subsequently withdrawn if there is evidence that a Member State failed to comply with its CFP obligations. In the past, several Member States have benefited from EU fisheries aid without such compliance and this should not be tolerated under the EMFF.

Such conditionality, especially if the EMFF provisions should reinforce those in the CFP Basic Regulation, can only be of benefit to the UK, serving as it does to maintain a level playing field in which the UK fleet has traditionally had higher standards of compliance than some of the other Member States with which it competes for fishing opportunities and resources. The conditionality rules in this regard help rather than hinder the UK.

The UK should also support the European Parliament's position to increase earmarked funding for data collection, control and enforcement, and to allow Member States to shift additional aid to these measures as a precondition for meeting the objectives of the CFP and for fish stock recovery.

Given that the fisheries prosecuted by the UK are among the most mixed in European waters, posing particular challenges for the implementation of the landing obligation (which the UK supported in the CFP reform), the UK can only benefit from the EU co-financing under the EMFF of measures to adapt the fleet to this new regime.

EMFF funding will also be vital to the development of aquaculture, especially in Scotland which has 17% of the EU employment in this sector, 82% of UK employment, and 86% of UK sales<sup>20</sup>. However, for such funding to be fit for purpose, data collection under the new Data Collection Framework (2014) needs to be more comprehensive in addressing the need for indicators for the aquaculture sector, particularly for its environmental impacts. A procedure should be established by which policy-relevant indicators are agreed. The DC-MAP should be amended subsequently in order to require the collection of the data necessary to operationalise these indicators. In this sense, the RSPB would argue that the current EU framework is deficient in driving best practice in Member States.

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<sup>20</sup> [news.scotland.gov.uk/News/Scotland-needs-fair-deal-from-fish-fund-269.aspx](https://news.scotland.gov.uk/News/Scotland-needs-fair-deal-from-fish-fund-269.aspx)

## **Future challenges and opportunities**

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

In respect of the ongoing EMFF triologue, we look to the UK to support the European Parliament's position to increase earmarked funding for data collection, control and enforcement and to allow Member States to shift additional aid to these measures. Suitable data collection, control and enforcement are a precondition for realising the objectives of the CFP so aid for these measures will clearly benefit the recovery of fish stocks and the fisheries sector at large.

At the same time, we would also like to urge you to ensure the provisions on conditionality in the CFP Basic Regulation (Article 41) can effectively be implemented. Payments under the EMFF should be suspended and subsequently withdrawn should there be evidence to suggest that a Member State failed to comply with its obligations under the CFP. In the past, several Member States have benefited from EU financial assistance for the fishing sector without fully implementing the rules of the CFP. This should not be tolerated under the EMFF, as it would impede achieving the objectives of the reformed CFP. We therefore urge the UK to support the Parliament's position on this issue.

The RSPB would highlight two other future changes of potential benefit to the UK, namely the upcoming (2014) revision of the Technical Conservation Measures Framework and the Data Collection Framework, respectively. As the UK is a leader among EU Member States on environmental integration in the CFP, the RSPB urges the UK to support the incorporation of (a) mitigation measures for reducing seabird bycatch in the new TCMF, and (b) data collection on seabird bycatch in the new DCF (and subsequent DC-MAP).

## Salmon & Trout Association

The Salmon & Trout Association (S&TA) was established in 1903 to address the damage done to our rivers by the polluting effects of the Industrial Revolution. For more than a century, the S&TA has worked to protect fisheries, fish stocks and the wider aquatic environment for the public benefit. S&TA has charitable status in both England and Scotland and its charitable objectives empower it to address all issues affecting fish and the aquatic environment, supported by strong scientific evidence from its scientific network. Its charitable status enables it to take the widest possible remit in protecting fish stocks, all other water dependent species and the ecosystems upon which they depend. [www.salmon-trout.org](http://www.salmon-trout.org)

As the consultation document states, salmon and sea trout spend a large part of their lives at sea, and fall within the ambit of the CFP while they are at sea. It is essential to regulate exploitation of salmon and sea trout at sea. Salmon and sea trout contain genetically distinct populations that have evolved to optimise their chances of survival in the environment of a particular river. Exploitation of a population should be managed at the level of that population. This is not usually feasible in large rivers with several populations, but management at the river level enables managers to take account of the impact of exploitation on different components of the river stock. This is not possible with coastal mixed stock fisheries exploiting stocks from a number of rivers, and for this reason such fisheries are being phased out in England and Wales, a policy we strongly support.

We believe that the current balance of competences between the UK and the EU works well for anadromous fish, and we would not wish to see it changed. We strongly support the EU wide ban on fishing for salmon and sea trout outside coastal waters. Because salmon and sea trout from one member state can migrate through, or in the case of sea trout feed in, the coastal waters of another member state we are content for the EU to retain the power to intervene if fisheries in one member state threatens stocks of anadromous fish originating in another.

Salmon are also potentially subject to exploitation outside EU waters, with fisheries operating historically in international waters and off the Faroe Islands and Greenland. The North Atlantic Salmon Conservation Organisation (NASCO) was established to regulate these fisheries, and prohibits all fishing for salmon by signatories in international waters and regulates the Faroes and Greenland fisheries. NASCO falls within the EUs international fisheries competence; so far as regulatory measures are concerned the system works well and we see no case for change.

We also support the European eel regulations because the European eel stock is panmictic, with a single stock apparently distributed randomly across its range, and therefore it is essential that it is managed at the level.

## Scottish Fisherman's Federation

The Scottish Fishermen's Federation, responds on behalf of its members, the Anglo-Scottish Fisherman's Association, the Clyde Fisherman's Association, the Fishing Vessel Agents & Owners Association (Scotland) Limited, the Mallaig and North-West Fishermen's Association Ltd, the Orkney Fishermen's Association, Scallop Association, the Scottish Pelagic Fishermen's Association Ltd, the Scottish Whitefish Producer's Association Ltd and the Shetland Fishermen's Association.

The Scottish Fishermen's Federation is the trade association acting for the catching sector of the Scottish fishing industry. We are very grateful for the opportunity to respond to the consultation.

### **INTRODUCTION**

Given that fish are unaware of administrative boundaries in the sea, successful management of all sustainable fishing requires co-ordinated management action at some level. For very localised fisheries, catching only immobile species, this too can be local. However for the majority of volume fisheries accessing mobile stocks broader cooperation is required involving Member States and with other coastal nations outside the EU. It may be assumed reasonably that the need for cooperation led to the development of the Common Fisheries Policy (CFP) from its beginnings as a part of the Common Agricultural Policy to its present form. Curiously, the development has not been optimal, and this paper postulates a reason embedded in the balance of competences for that, and proposes a fix.

### **THE SELF-EVIDENT CASE FOR REGIONALISATION**

The character and makeup of the European fishing industry is colourfully varied across the sea areas of the north east Atlantic and the Mediterranean, but it has recognisably discreet components by region or area. This means that while coordinated management action for mobile stocks is required, centralised (often expressed as "one size fits all") rather than regional control is inappropriate; hence the obvious attraction of regionalised management. It might have been expected over the many decades of the CFP's existence that this would emerge, but it has not – representing the sub-optimal development above.

### **THE BLOCKAGE**

The primary reason for that, we suggest, is a structural blockage caused by one area of competence – the exclusive competence of the European Union for conservation of marine biological resource. Its continuation is almost certain to prevent achievement of one of the primary objectives of the new-for-2014 CFP – that of regionalisation. Article 3(d) of the TFEU gives the EU exclusive competence for only five areas, one of which is the conservation of marine biological resource under the CFP. It seems reasonable to assume that these are of such importance as to merit

special treatment and a general and plausible-sounding argument can be constructed for each including conservation of marine resource. However, there has been an unintended consequence for fisheries regulation and that is to cause the EU to refuse to act in practice in any way other than to apply detailed micro-management.

## **THE ACTUALITY – CENTRALISATION**

Fisheries management therefore has developed into increasingly more complex control from the EU centre. There are close to a thousand separate pieces of legislation covering the every aspect of the industry. Again curiously the difficulty of centralised micro-management of EU fishing regulation has actually long been recognised.

The April 2009 Commission Green paper launching CFP reform stated under the heading: **“Focusing the decision-making framework on core long-term principles”**: *“....Another option would be to rely wherever possible on specific regional management solutions implemented by Member States, subject to Community standards and control.”* While recognising the potential benefit, the article went on to say: *“The Treaty stipulates that the policy must be based on exclusive Community competence but this would not prevent implementation decisions from being delegated to Member States, provided they are bound by decisions on principles at Community level.”*

The words in the Green Paper fail to recognise that while the described process sounds plausible, delegation of implementation would not change the level at which decisions were made and not therefore improve the present unacceptably centralised process.

The portion of the revised CFP dealing with regionalisation takes the same tack as the Green Paper. To summaries, it describes what amounts to an advisory process whereby Member States with a share in a fishery are encouraged to suggest plans which, if approved by the Commission may be put in place. The ability of like-minded Member States to make substantial proposals on any matter of fishery regulation has always existed as a possibility, but has never succeeded. Making a more fulsome description in the new CFP of the process does not materially change anything; it certainly does not represent a new delegation of authority to the most suitable level.

## **CONCLUSION**

The barrier to effective delegation is exclusive competence for conservation of biological resource. Experience demonstrates very clearly that in fisheries matters the Commission is unwilling to delegate anything which, if mishandled, might breach their responsibility under said exclusive competence.

It is therefore argued that the understandable desire to properly execute the conservation of marine biological resource has led to the consequence of thwarting that objective by refusing to allow decision-making to rest at the optimal level.

### **RECOMMENDATION**

This is an area of competence which should be reconsidered, bearing in mind the principle of subsidiarity. Revision of competence from “exclusive” to “shared” would liberate the practical possibility of regional fisheries management. This is strongly recommended. It is recognised that a Treaty change would be required, which is a very difficult challenge, but the time may be right.

### **BALANCE OF COMPETENCES: SEA FISHERIES AND AQUACULTURE**

#### **Sea Fisheries and Aquaculture in Scotland**

Scotland has a unique marine environment and our fishing industry occupies a prominent position in Scotland's communities, economy and history. Indeed, despite comprising only 10% of the UK's population, Scotland accounts for around 70% of the UK's fishing industry.

As the UK's primary fishing nation and one of the major fishing nations within the EU, the views of the Scottish Government are highly pertinent in any discussion of the future of European fishing. The relevance is even more significant when it comes to aquaculture. 90% of the UK industry is located in Scotland, representing Europe's second most valuable aquaculture sector.<sup>21</sup>

A discussion on the balance of competences between the EU and its Member States within sea fisheries and aquaculture needs also to consider how decision making powers and responsibilities impact on those involved in the sector. Achieving this is difficult through a large, centralised system.

Fisheries management decisions are better made by those with practical experience and understanding of the fishery. These parties have the greatest interest in sustaining the fishery and are best able to change management actions at short notice to take account of stock dynamics and highly variable marine systems.

This is why Scottish Ministers have championed the regional approach to fisheries management during the reform of the Common Fisheries Policy. The Scottish Government has succeeded in significantly moving management decisions away from the centralised model that has hamstrung the CFP previously, though Ministers recognise this should simply be a first step towards greater decentralisation.

#### **Overview**

The management of Scotland's fisheries is of paramount importance to the Scottish Government. Many of the valuable fish stocks found in the seas around our coastline are shared by other nations. Sea fishing in Scotland can only be sustainable, therefore, if co-ordinated action is taken by all countries that share an interest in key Scottish stocks.

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<sup>21</sup> Summary of the 2013 Economic Performance Report on the EU Aquaculture Sector (STECF 13-30). Scientific, Technical and Economic Committee for Fisheries.

EU policies, however, must be more flexible to take account of the diverse nature of Scotland's fisheries and marine environment.

“.....the governance of Scotland's fisheries has been characterised by a strongly hierarchical, top down system of decision making. Scotland's position has been disadvantaged not only by its subordination to a failing Common Fisheries Policy but also by the paradoxical situation in which Scotland, responsible for around 70% of the UK's fishing activity, remains in some measure dependent on the Westminster Government for 'leadership' in negotiation with Brussels and in setting the broad framework for the internal management of the fishing industry. Devolution has gone a long way towards granting Scotland *de facto* control over fishing activities within its own nominal 200 mile limits and conduct of its own fleet, but not yet in all relevant areas. Successive Scottish Governments have shown a determination to improve the image of fisheries management, most notably in developing a stronger co-management approach. But the division of responsibility between the European institutions, (Commission, Council of Ministers and Parliament) and the member states remains the defining characteristic of the governance system.”<sup>22</sup>

The Scottish Government considers that the current balance of competences between the EU and its Member States with regard to sea fisheries policy, coupled with the current UK constitutional settlement, fail to provide an adequate framework for the sustainable management of our fisheries.

### **EU Competence in relation to fisheries**

Competence for sea fisheries is concentrated in the European Union. Article 3(1)(d) and (2) of the Treaty on the Functioning of the European Union (TFEU) confers exclusive competence on the EU for the conservation of aquatic biological resources under the Common Fisheries Policy as well as for the conclusion of international agreements with third countries and international organisations regarding the conservation of aquatic biological resources and reciprocal agreements concerning access to fishing grounds.

Article 4(2) of the Treaty on the Functioning of the European Union provides that the EU and Member States have shared competence in relation to fisheries, excluding the conservation of marine biological resources.

EU exclusive competence means that, under the Common Fisheries Policy, it is the European Commission alone that has responsibility for initiating policy proposals in relation to technical measures such as minimum landing sizes and mesh sizes, the

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<sup>22</sup> The Future of Fisheries Management in Scotland – report of an Independent Panel. The Scottish Government 2010.

setting of annual total allowable catches (TACs) for all quota regulated species and the initiation of all stock management and recovery plans.

This is a Herculean task given the extent of European waters, the diversity of fish stocks and the range of fishing methods that exist from the Baltic to the Black Sea. A centralised approach to managing such variability seems doomed to failure; it is prone to blunt micro-management, political deal-making, and the predominance of neutered decisions which reflect the 'lowest common denominator' acceptable to all Member States. It is unsurprising, then, that the CFP has been characterised by decline in both fish stocks and fishing vessels as a consequence of the "one size fits all" approach.

There is of course a certain rationale for coordinated working and common standards in some areas of EU competence. It is important that there is coherent management of stocks across their entire geographical distribution. It is also critical that a level playing field exists for fishermen across the EU in terms of sharing of resource, compliance, market access etc.

However, much of the work of DG Mare, the Commission Directorate with responsibility for initiating policy proposals, has been focussed on micro-management of the EU's fisheries through single species TACs, and through stock recovery and multi-annual management plans. While the development of multi-annual plans is to be applauded as a positive approach to achieving long-term stability and sustainability for both fish and fishermen, the way in which they have evolved has resulted in the gradual amassing of complex and rigid regulations containing multiple derogations which confuse fishermen and complicate compliance. Furthermore, the decision-making process is lengthy and vulnerable to politicisation, often resulting in action being delayed or legislation that is not fit for purpose.

### **Box 1. Subsidiarity**

In areas of EU policy which are not within the EU's exclusive competence, the EU must act in accordance with the principle of subsidiarity. The principle of subsidiarity ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Union level is justified. This means the EU does not take action unless it is more effective than action taken at national, regional or local level. Fisheries would certainly appear to be a sector where the principle of subsidiarity would bring benefits. However, the EU institutions are not required to act in accordance with the principle of subsidiarity in cases where the EU has exclusive competence. Despite being an exclusive competence of the EU, it is still open to the EU institutions to delegate greater authority and responsibilities with respect to the conservation of aquatic biological resources becoming a shared, rather than an exclusive, competency

## **EU Legislation**

While the European Commission is uniquely able to propose fisheries policies, the establishment of policy in EU law is shared by the EU institutions.

The Commission and the Council set annual fisheries limits (Total Allowable Catches or TACs). The Commission, Council and the European Parliament are responsible for all other aspects of fisheries under the Ordinary Legislative Procedure (OLP)<sup>23</sup>.

It is entirely correct that Member States, via the Council, should have such a significant role in the development of EU law given that it is Member States that will be held responsible for correct implementation of EU Directives and Regulations and face infraction proceedings if deemed to fail in this duty. Under the Lisbon Treaty, the European Parliament has an enhanced role in fisheries management. Thus the Peche Committee within the European Parliament has become an important player in the development of fisheries and aquaculture policies. Members of the European Parliament are able to communicate the views of their local communities in the passage of legislation which can increase the opportunity for local communities to influence the policies adopted in relation to their local waters.

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<sup>23</sup> OLP is the procedure that is taken in the development of the vast majority of EU law. Under the OLP the Commission proposes a piece of legislation which is considered by both the Parliament and the Council. Once the Parliament and Council have agreed their separate positions they enter a negotiation to find an agreed text to the Commission proposal. Following agreement the amended proposal will progress to become part of EU law. If agreement is not achieved after a third reading, the proposal is dropped.

Details of precise management measures, other than TAC levels, are subject to agreement through the OLP. The multitude of interests across the Parliament and Member States inevitably leads to political trade-offs and delay as legislative proposals slowly progress towards becoming part of EU law. These delays and politically motivated modifications are generally to the detriment of the effectiveness and responsiveness of EU action.

Regionalisation provides a means of addressing the drawbacks of the current system. Agreement to high level principles and objectives at the EU level help establish the direction for management policy, which can be implemented and adjusted rapidly at regional level, sensitive to local needs. This approach helpfully shifts the focus of the EU institutions from process to strategic outcomes.

### **Box 2 Disputes between EU Institutions**

There is currently an ongoing debate as to the roles of the Council and the European Parliament in the development of EU fisheries legislation. This dispute arose from the regular review process of Long Term Management and Recovery Plans. (LTMPs and RPs) These plans contain a harvest control rule which works as a formula to establish TAC levels on an annual basis. The amendment of LTMPs and RPs should arguably be a shared function between the Commission and the Council. However, there are many other elements to LTMPs which fall under the OLP, thus requiring the involvement of the European Parliament. As yet the role of the Parliament in LTMPs remains unresolved. As esoteric as the argument seems, it has direct impacts on fishing activities. Until a solution is found that both the Council and the Parliament can agree to, LTMPs will not be renewed, to the potential detriment of the relevant stocks, and the confusion of fishermen. The Scottish Government believes that a pragmatic solution should be found. While any resolution must respect the Treaties, it should also allow for decisions to be made and implemented speedily, enabling LTMPs to take account of sudden changes in stock status.

### **Member State responsibilities and devolution**

While competence is concentrated at an EU level, many of the responsibilities for implementation of fisheries policy have been devolved through derogations to Member States. The table below summarises the balance of competences and the roles and responsibilities of the European Union institutions and Member States.

### **Table 1: Summary of the current responsibilities between EU, UK and Scotland**

<b>European Union Competences</b>	<b>EU Legislative Procedures</b>	<b>UK Government functions in relation to fisheries</b>	<b>UK Government /Scottish Government Responsibilities in relation to Scottish waters</b>
<p>Conservation of aquatic biological resources under the CFP.</p> <p>Representation of Member State interests in Regional Fisheries Management organisations and in negotiations with non-EU states with regard to the conservation of marine biological resources and reciprocal access agreements.</p>	<p><u>Special legislative procedure</u></p> <p>Setting of annual fishing opportunities (TACs and Quotas) involving Council and Commission only.</p>	<p>Representation of fishing interests at EU Councils</p> <p>Overall management and allocation of EFF funds between UK and devolved administrations.</p>	<p>Management of Scottish Inshore fisheries</p> <p>Licensing of Scottish fishing vessels.</p> <p>Scottish fleet capacity management</p> <p>Quota and effort management</p> <p>Implementation of CFP in Scottish waters including domestic conservation measures, research and compliance requirements</p>
	<p><u>Ordinary legislative procedure</u></p> <p>All other areas of fisheries policy; including the Common Market Organisation and the European Maritime and Fisheries Fund; involving Council, Commission and Parliament</p>		

Member States' responsibilities fall under 4 key areas. Some, but not all, functions within these areas have been fully devolved to the Scottish Government. In line with the view that fisheries management decisions are better made by those with practical experience and understanding of the fishery, the Scottish Government considers that full devolution of these functions would have a beneficial impact on the management of Scottish fisheries.

### **Licensing and fleet capacity**

The Scottish Government, in line with other UK Fisheries Administrations (UKFAs), issues licences to Scottish registered vessels with such vessels, in general, administered from the district from which they predominantly fish. Licences may be transferred from vessels registered in one administration's territory to vessels registered in another administration's territory. Licence conditions apply to that vessel wherever it may operate. Where limited fishing authorisations are issued to the UK under EU law, these are distributed between administrations following agreement on a case by case basis. Changes to the distribution of existing authorisations require the agreement of all four administrations.

The Scottish Government currently receives information from the UK Government-administered fleet capacity system. The Scottish Government considers that the management of Scottish fisheries would benefit from the Scottish Government having full domestic control over Scottish fleet capacity and the opportunities this may present whilst meeting its obligations relating to capacity ceilings.

### **Quota and effort management**

The Scottish Government receives from the UK Government a formula-based portion of UK fish quotas and kilowatt (kW) day effort limits, although the UK reserves the right to (and has) departed from this approach when it has made exceptional 'top sliced' allocations of quotas to fisheries outside Scotland. The Scottish Government then allocates quota to Fish Producer Organisations and other quota allocation groups with Scottish members, and allocates effort to Scottish fishing vessels.

The Scottish Government considers that Scottish fisheries would be better managed by the Scottish Government having full domestic control over quota and effort management in relation to Scottish waters. This would prevent the risk of fish quota being redirected to other parts of the UK.

### **Inshore Fisheries**

UK vessels have exclusive rights to fish within 6 nautical miles of the UK coast. Between 6 and 12 nautical miles, vessels of Member States with a historic record are allowed access for specific fisheries. Within 12 nautical miles of the Scottish coast the Scottish Government has the ability to take non-discriminatory conservation measures, so long as the EU has not already legislated in the area. In practice the only areas where the EU implements measures which impact on the zone within 12 nm is in relation to gear regulations and Total Allowable Catches (TACs). However, many of the inshore stocks important for the Scottish fleet are not covered by TACs. Inshore fisheries are primarily regulated through the Inshore Fishing (Scotland) Act 1984 which gives Ministers general powers to prohibit sea fishing in specified areas of Scotland's inshore waters by specified methods and for specified periods of time.

The Scottish Government considers that Scottish fisheries management would benefit from the Scottish Government having greater powers in relation to access rights to inshore waters to ensure Scottish fishermen's traditional fishing grounds were protected.

## **Compliance**

The fisheries compliance function within the Scottish Government is discharged by Marine Scotland Compliance staff using land, sea and air based assets. Whilst enjoying a high degree of operational freedom, they nonetheless must be mindful of wider UK obligations.

Enabling the Scottish Government to be wholly responsible for undertaking and reporting elements of this function in an EU context would result in better managed Scottish fisheries.

### **Box 3. Aquaculture**

Although a shared competency, aquaculture remains largely under Member State control. Responsibility has been devolved to the Scottish Government, encompassing around 90% of the UK industry.

The reformed of CFP includes measures to encourage Member States to take a strategic view of the industry with the aim of increasing sustainable growth and employment in the sector.

## **UK overarching functions**

Two significant areas which remain the preserve of the UK are the representation of fishing interests at EU Councils and the allocation of funds under the EU fisheries financial instrument, currently the European Fisheries Fund (EFF).<sup>24</sup>

### **Representation at Council**

The Scottish Government has long argued that Scottish Ministers should be allowed to speak on behalf of the UK when the matter of discussion is predominantly a Scottish issue; for example on aquaculture or mackerel negotiations. However, this request has been repeatedly and flatly refused.

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<sup>24</sup> The EFF will be replaced by the European Maritime and Fisheries Fund (EMFF) in 2014.

It is frustrating that, even in circumstances where a Scottish Minister is present and there is has been no UK Minister in attendance, a UK official speaks on matters of predominantly Scottish fishing interest. This approach undermines the significance of the UK intervention and its perceived commitment to the matter under discussion.

In line with our view that management decisions should be made at the level where greatest understanding of the fishery lies and closest to the people affected by those decisions, the Scottish Government believes that it is the Minister best suited that should speak on specific stocks or matters at Council. Thus the UK Ministerial representative may hail from the UK Government, from the Scottish Government or from the Welsh or Northern Irish authorities, depending upon the issue under discussion.

The UK's unfaltering rejection of Scottish Ministerial requests to speak at Council runs counter to the commitments made by the UK Secretary of State for Foreign Affairs in the most recent agreed guidance on relationships between the UK Government and Devolved Authorities<sup>25</sup>. That agreement states that:

'Ministers and officials of the devolved administrations have a legitimate interest in the preparation and presentation of the UK's EU policy where it touches on matters which fall within their responsibility and therefore have a role to play in relevant Council meetings, and other negotiations with EU partners.'

also;

'the leader of the delegation (*the UK Minister*) could, in appropriate cases, agree to Ministers from the devolved administrations speaking for the UK in Council.'

### **Allocation of Fisheries Funds**

Currently the UK Government arbitrates over the allocation of EU fisheries funds between the UK and devolved administrations. The allocation process has short changed Scotland in the past with the Scottish Government receiving only 40% of the UK allocation. This does not reflect the fact that the Scottish fishing zone is 61% of the UK fishing zone and ranks 7th for size of Europe's seas.

In respect of sea fisheries a primary function of this fund is to provide finance to assist fishermen in making the significant adjustments to their vessels, gear and fishing practices that the reformed CFP will demand. The establishment of a discard ban and achievement of Maximum Sustainable Yield levels for fish stocks will require

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<sup>25</sup> Memorandum of Understanding and Supplementary Agreements between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee. October 2013

substantial change and investment from the industry. In addition, the fund will in future be required to support Member States in making the necessary investments in data collection and compliance. With the bulk of the industry in Scotland, most of that burden will fall on Scottish skippers and their crew and on Scottish Government functions.

Scotland also has the second largest aquaculture sector in the EU by value and the fifth largest by volume. In value terms Scotland represents over 90 per cent of the UK total and just under 90 per cent by volume. The aquaculture sector has grown to become the largest food export sector from Scotland as well as a key source of economic activity in remote areas. However much remains to be done to ensure that the finfish sector meets challenges regarding disease and parasite control; capacity; and delivery of technological advances as the sector looks to move further towards high energy sites. The shellfish sector also faces challenges around capacity and access to healthy seed and spat, and it requires sustained growth if it is to deliver the necessary scale to achieve sustainable growth targets as set out in the Scottish Marine Plan consultation document<sup>26</sup>.

Yet in spite of the significant increased need created by reform, and the challenges in the aquaculture sectors, the UK Government strongly opposed any increase in the level of the EMFF to be allocated to the UK.

The establishment of the EMFF will draw together all marine funding, including that for compliance and the data capture framework. While the overall allocation to Scotland should increase, given the additional costs in this area, any new budget will not reflect the size or importance of both the sea fisheries and aquaculture sectors in Scotland.

In order to alleviate the increased costs to Scottish fishermen inherent in the CFP reform, and the challenges facing the aquaculture sectors, we will argue that Scotland, as the major fishing nation in the UK, receives a proportionate level of the funds available to the UK. Without this additional finance, the sectors will not be empowered to implement the reform that they have worked towards.

### **Role of Stakeholders**

Stakeholders have no formal competency in fisheries management decisions. Although the review of the CFP in 2002 did establish Regional Advisory Councils (RACs), these were, and will continue to remain, advisory only.

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<sup>26</sup> [www.scotland.gov.uk/Publications/2013/07/9185/0](http://www.scotland.gov.uk/Publications/2013/07/9185/0)

In Scotland we have led the way in co-management of fisheries with stakeholders; initially through the Scottish Fisheries Council and more recently through the establishment of FMAC (Fisheries Management And Conservation Group), Inshore Fisheries Groups and a national IFMAC (Inshore Fisheries Management and Conservation) group. The Scottish Government also hosts biannual meetings of the UK Aquaculture Forum. Membership of these groups covers all sectors of the industry, Scottish Government agencies, conservation NGOs and other relevant interests. This stakeholder network ensures that all interested parties are able to engage directly, frequently and regularly with Scottish Government fisheries and other marine officials.

The Scottish model of fisheries co-management is one which is recognised and promoted as an example of good practice. In a regionalised CFP we expect our stakeholders to have an enhanced role in developing management measures for Scottish fisheries.

## **Conclusions**

### **EU/Member State Competency**

The CFP has been rightly derided as a failed policy in the past. The failure resulted from a rigid adherence to an ethos that the detail of fisheries arrangements should be managed at a central, European level. The European decision making process also produced tardy, confusing and ill-fitting regulations.

As part of the UK, the Scottish Government has led the movement for greater regionalisation of the CFP to allow better management decisions to be made more quickly by those at local level with the best understanding of the fishery. The model foresees EU involvement limited to providing high level objectives, the equality of a level playing field and a strong voice in international negotiations. The development and implementation of tailored fisheries management activities would occur at national and regional level through a co-management process.

We have had notable success, despite opposition, to shifting the CFP significantly in this direction through the reform process completed last year. As part of the UK, this was as much as could be expected to be achieved. However Scottish Ministers recognise that more has to be done.

It is clear to the Scottish Government that considerable reform is required in the development of EU fisheries policies and management regimes and that fisheries is an area that would benefit from greater application of the principle of subsidiarity and the delegation of further responsibilities back to the Member States (see Box 1). The only route to achieving such an outcome is through pursuance of a persuasive rationale and argument within the EU institutions. The current constitutional

settlement in the UK has, however, hindered the Scottish Government in its effort to do this and it is only with the full authority of an independent Member State that the Scottish Government will be able to fully influence the exercise of EU competences in relation to fisheries. As part of the UK, the Scottish Government would support a reassessment of the EU/Member State balance of competencies; as a Member State, the Scottish Government would be a strong advocate and important ally to like-minded Member States.

## **Devolution**

The Scottish Government believes that the balance of responsibilities between the UK and the devolved administrations also requires further review. The current monopoly that the UK imposes on representation at Council in respect of fisheries stifles those best able to speak on issues under discussion. Furthermore the closely guarded control of European fisheries funds does not provide an equitable and proportionate distribution of resource, impacting on the ability of Scottish fishermen to implement fisheries reform. Meanwhile the partly devolved areas of licensing and quota management create unhelpful restrictions and tensions between UK authorities, hindering the Scottish Government from optimising national management of our fisheries.

Within the UK, the bulk of the fishing industry and the most fisheries dependent communities are in Scotland. Our extensive waters also contain a greater biomass and biodiversity than the rest of the UK waters. 90% of the UK's aquaculture industry is also based in Scotland. For these reasons it would be appropriate for the Scottish Government and the Scottish Parliament to assume greater responsibility for management of our sea fisheries and aquaculture sectors.

In conclusion, the Scottish Government;

- Supports any UK Government attempt to address the current imbalance of competences between the EU and Member States to allow for more regional decision-making in line with the principle of subsidiarity but notes that the UK Government did not pursue more radical outcomes during recent reforms
- Requests that the UK reconsiders its position on the current imbalance of responsibilities between the UK and the Devolved Authorities.

And Scottish Ministers look forward to an independent Scotland which:

- can make its own voice heard in this vital debate on the future of fisheries as a full Member State of the European Union, and;

- has full authority to exercise all current Member State competences and responsibilities in order to best manage its fisheries.

## Scottish Seafood Association

**What types of decisions should be made at:**

**i. EU level?**

None.

**ii. regional level (groups of Member States)?**

Shared Fishery.

**iii. Member State level?**

All fisheries management

**How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

**i. benefit national interest?**

No benefit. Fisheries management under the EU has been a complete disaster. After over 30 years with stocks still under threat the removal of centralised fisheries management has to be terminated.

**ii. act against national interest?**

Does not recognise environmental changes and the need for flexibility in fishing activity.

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

Lead to increased effort, discrimination, devastation of fishing coastal communities. economic benefit only in the hands of a few. Introduction of policies not suitable for regional management of fisheries. Thousands of jobs lost both on and offshore. Value of seafood constrained

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

Only if there is conflict and shared resource.

**ii. hinder the UK's national interest?**

Limited access to international waters

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Complete disaster. No level playing field. Scotland has given way for other fishing communities but not offered anything in return.

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

UK government has failed to maximise any long term benefit. EU funding has been squandered on many projects that have not created employment for the long term.

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

The UK fishing industry has been decimated by rules, how much more info do you require? E.g Days at sea, quotas all lead to selective fishing and displaced effort.

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

No benefit in terms of growing markets or increasing value of seafood. First point of sale in UK delivers highest prices because of quality nothing to do with common standards. POs have failed in their main purpose, they do not market fish.

**ii. hinder UK businesses, both domestically and when exporting abroad?**

Increased costs. Strict compliance in Environmental Health not universal in all countries. Didn't prevent the horse meat issue.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

What fisheries management? There has to be strict landing regulations to prevent over supply. Quotas to be subdivided to improve landing patterns Quota year to change to match fishing seasonality.

## Seafish

- “Balance” is a good way of describing the legislative competence in relation to marine legislation. There are different competent authorities depending on the geographic location, the type of vessel and the particular species prosecuted. For example in England, local IFCA’s legislate in the 0-6 mile zone, the national government (with agreement from those countries with historic rights) In the 6-12 mile zone and the EU outside this. It is different again for the devolved administrations.
- This situation leads to a complex raft of different legislation with different enforcing bodies and different legislation across arbitrary boundaries, all of which cause a legislative headache for fishermen.
- Also have to bear in mind that there is different EU legislation. CFP is a regulation which has direct effect in national law and the environmental legislation (WFD, MSFD, Habitats etc) which are Directives and have to be transcribed into national legislation. This in itself can lead to inequity in the way the law is applied across the EU and as such can disadvantage our industry.
- There are advantages to EU legislation though. They have, through the reformed CRP and the MSFD, made MSY a requirement of fisheries. This can only be a good thing for the future of the industry. It could be argued that our national government would have done this anyway, but some shellfisheries stocks are only in inshore water and national government has not taken measures thus far to preserve the long term sustainability of these.
- I would hope that should the balance of competency change in the future it will be possible to retain the positive parts of existing legislation whilst greatly simplifying the raft of legislation there is now in the marine area.

## Senior European Experts Group

### Background

The Senior European Experts group is an independent body consisting of former high-ranking British diplomats and civil servants, including several former UK ambassadors to the EU, a former Secretary-General of the European Commission and other former senior officials of the institutions of the EU. A list of members of the group appears in the Annex.

SEE has no party political affiliation. As an independent group, it makes briefing papers on contemporary European and EU topics available to a number of organisations interested in European issues, drawing on the extensive knowledge and experience of its members.

Several members of the group have particular expertise on fisheries policy issues, in Government, in UKREP, in the Commission, and in other parts of the Diplomatic Service.

### Questions

#### Where should decisions be made?

**At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the EU level, regionally, or at Member State level?**

Where a fishery stock is found in the waters of more than one country it is necessary for the management of that stock to be undertaken jointly by all the interested countries. Otherwise, unregulated competition for the stock will result in over-fishing and failure to conserve the stock. Given that the overwhelming majority of UK fish stocks are shared with other countries<sup>27</sup>, it follows that UK fisheries must be managed in collaboration with its neighbours, mostly other EU Member States. This means that the only realistic levels at which the stocks around the UK can be effectively managed are the EU and, where third countries such as Norway, Iceland or Faroe Islands have an interest, between the EU and those third countries through Joint Agreements. It is especially important moreover that EU management measures are enforced through a single legal framework that gives some confidence that other countries and their fishermen are observing common rules and will be punished if they transgress.

It is sometimes argued that the UK would be better off – in terms of access to more fish resources – if it took control of all the fisheries within its own fisheries limits, determined the level of catches and reserved these for its own fishermen. This

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<sup>27</sup> This point is well illustrated by the map at Annex 2 showing cod spawning grounds in the waters surrounding the British Isles.

scenario however is a dangerous illusion. It would require leaving the Union and also refusing to negotiate with other countries about how much catch of shared stocks it would take in its own waters. Not only would this be contrary to the UN Convention on the Law of the Sea (article 63 of which requires coastal states to seek to negotiate joint agreements for the management of shared stocks), it could only be pursued at severe risk to the health of the stocks concerned (because the resultant free for all amongst countries in whose waters the fish were found would inevitably result in over fishing) and thus to the future fishing opportunities for UK fishermen. Such an approach could never serve the interests of the UK or its fishermen.

Thus, in order to safeguard its own interest in ensuring conservation of shared stocks, the UK would still need to negotiate catch levels (Total Allowable Catches/quotas) and other conservation measures with the Union and third countries. And in this context, the UK could not mount a credible case for any increase in catch quota shares at the expense of other countries, given that the current shares have been operating unchanged for over 30 years and are themselves based on historic fishing activity, including in waters now within the UK's fisheries limits. Indeed, the UK could well be worse off if, for example, it lost access to certain fishing opportunities in Norwegian waters which are currently "paid for" mostly by transfers of fishing opportunities from other Member States. And critically, as an outsider negotiating with a united EU, the UK would be in a weaker position to influence decisions: as the recent Common Fisheries Policy Reform has shown, the UK has a powerful influence on decisions within the EU, which would be absent were it negotiating from outside. The result would be that the UK in effect had a smaller influence on the fortunes of its fisheries and fishermen than it does now.

### **Advantages and disadvantages**

**How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

Managing complex, multi-species and multi-national fisheries such as those found in the waters surrounding the UK is a very difficult task that has rarely been performed successfully anywhere. Nevertheless, the EU could have done better, not least in the design of the CFP and in following scientific advice more rigorously. Many of the various incentives established by the CFP have not been conducive to good conservation and management of the fisheries, as the historic evidence of declining stocks illustrates. For example, the politicisation of annual TAC setting, the incentives to discard fish at sea, the micro-management of technical conservation measures, and financial incentives to invest in vessel capacity enhancements have all contributed to poor outcomes. Against that background, the recent reforms are

very important as they seek directly to tackle these issues. Thus the UK can expect to benefit significantly from the reforms, notably:

- the obligation to set TACs according to Maximum Sustainable Yield, frequently through long term plans; this will significantly reduce the scope for setting TACs inconsistent with the scientific evidence;
- the discard ban;
- the regionalisation provisions, which will enable many detailed decisions to be taken by the countries engaged in a fishery (in consultation with stakeholders) rather than centrally by Brussels;
- tougher rules to ensure fishing capacity is in line with fishing opportunities.

Notwithstanding the criticisms of its past performance, it is important to recognise the positive aspects of the CFP for the UK. In particular the quota regime – created as part of the 1983 settlement and based on the principle of relative stability which gives Member States constant shares of stocks whatever the latter's size – has removed a source of uncertainty and potential conflict between Member States and fishermen. That settlement has moreover helped safeguard UK fishermen's competitive position when, for example, Europe's largest fleet, Spain's, entered the Union. And common rules and a single control regime, combined with the UK's ability to police and enforce the rules on all boats fishing within its own waters, have provided a level playing field on which they operate, again removing uncertainty and potential friction.

Equally, the access regime created as part of the 1983 settlement, and a very important element of the UK's goals at the time, has proved durable, having been extended until at least 2023 essentially unchanged. Indeed, whilst it remains formally a derogation from the Treaties, it is now to all intents and purposes part of the *acquis*, and its extension for a further 10 years under the 2013 CFP reforms was not questioned.

### **The external dimension**

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

The EU-Norway agreement is of most significance for the UK as it provides access to UK vessels to fish in the Norwegian part of the North Sea as well as specific opportunities to fish on the (relatively healthy) Arcto-Norwegian cod stock in North Norwegian waters. Moreover, because the agreement is negotiated at EU level, the "compensation" to Norway in terms of fishing opportunities in EU waters and elsewhere is in large measure provided from stocks of which the UK has a smaller share. This is therefore particularly advantageous to the UK industry.

Norway has also proved an important ally in international fisheries disputes, for example concerning the western mackerel stock, where an agreement also involving Iceland and Faroes is urgently necessary.

Fisheries agreements with African countries also offer fishing opportunities to UK vessels, but relatively few in practice make use of them. These agreements do however benefit UK interests when they reinforce development goals. They also form part of the overall balance of the CFP by providing fishing opportunities to certain Member States who are prevented by the TAC and quota regime from fishing in many of the waters surrounding the UK.

### **Current legislation**

#### **How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

The recently agreed reforms seem to strike the right balance, and are certainly an improvement on what went before. A substantial period of implementation of the reforms will be needed before a considered judgement on them can be made.

### **Internal market and economic growth**

#### **How does access to EU markets and adherence to common standards on fisheries products benefit or hinder UK businesses, both domestically and when exporting abroad?**

Tariff and barrier free access to European markets is a crucial element of the UK fishing industry's prosperity. As the Defra paper indicates, UK fishermen exported some 466,000 tonnes of fish (not including processed fisheries products) in 2012, the bulk of it to other EU countries. This compares with only 365,000 tonnes landed by UK vessels into UK ports that year<sup>28</sup>. Whilst in terms of the UK's global trade these figures are small, they nevertheless illustrate vividly the fishing industry's dependence – and thus its ability to offer growth and employment opportunities in remote regions – on exporting freely to other European countries.

### **Funding**

#### **What evidence is there that rules around support for the fishing industry through EU funds help or hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

The amount of EU funding for the fishing industry is relatively small, and decisions on how the available funds are spent is a matter for the four fisheries administrations

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<sup>28</sup> UK Sea Fisheries Statistics 2012 (Marine Management Organisation). Most of the exported fish will not have been first landed in the UK.

within the UK. We do not have strong evidence of these funds making a significant difference, either way, in delivering the administrations' management objectives.

### **Future challenges and opportunities**

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management**

As indicated above the challenge ahead for the UK fisheries administrations is to implement the recent CFP reforms effectively and for the Government to support their implementation and rigorous enforcement throughout the EU.

## Shellfish Association of Great Britain

I am writing on behalf of the Shellfish Association of Great Britain (SAGB). We are the UK industry membership trade association based at Fishmongers' Hall, home of the Worshipful Company of Fishmongers; one of the 12 great livery companies of the City of London. We represent the shellfish industry in Britain which currently accounts for almost half of the value of landings of all fishery products in the UK.

I would like to begin our response with some general comments about the balance of competencies in the area of fisheries before moving on to comment more specifically on legislation related to the shellfish sector.

### General Comment

“Balance of competence” is an excellent way of describing the situation with legislation in the marine area at the moment. Marine legislation, perhaps because of the fact that it is in many ways a shared resource amongst many countries, is subject to legislation from many different sources. Fisheries legislation is complicated further by the fact that the resource itself is often not sessile and it moves from location to location depending on many factors such as seasonality. This has led over the years to legislation being developed in a piecemeal way and now we have a raft of ever changing legislation with many different competent authorities and enforcing bodies. The legislation, and competent authority, changes depending on the geographic location, the type of vessel, the gear used, the particular species prosecuted and sometimes the time of year. For example in England the local Inshore Fisheries and Conservation Authorities (IFCAs) legislate in the 0-6 mile zone, the national government (with regard to countries with historic rights) in the 6 – 12 mile zone and the European Union outside this. It is different again for other devolved administrations. Of course the fishermen may well be fishing in all of these geographic areas at different times as well as across national country boundaries making the amount of different legislation a real problem.

It is also the case that the different types of legislation cause issues for our industry. Industry is competing in a global market place and one of the most difficult things with regard to legislation is when different countries make different interpretations of the same European legislation. Perhaps the most valuable part of the European Union for industry is the single market which facilitates trade yet industry finds that it is often undermined by the different interpretations and application of the common legislation.

For example in fisheries we have the Common Fisheries Policy which is a regulation and thus has direct effect in member states and requires no national implementing legislation. This means that all businesses are subject to the same legislation. On

the other hand fisheries are also affected by an array of environmental legislation, such as the Habitats Directive, Water Framework Directive, Marine Strategy Framework Directive etc. These Directives do require national implementing legislation and this can be written and applied with national differences which cause significant inequality between countries and thus businesses.

These differences are probably most apparent in aquaculture, an example of which is the pacific oyster. This species is not native to Europe but was introduced to Western Europe in the 1950's, and in the UK by the government as a species for aquaculture. Now though, despite its previous involvement, the UK government views the pacific oyster which is widely cultivated as an invasive non-native species and subjects cultivators to stringent environmental standards, whereas in France the species is considered as naturalised and its culture supported under the same European environmental legislation. The shellfish aquaculture industry in France is many times the size of the industry in the UK and of course there are many reasons for this, but there is no doubt that differences in application of legislation is a significant factor.

It is also worth mentioning the difficulties with the financial instruments for fisheries which are part of European legislation. Industry has found that unless projects are large enough to necessitate employing someone specifically to deal with them it is simply not cost effective to apply for funding. The administration necessary for a project means that smaller ones cannot be cost effective as the amount of time involved administering them far outweighs the money received.

### **Specific comment on Shellfish Legislation**

The capture shellfisheries use a diverse set of gears, both static (various types of baited pot) and mobile (specialist trawl, beam trawl, and various dredge types), to exploit six main species of crustaceans (*Nephrops*, brown crab, lobster, spider crab, velvet crab, brown shrimp), and seven main species of molluscs (scallop, whelk, mussel, cockle, razor clam, cuttlefish and squid). Because the distribution of these species and fisheries range variously from international waters to coastal waters, beaches and estuaries, the shellfisheries are managed by a mosaic of EU regulations, national statutory instruments, national Regulating Orders, plus byelaws that in England are promulgated by IFCAS. The culture fisheries comprise hand-gathering, dredging, or trestle, raft and long-line culture for mussels, native and Pacific oysters, and clams, based on natural settlement or on stock from hatcheries. The fisheries are mainly prosecuted in estuaries and sea-lochs under ownership facilitated mainly by Several Orders.

In this submission we present examples of the pros and cons of the EU and national management regimes, and their effectiveness in managing shellfish resources for biological sustainability and a worthwhile economic return. Our ultimate yardstick is

that instead of *responding to overfishing*, the priority for shellfish managers is to *prevent* overfishing, thus avoiding the economically wasteful recovery regimes that have traumatised finfish fisheries.

### **Where should fisheries management decisions be made?**

SAGB believes that decisions should be made by the regimes that best achieve biologically sustainable harvesting. To take into account regional biological differences and community needs, working decisions should ideally be made as regionally and as locally as possible, but actual practice is complicated by :

- where stocks and fisheries occur relative to jurisdictional boundaries;
- whether a stock is fished uniquely by the member state or whether other countries or fleets have active or latent access rights;
- interactions between different types of fishery and different gears;
- the availability of supporting scientific and administrative structures.
- The lack of data with regard to sea-bed mapping

At present some regional shellfisheries for *Nephrops*, scallop, brown crab, lobster, spider crab, cuttlefish, and squid are located both inside and outside UK territorial waters, and are fished by several member states with historical allocations in both international water but also in some UK coastal areas between 6 and 12 nautical miles. Such fisheries are therefore subject to EU regulations. Other fisheries for these species, and for the remaining shellfish species, occur mainly in coastal waters where national interests predominate, but where stocks are not necessarily wholly contained within either the territorial limit, or the six mile limit out to which the IFCAs can manage. Finally there are coastal and estuarine fisheries that are wholly within IFCA jurisdiction and can be managed solely in that context, or that are subject to access or ownership restrictions established by Regulating or Several Orders. Consequently a matrix of EU, national and IFCA decision-making has evolved over time, and it is difficult to see how this can be remodelled in any simplistic or novel way, albeit there is a substantial perception and evidence base about how effective these different provisions are, as enumerated below.

### **Examples of the Advantages/Disadvantages of the different management regimes**

#### **The EU Regime under the Common Fisheries Policy**

One clear advantage of the revised EU CFP is the policy commitment to achieving biologically sustainable utilisation of fish resources, in the form of maximum sustainable yield (MSY) by 2015 or 2020. MSY also appears as a key objective for the management of national fish and shellfish stocks under proposed UK implementation of the EU Marine Strategy Framework Directive. Setting aside technical issues about defining MSY for data poor stocks, including shellfish stocks,

reaching MSY would meet member state obligations on sustainable management made under various FAO and World Summit agreements, as well as the key SAGB criterion of good precautionary management. In setting MSY as a target, the EU regime is effectively ahead of the national regime, for although the Defra 2027 Vision cites biological sustainability and economic viability as desirable outcomes, these appear to be wishes rather than a defined target.

The experience of SAGB and the shellfish industry is that despite good intentions, a significant disadvantage of the EU management regime has been our on-going frustration over the practice and the detail, as shown by the following examples:-

- TACs, quotas, and days at sea provisions for regional *Nephrops* fisheries
- *Nephrops* stocks, often fished by several member states, are the only shellfish to be included in the EU TACs and quota regime, and to be assessed scientifically by the International Council for the Exploration of the Sea (ICES). These stocks are managed by precautionary TACs set to cap exploitation, initially based on historical catch averages, but now based mainly on TV surveys. Criticisms of the *Nephrops* management regime are:-
- historical problems with data and allocation keys mean that *Nephrops* TACs are applied regionally to groups of stocks, rather than to each stock individually. This reduces regulatory effectiveness, and within a group can cause unfair end-of-season quota management conflicts;
- the UK industry feels that the TACs are over-precautionary, and prevent the industry expanding into a global market that hugely exceeds the permitted supply;
- because of seasonal by-catches of cod in some *Nephrops* fishing areas the days at sea for *Nephrops* are linked to the cod recovery programme, but are seen by the industry as being unnecessarily restrictive.
- To be fair, it is evident that although the EU regime is blamed for these difficulties, they would not necessarily be more easily resolved by a purely national approach.
- Precautionary fishing effort regulations on scallop, brown crab and spider crab fisheries in Western Waters, introduced in 2006.

This seemingly well intentioned regulation has caused significant operational problems because of alleged data deficiencies, and some management inertia. The aim was to set a precautionary cap on effort in western fisheries, including shellfisheries, to prevent unfettered expansion by new entrants or new member states. In recent years UK effort in the brown crab fishery has been allowed to exceed the kilowatt-days baseline originally submitted by Defra in 2006, but following a recent threat of EU sanctions Defra sought voluntary regulation of crab effort in 2013, in conjunction with effort swaps, and this is set to continue in 2014. Industry views are that:

- the previous effort cap was political and precautionary and was not consistent with any scientific assessment at that time;
- industry asserts that it protested that the baseline effort data submitted by Defra in 2006 underestimated true crab effort, so that the baseline was flawed;
- our industry alleges that French crabbers do not have this problem because their 2006 baseline was overestimated;
- the main brown crab fishery in the western approaches has recently been assessed scientifically as being sustainable, so that reducing effort is unnecessary;
- SAGB also feels that kilowatt days is a power-related index relevant to trawl and dredge fisheries, but bears little relation to how effort is generated in a trap fishery, and so is not a valid basis for capping the crab fishery.

The brown crab industry resents this example of an EU regulation that is against the national interest by originating from seemingly flawed data, a flawed index, and by being scientifically unnecessary. The regulation appears to fail on the criteria of soundness and fairness, but appears to result from failings by both the EU and Defra.

- minimum landing sizes for numerous crustacean and mollusc species, including some with regional variations (e.g. brown crab, scallop).

Most of these technical conservation measures are somewhat dated. The regional variations for brown crab and scallop were based on specific national proposals tabled by the UK, and accepted in Brussels as tabled. They remain more or less fit for purpose. Landing sizes for other shellfish (e.g. whelk, clams, velvet crab) are the result of a one-size-fits-all lowest-common-denominator approach that was opposed by the UK because they do not fit with any regional biological reality, but were implemented by majority vote to resolve divergent regional views among member states with different interests, a not uncommon outcome of EU fisheries councils.

### **The national management regime under Defra**

Defra has powers to introduce instruments to regulate shellfisheries nationally, provided that they do not discriminate against the fishermen of other member states. In England, Defra also approves byelaws to manage fisheries and the environment in IFCA areas out to 6 nautical miles. These may be subject to EU scrutiny and approval.

A **significant advantage of the national regime** is the opportunity to introduce focussed measures tailored to meet the specific needs of national and local fisheries, based on national or local research and scientific advice, and local knowledge from fishery and shellfishery associations and their representatives. National and local

technical conservation measures for shellfish therefore usually take into account known regional or local differences in biology and fishing practices. A good example is the scope to develop regional minimum landing sizes for whelk based on regional differences in the size at which 50% of the local population reaches maturity. This contrasts with the one-size-fits-all approach implemented by the EU for the whelk minimum landing size. There are other similar examples.

### **The national shellfish management regime also includes several examples of best practice**

Examples in England and Wales are a) Regulating Orders, defining limited fishing rights and technical measures for local inshore capture fisheries (principally for molluscs in England Wales, but there is one example where crustacea feature in the Regulating Order for shellfish in Shetland), and b) Several Orders, giving ownership rights for culture fisheries.

Examples of the best Regulating Orders are those that manage a) hand-raking for cockles in the Burry Inlet in Wales, b) suction dredging for cockles in the Thames Estuary, and c) hand raking and suction dredging for cockle and mussel fisheries in the Wash. Key features include limiting entry to a restricted number of licence holders granted the right to fish quota shares from an annual TAC based on survey data, and allocated to specific beds and seasons designated annually. The Thames Order had to be tested by Public Enquiry, but the subsequent benefits of long term sustainable harvesting have far outweighed the initial difficulties of establishment. The Thames and Wash Regulating Orders are now administered by the relevant IFCA.

A good example of a several order exists in the Menai Straits in Wales where mussel producing businesses have expanded to have multi-million pound turnovers.

### **Negative aspects of the national shellfisheries management regime**

The SAGB perceives that over the last two decades a **significant** disadvantage of the national management regime has been the inability to deliver the tools required to achieve effective sustainable management of the capture shellfisheries. Some examples are as follows:

- the limit of IFCA jurisdiction to 6 nautical miles is a major weakness. In numerous coastal areas significant portions of the crustacean fisheries remain outside IFCA jurisdiction, which undermines the enforcement of IFCA byelaws, and causes other issues in areas where other EU member states retain historical fishing rights inside the UK territorial limit.
- the national shellfish licensing scheme implemented some years ago used very low qualifying criteria, so that in addition to active front-line shellfishers the scheme approved a significant number of dormant shellfish licence holders

based on low-level entitlements. This latent effort has undermined attempts to establish a more robust rights-based scheme to cap effort in the pot fisheries, where active shell fishers reject a limitation on their effort if it remains possible for dormant licence holders to activate their shellfish rights at a later date.

- despite more than a decade of repeated representations from the SAGB; the UK and Republic of Ireland Transnational Crab Group; the NFFO Shellfish Committee; detailed reports on brown crab assessment and management by SAGB (funded by EFF) and Nautilus Consultants (funded by the industry); plus two consultations by Defra on the management of pot fisheries, we remain no closer to achieving the SAGB precautionary goal of securing sustainable pot fisheries by capping effort at the present level to prevent unsustainable overexploitation as potting effort rises in response to market pressures.

It is clearly disappointing that the current increase in the importance and value of the national shellfisheries as the productivity and economic value of demersal fisheries declines (to the point where the value of several individual shellfisheries in the UK shellfish sector exceeds the value of several leading whitefish species) is not better supported, and has not been matched by the ability to secure effective sustainable management of the UK shellfish sector. Success is limited to the Regulating Orders that have successfully restricted entry to estuarine cockle and mussel fisheries, and to the developing portfolio of local fisheries management under IFCA byelaw. Whilst it is recognised in Europe and at national level that shellfish aquaculture should expand, the significant hurdles which exist in the UK and the delays in getting orders, put a considerable barrier in the way of businesses.

## **Conclusions**

The negative examples from the national management regime suggest that for difficult and complex shellfish management issues, a simplistic switch from EU management to national management is quite obviously no guarantee of success. This scenario also underlines the well-known lessons from history, that open common property resources exploited in a market-driven environment are very unlikely to achieve effective management by voluntary self-restraint. In the current de-regulatory climate, shellfish resources will therefore remain vulnerable to overfishing and the wasteful consequences which that will bring. It may therefore be that despite the weaknesses and inequities that are conventionally identified with EU fisheries policy, the commitment to MSY under the revised CFP, and as part of the UK response to MSFD, remains the primary incentive for continuing our attempts to secure a pro-active and successful future approach to sustainable management of UK shellfish stocks.

We would hope though that should the balance of competency change in the future it will be possible to retain the positive parts of the existing legislation whilst greatly simplifying and rationalizing the raft of legislation there is now in the marine area.

## Shetland Fisherman' Association

### Where should decisions be made?

**At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the EU level, regionally, or at Member State level?**

### Fisheries conservation

Before we even consider fisheries *management*, there is a real problem with the exclusive EU competence that covers fisheries *conservation*.

The issue is not so much whether exclusive EU competence is appropriate or not in this area – there are good reasons for supposing that it is – but the pattern of institutional development within the EU itself. Given the complexity of conservation, and a lack of time or inclination among other EU institutions, the European Commission has effectively assumed control. Conservation is now in the hands of an entirely unelected body that lacks proper oversight. While Member States and the European Parliament have real powers to constrain what the Commission does, many of the former and a majority of the latter have no or limited fishing interests.

What we are left with is an unelected body with questionable accountability empowered to 'lay down the law' in critical areas of fisheries conservation, notably in establishing multiannual plans, controlling fishing effort and setting quotas.

Quite apart from the questionable success of all these measures, we have serious reservations over this 'power by default' arrangement within the EU. In recent years the fishing industry has had no choice but to witness the sorry spectacle of duly elected ministers from our own and other Member States having to beg the Commission for perfectly sensible adjustments to conservation measures.

A recurrent example would be the Commission's insistence on reductions in fishing effort under the Cod Recovery Plan. Despite consensus among interested member states on the outdated nature of the Plan and its presently counterproductive impact on cod stocks, the case for a rollover in days at sea has to be argued every December in Brussels.

Our view is therefore a pragmatic concession to what we see in practice. While we are prepared to accept that fisheries conservation is an appropriate matter for exclusive EU competence in theory, we believe that in practice the Commission's assumption of this competence is undemocratic and highly damaging. Given that this

institutional arrangement within the EU is unlikely to change, **we would prefer to see the EU's exclusive competence for fisheries conservation removed.**

## **Fisheries management**

**Decisions on fisheries management should be made at a regional level.** The ecosystems involved are so complex and variable that almost any management measure proposed at EU level is bound to be inappropriate in one sea basin or another.

The new landings obligation highlights this point particularly clearly. Shetland's fisheries are extremely diverse, with an average of over five commercial species taken in demersal hauls compared with two – with the same vessel and gear – taken in fisheries closer to the Scottish mainland. Moreover, at least 55 commercial species have been caught by Shetland vessels over the past decade<sup>29</sup>. Based, it seems, on relatively 'clean' fisheries (i.e. very little diversity in species caught), the Commission has repeatedly stated its belief that discards can be avoided through a mixture of quota uplift, a change in fishing behaviour and greater selectivity. This general assumption simply does not hold for the fisheries around Shetland, for example. Without dwelling on the practical implications of a discard ban in a highly mixed fishery, the top-down approach to implementation is clearly unworkable.

We accept that the new Basic Regulation governing the reformed CFP insists on greater regionalisation of fisheries management. But our bitter experience throughout 2013 was continuing Commission involvement in implementation, to the point where regionalisation appears to mean "we decide, you deal with the consequences". We suggest that this is not what policymakers had in mind.

As far as the North Sea is concerned, the activities of the Scheveningen Group represent a welcome step towards regional management. The only drawback to this approach is the failure to coordinate effectively with the North Sea Regional Advisory Council, and **we urge a formal commitment on the part of the Scheveningen Group to consult regularly with the RAC.**

Regionalisation should not end with the Scheveningen Group, however. Further devolution is appropriate to Member States to manage fisheries in sub-areas of the North Sea, including the waters around Shetland. Where fisheries are particularly complex, as they are around Shetland, there is an excellent case for management by the UK alone.

## **The external dimension**

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<sup>29</sup> Unpublished data, NAFC Marine Centre, Scalloway

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

As with exclusive competence in fisheries conservation, our objection to EU – as opposed to Member State – competence is based on the European Commission's usurpation of EU powers, not to any problems with the theoretical model.

Ideally, the EU's position on negotiations with third countries would be determined by member States with an interest in the fishery concerned. The Commission's role would be restricted to conducting negotiations in line with these specific mandates.

Recent developments in the mackerel dispute with Faroe and Iceland show just how far the Commission is prepared to go on its own initiative, and without regard to Member States' (and especially the UK's) interests. Leaving the dispute itself to one side, the Commission has attempted repeatedly to reach an agreement with Faroe, Iceland or both without reference – as far as we know – to the UK. While the UK, like other Member States, would presumably have the final say-so on any deal to resolve the dispute, its involvement is at the wrong end of the process.

The outcome of the mackerel dispute is of critical importance to Shetland and to the UK fishing industry as a whole. Indeed, mackerel is the single most valuable fish species to the UK fleet in terms of landings<sup>30</sup>. Yet UK ministers were apparently unaware of at least one attempt by Commissioner Damanaki to reach an agreement on mackerel quotas with Faroe<sup>31</sup>. In our view, the Commission's role throughout the dispute has conflicted with a key UK interest. Unless and until the EU's internal arrangements remove power from the Commission and hand it back to Member States, the EU's role in negotiating with third countries will remain a direct hindrance to the UK's national interest.

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<sup>30</sup> Table 3.6, *UK Sea Fisheries Statistics 2012*, MMO

<sup>31</sup> Visit to Faroe, week of 9 December 2013

## South Western Fish Producers Organisation

In considering the “Call for Evidence” in this “Review of the Balance of Competencies” in the context of “Fisheries”, it is worth stating at outset that the UK is a signatory to UNCLOS III and is thus tied to its provisions notwithstanding any provisions of Treaties the UK may have signed with EU partners that give rise to the body of Regulations known as the Common Fisheries Policy.

Under UNCLOS III there is no given definition of fisheries management, however, the working definition used by the FAO is:

“The integrated process of information gathering, analysis, planning, consultation, decision-making, allocation of resources and formulation and implementation, with enforcement as necessary, of regulations or rules which govern fisheries activities in order to ensure the continued productivity of the resources and the accomplishment of other fisheries objectives.”

Fisheries management clearly is a complex matter involving appreciation and understanding of not only fish stocks, but also their exploitation by humans for direct consumption or for proteins in animal feeds, the marine “ecosystem” and its protection from harm, interactions with other marine users including those seeking carbon-based and renewable energy, those using the oceans for transport, trade and leisure users.

Because of those complexities and the associated risks to the marine environment from failure to “manage” and conserve, there should not be contemplated a return to Cabotage or to re-nationalisation of UK’s territorial and EEZ seas.

That having been stated, the UK would not be in breach of its UNCLOS III obligations if it decided to abdicate from the relevant EU Treaties and declare sole exploitation rights over its natural resources.

The reality is that such a declaration is unlikely. The UK is also a signatory to the 1966 “**Convention on Fishing and Conservation of Living Resources of the High Seas**” that is an agreement designed to solve through international cooperation the problems involved in the conservation of living resources of the high seas, considering that because of the development of modern technology some of these resources are in danger of being overexploited.

### **Where should decisions be made?**

The EU Treaties are framed in such ways that delay or failure on the part of Member States to decide a fisheries or environmental conservation strategy in timely fashion under the CFP framework results in the EU DG MARE Commission stepping in and making “Decisions”. These are the instruments that so often cause angst. Indeed, in February 2013 the Commission itself stated “The Commission believes that the “top

down" system of micro-managing fisheries from Brussels is failing and that decision-making needs to be decentralised." That was a bold admission not to be ignored.

I have no doubt that the failings of the CFP have been due in greater part to the Commission making many such decisions in haste that would have been better made after proper consideration in bilateral or multi-lateral negotiations.

Also I have no doubt that the European Court of Justice would not have been called in by the Commission to intervene on so many occasions had the Member States been allowed due time to deliberate and come to sensible unhurried decisions.

Sadly, even the new (2013) CFP contains too many provisions still authorising the intervention of the Commission in decision making.

It is our conclusion therefore that, short of the UK's exit from the EU, decision making must revert to Member State (national) level, with only emergency short-term interventions authorised from the Commission. Any failures by Member States to proceed in timely fashion to decisions should be referred to the UN under the existing provisions of UNCLOS III.

### **Advantages and disadvantages**

The CFP itself or "Equal access to a common resource without discrimination" acts in so many ways against the national interests. Although successive Ministers of the Crown have succeeded in securing limited national competence over the 6-mile-limit fisheries and over flag-carrying vessels wherever they trade, the Regulations of the CFP emerged with only one true aim and that is to achieve a Federal Flag and "Equal access".

The evidence of this is in many judgments of the ECJ, in particular "Regina V Kent Kirk", "Commission V UK", "Factortame", "Kramer" and others that prove Community Laws take precedence over our own domestic national laws.

The "Common Market" that we (UK) citizens were encouraged to embrace in the early 1970s has morphed into a federal "State" that has grown significantly in influence to the point whereby the EU was deemed to have the authority to be a signatory to UNCLOS III, (*although it is interesting to me that the Community does not have the power to accede to the European Convention on Human Rights (ECHR).*)

Although the EU enables a Member State on the face of it to have "Competence" to manage its fisheries opportunities (quotas and effort allocations), there must be no evident conflict with the EU single market or with rights of establishment.

### **Factortame**

For example, the UK 1988 Merchant Shipping Act was ruled by the ECJ to be contrary to EU legislation and Treaties and we now have the situation whereby the fleet of foreign-owned vessels dominates some sectors.

Of English registered vessels greater than 24m in length, it is estimated that 69% are owned either in Holland or Spain. By similar process of deduction, it is estimated that 100% of the Welsh fleet and 23% of the Scottish fleet of that size are Spanish owned. This situation is not unique to the UK and foreign ownership has infiltrated the fishing fleet registers of most coastal States. There are, of course arguments to support such “investment” in maritime ventures, but many critics of the EU cite “Factortame” as a decision confirming our loss of Sovereignty.

Between them, these perfectly legal “quota-hoppers” land over 40,000 tonnes of British fish worth over £85Millions abroad, to the major benefit of their owners and with only cursory economic linkage to the flag State.

### **Bass Pair-trawling**

As another example, the EU maintains competence over conservation matters throughout all EU waters, including the Territorial Seas within 12 miles of the baselines. The EC Commission overturned UK attempts to conserve cetaceans by restricting the fishery for Bass. British fishermen argued strongly that our Minister should not impose the pair-trawling ban on British boats alone, stating that it would give unfair competitive advantage to French Bass fishers and would not conserve Cetaceans. Recent calls by the Commission for a restrictive quota on Bass show clearly that the French have indeed won the “track record” and while doing so have over-exploited the stock to the edge of recovery.

### **Kent Kirk**

A striking example of the tentative nature of the 12-mile-limit derogation from “Equal access” provisions of the CFP was the evidence in the Kent Kirk case of 1982. Failure by the Council of Ministers to agree terms of the CFP renewal meant that its derogations failed between 31<sup>st</sup> December 1982 and 25<sup>th</sup> January 1983. Kent Kirk successfully defended his right to fish UK waters inside the 12 mile limit during that “inter-regnum”.

### **Exclusive Competence**

The EU maintains exclusive competence over fisheries and environmental conservation matters, control and enforcement, implementation of long-term recovery and management plans, membership, management and conduct of Regional Advisory Councils and most of other aspects of fisheries policy.

Every aspect of fisheries policy for which the UK (and other Member States) has jurisdiction must pass scrutiny by the EU. There are no decisions for which the UK can take full responsibility!

## **Future challenges and opportunities**

The recent reforms of the CFP offer no real hope of improvements for UK fishers. Doubtless to meet MSY objectives for fisheries by deadline dates there will be tighter restrictions on fish quotas and effort limits. There will be increased pressure to use the EMFF cash to achieve the balance between fleet capacity and those artificially defined opportunities, thus causing further shrinkage of our fishing communities with further job losses.

Under no circumstances do I view the Common Fisheries Policy of the future as being of benefit for the fishing industry of the UK. Its history is littered with failed policy drivers and any attempts by the UK Parliament to level the playing field have resulted in interventions by the ECJ, whose rulings confirmed time and again that our Sovereignty has been surrendered.

Benefit to the UK fishing industry can only arise from the restoration of decision making to the Member State, to Parliament and its Ministerial Departments.

**What types of decisions should be made at EU level? Please provide examples to illustrate your point.**

The reform of the Common Fisheries Policy has re-set the balance of power and responsibility in the European Union across the sector. It has opened up new opportunities to devolve responsibility back to Member States and local stakeholders through regionalisation, which will hopefully end the top-down micromanagement from Brussels which has often been blamed for declining fish stocks, lost jobs, and a reduction in national fishing fleets.

However, in determining the best outcome for the future we must also assess where the previous balance of power rested, how well this worked in practice, and the successes and failures of both the European Union and the Member States.

Under the terms of the Lisbon Treaty the move towards co-decision holds out the potential for a more transparent, accountable era of policy making which could assist future decisions. Early evidence of this has been seen through recent reforms to the Common Fisheries Policy.

Those reforms are beginning to strip away layers of centrally imposed controls and allow stakeholders and national policy makers a far greater say in the decision making process. They also open up the sector to greater Parliamentary scrutiny - at a European, Member State and devolved/regional level.

That said, there remains a need for coordination and harmonisation across the EU to ensure a broad, standard framework of rules within the CFP and associated regulations, and to prevent market abuses, and unsustainable fishing.

The Commission's role under the reformed CFP should be, under codecision, to provide a basket of management options from which Member States can draw and which are most appropriate to their own fisheries sector.

It is perfectly reasonable to expect the Commission to devise such a framework. Yet we must be mindful of the logjam with Multiannual Plans and the role of the Parliament. I am currently heading an inter-institutional taskforce to tackle this blockage in order to redefine who does what. Both single and multispecies stocks need to be tackled differently.

Other areas which should remain the locus of the Commission include:

- The broad legal framework for fishing in EU waters

- A role in the longer term sustainable management of fish stocks in EU waters based on scientific advice and data collection together with the EP
- Providing Member States with the necessary legal tools to enforce EU rules on fisheries
- Overall enforcement of rules governing the European Maritime and Fisheries Fund to ensure long-term sustainability for the industry
- Acting as ultimate arbiter in the event of the failure of regional groups of Member States to agree on day-to-day fisheries management in their waters
- Enforcement of common EU-wide rules to ensure fairness, sustainability and tackle overcapacity
- Monitoring, surveillance and tackling IUU fishing

**What types of decisions should be made at regional level (groups of Member States)? Please provide examples to illustrate your point**

Regions should work together, perhaps through trans-national Pos, to develop implementing measures which will then be used as rules applicable to all fishermen in that region. For example, these could include measures to tackle discards, how to implement Multiannual Plans, proposing fish stock recovery areas and measures aimed at conservation.

**What types of decisions should be made at Member State level? Please provide examples to illustrate your point.**

Devolving more responsibility to Member States through the reformed CFP (and by extension to the relevant devolved governments in Scotland, Wales and Northern Ireland) may deliver greater flexibility, make policy-making more responsive, and provide the opportunity for local stakeholders to operate according to local priorities and circumstances.

- These should include the following:
- Working with POs
- Allocation of quota to national fisheries
- Inland fisheries
- Territorial Waters
- Handling discards

**How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy benefit national interest?**

The European Union is the world's largest market for processed fish products and farmed fish. Britain therefore benefits from being part of such a single market.

The UK industry is strongly dependent on access to an EU market of around 500 million consumers. Just as fishermen from other EU nations have access to British markets, British fishermen have similar access to markets in the other 27 Member States. UK withdrawal from the Common Fisheries Policy would put this at risk.

It is also unrealistic to think any nation which withdraws from the CFP could meet the demands of its own consumers by operating within its own territorial waters.

Without some system to regulate fishing in EU waters the situation could well have been worse than it is - even accepting the many flaws of the Common Fisheries Policy.

Reforms to the Common Organisation of the Markets, my own report, and in particular in relation to labelling, marketing and production will benefit both consumers and producers

EMFF funding. If we left the EU all EU payments would stop. The question is whether the UK government would itself pay subsidies to the fishing industry. Given the current economic climate, it seems unlikely that there would be payments to the fishing industry in the same way as there is now. The rest of the EU would of course continue to receive funding, putting the UK at a significant disadvantage.

Discard ban and MSY allows for a more sustainable fishing method

We must ask ourselves to what extent is the old CFP a competence issue? And is it possible to develop an effective fisheries policy on a Member State by Member State basis? Can UK even operate efficiently in isolation, particularly given our responsibilities under international law? I feel that the problem for the UK Government is how far is it willing to let go and allow decisions to be taken at an even more local level - and especially given the asymmetrical devolution settlement in the UK (Scotland has strongest devolved settlement, N Ireland and Wales less power, no English parliament/assembly)

### **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy act against national interest?**

The Morocco protocol would have been beneficial to the UK vessels fishing there but not enough quota was guaranteed to make it viable as a qualified majority of Member States outvoted the UK.

The Deep Sea fishing proposal went beyond legislative proportionality. Whilst it was rejected, it would have had severe consequences for the sector, especially Kinlochbervie, in Scotland, who depend on this form of fishing. Such one-size-fits-all approaches have catastrophic consequences.

In many cases, Scotland or the UK as a whole are the front runners in developing new fisheries management measures. EU measures which undermine this act against our national interest.

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help the UK's national interest?**

International partnership agreements with third countries must combine catch opportunities for EU vessels together with fisheries conservation, jobs for indigenous fishermen, local landings to protect processing jobs and local markets and above all, proper auditing and surveillance.

The EU sanctions on Faroes/Iceland. As an EU Member State and partner in the coastal states agreement, being part of a strong negotiating team has put the UK in a much stronger position than we would have been as a non-Member.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Those who propose unilateral repatriation of fisheries management and British withdrawal from the Common Fisheries Policy need to consider carefully the implications which may appear attractive in the short term but could do long term damage.

If the United Kingdom were to no longer take part in the CFP, the Government would need to secure an additional rebate from the EU budget equivalent to the UK's annual contribution to the CFP - a task which would be politically difficult to achieve and to implement.

Withdrawal from the CFP would potentially have broader implications relating to access to the EU market which could put the British fishing industry at a disadvantage.

The legal framework provided for in the CFP is applicable and enforceable across all 28 EU Member States. While a Britain outside the CFP may seek to renegotiate access to those markets it would most likely have to do so on a case-by-case basis which would bog down the UK Government in a legal muddle which could take years to conclude, to the detriment of the UK fishing industry and consumers. An alternative "pick and mix" approach to EU policy in this area - selecting policies we support and rejecting those we do not - would similarly undermine Britain's influence on future decisions and potentially violate existing treaty obligations.

Norway and Switzerland do not have agricultural access as part of the agreements to access the single market, for example. As a result the EU places very high tariffs on Norwegian agricultural and fisheries products (sometimes up to 200%.)

UK producers would undoubtedly face high tariffs for exports of fisheries products which would most probably make them uncompetitive in the EU market. Similarly the UK may well place retaliatory tariffs on EU fisheries products, which would lead to higher prices and impact on consumers.

**How does access to EU markets and adherence to common standards on fisheries products benefit UK businesses, both domestically and when exporting abroad?**

- Allows for a level playing field
- Increases hygiene and quality standards
- Greater product choice for businesses

**How does access to EU markets and adherence to common standards on fisheries products hinder UK businesses, both domestically and when exporting abroad?**

- Greater competition
- (Usually) cheaper product

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

We should have continued focus on the following:

- Efforts to reduce overcapacity
- Sustainable fishing
- Discards ban
- Reducing the regulatory burden
- Integrated fisheries management within the context of the broader marine environment

Greater coordination between the UK Government and the devolved administrations of Scotland, Wales and Northern Ireland would enhance the UK's strength in future fisheries negotiations and underline the importance of genuine regionalisation.

Bottom-up approach to the designation of MPAs and sites for offshore renewables

### **TaxPayers Alliance**

Submitted a copy of the TaxPayers Alliance report: '*The Price of Fish: Costing the Common Fisheries Policy*' (2009). This is available at:  
[www.taxpayersalliance.com/CFP.pdf](http://www.taxpayersalliance.com/CFP.pdf).

## The Fisherman's Association Limited

### COMPANY PROFILE

The Fishermen's Association Limited (FAL) was incorporated as a Company limited by guarantee on 12<sup>th</sup> September 1995. It is a UK fishing industry trade protection association.

It has some 200 members in Scotland, England and Northern Ireland. The Northern Ireland Fish Producers Organisation affiliated to FAL on 15 March 2003, the Scottish Ship Chandlers Association on 12 December 2003 and the South Devon & Channel Shellfishermen on 16 January 2004.

Member vessels range in size from under 10 metres to 28 metres. Fishing is prosecuted all around the UK, Norwegian sector, the north Irish Sea and in the west of Scotland waters, both near and offshore. The species prosecuted are shellfish (crabs and lobsters) prawns, scallops, white fish and the deepwater species.

### **FAL's Response to Balance of Competences Review**

#### **Introduction**

"I cannot recall another example in history of a free country without compulsion from outside entering on an arrangement so damaging to itself. " *Peter Shore 22 February 1972 Col 1164 Hansard.*

The history of the EU Fisheries Policy and the Legal Annex within the Balance of Competences Call for Evidence document are extremely helpful in detailing the relevant issues affecting competence. However the machinations that took place in the lead up to the UK joining the EEC are omitted. Suffice it to state that Edward Heath's Conservative Government in 1972 surrendered by Treaty British fishing grounds, fishing rights, and fish stocks to an alien, unelected foreign power thereby establishing the CFP.

For a detailed study which reveals how the public were deceived and that Britain's fisheries were 'expendable' see Chapter 8 of "The Great Deception, 'The Real Deceit of Edward Heath' by Christopher Booker and Richard North.

FAL will not repeat these but instead will highlight a number of facts and opinions that demonstrate that exclusive competence is the chokepoint for a successful UK fishing Industry; that it has resulted in the destruction of businesses and communities and that unless such competence is returned to the UK, further reduction of the British fleet and the communities it supports is inevitable.

## Comment by FAL on David Cameron's Speech on the EU

Fisheries Truth and Fiction- The Journal of the Fishermen's Association Ltd

25 January 2013 [trawlingfortruth.blogspot.co.uk/](http://trawlingfortruth.blogspot.co.uk/)

'Talk about a new settlement, a new relationship with Europe or more correctly with the EU is, not to put too fine a point on it, stuff and nonsense. The reason is the existence in EU law of the "acquis communautaire" - the entire body of EU laws, including all the Treaties, Regulations and Directives passed by the Institutions, as well as judgements laid down by the Court of Justice.

'The "acquis" which is **not negotiable** is the major requirement that drives negotiations when new nations are applying for membership of the EU. The UK had to accept it when it became a member of the EEC in 1972. It had to embrace and enforce every vestige of the "acquis" before it became a member, because all previous members had agreed to obey and implement it in full. There are derogations but these are all time limited and have a date of expiry before they are agreed. They can be rolled over.

'The "acquis" for fisheries is free access to waters on a non discriminatory basis for all member states fleets (access to resources being based on the principle of relative stability for regulated species, and unrestricted for non-regulated species).

'Mr Cameron has said:

*"And to those who say a new settlement can't be negotiated, I would say listen to the views of other parties in other European countries arguing for powers to flow back to European states. And look too at what we have achieved already..... ending Britain's obligation to bail out Eurozone members. Launching a process to return some existing justice and home affairs powers, and reforming fisheries policy. So we are starting to shape the reforms we need now. Some will not require treaty change."*

'However not only is Britain not opting out of any common justice and home affairs policies, it is busy *opting in* wherever there had been an opt-out negotiated.

'Furthermore there is no reform of the real EU fisheries policy which is stark and simple and is clearly defined in the acquis --Community fishing vessels shall have equal access to waters and resources in all Community waters outside 12 nautical miles from the baselines.

'Talk about reform is a con trick perpetuating the deceit which has led to our fishermen being integrated in to the establishment of a single EU fleet on the principle of non-discrimination.

'After centuries of environmentally benign exploitation and husbanding of resources, Scotland's (and indeed the UK's) fishing industry has been devastated by ideological intervention, mismanagement and overfishing by the European Union. The result has been the loss of 100,000 jobs and an annual loss of more than £1,500 million per year to Scotland's economy alone. There should be complete withdrawal from this Brussels-controlled lunacy.

### ***What is competence?***

For the purposes of this review, we are using a broad definition of competence. Put simply, competence in this context is about everything deriving from EU law that affects what happens in the UK. That means examining all the areas where the Treaties give the EU competence to act, including the provisions in the Treaties giving the EU institutions the power to legislate, to adopt non-legislative acts, or to take any other sort of action. But it also means examining areas where the Treaties apply directly to the Member States without needing any further action by the EU Institutions.

The EU's competences are set out in the EU Treaties, which provide the basis for any actions the EU institutions take. The EU can only act within the limits of the competences conferred on it by the Treaties, and where the Treaties do not confer competences on the EU they remain with the Member States. Balance of Competences Call for Evidence Fisheries

### **COMPETENCE**

- In 1981 the European Court of Justice ruled that the EEC had exclusive competence to adopt fisheries conservation measures in Member States' waters. Case 804/79 Commission v UK.
- EU exclusive prescriptive competence implies that Member States are precluded from any law-making. Member States may not act validly unless treaties or secondary provisions say so.
- There may be a perception that shared or divided competence enables Member States to play an equal role in the legislative process, that they have complementary power with the EU ( **FAL's comment**)
- However the legal power, such as it is ( **FALs' comment**) is not derived from residual rights of Member States prior to becoming Members but is instead **delegated** by secondary provisions of EU legislation.
- There is no residual Member State competence within the substantial area of law covered by the CFP.
- The EU delegates power to Member States to fill **lacunae** and to implement or direct EU provisions. In practice therefore, Member States and EU divide powers within areas of common policies for local regulations. But this delegated power is only valid as long as the EU does not take action, and as long as it remains in conformity with EU framework laws. The competence delegated to Member

States is to “meet local management needs and emergency situations”. This competence is also limited “to all vessels within their 12-mile zones and to vessels flying their flag within waters under their jurisdiction”.

- In all areas of shared or divided competence, EU law is *lex superior*. Member States are obliged to adopt EU law solutions when so provided and to adapt to *acquis communautaire*. Where laws conflict, Member State law must concede to EU law. In those cases where Member States and the EU divide power, the EU competence is greater, and Member State provisions must adapt to the *acquis communautaire*.
- Such co-operation includes an *ex ante* obligation to notify. At any point the Commission may require the cancellation of any measures which are not in conformity with Community law.

## **THE EU COMPETENCY CONFUSION: LIMITS, “EXTENSION MECHANISMS,” SPLIT POWER, SUBSIDIARITY, AND “INSTITUTIONAL CLASHES” -PETER OREBECH**

### **Is it possible to restore National control?**

**The answer is yes**

### **Save Britain’s Fish Campaign – The eradication of our Nation October 2002 Chapter IV - How the Westminster Parliament should work...**

The model for British Governance is based on power to the people. Sadly this has diminished with the introduction of the Party Whip system. Nevertheless the people of the UK have the opportunity every 5 years or less to remove the existing Parliamentarians and replace them with others.

Unlike other Treaties, all EU Treaties, Regulations and Directives operate in the UK through a “drawbridge”, a British Act of Parliament - the European Communities Act 1972. From our Accession in 1972 until today the drawbridge has been open. However, Parliament has the authority to fully close or partially open the drawbridge. The ratchet of total integration can be reversed.

Parliament cannot legislate to surrender its own sovereignty hence the reason EU Treaties operate by an Act of Parliament in the UK. This makes the Act paramount and not the Treaty. Parliament has surrendered competencies (control) to Brussels on a temporary basis.

Under the British Constitution **"No Parliament can bind its successor"**.

A new Parliament is neither legally nor morally bound to any Act a previous Parliament has passed. A new Parliament can therefore either amend a certain section of the European Communities Act, 1972 or repeal it in its entirety. The irony of this situation

is that every time a new EU Treaty is created, this Act is also amended. However, until now it has only ever been part of the one way street of further integration, never the other way. It is a fact that competency can be reversed by the will of Parliament. The problem with present Parliamentarians, including the hierarchy of the Conservative Party, is that they don't want to do that because they are petrified of the European Court of Justice (ECJ) (this Institution doesn't seem to worry the French or Italians), and of course the jurisdiction of the ECJ in Britain is subject to the approval of the British Parliament.

It is our Westminster Parliamentarians, and no one else who deliberately lock us into EU Governance.

EU law can only prevail in the UK for as long and to the extent to which the British Parliament allows it so to do. Many Westminster Members of Parliament do not know that fact, or conveniently relinquish their responsibility in order to sit on the fence. In the meantime the integration process becomes so solidly concreted into our everyday lives, that it is expected by the next General Election some 80% of UK affairs will be in the hands of Brussels. Westminster is fast becoming nothing better than a middle tier of management under the authority of Brussels and not representative of the British electorate.

**In a letter dated 18 August 2003 DEFRA** finally admitted that “in domestic law the UK parliament is indeed still sovereign and could repeal all or part of the 1972 European Communities Act through which European legislation is given effect in the UK.”

**In a letter to The Times 17 December 2013 David Green of Civitas** states:

“There is nothing in the European Communities Act which allows the Court of Justice . . . to touch or qualify the conditions of Parliament’s legislative supremacy. Being sovereign Parliament cannot abandon its sovereignty”. *Lord Justice Laws*

..... Why doesn’t Mrs May put a one-line bill before Parliament repealing the 1972 European Communities Act and declaring the supremacy of UK law and courts? Let’s see whether the EU chooses to throw us out.

**But what about the “new CFP” following the 2013 agreement?**

**There is NO “new CFP”**

The rationale for this statement is as follows:

**Equal Access Principle**

Council Regulation 2141/70 established the “equal access principle” so that a Member State had equal access to other Member States’ waters.

The decisions made at the December 2012 Council were not designed to change that fundamental principle

### **Derogation from this Principle**

In 1974 as part of accession agreements the candidate Member States, including the UK, negotiated a derogation for 10 years from the equal access principle for their existing 6 nautical mile fishing limits. The derogation from the equal access principle was rolled over for a further 10 years in a zone which was extended to 12 nautical miles except where Member States had historic access. This derogation has been renewed a number of times, most recently as part of the reformed EU fisheries policy agreed during 2013.

In 1983, the first full system for the management of fish stocks was established in the EEC. The agreement in 1983 also included the first basic CFP Regulation which established measures on where fishing was prohibited or restricted, the standard of fishing gear used, the minimum size of fish that could be landed and limits on the level of fishing. Limits on Total Allowable Catches (TACs), agreed each year by the Fisheries Council (which is composed of ministers from the Member States) set the level of fishing permitted for each species in each area.

This is based on the principle of Relative Stability” – a discriminatory principle -but it is NOT the Common Fisheries Policy.

It is naïve to believe that other Member States are going to be content for all time to allow a discriminatory principle to over ride EU law of equal access to the common resource

### **The real CFP**

The Treaty of Rome set out the Foundations of the Community: Free movement of goods, persons, services and capital.

There must be no discrimination between producers within the European Community, and all descriptions of sea-fish in waters under the jurisdiction of member states is a "Common Resource" to which all member states fishermen have a right of "Equal Access".

In FAL’s opinion that is the real objective of the Common Fisheries Policy.

It has been repeatedly stated that the CFP has failed.

That may be the case as regards the management system but if FAL’s view is accepted the real CFP of equal access has not failed. It continues to gain ground and

will lead to the political end game of an integrated EU fleet, operating in EU waters under a strategic policy agreed at EU level but giving Member States the semblance of authority by delegating to them implementation powers to operate in a regional context.

Under this so-called equal access principle national quotas are based on EU member states' 'historical fishing activities and the proportion of these national quotas remain constant relative to each other, regardless of whether the total quantity of fish that can be caught changes. The member states are free to choose how they want to distribute their national quotas among individual vessels flying their national flag.

**Relative Stability is a discriminatory principle** not of the CFP but of the 1983 fisheries management system. It is contrary to and undermines one of the foundations of the Community – open access to waters. The European Court of Justice confirmed this, by stating that the Community system of National Quotas and the Regulations governing these Quotas is a derogation from the principle of "Equal Access" and non discrimination, laid down in Article 40 (3) of the Treaty of Rome.

At some point Relative Stability will be removed.

A very serious attempt was made to do so in the latest "reform" of the CFP with the proposed introduction of TFCs-Transferable Fishing Concessions to reduce fleet overcapacity. TFCs would represent a fixed percentage of the national quota for a specific fish stocks. Allowing TFCs, and therefore the right to quotas, to be transferred among fishermen both nationally and internationally would have led to the consolidation of fishing fleets as the sale of TFCs can fund the seller's exit from the industry. Once assigned, TFCs could be leased or transferred to and from other EU member states. The risk of bigger operators buying up TFCs from smaller fishermen and putting them out of business could arise which in FAL's opinion would have undermined the principle of 'relative stability.'

It is also argued that the no discards or landing obligation rules agreed under the 2013 EU fisheries policy reform will undermine Relative Stability as explained by Iain MacSween Chief Executive of the Scottish Fishermen's Organisation in his August 2013 Newsletter:

*"A discard ban effectively means the end of relative stability.... if you have to land everything that ends up on deck there is no doubt that if vessels have access to all areas the concept of relative stability is indeed dead in the water. So a Spanish vessel fishing for hake in the North Sea will have to land any cod or ling or monkfish that he "accidentally" catches. And these catches will count against the overall TAC. Nothing very stable about that.*

**Future challenges and opportunities?**

*As we look to the future we see a changing landscape for fisheries and their management. In the short term, significant changes will come from the reformed CFP package which provides opportunities to put fisheries on a sustainable footing and include more regionalised decision making. Balance of Competences Call for Evidence Fisheries*

### **Regionalisation**

Richard Benyon former Minister of State for Fisheries stated in May 2003 that British fishermen stood to gain from the changes (to the CFP) as under the new rules of regionalisation fishermen “will be part of the process rather than victims of it. ”That is a masterpiece of propaganda, of hope over reality. For anyone to say that the current reform process provides one of the biggest opportunities ever to shape the future of the CFP is totally disingenuous.

John Ashworth, who used to run Save Britain's Fish campaign stated in October 2013

*“It never ceases to amaze me how cunning the EU system is in hiding their real intentions. Ever since 1982 when the first derogation from the CFP expired, the system has always portrayed the temporary management arrangement as the CFP, and the present “Regional CFP” is no exception*

*By using this clever wordage, the Fisheries **acquis communautaire** of equal access to a common resource without discrimination, which is the real CFP, is concealed as the EU Fisheries Directorate grapples over many years, complicated by a steady continual increase of nations joining the EU, to bring about the **acquis** through various management means by stealth*

*The fishing issue has always been an excellent example of EU manipulation. As we approach the European, followed by the General election, and in turn pressure for an in/out EU referendum, watch the number of times the word “Reform” is used. The question is what is being reformed, and how, because as in Fisheries, reforming the temporary management arrangement of 1983, which most people are being led to believe is the CFP, is no solution, because whatever is devised, and what you think you have reformed, the direction is still to accomplish the acquis*

*The decimation of the British Fishing Industry has, and is, taking place solely because of the acquis communautaire. After all these years it is still not fully understood, which is why the EU system gets away with the continual advancement to full political union, and those following a "reformist agenda", without tackling the question of the acquis are furthering that advancement.*

### **There is no new CFP**

Of course there will be changes in various aspects of the EU's fisheries policy- Common Organisation of the Market, a phased ban on discards and the implementation of MSY

with a nod towards decentralisation of the “dysfunctional CFP” to quote Richard Lochhead the Scottish Government’s Cabinet Secretary for Rural Affairs and the Environment

However the much trumpeted regionalisation is just **another delegation of powers** to a Member State (s) acting as an agent (or agents in a regional context) to implement the grand strategy of the EU.

If though regionalisation had meant **devolving** some responsibility to the level of the 'regional sea' (e.g. North Sea, North Western Waters) and therefore to those Member States with an active interest in the region's fisheries we would have gone some way to the return of real power to those member states; but once again Exclusive competence prevented that from happening

**Bertie Armstrong Chief Executive Scottish Fishermen’s Federation’s Article in Fishing News 20 December 2013:** “New CFP gives little thought to how the law might work.”

.....‘The new CFP is an EU regulation requiring no further implementing measures. i.e. it is the law. .... Greater regional control is something that the fishing industry has been pressing for over many years but whilst the principle of regional control has been agreed, “exclusive competence”- in other words control in Brussels - remains enshrined in the Treaties. Without a highly unlikely change, regional control will be restricted to advice giving and never decision making which takes us back to where we are now.

### **The Lisbon Treaty**

Following the Treaty of Lisbon, much of the EU’s power to make laws in relation to fisheries is now subject to the ordinary legislative procedure (OLP), which requires legislation to be agreed by both the European Council (which is composed of ministers from each Member State) and the European Parliament. Previously the European Parliament only had a right to be consulted on proposals for new legislation. However, the European Parliament still does not have a role in the fixing and allocation of fishing opportunities. The Council reaches its decisions by qualified majority voting, where only a specified majority of votes is required and the share of votes of each member state reflects its population size.

### **What is the impact of this Treaty on fisheries management?**

The Treaty of Lisbon significantly strengthens the European Parliament’s power

The Parliament’s co-decision powers have been extended to 40 new fields which include major areas such as agriculture, **fisheries**, structural fund, justice and home affairs and transport.

The Parliament's role regarding Commission implementation acts has been strengthened by the Treaty of Lisbon in three respects:

- Acts adopted under legislative delegation (“delegated acts”) can now only enter into force if no objection has been expressed by the Parliament within a period set by the legislative act (Article 290(2)(b),
- the Parliament can revoke the delegation at any time (Article 290(2)(a) TFEU), and
- the Parliament has also gained full co-decision

Will this institutional change be more efficient and effective in terms of policy results?

Much will depend on the practice of inter-institutional cooperation and the efforts of each institution over the next few years to make the new elements of the institutional balance work.

However it is hard to imagine that such co-operation will be anything but slow and ineffective as “muscles are flexed” and legal opinions sought on the extent of respective powers.

In what should be the dynamic world of fisheries management with management in real time responding quickly to the ever changing marine eco system the pace of action to address issues can be funereal. There is every likelihood of this continuing as the extended co-decision powers also guarantee the Parliament more attention by extremely active and well funded lobbying interest groups. They are determined to ensure that their vision is realised for putting fishing on a sustainable footing by closing off vast areas of sea to restore, but not for altruistic reasons, their ideal of a pristine marine environment except for the handful of small fishing vessels permitted to fish in coastal waters.

*“... the enclosure movement at sea can develop and divide the ocean between the various interests prancing with impatience, conservationists, mining activities for rare earths, energy, tourism, aquaculture, etc... The greediest are the conservationists who can play on the sensitivity of public opinion to impose their wishes.*

*“... Beneficiaries include powerful companies interested in mineral and living resources, but also Environmental NGOs (ENGOS), promoters and sometimes reserves’ managers, often related with tourist interests, and funded by multinational corporations. These are the ENGOS that shape public opinion to make them accept the privatisation of the oceans. They justify the dispossession of coastal communities of their rights by the loss of biodiversity and the need to involve competent external actors to save the seas”.*

*For them, fishermen do not have rights on common resources, for these common*

*goods are mostly public property, and state ownership, on behalf of the nation, can only assign privileges, authorisations, **under financial and/or ecological conditions.***”

*“They have the truth; they have no need of the knowledge accumulated by generations of fishworkers, nor their experience of a fluctuating resource.” “Marine reserves: ocean grabbing and dispossession of fishing.” Alain Le Sann Secretary and member of the Administrative Council of Collectif Pêche et Développement*

**What have been the effects of the CFP on the UK fishing Industry?**

## **THE COMMON FISHERIES POLICY AND THE WRECKAGE OF AN INDUSTRY**

**Institute of Directors EU Policy paper 2002 - Ruth Lea**

EU membership has, of course, meant winners and losers- but arguably, the biggest loser has been the British fishing industry. The CFP is devastating the industry and the decline is far from over

**A Fisheries Policy for Scotland** by Dr James Wilkie and David Thomson

### **EXTRACT**

The UK became a member of the EEC in 1973. The well-conserved reserves of fish stocks in Scottish waters at first ran down only slowly under the increased pressures in a Community of nine members. The real deterioration began after 1975, and accelerated from around 1980. Up to 1983 there were no licences and only limited quota allocations, but from then on the regulatory pressures increased and decommissioning started. The situation changed again dramatically when Spain and Portugal joined the Community in 1986.

Spain, where fishing is mainly in the hands of large industrial combines that exert considerable political power, entered the CFP with a fishing fleet not much smaller than the entire remaining Community fleets combined, and contributed nothing substantial to the sum total of Community resources. From the beginning, the by now already over-fished Scottish waters were a prime target for Spanish exploitation. In order to give the southern EEC members access to a “common resource” that by this stage was totally inadequate to sustain the inordinate catching capacities that were now to be let loose on it, the fishing sectors of the northern countries were systematically run down to make way for the incomers.

**The effects on Scotland of this Brussels policy and grossly excessive foreign access can be illustrated by the following official statistics for operational Scottish boats over 10 metres in length, with an average length of 18 metres and engine power of 240 hp:**

<u>Year</u>	<u>Boats</u>	
1975	1,782	EEC entry 1973 - Scottish waters opened to boats of 8 countries
1985	1,396	Fish stocks in steep decline – decommissioning & licences introduced
1995	1,209	Spain & Portugal enter CFP 1986 – more decommissioning
1998	1,045	Drastic reduction in fish stocks – yet more decommissioning
2002	845	Collapse of fish stocks – panic restrictions by Brussels
2004	c. 700	Brussels devoid of an answer except still more decommissioning

The 2004 estimate is based on current decommissioning plans for 2003, giving a **reduction of 60 per cent in the Scottish fishing fleet since joining the CFP, with corresponding downstream effects on fish processing, boat building, etc.** On the basis of recent fishing industry studies by Stirling University and other professional institutes, it is estimated that more than 1,080 boats will have been removed from the fleet by the end of 2003. At current values (an average of the past five years) each of these sold or decommissioned boats would have grossed on average more than £310,000 annually from around 330 tons of fish. The annual loss of direct income to the catching sector is therefore a minimum of **£334 million**. Of this, £110 million would have been crew wages, with the remaining £224 million lost to the vessel services like fuel, repairs, gear, insurance, banks, groceries, harbours, etc.

Added value, fish processing and marketing, etc., raise the economic value of the annual loss considerably. The recognised GDP impact ratio for fisheries is 2.35 times the landed value. Thus the direct economic impact of the reduction of the Scottish fishing fleet in 1975-2003 is now **a current annual loss to the Scottish economy of a staggering £785 million**. The costs to public funds of unemployment and other social benefits as well as broader economic consequences, including loss of tax income, probably bring the total loss nearer to £900 million **every year**. This exceeds by a huge margin any economic benefits Scotland receives from the European Union.

These appalling figures represent nothing less than a national disaster – brought about for no better reason than the ideology of “sharing the common resource” with other EU member countries. What the figures cannot reveal is the amount of personal tragedy and communal disruption that lie behind them: bankruptcies, the uprooting of

individuals and families, the destruction of thriving communities with centuries-old cultural traditions and communal lives. Major harbours, like Lossiemouth, that were the focus of social and economic life twelve months in the year, are now marinas for a handful of yachts over a few weeks in summer. One can imagine the reaction if Brussels had reduced the Spanish or French fishing fleets by almost two thirds simply to make way for incomers. And fishing is by no means as important to those countries as it is to Scotland.

**Current cost of the damage to Scotland’s economy by the application of the EU Common Fisheries Policy David Thomson 2003**

In order to calculate the current cost of the damage to Scotland’s economy by the application of the EU Common Fisheries Policy, it is necessary to examine the situation that would have prevailed without the CFP and compare that the prevailing situation inside the CFP.

To do this we assume firstly that the fleet size remained constant over the 30 years, but that technological improvements in gear and equipment continued. We also assume that there was no reduction in stocks over the period.

While some may question that, we point to the systematic annual destruction of up to 600,000 tons of edible fish by the CFP enforced discarding of fish caught that were excess to particular single species quotas. We contend that outside of the CFP these fish would have survived or been marketed in Scotland, and that there would have been no harvesting of demersal fish in Scottish waters by continental vessels, and no industrial fishing by Danish fleets serving the fish meal industry.

In addition we accept the analysis by fishery scientist Jon Kristjansson and others that the ICES / EU management measures to protect cod stocks are having a reverse effect. This has been soundly proven in the Faeroe Isles case following that country’s shift from an ICES / EU advised system of quota slashing and fleet reduction, to their new system based on effort controls and actual production.

<b>With and without Situation</b>	<b>1973</b>	<b>2003</b>
Fishermen employed (full time)	8,311	3,968
Demersal fish catch in tons	262,413	99,654
Catch value at 2003 prices	262.4 m	99.6 m pounds

A landed value loss of £162.8 million pounds (demersal fish only)  
 Multiply by GDP impact ratio 2.35 makes a loss of £382.58 million based on the current production only.

However, between 1973 and 2003 there was a drop in catch per unit effort. The average catch per demersal vessel (all sizes) was

<b>1973</b>	<b>2003</b>
-------------	-------------

97.5 tons      41.6 tons

This drop in catch per vessel occurred despite considerable technical improvements in trawl nets, electronics, engine power and deck machinery. Why? The answer lies in the rigid application of quotas and effort regulations, and the enforced discarding of up to 600,000 tons of fish a year at sea (ICES estimates), plus the operation of EU fleets in Scottish (UK EEZ) waters. (When Spain joined the EU its enormous fleet almost doubled the size of the total EU fishing fleet.)

The following quotation from the European Fisheries Fund, Scottish National Strategy Plan (released recently by SEERAD), confirms the drop in fleet size and effort:

*“there were 50% fewer vessels in the over 10m whitefish segment at the end of 2003 as compared with 1993. This has delivered a 30% reduction in fishing effort in the sector of the fleet that tends to target cod with a further 35% reduction in effort being delivered through the quota and days at sea restrictions under the EU Cod Recovery Plan.”*

Therefore – without the quota system and enforced discarding, the 2003 production of the Scottish demersal fleet should have been double the 99,654 tons. If the fleet at its 1973 size in numbers had continued to improve technologically, and if the stock had not been depleted by discarding and the entry of EU fleets into the UK EEZ, then the production would have been over 4 times 99,654, or around 400,000 tonnes worth £400 million pounds at today's values. The difference between that figure and the 1973 demersal catch is 137,590 tons which would represent the technological advances in gear and equipment over the 30 year period (assuming the fish were present to be caught).

£400 million times 2.35 would give a sector value of £940 million pounds a year. With the other costs mentioned below, the economic loss Scotland has suffered from the drastic reduction of its demersal fleet is close to one billion pounds a year at present values.

Some will argue that there was not fish enough in the sea to support the original level of effort. We argue that there was – provided Scotland retained its share of the UK 200 mile EEZ and if EU fleets were not permitted to harvest its demersal resources whether for human consumption or as in Denmark's case, for industrial use. The annual destruction of up to 600,000 tonnes of edible fish by enforced discarding shows that the CFP actually destroyed more fish than the Scottish fleet was capable of catching at its original (1973) size.

However, if one insists that technological improvements since 1973 would have led to a smaller increase in production per unit effort, given the same stock situation and the same number of vessels, then the potential size of the catch by the non-CFP Scottish fleet, would have to lie somewhere between 262,413 and 400,000 tons.

To the direct economic loss must be added the indirect loss suffered by the small ports and communities that have declined or stagnated since the demersal fleet reduction (Buckie, Lossiemouth, Oban, Ayr and the smaller west coast and island harbours are examples). Many small processors closed down or reduced the number of employees as local fish supplies dwindled. One of the authors investigated the market for premises left vacant by fishery-dependent firms in affected ports. Most of them remained vacant as there was little alternative demand for commercial property.

In addition the cost of unemployment and welfare support of displaced fishers and shore sector workers should be considered along with the direct economic losses. The offshore oil industry absorbed much of the displaced fisher labour, - but offshore oil was going to be there anyway, and should have been a supplement, not a replacement for fishery sector employment.

The larger fish processors that have remained in business have had to import increasing amounts of raw material to replace local landings. The import cost of Scotland's fish supply has reduced Scotland from a net exporter of fish or fish products, to a position where imports and exports are about level. In this case, we refer to all movements of fish in and out of Scotland, whether to and from Europe, Scandinavia, Russia or England.

The 'with' and 'without' scenario would then be as follows :

<b>With and without Situation</b>	<b>without the CFP</b>	<b>with the CFP</b>
	<b>2003</b>	<b>2003</b>
Fishermen employed	8,311	3,968
catching sector job loss		(4,343)
processing and support sector job losses (estimated)		(4,500)
Demersal fish catch in tons	400,000	99,654
Catch value at 2003 prices	£400 m	£99.6 m
GDP impact at ratio of 2.35	£940 m	£234 m
<b>GDP loss to Scotland from the CFP</b>		<b>(£706 m)</b>

**The TaxPayers' Alliance 2009 paper on the CFP, *The Price of Fish*,** sets out the astonishing disaster behind this policy. Hundreds of thousands of tonnes of fish annually get dumped dead back into the sea because the policy machine is an unreformable behemoth. A quarter century of discussions prove it. [www.taxpayersalliance.com/](http://www.taxpayersalliance.com/)

**The monster has a price tag to the UK of £2.8 billion a year** through the wreck of our coastal communities and the pillaging of Britain's national waters: a fact recognised by Greenland when it was driven to quit the EU, by the Faroes in keeping out, and explicitly by Norway and Iceland when they voted to stay out. Following an

outstanding awareness campaign by Save Britain's Fish, previous Conservative leaders have built upon excellent work undertaken by spokesmen such as Owen Paterson, John Hayes, Malcolm Moss, Patrick Nicholls and Ann Winterton to call for an end to the CFP. Power should be restored over UK waters, to be devolved downwards to the local communities.

### **Executive Summary**

The Common Fisheries Policy has proved a disaster; to fishermen, to the economy, to communities and to the ecology.

We recognise that poor stock management has generated a global fisheries crisis since World War 2. However, the data suggests that if the seas off mainland Europe had been better run, 1970s levels of UK employment and stock could have been maintained.

At fault is the CFP because of certain key elements;

- Communal management without particular responsibility
- A quota system based on lobby and barter
- A culture in Whitehall of managing inevitable decline
- A reluctance to end the CFP as this would signal an EU failure or retreat
- Political ambition in Brussels to drive for an integrated EU fleet system
- Governments operating as disinterested (UK) or self-interested (others)
- Stakeholders

The United Kingdom could have followed the example of Canada, Iceland, Norway and others and expanded its own territorial waters as international law permitted. It couldn't, because those fell to common management under the CFP. Crucially, successive governments have declined several opportunities to make this an issue for renegotiation.

Ending the CFP would bring significant economic benefit to the country.

Our estimate consists of costs ended (taxes, foreign subsidies, jobs, social services, societal) and benefits gained (over the long term by reclaiming the national waters and running them efficiently). These would alternately accrue quickly, or would realistically take a generation to recoup.

**We believe that the following are best estimates for the *annual* cost of the CFP;**

Unemployment in the fleet and in support industries - £138 million

Decline in communities - £27 million

Pending damage to recreational fishing industry, low estimate used - £11million

UK share of support to foreign fishing fleets under EU grants - £64 million  
 UK share of support to foreign fisheries industry under EU grants - £1million  
 Redeemable UK share of EU third water fishing permits (allowing for half to be invested in development aid) - £12 million  
 Loss of comparative competitiveness - £10 million  
 Ongoing decommissioning schemes - £4 million  
 Foreign-flagged UK vessels - £15 million  
 Administrative burden - £22 million  
 Loss of access to home waters under 200 nautical mile principle - £2.11billion  
 Higher food prices factored into social security payments - £269 million  
 Economic value of dumped fish - £130 million

**Total ANNUAL economic cost to the UK of the CFP in 2010 - £2.81 billion**

Alternatively, it is possible to look at it from the housewife’s perspective. We estimate that the cost of the CFP in terms of higher bills is £186 per household per year – or £3.58 a week.

At the same time, the ecological impact of the CFP is severe. In particular, just counting three species, in just the North Sea, according to Government estimates, in just one year the CFP forced the dumping of 60,000 tonnes of fish enough to fill a 200 metre long supramax bulk carrier ship or keep Billingsgate fish market stocked for two and a half years.

Thirty five years of foot dragging and tinkering have shown that the CFP is beyond reform. It is unredeemable, an act of ecological vandalism, and unquestionably not in the national interest.

**Decommissioning and the Fleet Resilience Grant Scheme removed vessels from the Scottish fleet in 1994-1997, 2001-2002 and 2003-2004 and 2010**

**1993-1996**

<i>Region</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>Total</i>
<i>Eastern Scotland</i>	32	24	14	21	91
<i>Highlands and Western Scotland</i>	13	26	23	24	86

**Between 1993 and 1996, 177 vessels were decommissioned in Scotland**

**1. The Fishing Vessels (Decommissioning) (Scotland) Scheme 2001**

Revised list of approved applications (as at 25 July 2002)

96 vessels decommissioned in Scotland

**2. 2003-04 decommissioning scheme**

**69 vessels were removed from the Scottish demersal fleet.**

**3. 2010, Scottish Government's Fleet Resilience Grant Scheme.**

**38 vessels were scrapped**

**SUMMARY**

<b>Years</b>	<b>Nos. decommissioned</b>
1993 -1996	177
2001 - 2002	96
2003 –2004	69
2010	<u>38</u>
<b>Total</b>	<b><u>381</u></b>

**Active Scottish Demersal and Nephrops vessels 1991 -2011**

**Source: Scottish Sea Fisheries Statistics**

<b>Year</b>	<b>Nos. of Demersal (Trawl/Seine)</b>	<b>Nos. of Nephrops trawl</b>
1991	590	462
1994	545	366
2000	456	223
2004	300	181
2008	269	188
2009	251	194
2010	232	190
2011	207	177

**Between 1991 and 2011, 397 vessels have been removed from the Scottish demersal fleet, a reduction of 35%.**

**During that same period 285 nephrops trawl vessels have been removed, a reduction of 62%**

**The TOTAL number of active Scottish based vessels has fallen to 2,095 vessels in 2011, the smallest fleet size ever recorded, representing a 3 per cent [55**

vessels] decrease since 2010 and a 14 per cent decrease [348 vessels] compared to ten years ago.

## What should be the future for the UK fishing Industry?

### FUTURE FOR THE SCOTTISH FISHING INDUSTRY

***WHERE THERE IS A WILL THERE IS A WAY April 2003 Ewen Gabriel, Highlands & Islands Area Manager –Scottish Council for Development and Industry***

*“There are some things in life we don’t share. For example, we wouldn’t dream of sharing our oil reserves. Why, therefore, should we be expected to share our indigenous fisheries?”*

## Conclusion

**Relative Stability** is not going to protect the UK fishing industry, and the pursuit by our EC competitors of what they see as discriminatory **Allocation Keys** is soon going to complete the destruction of the UK and Scottish industries through the CFP. For its survival, the UK fishing industry must be released from the control of the CFP..... there is now a need for action by Government and Scottish Executive Ministers, MPs and MSPs **to pursue the real possibility of total control by the UK of British traditional fisheries within the 200 mile median line limits.** SCDI is advised that this may be achieved through a UK Act of Parliament in accordance with the United Nations Convention on the Law of the Sea 1982.

**A BLUEPRINT FOR SCOTTISH FISHERIES 2003 Ted Brocklebank Scottish Conservative Fisheries Spokesman and former Journalist and TV producer July 2003**

## EXTRACT

.....Ross Finnie (former Minister for the Environment and Rural Development in the Scottish Executive) keeps telling Scots fishermen that the problem is that there are too many boats chasing too few fish. Let's examine that.

In 1975 just after we'd joined the then EEC there were around 1800 boats averaging 18 metres in length fishing Scottish waters. By next year (2004), based on current decommissioning plans, there will be around 700 boats - a reduction of more than 60%. Each of these sold or decommissioned boats would have earned around £300,000 annually. The annual direct loss of income to the catching sector is

therefore around £330m. The recognised GDP impact ratio for fisheries is 2.35 times the landed value. It's on this basis that respected Scottish economists and fishery analysts like David Thomson and Dr. James Wilkie have estimated that the direct financial impact of the reduction of the Scottish fleet is probably getting on for £900m a year.

So, even if we accept Ross Finnie's questionable premise that there are too many boats chasing too few fish, **it's fair to ask whose boats are doing the chasing, and how did our fishing stocks reach their present depressed state?**

For that it's necessary to examine the 'ambush' staged by the founding members of the EEC in 1973 when Edward Heath was so desperate to secure British entry. As papers recently released under the 30-year rule reveal, only a day before negotiations opened with the fish-rich applicant countries of Denmark, Norway, Ireland and the UK, the founding six came up with a hitherto unannounced principle that 'common resources' should be shared among member states. So far only one 'common resource' has ever been identified—fishing!

Thirty years later, that 'principle', eagerly swallowed by the then political leaders of the UK, Denmark and Ireland - but not by Norway - can be recognised as the factor that has made the Common Fisheries Policy unworkable. What's more, with eventual enlargement from the present 15 member countries to a possible 28, agreement will only become that much more difficult to achieve. This is especially so given the other Alice-in-wonderland proviso that even member countries with no coastlines must be allowed to share in the fishery bonanza

None of the new entrants adds significantly to the overall fishery pool. But under the Treaty, Commissioner Fischler's Austria and eventually other landlocked countries like Hungary will all have access to what are described as 'European 'waters'

Of course, 'EU waters' or Community waters' do not exist as such. International law recognises only the national waters of individual states. Perhaps the most sinister threat of European fisheries policy is that it implies de facto the creation of a single European state. But as we shall see that does not have to be the outcome.

For 25 years as a journalist and TV producer working in the North of Scotland I have reported on the way the CFP has consistently acted against the best interests of Scottish fishermen. A leaked Scottish Office memo released under the 30-year rule talks about the inevitable sacrifices expected of Scottish fishermen: 'In the wider UK context they must be regarded as expendable' is the direct quote. A bit like General Wolfe's line about putting Highland troops in the front line: 'It's no great mischief if they fall'. Ironically, of course, the mandarins miscalculated and on fisheries the UK has suffered disproportionately even compared to Scotland in the catastrophe that the CFP has turned out to be.

Yet, despite all the evidence that the Community was hell-bent on the destruction of the Scottish fleet, politicians of all hues have seized on every modest concession and parroted the EU line that there really is no alternative. The truth is that the CFP is, and always has been, a brutal carve-up of fish-catching capacity with the ancillary spin-off in jobs, and the alternative is obvious for all with the political will to grasp it.

The fact is that centralised fisheries management, as in the EU, simply doesn't work. When that management is applied by bureaucrats with little or no experience of actual conditions on the fishing grounds it becomes impossible. Under the current quota system over 2m tonnes of healthy fish annually (25% of all caught) are thrown back into the sea. Nothing infuriates fishermen more than wanton waste of fish stocks, unless it's being forced to be dishonest men by a system guaranteed to produce the landing of 'black' fish. The net has not been invented that can tell a haddock from a cod. By-catches of extra or 'black' fish are already dead, so throwing them overboard conserves only the gulls and the seals. Yet this is the lunatic quota system that is the cornerstone of the EU conservation effort.....

The faint hearts will of course tell us that winning back control of UK waters is impossible. European treaty regulations wouldn't allow withdrawal from the CFP while remaining in other parts of the Union, etc, etc. But why not - and says whom?

The Treaty of Rome, which itself is of questionable legality where fisheries is concerned, took effect in the UK only by virtue of the will of Parliament, the European Communities Act of 1972. No Parliament can bind its successor and what Parliament has passed it can undo. It is an Act of Parliament that binds us to the CFP and ultimately it is the UK Parliament which can authorise withdrawal. Those who claim otherwise go beyond ceding "competence" to Brussels- they seek to cede the very sovereignty of the UK

As long as Britain retains sovereignty the Act of Parliament is paramount - not any Treaty with Europe. Even Edward Heath gave assurances on that in June 1971 when he promised 'there is no question of Britain losing essential sovereignty'. This, incidentally, is another excellent reason for the UK not to sign up for the European Constitution which will inevitably be seen by some as conferring sovereignty on a new state called Europe. .... the CFP has proved impossible to reform from within. All that will be required - apart from a decent transition period for our fishery partners - is the political will

But, I hear the fainthearts cry, what about the political repercussions? Well, what about them? The UK is the second biggest net contributor after Germany to the EU budget. Are we really saying that Spain, the biggest net recipient, would demand that one of her prime milch cows be kicked out - especially since our expulsion would remove her even further from what she desires most, fishery access to all UK coastal

waters? Would France really kiss goodbye to her massive export imbalance with the UK, including sacrificing her best customer for fine wines over a trifling (for France) matter like European fisheries? Would Germany really welcome tariff barriers being levied on her luxury car exports to the UK? The answer of course is Non, Nein and Not a Chance.

The CFP is a pernicious, unfair and hugely dangerous threat to the richest fishing grounds in Europe. We have a responsibility, not only as Scots but as Europeans, to sustain this remarkable, renewable gift of nature for future generations. The EU has shown it can't do it. Therefore we must.

### **Consultation on a National Policy on Fisheries Management in UK Waters**

A Conservative Party Green Paper Owen Paterson MP Shadow Fisheries Minister  
January 2005 [www.conservatives.com/pdf/fishinggreenpaper.pdf](http://www.conservatives.com/pdf/fishinggreenpaper.pdf)

#### **Executive Summary**

The Common Fisheries Policy is a biological, environmental, economic and social disaster; it is beyond reform. It is a system that forces fishermen to throw back more fish dead into the sea than they land, it has caused substantial degradation of the marine environment, it has destroyed much of the fishing industry, with compulsory scrapping of modern vessels and has devastated fishing communities.

Fisheries cannot be managed successfully on a continental scale; they need local control. That is the reason why Michael Howard has stated that the Conservatives will return our fisheries to National and Local control. This accords completely with our instinct for small government. Issues should be tackled on an international basis only when justified, at a national level when appropriate and otherwise locally.

The purpose of this Green Paper is to outline our views on how our fisheries policy would work. To produce it, we have built on an earlier visit to the Falklands, visiting numerous British fishing ports and successful fisheries in Norway, the Faeroes, Iceland, Canada and the USA. From that experience, backed by extensive discussions with scientists, experts, fishermen and environmentalists, we have devised a policy framework tailored to suit the specific requirements of the UK.

It is based on the following principles:

- Effort control based on “days at sea” instead of fixed quotas
- A ban on discarding commercial species
- Permanent closed areas for conservation
- Provision for temporary closures of fisheries
- Promotion of selective gear and technical controls
- Rigorous definition of minimum commercial sizes
- A ban on industrial fishing
- A prohibition of production subsidies

- Zoning of fisheries
- Registration of fishing vessels, skippers and senior crew members
- Measures to promote profitability rather than volume
- Effective and fair enforcement

However, simply exchanging a bureaucratic system run from Brussels for one run by the bureaucrats in London and national centres is no panacea. It must be accompanied by a local management system, which has the confidence and trust of the nation and the fishermen who work within it.

**The essence of our policy, therefore, is National and Local Control.** National government will set the strategic framework in which the priorities will be the restoration of the marine environment and rebuilding the fishing industry; new local bodies will take day-to-day responsibility for managing their fisheries.

#### **Fresh Start CFP May 2012 Chapter 4**

Should the UK be unable to achieve satisfactory reform of the CFP through negotiations **NOTE BELOW**, it could ultimately opt for unilateral repatriation of fisheries management by withdrawing from the CFP altogether. This option would see the UK regain control over its Exclusive Economic Zone (EEZ), which according to international maritime law stretches to 200 nautical miles from a country's coastline.<sup>32</sup>

Should the UK be unable to achieve satisfactory reform of the CFP through negotiations **NOTE BELOW**, it could ultimately opt for unilateral repatriation of fisheries management by withdrawing from the CFP altogether. This option would see the UK regain control over its Exclusive Economic Zone (EEZ), which according to international maritime law stretches to 200 nautical miles from a country's coastline.<sup>1</sup> This would not necessarily mean that the UK would stop cooperating with the EU institutions and other EU member states altogether. In particular, the UK could continue to respect the historical rights of its neighbours to fish in its waters, provided that UK fishermen are granted the same rights. However, the UK would retain its right to modify or withdraw these rights altogether, meaning that non-UK fishermen would be allowed to fish in UK waters only under permission. Indeed, if the UK were to re-instate its sovereignty over its EEZ, it would be free to go ahead with a radical overhaul of fisheries management. Firstly, it could scrap fixed fishing quotas altogether and replace them with a system based on the number of days at sea. This would significantly reduce red tape, as some fishermen are currently subject to both fishing quotas and effort limitations based on days at sea. However, on the other hand, small fishermen could be penalised by a system based on days at sea – not least because of the bigger impact that adverse weather conditions have on their

<sup>32</sup> This is the option proposed by Owen Paterson MP as Shadow Fisheries Minister, see 'Consultation on a national policy on fisheries management in UK waters – A Conservative Party Green Paper', January 2005, [www.conservatives.com/pdf/fishinggreenpaper.pdf](http://www.conservatives.com/pdf/fishinggreenpaper.pdf)

fishing activities. Days at sea could be allocated by devolved authorities.

The UK could be more responsive and order the temporary closure of fisheries in a much timelier way. Full sovereignty over its EEZ would also allow the UK to implement a number of measures to prevent overfishing and tackle illegal fishing, such as prohibiting state subsidies for the building or refitting of vessels or keeping a register of vessels and skippers which are allowed to fish in UK waters.

As the UK would no longer take part in the CFP, the Government could potentially negotiate an additional rebate from the EU budget, equivalent to the UK's annual contribution to the CFP.

However, this option would be both very difficult to achieve politically and hard to put into practice. On the one hand, the UK could only withdraw from the CFP by violating the EU Treaties. This would imply the UK being taken to the ECJ and fines being imposed. On the other hand, this option would create many practical problems. To give an example, other EU member states may continue to receive quotas to fish within the UK's EEZ under the CFP, and the UK would therefore have to re-negotiate these fishing rights with neighbouring countries and potentially lose its rights to fish in other EU waters.

#### **Extract from the above**

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#### **FAL's COMMENT on the foregoing**

The conclusion in the highlighted sentence is irrational.

If the UK is no longer subject to the CFP it will not be subject to the diktat of "Brussels" in its own EEZ and so not forced to accept that other member States will receive fishing rights in that EEZ. The EU would of necessity, like Norway, Iceland and Faroe have to enter into negotiations with the UK to ensure that there is effective management of shared resources. But the overriding principle to be followed by the UK, while respecting those nations with historic fishing rights is that the under Article 62 of the 1982 Law of the Sea Convention, usually referred to as UNCLOS III

*The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other*

arrangements.....give other States access to the surplus of the allowable catch.

The priority to the resource will be for UK fishermen and only if there is a surplus will negotiations result in access to the UK EEZ

The following comments extracted from the **Consultation on a National Policy on Fisheries Management in UK Waters** should also be noted

*Our membership of the inwards-focused CFP prevents us from developing the relationships which our Atlantic partners are most enthusiastic to explore.*

*Release from the CFP would allow us to capitalise on this enthusiasm and build firm, co-operative ventures. Only by doing this can we transcend the artificial and restrictive boundaries imposed by the EU and deal with the biological realities of fisheries management.*

*In developing these relationships, we also have the 1982 Law of the Sea Convention, usually referred to as UNCLOS III, which sets out the international obligations of maritime nations. We intend to work within the framework of this convention with our Atlantic and other partners.*

## **The solution - Return competence to the UK**

### **1. Fresh Start CFP** see above

As Regionalisation under the so called 2012 reform of the CFP is just another delegation of powers to a Member State (s) acting as an agent (or agents in a regional context) to implement the grand strategy of the EU it can be argued that the UK has been unable to achieve satisfactory reform of the CFP (the real CFP of equal access) through negotiations.

It must therefore opt for unilateral repatriation of fisheries competence by withdrawing from the CFP altogether. This option would see the UK regain total control over its Exclusive Economic Zone (EEZ), which according to international maritime law stretches to 200 nautical miles from a country's coastline.

### **2. Consultation on a National Policy on Fisheries Management in UK Waters**

Conservative Party Green Paper Owen Paterson

**The essence of our policy, therefore, is National and Local Control**

### **3. Chris Venmore former Secretary South Devon & Channel Shell Fishermen December 2013 and former Board member of the Seafish Industry Authority**

The CFP has been much more about politics than about conservation - conservation

being used as the excuse for yet more and more scrapping of the British Fleet to make way, in particular, for the Spanish and Portuguese.

In 2010 the EU finally came clean, stating "The 2003 effort regime has succeeded in creating the conditions for a full integration of Spain and Portugal into the main CFP rules" (i.e. equal access to all waters). *Communication from the Commission to the European Parliament and the Council Review of fishing effort management in western waters Brussels, 12 November 2010 PECHÉ 281 16257/10*

In fact it started much earlier than this with Reg 2141/1970. Ever since then the aim has been to reduce the British fishing fleet in order to make way for the boats of other member states and give them access to what were the finest fishing grounds in the world. The fact that those grounds are not now is a terrible indictment of the CFP. Had it not been for the CFP and loss of control by Westminster I believe that the British EFZ would still be the finest in the world - and, of course, we would still have the biggest and best white fish fleet.

South Devon Shellfishermen have always been opposed to this and even sailed up the Thames in 1971 warning Heath of the consequences of signing up to the CFP. The consequences are now only too clear to see - a fleet reduced by over 50% (e.g. over 660 Scottish white fish boats alone destroyed) and most fish stocks regulated by the EU

So what powers should we ask to be returned? Exclusive competence for all living marine resources resides in Brussels where 28 nations have a say in how our fisheries are controlled and managed.

**In order to stop any further reduction of the British fleet, competence must be returned to Westminster. Only then will we be able to introduce conservation measures which will apply equally to all boats fishing in the British EFZ as we rebuild our stocks to a level required for maximum sustainable yield**

The abandonment of the principle of equal access to a common resource has to be coupled with this. (After all, there is no such thing as equal access to our marine oil, mineral or aggregate stocks, even those which overlap other nations EEZs). Whilst some will argue that this is contrary to the principle of non-discrimination (Article 7 of the Treaty), it is no more discriminatory than TACs being allocated to individual member States.

So once power is taken away from the 28 and restored to Westminster we can license those boats which we permit to fish our waters and they will have to fish under our rules, regulations, conservation measures and enforcement policies. That way we will be able to rebuild our fleet and infrastructure, and rebuild our fish stocks, which will, in the end, benefit all EU fishermen

#### **4. John Cox Chief Executive Scottish Seafood Association Press & Journal 18 December 2013 “Little Hope for Future”**

‘Scottish Seafood Association sees little hope of any major improvement for the fishing industry fortunes, including the processors as long as decisions are made in Brussels. The headlines were already scripted as the outcome was already predicted with concessions but more quota cuts

“Industry wins concessions and quota cuts not as severe as previously expected”

Unfortunately this has been the same yearly headline since the day the Scottish Fishing Industry fell into the hands of a political management system known as the Common Fisheries Policy over 30 years ago. As the name suggests the Scottish fishing industry is controlled by a remote ill-informed bureaucratic process which has destroyed fishing communities the length and breadth of Great Britain. So much damage has been done the industry is almost at the point of no return.

The implementation of the third reform will be the final nail in the coffin unless politicians start listening to the fishermen who are still left in the industry and not the multi £ anti fishing NGOs who thrive on lies and anti-fishing propaganda to justify their presence and generate income to keep them in a job.

Unfortunately the processing sector is left to cope and still be expected to be at the quay side, day in, day out. Over the past 20 years hundreds of primary fish processors have ceased trading with the loss of thousands of jobs, no decommissioning, no set aside, no subsidies and no appreciation of the social and economic importance of the shore based sector of the Industry.

The rules of the CFP have completely failed in the objective to sustain stocks. The draconian measures such as Days at Sea when first introduced increased fishing effort significantly over night introduced by ignorance of the Scottish industry by those in Brussels, this measure had the impact of fishing boats fishing more days than was the tradition.

Failed policies of the include

- Restricting the time a boat can fish to allow time for boats to head for new grounds to avoid areas of small fish as the clock starts ticking the moment they leave port.
- No rollover of quota to allow flexibility and opportunity to maximise market prices.
- Quota year set to suit politicians January to December instead of matching the spawning season of fish
- Unbalancing the ecology with quotas in a mixed fishery

- Restructuring the industry into the hands of those with the financial resources which makes it almost impossible for new entrants into the industry.
- Creating a commercial industry sucking the life out of the industry through quota trading.

What breaks the hearts and the will of so many both at sea or onshore is the massive opportunity the Scottish fishing industry has. It is clearly demonstrated that the waters around Scotland have an abundance of fish - the most carbon friendly of all proteins and an ever increasing demand and appreciation of the public of its value and health benefits. Left alone the Scottish Industry could create hundreds if not thousands of jobs feeding tens of thousands.

The only solution is for the Scottish Industry to be locally managed or the consequences will only lead to further decline and ultimately its demise. Cynics might say this is the real agenda.'

#### **5. Tom Hay Honorary Chairman FAL (Chairman 1995 – 2008)**

##### **Extract from letter to Ian Hudghton MEP 2 April 2012**

'The European Union's plan of action to get rid of the British fishing fleet is quite clear, especially to those of us who have experienced the most awful persecution and humiliation of the 1983 derogation (from the equal access principle). The Brussels bureaucracy deviously planned and cleverly masterminded the concept that our fishermen should be guided towards the establishment of a single European Union fleet, on a non discriminatory basis, with no increase in fishing effort without them ever knowing what was happening.

They believed that this could best be accomplished by successive steps, each craftily disguised as emphasising the need for more and more conservation, but which when taken together would inevitably and irreversibly lead to the annihilation of the British fleet. Thus with characteristic arrogance and contempt for ordinary hard working people, these lavishly paid and incompetent officials have assumed that British fishermen could be deluded, however reluctantly, into co-operating in their own extermination.

The European Court of Justice has stated that the Community system of national quotas is a derogation from the general rule of equal conditions of access to fishery resources, and the principle of non-discrimination laid down in Article 40(3) of the treaty. How can the 1983 fisheries agreement be the Common Fisheries Policy and a derogation from it at the same time? Those who knowingly continue to propagate this lie, are highly skilled in the deception, since it serves the purpose of deceiving our fishermen into believing that the Common Fisheries Policy can be reformed, when indeed it cannot!

In "**Fishupdate.com**" October 17 2003, not all that long after the end of the 2002

derogation, it was reported from the EU Fisheries Conference in Southern Ireland, and I quote --- Spanish fishermen will be given access to some of Europe's most sensitive fishing grounds under a deal agreed by EU Fisheries Ministers. They have agreed to open almost 10,000 square miles off the Irish coast, until now been deemed environmentally sensitive. The deal to allow access to a quarter of the restricted area ignored opposition from Ireland, Britain, France and Portugal. The Irish Box, a 50 mile exclusion zone round the Irish coast has been seen as one of the most important spawning and nursery grounds in EU waters.

Neil Parish MEP, Conservative Spokesman on Fisheries in the European Parliament, said *"This decision is totally hypocritical. The European Commission is telling everyone that whitefish stocks are perilously low, and have demanded quota cuts and reductions in time at sea, for British fishermen etc. etc.....until Fisheries Commissioner Franz Fischler is quoted as having said --- "Spain and Portugal have now been fully integrated into the CFP, all rules that could be considered as discriminatory have been abolished and from now on, EU measures will apply equally to all. The new regime legally brings to an end the discriminatory restrictions on access following the full integration of Spain and Portugal into the Common Fisheries Policy."*

Can we really expect our so called European Partners to whom we have given such valuable treaty guarantees to negotiate their cancellation, and thus surrender their assurance of unfettered access to some of the richest fishing grounds in the world. I think not. The stark reality which yawns before our fishermen is the fact that they have to be driven out of their own fishing grounds to let the rest of the member states fishermen predominate in British waters.

The **only** way to rescue the British fishing industry, and having it re-established as it once was, is through the restoration of National Control by a United Kingdom Act of Parliament, over those waters legally under our jurisdiction in accordance with the United Nations Convention on the Law of the sea 1982.'

### **What types of decisions should be made at:**

#### **i. EU level?**

It is important that decisions that affect the long term sustainability of fish stocks in our shared oceans are made at the international / EU level to obtain broad agreement on achieving a sustainable level of exploitation and its enforcement. It is essential that exploitation of the fishery resource is controlled and managed to ensure commercial opportunities are optimised, fishing communities are treated fairly in an equitable way and that the wider environment and other non-commercial species are not damaged.

#### **ii. regional level (groups of Member States)?**

Many fish migrate and feed over vast areas of ocean it is essential that decisions that effect their sustainable management are taken at the appropriate scale. For example member states adjoining the North Sea or surrounding the Mediterranean.

#### **iii. Member State level?**

Decisions at the Member State level are most suitable where management of local fish stocks like shell fisheries are at issue.

### **How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

#### **i. benefit national interest?**

As set out previously the EU / international approach is essential to ensure fish stocks are not over exploited and are managed sustainably. Decisions should be made based on best science and be equitable. Without this we risk a 'tragedy of the commons' situation developing.

#### **ii. act against national interest?**

Sometimes where a fish stock may be managed sustainably and enforced entirely by a member state within their own waters the wider EU interest can compromise the stock's management and the local methods chosen to manage the stock. This can also apply where there are opportunities to enhance stocks or fishing communities can build up stocks but are not able to do so because of wider EU demands.

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

Access and EU treaties should be based on best science, primarily to ensure the long term protection of the stocks so that they may be exploited in an optimal way for the benefit of future generations.

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

As previously set out, international agreements are often essential to prevent the loss and permanent damage of a fish stock. Examples include atlantic cod, atlantic salmon and eel. The power of the EU may often be necessary to achieve the level of international protection and agreement required to secure a stocks future. These issues may apply to damaging a bi-catch e.g salmon smolts as well as target species. Which may require controls on method, spatial or temporal controls.

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**ii. hinder the UK's national interest?**

Typically where there are conflicts over the spatial range of the species and its life cycle and where and at what point exploitation might take place. For example atlantic salmon, whether exploited at sea (not sustainable as a mixed stock) or in river, or primarily conserved for sporting purposes. Exploitation of eel is an issue where there are also cultural differences between member states and the way exploitation of the stock takes place.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Current arrangements have been damaging to communities who wish to adopt a more sustainable approach to the protection of breeding stock or to allow fish to grow on to a greater size. The exploitation of Sea Bass would be an example where local communities using smaller boats or rod and line and sporting fisheries miss out to the larger commercial trawlers.

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

The European Fisheries Fund (EFF) has made a valuable contribution to fisheries protection and development as has the EU Interreg programme (where rivers trusts have run a number of fisheries improvement projects). Strangely, although EFF support is used extensively elsewhere in Europe to support commercial freshwater migratory fish stocks (including Wales), England has only allowed the use of EFF funding for this purpose as recently as 2013 when an application by The Rivers Trust on behalf of the Sustainable Eel Group (SEG) to protect eel stocks was approved. This successful project has removed barriers to juvenile eel migration into freshwater, removing redundant weirs and putting fish passes on flood defences and other obstacles and has opened up huge areas of freshwater rivers, waterways and wetlands to migrating juvenile eels allowing them to grow on to adults when they may return to sea to spawn and complete their life cycle. In Wales EFF funds have also been deployed by rivers trusts to restore salmon and migratory trout stocks through similar work improving access and restoring habitat. These rivers trust projects also contribute to meeting the UK's obligations under Water Framework Directive (WFD), Eel Regulation and commitments to NASCO.

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

There seems to be limited use of EFF funds in the UK to support migratory fish stocks including salmon, migratory trout and eel. It is difficult to establish whether this is due to the EU or the UK Government's interpretation of the rules. Also these funds are not currently used in connection with supporting sustainable sport fisheries, which add value and provide a substantial income to many communities through tourism.

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

Supported by the EU, labelling, catch method and provenance are extremely important to ensure the public have the choice when buying fish. Information on common science based standards including size limits and fishing methods (including line caught) are essential to promote more sustainable fisheries.

**How does access to EU markets and adherence to common standards on fisheries products**

- ii. **hinder UK businesses, both domestically and when exporting abroad?**

No response

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

Many of the issues of concern over the current EU arrangements and proposed welcome changes are set out in the 'Fish Fight' campaign. A sustainable fisheries policy must adopt the Ecosystem Approach and seek to base management decisions on best science. The cultural importance and tourism benefits of supporting local inshore community fisheries are often underestimated. There should be a greater emphasis on protecting sustainable local artesian fisheries and rod and line sport fisheries.

## The Wildlife Trusts

### Introduction

There are 47 individual Wildlife Trusts across the UK including 37 Wildlife Trusts in England, six in Wales, the Scottish Wildlife Trust and the Ulster Wildlife Trust. Collectively, we have more than 800,000 members and our shared vision is to create *A Living Landscape* and secure *Living Seas*.

*A Living Landscape* is a recovery plan for nature, championed by The Wildlife Trusts since 2006 to help create a resilient and healthy environment, rich in wildlife and to provide ecological security for people. In *A Living Landscape*, habitats are restored and reconnected on a large scale with the local community closely engaged. Across the UK there are now 150 Living Landscape schemes covering an area of nearly 1.7 million hectares. The schemes are being delivered in partnership with a huge number of individuals and organisations including Statutory Nature Conservation Bodies (SNCBs), farmers and landowners, water companies, land-based industries, local authorities, other NGOs, local communities and volunteers.

The Wildlife Trusts have a collective vision to secure *Living Seas*. Within *Living Seas*, marine wildlife thrives, from the depths of the oceans to the coastal shallows; wildlife and habitats are recovering from past declines as our use of the seas' resources becomes environmentally sustainable; the natural environment is adapting well to a changing climate, and ocean processes are helping to slow down climate change; people are inspired by marine wildlife and value the sea for the many ways in which it supports our quality of life. The Wildlife Trusts believe it is possible to achieve *Living Seas* around the UK within 20 years – a single generation – but only if opportunities are seized right now.

The Wildlife Trusts believe that the UK government has worked hard to achieve a successful revision of the Common Fishery Policy (CFP). We accept that the CFP in the past has not managed the European fishery in an effective manner and has encouraged over fishing.

The recent revision of the CFP has provided the opportunity for complete reform. The UK government has been at the forefront in the drive to improve the CFP and shown vision and pragmatism in pushing for sustainable use of the resource and a sustainable future for fishing.

### Consultation Questions

#### Where decisions should be made?

**At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the EU level, regionally, or at Member State level?**

**Nature does not respect national jurisdictions – setting policy on the management and conservation of marine resources is appropriate at the European level and above.**

The ecosystems that support marine living resources operate at regional seas, oceanic and global scales meaning that activities in one nation's waters can be dramatically affected by those occurring in the waters of quite distant nations.

The trans-national shared seas nature of the fisheries resources mean that for the vast majority of species fishing cannot be satisfactorily regulated by Member States and/or local and regional authorities individually. Therefore in aiming to manage the conservation and exploitation of the common marine living resources and in needing to incorporate all the fishing activity from all states in all the European Exclusive Economic Zone's (EEZ), the management priorities and principles are most appropriately set at the EU level. This requires some form of common European fisheries policy and legislative structure.

This will allow all Member states to operate under shared principles on the environment and conservation of the marine living resources, as indeed they are required to do through the Treaties of the European Union and in line with the European requirements for subsidiary.

**Addressing the issue of EU wide fishing overcapacity – setting management decisions at the EU level is appropriate**

There is a significant problem of over capacity, latent capacity and excess capitalisation of the European fleets. This capacity mismatch has led to too much capital chasing too few fishing opportunities and forcing the industry to push the regulators and politicians to set catch levels above scientific advice in an effort to maintain returns on investment. Under the old CFP this economic driver promoted overfishing and reduced the rate of stock recovery. EU nations need to work together to tackle these issues collectively.

Clearly new mechanisms are needed to address overcapacity and stock recovery which are provided by the revised CFP.

We believe without such an EU wide response there will be lower fish stocks, a less healthy marine environment and lower returns for the fishing industry.

**EU member states have a common need to meet international obligations – the CFP is the level for the integration of these obligations to ensure a level playing field**

European fishing states have obligations which need to be met by their fishing operations wherever they fish. The EU and/or its Member States are signatories to international conventions which either contain obligations or call for the integration of fisheries management with environmental, conservation and coastal management rules. This includes in particular the following duties and responsibilities under the United Nations Convention on the Law of the Sea (UNCLOS) which all EU nations have ratified individually and through the EU:

- *only to exploit natural resources **in accordance with environmental protection and conservation duties*** (Article 193);
- ***to prevent the impact of fishing activities on marine biodiversity outside their jurisdiction*** (Articles 62(4), Articles 116–120 and 145).

Furthermore UNCLOS not only gives signatory states rights of exploitation, conservation and management of the marine living resources (Articles 21 and 56); but also gives them the following duties:

- to comply **with fisheries conservation and management measures in other states'** (example Article 62(4)) and, most importantly:
- to preserve and protect the marine environment (Article 192)

These duties and responsibilities are best approached in the same way that the ecosystems within the marine environment operate: on a regional, oceanic or global basis. Therefore, for the UK and Europe, decisions on the appropriate policies, priorities and measures to meet obligations are best made at the EU level. The minimum standards that all member states' fleets must adhere to, ensuring all member states honour their commitments, need to be set out in an integrated and cooperative structure. We believe it is rational and efficient to integrate these commitments into the baseline requirements placed on all member states under the Common Fisheries Policy.

Conventions and treaties in addition to UNCLOS which are held in common by all European nations, and which similarly require and expect an integrated approach to resource exploitation, management and conservation, include:-

- The OSPAR Convention – which under Article 2(1)(a) states that *“The Contracting Parties shall.....take the necessary measures to protect the*

maritime area against the **adverse effects of human activities** so as to safeguard human health and **to conserve marine ecosystems** and, when practicable, restore marine areas which have been adversely affected.”

- The Convention on Biodiversity - which establishes in Article 6 that “*Each Contracting Party shall, in accordance with its particular conditions and capabilities integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or **cross-sectoral plans, programmes and policies.***”
- The Johannesburg Plan of Implementation (under the World Summit on Sustainable Development) – which states in paragraph 30(b) “*Ensuring the sustainable development of the oceans **requires effective coordination and cooperation, including at the global and regional levels, between relevant bodies, and actions at all levels...***”

Furthermore, EU member states’ fishing activities are also subject to all EU (environmental) law requirements held in common, so a harmonised structure integrating EU environmental directives with the management of all European fisheries, ensuring cross compliance, providing correct interpretation and setting priorities, is required.

### **Harmonised management data and reporting requirements – to avoid lack of comparability and consequent arguments this is best decided upon at an EU level**

The European system for integrating and assessing scientific evidence on fish stocks and environmental impacts (ICES, and the European STECF) should provide a single EU position on what the data is and what the data says.

### **Where decisions are appropriate at the regional and national level**

The technical management of resources which are proven to be a single entire unit within a particular oceanographic area should be arranged to be carried out by the bordering coastal states alongside the member states that legitimately fish there. These nations should be those most capable of implementing policy, making regional decisions and designing technical measures to deliver the goals and plans agreed at the EU level. Within such a regionalised structure the areas fished, the methods employed and the species targeted by fishing fleets will change with time, so a responsive regional decision and implementation structure is needed so that new adaptive measures can be quickly brought in.

### **Advantages and disadvantages**

How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?

**The CFP reforms will benefit the UK by producing, in the long-term:-**

- Improved stock levels and a more productive marine environment for our fishermen and our wildlife.
- Set fishing quotas that fully respect scientific advice leading to healthy fish stocks for all and higher quotas as fish stocks are managed with the goal of achieving maximum sustainable yield (MSY) levels.
- Long Term Management Plans should clarify the prospect for stocks and provide better certainty for business planning in the fisheries sector
- An end to discarding will ensure that all usable fish caught will be processed and accounted for in the catch records, greatly improving the data for stock assessments. Again this will benefit the UK in improved management, less waste and better utilisation of resources.
- A completely new regionalised decision making approach involving fishermen and other interest groups, as well as national administrations, which will develop technical and conservation measures to protect juvenile fish and vulnerable fish species. This will allow the UK to benefit from greater control where it is appropriate for managing fishing.
- The protection of biologically sensitive areas with spawning grounds and high populations of juvenile fish.
- Alongside funding via the new EMFF, through measures such as the Fisheries Local Action Groups (FLAGs), development of the UK's inshore and artisanal fishermen, fishing communities and local fishing economies, in particular assisting them in the transition to a more sustainable and better quality use of the marine resources.

The recent reform of the CFP has allowed these significant changes to be made and when implemented will result in a better managed European fishery where stocks will be exploited at sustainable levels.

To illustrate the overall benefit that can be expected from the reform of the CFP the New Economic Foundation (NEF) has calculated in their reports that restoring European fish stocks to a condition capable of producing their Maximum Sustainable Yields as required in the revised CFP would deliver an extra 3.5m tonnes of fish: enough fish to feed an additional 160 million EU citizens and produce additional

annual revenues of £2.7bn across Europe. This would be equivalent to an extra 100,000 jobs in addition to ensuring an increased yield from a healthy sustainable resource for future generations.

Crilly, R. & Esteban, A. (2012). No Catch Investment. London: nef. Retrieved from <http://www.neweconomics.org/publications/entry/no-catch-investment>

Crilly, R. & Esteban, A. (2012). Jobs Lost at Sea. London: nef. Retrieved from <http://www.neweconomics.org/publications/entry/jobs-lost-at-sea>

### **The revised CFP will serve the national interest by addressing past failings in the member states' application of the rules.**

In the revised CFP (and in the new EMFF when agreed), greater reemphasis will hopefully be placed upon compliance and conditionality in the approval of EU funding and the allocation of quotas to nations. It should also allow greater sanctions to be taken against nations that fail to comply. This reinvigorated management by the EU commission on behalf of all the member states' interests must be maintained in the new EMFF to prevent the errors of the past being repeated.

### **The negotiation structure for the revision of the CFP has benefited the UK in getting the UK government's vision across**

The UK government has worked hard to achieve a successful revision of the CFP. We accept that the CFP in the past has not managed the European fishery in an effective manner and has encouraged over fishing. The CFP in the past placed too much emphasis on negotiating the best deal for the individual national fishing fleets rather than managing the European fishery in a sustainable way.

The recent revision of the CFP has provided the opportunity for complete reform. The UK government has been at the forefront in the drive to improve the CFP and shown vision and pragmatism in pushing for sustainable use of the resource and a sustainable future for fishing.

The structure of the European negotiations has benefited the UK in enabling the UK government to find allies within Europe in line with UK thinking on stock recovery, bycatch reduction, and reducing harmful and counterproductive subsidies. Together they have effectively persuaded some of the less eager nations, many of whom are our immediate channel neighbours, to embrace the ambitious revisions. In this manner the UK government has helped secure many of the ambitious elements of the revision. It is our considered view that it would be considerably more difficult (if not impossible) for the UK to achieve such progress through separate nation by nation negotiations outside the umbrella of Europe and the CFP.

The CFP structure would appear to have come of age and now provides a very useful means of managing the common seas and common resources of the nation states of Europe.

### **The revised CFP will benefit the UK and Europe in helping achieve Good Environmental Status (GES)**

The revised CFP acts in the national interest not only in providing the prospect of better fish stocks in the future but also in allowing us to begin to achieve Good Environmental Status (GES).

All EU member states, including the UK, are legally obliged to reach GES by 2020, having signed up to the Marine Strategy Framework Directive (MSFD). This directive is the first legislative instrument in relation to the marine biodiversity policy in the European Union. It enshrines in a legal document the ecosystem approach to the management of all human activities which impact on the marine environment. The key concept in the MSFD is to ensure environmental protection alongside sustainable use of the marine environment. Of particular relevance to fishing and the CFP is that the MSFD contains the explicit regulatory objective that "biodiversity is maintained by 2020" as the cornerstone for achieving GES. Achieving GES by 2020 throughout European member state waters will necessitate working towards common agreed standards and, where appropriate, using common mechanisms for delivery of improvements in the health of the marine environment.

The CFP is put forward in the MSFD as the main instrument through which European member states will seek to achieve GES under descriptor 3 - *the population of commercially exploited fish and shellfish*. However, as many elements of the marine environment have influence on fish and fish stock health, the CFP will also be part of the mechanism for achieving GES under Descriptor 1 - *biological diversity*, descriptor 4 - *elements of marine food webs* and descriptor 6 - *seafloor integrity*. The revised CFP with its reinvigorated aim of achieving sustainable stock levels and a healthy marine environment is now fit for this purpose.

### **The benefits to the UK of a healthy marine environment through the CFP and MSFD**

Clearly the revised CFP, working in conjunction with the MSFD and both national and European environmental legislation, will provide UK- and EU-wide benefits through a healthy and productive marine environment and healthy marine living resources. Furthermore this will safeguard and enhance the ecosystem services provided by the marine environment, in particular protecting carbon sinks and protecting and enhancing carbon sequestration by marine ecosystems and thus reducing the impacts of anthropogenic carbon release on climate change. Equally

significant is that a healthy, productive and wildlife rich marine environment will provide the UK and the EU with improved recreational and well-being enhancing activities such as sea angling, coastal ecological and heritage tourism, wildlife watching, diving, etc. which will also be of benefit to UK coastal businesses and communities.

### **How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

#### **It is in the national interest to have a structure for allowing access**

The fundamental issues that lead to the establishment of the Common Fisheries Policy in the 1970s are still valid today. Fish do not respect national sea boundaries that exist for the benefit of humans and as lines drawn on maps.

Many species harvested by European and UK vessels range over considerable distances through multiple EEZs and the high seas. So the fishing of these fish stocks, if they are to be harvested sustainably, can therefore only be managed on a European-wide or larger international basis. This requires a fair and equitable mechanism for division of the opportunity to catch the fish and access to common European waters for each member state.

In considering how this division is made it is important to look back at the development of the CFP. Historically fishermen have fished where the fish are. National claims to fishing resources beyond the nation's immediate coastal areas has been a relatively recent development in fishing since the 1960s. Prior to the adoption of EEZs, waters outside national territorial waters were considered the high seas and thus open access, and so fished by many nations from Europe and beyond. So fishing by any one European member states fleet was, historically, often carried out within waters that are now other member states' EEZs and territorial waters.

Throughout history this situation has lead to numerous international disputes over fishing access. So with the prospect of nations adopting 200 mile EEZs potentially leading to similar disagreements between the much closer European maritime neighbours, the need to agree a system of access to de facto fishing grounds was clear. This drove the development of the agreements that lead to the establishment of the CFP.

It is worth noting that the result of failing to agree a system that is acceptable to all parties was clearly shown to the UK through the numerous Cod Wars that occurred from the late nineteenth century into the 1970s. These sometimes violent disputes resulted in diplomatic, economic, political and social costs to the UK.

The EU treaties, agreements and system of allocation were set up to control and prevent disputes developing between different member states over access to fishing resources and not to control the exploitation of those resources. The CFP developed an agreed allocation of available resources through a system of subdivision of the total allowable sustainable catch to nations' fleets via "relative stability" - a feature which although problematic ensures that all nations fishing a stock bare the same % impact (or benefit) of any TAC changes.

It is clear that up until now there has been a problem with this as it has not achieved the other CFP objectives of conservation and best use of resources. The major cause of this has been the involvement of politics in the setting of TACs where national desire for a greater allocation has pushed the politicians to agree greater overall TACs than scientific advice supported (O'Leary, B.C., Smart, J.C.R., Neale, F.C., Hawkins, J.P., Newman, S., Milman, A.C., Roberts, C.M. (2011) Fisheries Mismanagement, Marine Pollution Bulletin 62(12):2642-2648.) We hope that the new requirement in the revised CFP to base TACs on rebuilding stock levels to supply MSY levels of catch will address this problem.

Without the CFP's mechanism for allocation of the resource, new access agreements and rules for stock division would be necessary. Considering the number of nations and stocks involved (the CFP currently sets a TAC for more than 150 European stocks) this would be fraught with problems and would be highly unlikely to ensure stocks are rebuilt and harvested at a sustainable level.

Without the CFP we would also be without the powerful EU legal structures available to address rule breaking within agreements. Through the CFP member states operate their fishing under European laws such that non compliance can be pursued and fines imposed. Many international fisheries agreements are not legally binding and rely on negotiation, compromise and the imposition of sanctions (where possible) to encourage compliance and stock conservation in the case of a breach. A poignant example of the sort of problems that would be faced without the CFP's legal structure is shown in the recent international disagreements over the North East Atlantic mackerel catch, showing the type of damage to stocks and fishing fleets that could result.

### **Are arguments for access to national waters based on historic activity still valid?**

There is however the additional question of the value of continuing granting access to UK national waters within 12nm on the basis of historic rights. The CFP established that where there were historic fishing activities within territorial waters they should be allowed to continue. 30 years ago it was easier to accept historical rights than to challenge them, but since these conditions were set up fishing has changed considerably and whether all the arguments for allowing access based on

historical activity are still valid is now a matter of debate. Very few if any of the fishermen and fishing vessels that had these historic rights are still fishing. We ask if there is now a need to review historic rights to access within 12nm to take into account the changes in fishing, the fished for stocks and the socio economic effects that this system has had.

### **The external dimension**

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

**The benefit to the UK of the EU acting in concert through the CFP when negotiating agreements with non EU countries (illustrated through the management of the North East Atlantic mackerel stock)**

Since the 1980s, and to manage developing industrial capture which threatened to seriously overfish the mackerel stock, catch limits and quota allocations were brought in through the CFP. These had enabled mackerel stocks to be maintained at a healthy level with a sustainable harvest. As the mackerel stock is a "straddling stock" that ranges beyond European waters for part of the year a necessary element of the management of the harvest has been to negotiate agreements with third party countries to set the total allowable catch for all fishing and divide that catch between parties in an equitable manner. This management, through the CFP with the EU negotiating comprehensive external agreements, had until recent years worked well in preventing stock depletion and producing a well managed and sustainable harvest. The parties including the UK (the UK is allocated approximately 54% of the EU mackerel TAC) were able to benefit from a stable fishery and the marketing advantage of sustainable accreditation marks (MSC certification and MCS Fishonline recommendation).

When agreements work the benefits of negotiating at this level and not at the individual member state level include:-

- All parties that fish a single stock need to agree the total allowable catch based on an agreed interpretation of the scientific evidence.

The CFP provides the EU with the legal ability to act for all the EU nations on this and provides a single negotiating stand point when addressing the non EU parties.

- The EU position is transparent, follows the principles of the CFP and contains the controls needed as agreed by the EU member states.
- The economic size of the EU and the size of its markets for other goods give it considerable bargaining power in these negotiations.

- The principle of relative stability ensures that the fleet interests of each EU member state are maintained for the catch element within the EU waters. This would not necessarily be a possibility without a single EU negotiation.

When the agreements break down the benefit of negotiating at the EU level is also shown through the case of the NE Atlantic mackerel. Over recent years, and possibly due to climate change, the mackerel stock range appears to have altered; the fish now range further north and west and spend a greater period of the year in non EU waters. This, combined with a difference in the data used and the interpretation of the data by the EU and the non EU states, lead to a failure to reach agreement on the TAC and the division of that TAC between the EU and Iceland and the Faroe Islands. In response, larger unilateral TACs were set by the non EU states. This threatened stock depletion and caused the loss of a sustainable market for mackerel with consequent damage to the mackerel fishing fleet's prices and markets.

Although negotiations have been protracted we would maintain that dialogue has been continued as the negotiating size of the EU in terms of all markets and trade relationships for the non EU states and the potential for the application of significant EU sanctions on the non EU states makes reaching an eventual solution in their national interest. The threat of sanctions and trade issues would not necessarily provide such an incentive to cooperate if the non EU states had made agreements with just a small number of EU states outside the CFP. The EU negotiation position is a significant benefit to the UK considering the size of the UK's share of the EU mackerel TAC.

**There is a downside to the bargaining power produced by the economic size of the EU when negotiating external agreements.**

Within the EU, and through the Council of Ministers and the European Parliament, the UK and other member states have platforms to draw attention to external agreements that may not be in the best interest of all parties. Through these institutions, checks and balances can be placed on morally questionable elements in agreements.

The revised CFP goes a long way to improve the structure for such agreements requiring that these agreements are based on a sustainable harvest and level of impact so that they do not significantly disadvantage external nations' fishing industries.

**Current legislation**

**How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

No comment.

### **Internal market and economic growth**

**How does access to EU markets and adherence to common standards on fisheries products benefit or hinder UK businesses, both domestically and when exporting abroad?**

No comment.

### **Funding**

**What evidence is there that rules around support for the fishing industry through EU funds help or hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

No comment.

### **Future challenges and opportunities**

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

We foresee hard negotiations but ultimately a cooperative and collaborative future under the revised CFP as opposed to a combative one without the revised CFP.

<b>Action</b>	<b>Challenge</b>	<b>Opportunity</b>
<b>Appreciating</b> the limitations of the market	Recognising that the market and economic drivers do not work to achieve the aims of the CFP unless they operate within a well controlled structure based on the best available scientific knowledge and long term political vision.	
<b>Recognising</b> the unique nature of fishing	The considerable difference between agriculture (farming) and fishing (hunting) in terms of resource and geographical ownership and addressing how ownership and harvest rights can be used to ensure harvest is carried out with the aim of recovery to a position of long term sustainable productivity.	
<b>Correctly</b>	This needs to be better	

<p><b>applying</b> the precautionary principle to the decision making process</p>	<p>appreciated by all as originally enshrined in the CFP and as stated in the MSFD it needs regular restatement.</p>	
<p><b>Reducing</b> the political drive to over weight socio economics in the setting of TACs</p>		<p>Re evaluation of the point at which political issues not directly involved in achieving stock health and marine productivity are added into the discussions on quota levels. Enabling the first priority to be the preservation and rebuilding of stock level prior to discussing socio economic aspects. If achieved this will remove one of the major failings of the CFP in the past - the TAC and quota being set above scientific advice due to politically judged socio economic need.</p>
<p><b>Rebuilding</b> fish stocks to MSY levels and beyond</p>	<p>Negotiating the transition, cutting fishing effort and mortality to allow this and ensuring that all nations take a proportion of the cut. Also ensuring that these measures are adequately policed.</p> <p>The transition period will require ambitious, strong management to keep the industry moving towards the goals set in the revised CFP and sufficient funding, science and control.</p>	<p>Recovered inshore and EEZ marine environments with increased fish production and greater food security for consumers through a revised CFP that puts the health of the stocks and marine environment as the prerequisite for the future of Europe's fishing industry</p> <p>The UK has the opportunity to continue to provide leadership in implementing the CFP that it has worked hard to see revised.</p>
<p><b>Extending</b> the quota system to all animal species killed</p>	<p>This will be complex, and to ensure that CFP stock and conservation targets are reached together with those of the MSFD,</p>	<p>This will greatly assist achieving GES and protecting and restoring the marine environment.</p>

by fishing (whether utilised or not)	Natura 2000 and other international agreements on protecting vulnerable and endangered marine species (including mammals, birds, reptiles and fish), this will require greater scientific data collection.	
<b>Reducing</b> excess and latent fishing capacity	Providing mechanisms to effectively reduce fishing capacity where it is well above the level supported by the available fishing opportunities.	Profitable fishing industries working as managers of the resources and not just hunter gatherers.
<b>Driving</b> improvements in gear and fishing methods	<p>Developing and promoting/legislating for the adoption of new technologies to improve selectivity.</p> <p>Up until recently technology has been mainly used to improve efficiency of catch in terms of time and cost rather than reducing impact and bycatch – there is heavy capital investment in gears that will be inappropriate and need replacement.</p>	<p>The revised CFP will promote increased use of gears with improved selectivity and reduced bycatch and habitat impact; this could lead to less carbon emissions through reduced fuel use and improved efficiency and profitability.</p> <p>Selectivity gear improvements should lead to more easily defined gear impacts, improved ability to monitor total mortality for stock assessment and define appropriate habitat and sea areas for their use.</p>
<b>Applying</b> new mapping and monitoring technology		Improvements in monitoring vessel location and fishing activity with the extension of iVMS and VMS systems to all vessels will allow the spatial management of fishing areas. Including zoning for conservation of habitats and nursery and breeding areas with real time closures becoming feasible using improved positional fishing data.

		The international cooperation through the CFP will allow these zones to be placed where they can do most good for species conservation and stock enhancement and the value/cost of such actions more easily calculated.
<b>Applying</b> the discard ban to mixed fisheries	<p>Low selectivity and high bycatch fisheries will have the most difficulty in adapting to the discard ban and selectivity measures. Many fisheries in the UK - especially beam trawl and benthic otter trawl mixed fisheries - have this potential problem.(REF)</p> <p>Funding will need to develop more sustainable fishing methods and assist the fleets in the transition away from non selective fishing techniques.</p>	
<b>Addressing</b> the issue of choke species in MSY assessments and mixed fisheries	<p>Agreeing mechanisms and stock biomass limits that can be transcribed into law and that can ensure the conservation of choke and highly vulnerable bycatch species but still enable fishing for the non choke quota species.</p> <p>This will be a particular challenge in mixed fisheries which currently use benthic otter and beam trawl gears (REF).</p>	
<b>Incorporating</b> the arrangements for the UK's MCZs outside the 12nm but within the UK's EEZ into the	There will need to be a European agreement on the limitation of the use of certain fishing gear types in these areas for the prevention of damage to the valuable and vulnerable benthic habitats.	The implementation of management measures through the CFP in UK MCZs outside the 12nm limit but within the UK EEZ will be to the benefit of all states sharing European waters.

CFP		
Reconsidering the relevance of historic access rights	Look to revisit the relevance of the historic rights system 30 years on and consider how the 0-12nm member states' fishing rules and regulations can be applied to all European fishing vessels operating in those waters to maintain a level playing field.	

## Welsh Federation of Sea Anglers

### What types of decisions should be made at:

#### i. EU level?

Ones that have meaning and relevance across the whole of Europe, affecting more than one country as a minimum. e.g. Quotas

#### ii. regional level (groups of Member States)?

Variations to top level decisions as influenced by local needs, e.g. access to local areas should only be by countries bordering those areas e.g. UK and Ireland only should have control of Irish sea fishing

#### iii. Member State level?

Variations to those above affecting their coastline only. e.g. Bristol Channel - UK only

### How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy

#### i. benefit national interest?

Doesn't really benefit UK as quotas based on historical landings which in no way reflect population numbers or their future and we have no real control over our waters

#### ii. act against national interest?

Allows too much input from other countries in our waters in decision making and too much fishing effort in our waters.

### How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?

Doesn't allow us to monitor, evaluate and protect our own fish stocks and waters, without other putting their oar in for their pure selfish benefit only.

### Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them

#### i. help the UK's national interest?

This helps us enormously as without them we would be just one voice representing low numbers and in effect shouting in the wilderness. There is strength in numbers

and this is needed when looking after the migratory fish e.g. Mackerel, who don't recognize international boundaries.

**ii. hinder the UK's national interest?**

I don't think they do providing our interests are properly looked after by the Europeans doing the representing. Only negotiators country specific selfish self-interest coming in to play could damage us

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

Not enough expertise in this field to judge

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

Not enough expertise in this field to judge

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

Not enough expertise in this field to judge

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

Helps level out the playing field and market, smoothing out possible boom or bust fluctuations.

**ii. hinder UK businesses, both domestically and when exporting abroad?**

If we are not careful we could be disadvantaged by price undercutting fish available to us and others if other governments are allowed to subsidize or otherwise help their individual fishing industries.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

- Better monitoring of the UK fishing fleet and their antics
- Tackle and remove the black fish market with swingeing penalties to include impounding and scrapping and selling of all gear/vessels used if rules are not obeyed, regardless of who owns the ship or to which country it belongs. Recreational/angler fish sellers and netters to be similarly targeted.
- Minimum catching sizes for all fish and these to be so that ALL species will have spawned at least once.
- All fish to be landed. You get paid for those in size but not those undersize but both weights are taken off your quota.
- Proper territorial limits under national control. Why should any country without a coast have a fishing fleet and those with a short coastline have a large fleet. Beggars belief.
- Removal of all historical rights, the only rights to be observed are those sanctioned by fisheries scientists to be beneficial in the long term.
- Fishing to be a non-political party matter, we should be looking after our fish, our seas and our environment not using it as a football for our own ends in scoring points off others.

### **Where should decisions be made?**

#### **At what level should decisions on fisheries management be made and what evidence is there for the benefits or disadvantages of acting at the EU level, regionally, or at Member State level?**

The CFP Regulation establishes a series of measures and controls across Member States to manage exploitation of fisheries products at a sustainable rate. This includes the use of quotas, technical measures and effort control to achieve these aims. This regulation has been subject to recent debate which has resulted in the reform of the CFP which will see its implementation from 1 January 2014.

The CFP regulations are implemented by each Member State along with its own Fisheries legislation to manage its fisheries resources and ensure they are exploited at a sustainable rate. In the case of the UK, each Devolved Administration is responsible for implementing the fisheries management measures to deliver the objectives of the CFP. This includes the use of the Control Regulation and domestic legislation to deliver these objectives and ensure sustainable exploitation. In the territorial seas (0-12 nautical miles) measures over and above the CFP can be introduced to reflect the requirements of local conditions and fisheries.

### **Advantages and disadvantages**

#### **How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

The CFP ensures that a level playing field for measures (including quota, effort and technical measures) to be introduced in all EU waters for managing fisheries resources. These controls include the management of fishing capacity and the reporting of this to the EU Commission. These requirements have been strengthened under the reform including the reporting arrangements and introducing management plans.

#### **How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?**

The main area of concern to Wales is the issue of access within the 6-12 mile area around the coast. Under existing arrangements a series of Historic Access arrangements exists which provides for different Member States to access these areas based on historical fishing practices. However, this limits the ability of a Member State to manage fisheries resources within its territorial sea, even for overwhelming scientific reasons. This means that should there be a need to introduce more stringent controls on a particular fishery in this area, based on sound scientific evidence, those changes would only be applicable to UK vessels. It would

require agreement with the relevant Member State to make additional controls applicable to its vessels.

### **The external dimension**

**Agreements with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them help or hinder the UK's national interest?**

Wales does not currently benefit from agreement with non-EU countries. Therefore, whilst significant UK resource is expended on this neither the Welsh Government nor the Welsh fishing fleet realise any benefit from such arrangements.

### **Current legislation**

**How successful are current arrangements in striking the right balance between the goal of a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

The current arrangements enable Member States to reach a balance between the goal of a level playing field and adapting to local needs. The CFP provides the framework to deliver a common approach for measures to manage fisheries resources in all EU waters. At the same time, and under the CFP, Member States retain the ability to manage fisheries resources in a way to reflect local conditions. For example, in Wales the industry is engaged at a regional level through Fishing Associations and fisheries stakeholder groups where issues specific to local conditions can be debated, and national legislation implemented to reflect those differing needs.

### **Internal market and economic growth**

**How does access to EU markets and adherence to common standards on fisheries products benefit or hinder UK businesses, both domestically and when exporting abroad?**

The majority of Welsh fishing fleet is small in size and are primarily interested in shellfish species. The main market for this catch has been in other Member States on the continent and Welsh businesses have benefitted greatly from the UK being a part of the EU and access to these markets.

### **Funding**

**What evidence is there that rules around support for the fishing industry through EU funds help or hinder the UK in meeting its management objectives, or the wider goals of the CFP?**

The existing and successor funding schemes (EFF and EMFF) provide a financial framework to enable the fishing industry of a Member State to prepare to adjust

ready for a reformed CFP. The new scheme (EMFF) has been developed in coordination with the CFP Basic regulation so as to meet those aims.

### **Future challenges and opportunities**

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit the UK or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

A key challenge for fisheries management is accurate information and analysis on fish stocks to improve our knowledge and understanding of sustainable fisheries.

A recognition of the shared nature of fish stocks means that input in managing stocks is required from a number of Member States. This presents a challenge in ensuring the rules are responsive to changes in the marine environment in UK waters.

The existing nature of EU co-decision procedures results in the fisheries decision making process bureaucratic. This process risks a delay when urgent decisions are required.

The development of a model of Regionalisation as sub-areas of Regional Advisory Councils (RACs) could provide a model for enabling the relevant Member States with an interest to develop tailor made solutions. For example, an Irish Sea model could involve those Member States with an interest in identifying solutions for managing the fisheries in the area. This recent development as part of the CFP reform could provide a useful opportunity for involving Member States in decision making but requires the opportunity for it to be developed. The UK (and Devolved Administrations) should seek to encourage the EU Commission to involve relevant Member States as a model to make more responsive decisions.

The development of flexible and long-term (Multi-annual) plans for fisheries presents a positive opportunity under a reformed CFP. These plans should be at the heart of the CFP, establishing the objectives for each fishery, which go beyond the current short term (annual) plans for fisheries. To be effective they should also enable the relevant Member States with an interest to manage those fisheries via a regionalisation model (see above).

**What types of decisions should be made at**

**i. EU level?**

Pollution levels, illegal toxins. Marine dumping ships clearing out tank and dumping rubbish. Oil spills plastic flotsam does not recognise national boundaries cooperation is needed at EU level.

**ii. regional level (groups of Member States)?**

None.

**iii. Member State level?**

It has been recognised for a number of years that the EU fishing policy has failed the country and the environment. Britain should withdraw from the EU Common fishing policy so the UK can manage its own fish stocks. Spanish fishing stocks have been decimated by their fishing fleets so they will have no compulsion not to devastate the UKs. The waters around the UK should be divided between the nations as we do with oil and gas. Fishing is an economic activity and we should finally treat it as such. After all we would not let member of the EU have access to oil and gas in UK waters so why fish. We should also enforce the proposed marine reserves on conserve fish stocks. Once again this decision should be made in the UK. The EU will not look after the UKs interests. We know this.

**How does the EU approach to fisheries management including recent reforms to the Common Fisheries Policy**

**i. benefit national interest?**

There has been no benefit to UKs interests or the environment. The Common Fisheries Policy has been a disaster.

**ii. act against national interest?**

Too little to late it will not be enough to overfishing and destroying our fish stocks.

**How does the access to fisheries provided for under the EU treaties and the allocation of fishing opportunities in the EU affect the UK's national interest?**

We have sacrificed much more than have gained. A very bad deal for the UK.

**Agreement with non-EU countries play a significant role in UK fisheries. How do these agreements and the EU's role in negotiating them**

**i. help the UK's national interest?**

The UK would be better off by doing its own negotiating.

**ii. hinder the UK's national interest?**

The UK would be better off by doing its own negotiating.

**How successful are current arrangements in striking the right balance between providing a level playing field for operators competing for the same markets and the flexibility to meet local and regional needs?**

The UK fishing fleet is at a disadvantage and has been for a long time.

**What evidence is there that rules around support for the fishing industry through EU funds**

**i. help the UK in meeting its management objectives or the wider goal of the Common Fisheries Policy?**

Counties such as Spain receive more in funds from the UK and pay less attention of management objectives.

**ii. hinder the UK in meeting its management objectives or the wider goals of the Common Fisheries Policy?**

The massive collapse of our fishing stocks in our waters. This has been predicted and well recorded. No further evidence is needed that will just be wasting money and time, we have neither.

**How does access to EU markets and adherence to common standards on fisheries products**

**i. benefit UK businesses, both domestically and when exporting abroad?**

It doesn't. Britain would do better at exporting products if it didn't have EU red tape to get through.

**ii. hinder UK businesses, both domestically and when exporting abroad?**

It is time consuming and expensive and disfavours British businesses as some our EU partners are not so good at following common standards.

**Bearing in mind current EU arrangements and forthcoming reforms, what future changes would benefit or help the UK to capitalise on future opportunities, while achieving our wider goals for fisheries management?**

This answer is amazingly simple. The UK should withdraw from the EU common fishery policy with immediate effect. Our fishing stocks could then be protected, managed and recover. Thus providing long term sustainable industry in the future.

## Where should decisions be made?

- Fish do not recognise international boundaries. International boundaries must therefore not obstruct effective fisheries management. As such, WWF believes that a fisheries management framework must be set centrally at a European level with the flexibility to accommodate fishery or regional level tailoring in order to meet these centrally set objectives.
- While the Common Fisheries Policy (CFP) has to date failed to deliver sustainable fisheries management across EU waters, the recent reform of the CFP has resulted in clearer sustainability targets and a commitment to the delivery of management through multi annual management plans. The inclusion of regionalisation has provided a mechanism for greater flexibility of implementation at the shared fishery level which is key alongside the commitment to involve fishermen and other key stakeholders in the decision making process. If implemented effectively this should set European fisheries on the path to full recovery.

**Advantages:** Shared principles and objectives provide a level playing field for all Member States on implementation which in turn supports effective control and enforcement. These include overseeing the regulation of EU flagged vessels wherever they operate and effective enforcement by Member States through its inspection service. There are also clear benefits in the EU negotiating 3<sup>rd</sup> country fisheries agreements on behalf of all MSs as discussed under paragraph nine.

- The establishment of the Advisory Councils and new opportunities for regionalisation provides for regional/fisheries flexibility to ensure the best arrangements for the fishery in question. Such an adaptive and participative decision making process should increase stakeholder buy in and in turn ensure improved compliance. It avoids the top down, one size fits all approach which has been a recognised weakness of European fisheries management to date, and avoids micro management by a centralised system, all of which have in the past had a detrimental effect on certain fisheries or resulted in unforeseen consequences.
- **Disadvantages:** There is a risk that the centrally agreed objectives are dictated by the lowest common denominator and may be lower than the desired objectives of some of the more progressive Member States. Until all fisheries are managed by effective multi annual management plans there will continue to be the annual negotiations of quotas and conditions that have proved

detrimental to the health of stocks with large discrepancies between scientific advice and the quotas agreed. This has improved markedly in recent years and the hope is that it will continue to improve.

## **Advantages and disadvantages**

### **How does the EU approach to fisheries management, including recent reforms to the CFP, benefit the national interest, or act against the national interest?**

- One of the benefits of the reformed CFP is improved clarity of objectives which establish the obligation for restoration and maintenance of stocks as well as management consistent with other EU legislation. This should result in improved stock levels as well as improvements for the wider marine environment, providing clear gains for the UK and other Member States. More plentiful stocks should mean greater economic returns. It is also hoped that this will mean a decreased reliance on imports and a reduction of the footprint of the fleet by avoiding the need to travel further afield. Clearer biodiversity targets should also contribute to greater food security for the UK and provide for the ecosystem services and associated value that a healthy marine environment can provide to communities and other maritime industries which rely on healthy, diverse seas.
- Shared management objectives allow for certain management measures to be established by all EU fishing nations where a clear case can be made in line with EU policy objectives. The policy framework of the CFP provides a vehicle for the agreement of these measures. This would not be possible if there was no centrally agreed objectives or indeed a common policy.
- Member States including the UK have suffered in the past from centralised decisions impacting adversely on their ability to manage stocks in a sustainable manner. It is hoped that the reformed system, if implemented effectively, will address this problem by having clearer objectives and allowing greater tailoring of management to specific circumstances in order to meet these.

*How does the access to fisheries provided for under EU treaties and the allocation of fishing opportunities in the EU, affect UK's national interest?*

The EU negotiates access on behalf of the UK to Norwegian and other waters which provides greater bargaining power than the UK undertaking this task alone. As noted in the consultation document this is a clear benefit for the UK which was estimated to benefit around £17million in 2012 from the EU/Norway agreement alone.

## **The external dimension**

- There are 2 kinds of bilateral agreements. Those with northern countries (except for Greenland) on a reciprocal basis involving exchanges of fishing possibilities and those with developing countries where EU pays for access to surpluses in their waters.
- As noted above there are clear benefits to the UK from the EU fisheries agreements to the figure of around £17million in 2012 from the EU Norway arrangements alone. There is also the benefit of a well-established framework that embraces other EU policy considerations such as trade which the UK would have to negotiate new arrangements individually with these countries. Further, there is the question as to whether the UK would automatically be allocated the share of quotas it currently receives from the EU's TACs agreed with Norway, for example.
- In terms of fisheries agreements with developing countries, the involvement of the UK fleets is marginal. The UK has nonetheless been vigilant in checking that sustainability and value for money criteria are met. As fishing possibilities are being reduced for very large pelagic vessels in the north Atlantic, some UK vessel owners have started to request fishing possibilities under some southern agreements such as those with Morocco and Mauritania. This trend may continue in which case the UK would have to address issues such as costs of access and of ensuring who pays for monitoring, control and surveillance of these vessels to ensure they fish sustainably.
- WWF believes that the external dimension of the newly reformed CFP, if properly implemented, provides a solid framework for delivering fairer and more sustainable fisheries. It also provides the mechanisms for the representation of environmental, economic and social obligations in all bilateral and multilateral fora in a way that may not be possible for the UK alone.

## **Current legislation**

- By their nature the legislative requirements placed on EU Member States (MSs) through the CFP and other EU legislation should ensure a level playing field – that is to be welcomed for the reasons noted above. It is our view however that inconsistent, and in some cases the ineffective, implementation of EU requirements by Member States has undermined the effectiveness of the management regime. The reasons for this are varied, including ambiguous wording in EU legislation, different penalty regimes and poor monitoring and enforcement. The EU Commission has an important role in tackling such

activities and pursuing infraction cases where MSs are not fulfilling their obligations.

- In terms of meeting local and regional needs as noted in the background document, the UK has a considerable degree of autonomy in managing its fisheries at national level. Where fisheries are shared with other Member States there are opportunities for real improvement through the adoption of effective management plans which can be tailored to meet regional needs, and through new regionalisation arrangements.

## **Funding**

- It is hoped that the new European Marine Fisheries Fund will direct funding in favour of improved data on stocks, assist fleets to meet the challenges presented by the new Regulation and facilitate stakeholder engagement in the governance of fisheries over this next decade, as engagement of stakeholders in the decision making process will be key to the delivery of sustainable management and compliance. The European fleet is still on balance over capacity and it is the interests of all Member States that this is addressed effectively.
- WWF welcome the improved conditions set out for financial assistance to Member States with assistance being conditional on compliance with the CFP rules and that non compliance may result in interruption or suspension of funding.

## **Future challenges and opportunities**

- It is doubtless the case that the landings obligation introduced by the reformed CFP will prove a significant challenge to meet but UK fisheries have made a good start on exploring selectivity options and means of avoiding certain fish species or aggregations of fish. It is hoped that other Member States will begin to prepare in earnest for the landings obligation and that effective communication is achieved between Member States to share knowledge and experiences across fisheries to achieve the effective reductions in wasteful discards needed over coming years. The more effective this process can be the more beneficial it will be for the UK.
- Another major challenge will be improving the overall governance of fisheries and wider marine management and engaging the active participation of other Member States in shared fisheries under the new regionalisation opportunities. There are great benefits to be had if an effective regionalisation process is implemented, with the active engagement of stakeholders in the decision making

process. The UK has a good governance model to offer in the form of what started out as the Scottish Conservation Credits Scheme and is now the Fisheries Management and Conservation Group (FMAC).

- On a wider level and noted in the consultation document is the issue of climate change and how we manage fisheries effectively for the impacts that this inevitably have on European marine life. This will need careful consideration, adherence to the best scientific advice and a precautionary approach to management. It will in part need to be addressed alongside the effective integration of wider environmental considerations in fisheries management.

## **Conclusion**

- Reviewing the content of the consultation document and WWF's experience in the decision making process, including our extensive work on the recent reform of the CFP, it is our view that on balance the conservation of marine biological resources is best served under the current competence arrangements. Central objectives set at an EU level applicable to all EU waters, with the scope for regional/fishery level flexibility as to how to meet these decisions makes sense when the resource under consideration is a mobile one such as fish stocks. The challenge for the UK, the EU institutions and other Member States now is to work together to implement the new CFP effectively in order to meet the agreed commitment that fishing and aquaculture activities are sustainable in the long term.

## Stakeholder Engagement - Note of meetings

### Academics Roundtable

**11<sup>th</sup> December 2013**

#### **Attendees:**

CEMARE / University of Portsmouth

University of Reading

Warwick University

#### **Current management arrangements**

- It was noted that in the absence of EU management action would be required at an international level to manage fisheries, whether through EU or some other international forum, such as an RFMO like NEAFC. In particular in the setting of access rights and quotas (TAC shares).
- The shared nature of the stocks requires common action as others are affected if one country does not act sustainably.
- It was noted that the CFP was unusual in the EU context in being both a market measure and with the goal to conserve and manage a resource, fish stocks. It was questioned how important it was to link these two aspects. This in part reflects that the policy has moved from being market based measures to wider fisheries management and the UK chooses not to use the available market intervention measures in this area.
- There are benefits from the single market and UK businesses will benefit from access to these.
- Post Lisbon and with greater competence passing to the European Parliament has provided a new perspective. Allowing greater consideration of the wider goals of the CFP e.g. social and environmental considerations.
- Some commented that greater consideration should be given to supporting and regenerating coastal communities. This was in the context of the social economic objectives of the CFP, where it was felt that the CFP had failed to deliver. Others commented that this should be considered in the wider goals to be achieved in an area what would be most effective.
- It was noted that UK already has significant powers to affect the profitability of the UK industry and achieve conservation outcomes through existing member state powers to allocate quota, enforce technical measures and monitor our

seas. The EU's primary role is to determine and allocate to member states fishing opportunities (e.g. quotas).

- Some made the point that level of influence from the industry in the key decision making bodies does not encourage a holistic view of fisheries management. In contrast others felt that this was a function of any international negotiation.
- It was noted that working as part of the EU innovative policies can be applied over a wider area bringing greater benefits than if the UK acted alone.
- Enforcement was thought to be key, as member states are unable to act to achieve long term goals if they will be disadvantaged in doing so. Effective enforcement of the rules has potentially a greater positive impact on the common resource than other measures. With benefits for all in encouraging best practice.

### **Benefit of a common resource to member states**

- The issue of the benefit to member states from the quota they receive was discussed in the context of the need for an economic link to the country providing the share of the common resource.
- Some felt that freedom of investment was necessary as part of the wider free movement provisions of the EU. Others felt that fisheries was different as it was a common resource and that in contrast to other industries it was harder to see the benefit to the member state allocating the quota, if not used by UK businesses to support the policy goals that had been identified.
- A suggestion was made that quota could be more valued if it was charged for at allocation. Others questioned whether this would provide additional benefits when ITQ systems are already possible and in use for example in Denmark and the Netherlands. It was also commented that in effect quota is paid for by parts of the industry under informal trading agreements.
- In this context it was noted that quota swaps between member states provide a means of flexibility to adjust to changing circumstances. Without formal trading between businesses this happens through member states swaps of quota.

### **External Dimension**

- The potential benefits from these agreements from a development goals and moral perspective were thought to be large. However, this was based on the EU ensuring the third country had an appropriate agreement.

- An argument was made that as few countries benefit from these measures it may be appropriate for this not to be an exclusive EU competence. This would ensure that EU taxpayers were not funding opportunities for private enterprises in a small number of member states.
- The key concern was that some 3<sup>rd</sup> countries did not have the capacity to enforce the agreements and the EU could do more in this area.
- Northern and Southern agreements should be considered differently as they are conducted on a different basis.

### **Future opportunities and challenges**

- It was felt that relative stability reduced the flexibility to adapt to changing circumstances in the marine environment. As a result more informal swapping mechanisms between member states were used to ensure quota was in the right places. It was noted that addressing relative stability would be difficult as no one would want to risk negatively altering their share.
- The potential to charge for the resource was suggested as a potential interesting area. Others argued that quota already has a value as a result of informal trading between fishermen. The issues of value of the allocation was also considered in the context of existing practice and the views that were expressed in relation to transferable fishing concessions in the reform. No points were made to relate this directly to an issue of competence but this was recognised as being part of arguments on ensuring maximum benefit from the quotas member states receive.

## Bilateral Meeting with the Association of Inshore Fisheries and Conservation Authorities

8<sup>th</sup> January 2014

### Attendees:

Kent and Essex IFCA  
North West IFCA  
Devon and Severn IFCA  
Eastern IFCA  
Northumberland IFCA  
Southern IFCA  
Sussex IFCA  
Isles of Scilly IFCA  
Cornwall IFCA  
IFCA Association

The key points raised in the discussion were:

- While recognising that historic access to 0-12nm zones around member states is reciprocal, it was commented that difficulties are created in that EU competence does not allow member states to apply rules developed to manage this zone to other member states vessels if those states or the Commission do not agree.
- An example of this was the UK Government non discriminatory attempt to protect Cetaceans in the South West where measures can only apply to UK vessels, allowing others (France and Belgium) with historic access to continue existing fishing practices despite evidence of cetacean deaths. (Commission Decision 2005/322/EC refers). This fundamentally undermines the ability to achieve the objectives of the measures and subsequently damages the working relationships between IFCAs and the fishermen with whom they are trying to work. This creates a perception amongst the fishing community that national and regional regulators are impotent and simply focus their energies on minor issues whilst the most pressing major concerns remain unchallenged.
- Related to this was the point that the derogation for member states to manage the 0-12nm is impermanent. It was felt that this should be made permanent in order to remove uncertainty and recognise the work of the inshore management regime.
- Concerns were raised that EU rules are not potentially enforced to the same extent in some other member states. The importance of a level playfield in

enforcement to create a culture of compliance across all fleets was highlighted. It was recognised that one option to address this would be to move responsibility for enforcement to an EU level. It was commented that this would only be effective if there was the political will to enforce the measures equally on all member states.

- Recreational anglers were highlighted as important users of the inshore area. Current EU rules do not fully take account of the impacts of decisions on this group. With the CFP only considering the sector's interests to a limited extent and without fully defining who is considered a recreational angler.
- This was echoed for the inshore fisheries in general. The example provided was for the management of Sea Bass which is an important stock for the sector and recreational anglers. There were concerns that introduction of management measures would fail to take account of the potentially significant impacts on this sector.
- It was commented that in developing rules, transparency was important in order to facilitate a culture of compliance. Achieving this becomes more challenging the further away from the fishery that decisions are made.
- Comments were also raised that member states without an interest in the fishery are involved in fisheries management decisions. This creates the potential and opportunity for them to barter fisheries issues against other priorities, as there is no direct negative impact on them in the fisheries context.

## Bilateral with Dr Lee Rotherham, TaxPayers' Alliance

**18 December 2013**

The key points raised in the discussion on fisheries were:

- A system of multilateral management such as the EU creates difficulties by involving landlocked countries, without a vested interest in the fishery, in making fisheries management decisions. This creates a climate where decisions are not solely focused on what is best for the fishery.
- The use of subsidies in the past by other Member States has created a situation where the UK fleet has comparatively older boats with less catching power. While the cause of reduced subsidy levels in the UK is multi-factorial, it has placed the UK fleet at a disadvantage with its competitors. This creates a cost of opportunity as the UK fleet is not able to take full advantage of possible opportunities.
- It was commented that there has been 20 years in which to fix the CFP and as this has not been fully achieved it suggests the model is not readily reformable and other approaches would be more effective. The greatest concern raised was the powerlessness of the UK to manage the stocks that are important to our fishing industry. Repatriation was flagged as an important part of the solution to this.
- The preferred option would be to repatriate powers for fisheries management to the UK. This would allow the UK to fully utilise the high quality fishing waters that would be within our 200nm limits as provided for under UN law. Bilateral agreements with our neighbours with whom we share fisheries would be necessary to facilitate effective management of the fishery. Consideration would also need to be given to those countries which had historical access rights prior to EU membership.
- It was commented that while the single market has benefits, the UK does not necessarily have to be part of the EU to access the single market. A number of models exist for relationships with the EU as shown by Norway or Switzerland. If considered in this way, there is a greater opportunity to negotiate a relationship with the Union that better meets our needs.
- Concerns were raised over how the CFP is implemented, with examples of a focus on prosecutions for perverse technical rules, rather than on achieving the overarching objectives of the CFP.
- It was recognised that the reform has improved the situation with the move towards more power being exercised at a regional level. However, concerns

remained that the European system is slow to respond, with too great a focus on share of fishing quotas rather than on management of the system.

- Norway was provided as an example of a country that shares waters with the UK but benefits from acting outside communal management. Canada and the Grand Banks provided an example of where greater local control in management is beneficial, irrespective of the current state of the stock.

### **External Dimension**

- The effect of historic deterioration in North Sea stocks has led to increased use of agreements with third countries. A view was given that these agreements, if managed incorrectly, can increase the need for aid in developing countries where EU vessels compete with local communities for resources. This can have wider effects on communities, with the potential for corruption and the landing of black fish, which damages stocks. It was felt that this did not represent good value for money for the EU taxpayer.

### **Looking to the Future**

- While the relationship between fishermen and scientists has improved, it is important to continue this process. This will assist in allowing fishermen and fisheries managers to have early warning of the need to adapt to changing environmental conditions.
- There is a view that the Commission is still moving toward greater management of the seas and centralisation through measures such as marine coastal planning. This long term ambition was felt to be the wrong direction and management at a local level was preferred.
- It was noted that it would take some time for the negative impacts of the CFP's past to be reversed and for stocks to recover. This means that consumers would not see the benefits of improved stock management translating into lower prices until the medium to long term.

The key points raised in the discussion on agriculture were:

- The level of funding for the CAP is significant. The system would be more effective if repatriated, as the benefits received could be achieved at a lower cost. The money could be targeted more effectively to meet UK priorities for example to hill farmers and sectors of farming where there is hardship.
- There is potential in a repatriation scenario to have agreements with the EU to allow effective trade but with better access for non EU producers, the example was given of New Zealand butter. This could be done on the basis of import

tariffs to ensure that UK consumers could benefit from improved prices but without the danger of the products being re-exported.

- It was suggested that it was unlikely that the UK Government would want to support farming to the same level as occurs under the CAP. However, there is justification for supporting activities on the basis of supporting farming communities and rural employment. In the repatriated scenario these decisions would be more democratic and based on the needs of the UK.
- It was noted that the CAP was a key benefit of being in the EU for some member states such as France as it benefits their rural communities and therefore they are not incentivised to change the system. It was noted that there will be vested interests whatever level the system operates at, but we need to ensure the system is operated to meet UK objectives.

## Bilateral with the Marine Management Organisation

9<sup>th</sup> January 2014

The key points raised in the discussion were:

- It was commented that changes in the EU fisheries management regime significantly influences enforcement of fisheries rules at a member state level.
- Within the EU framework there are examples such as the discards ban where other regulations have yet to be aligned with the new requirements creating challenges for enforcers.
- It was noted that the current framework is process driven and quite rigid with strict requirements on the numbers of inspections to be undertaken. This provides little flexibility to adapt rules to local needs or to take a proportionate and risk based approach to enforcement, preferred by the UK. Given the segmented and diverse nature of the fleet this poses added challenges.
- It was noted that the EU framework faces challenges in effectively managing fisheries. The highly changeable nature of the marine environment is not easily encapsulated in a framework which is intended to have regulations in place for long periods of time. This makes the requirement less responsive and reactive than would be ideal.
- The hierarchy of responsibilities for enforcement was outlined, with member states charged with enforcing the requirements on their fleet, the European Fisheries Control Agency ensuring member states meet their obligations and the Commission verifying the standard of enforcement required.
- The view was provided that because of the shared nature of fisheries surrounding the UK and the need for a level playfield for operators in a fishery, either an EU or a member state only model for enforcement would be challenging to operate. The current system was felt to provide a good balance between the EU and member states but could be improved, supported by greater guidance on interpretation of EU requirements.
- The preference would be for an EU system that allowed a more outcome focused approach. It was recognised that this would be more difficult to manage for central authorities such as the European Fisheries Control Agency in verifying that member states were meeting their obligations. However, it would provide better outcomes in ensuring that fisheries management objectives are achieved.

- While there may be a perception that the UK enforces to a greater extent than other member states, this is difficult to verify. Other member states practices are not transparent and audit reports remain confidential. Despite effective coordination between member states at a local level it remains difficult to make comparisons between member states approaches or learn from best practice.

### **Challenges and opportunities of operating outside the EU and CFP**

- Operating outside of the CFP would result in winners and losers in the fishing industry. With some gaining greater access to territorial waters but others losing access to profitable waters in third countries or the EU.
- At individual operator level in this scenario a business could gain by removing measures such as effort controls but lose in terms of access to waters or the ability to trade quota and effort between countries. The full impact of this would be dependent on the agreements the UK could reach with neighbouring countries such as Norway and the EU.
- In addition UK vessels would continue to compete with vessels from the EU and third countries with whom fisheries are shared but operating on different terms. This creates the potential for an imbalance in the level playfield and for UK operators to be operating at a disadvantage.
- Acting outside the CFP and the EU would place additional burdens on the UK regulators, potentially with significant costs. Costs would come from increased enforcement activity to patrol our waters and implement UK requirements. This is contrary to the current trend to reduce budgets.
- A benefit identified of operating outside the CFP would be in the ability to enforce UK measures on other vessels. The complexity that this could bring was also noted, with the potential for additional burden on vessels if different enforcement or licensing regimes are in place when accessing waters of neighbouring countries or the EU.
- There is also potential for action under World Trade Organisation rules, if changes in fisheries management requirements negatively affect other countries ability to operate.
- Operating outside CFP but within EU creates additional challenges, as the UK would still be bound by other EU legal requirements. Currently these are integrated with the CFP to minimise burdens, but this would no longer be the case in this scenario.
- The example provided was the Marine Strategy Framework Directive which includes consideration of commercial fishing as part of its aims of ensuring

good environmental status for the marine environment. The delivery and monitoring of these requirements for commercial fisheries, is to be achieved through the reformed CFP. Outside the CFP additional costs would be incurred to meet these requirements with the potential of further disrupting the level playfield with other countries vessels operating in the same fisheries.

### **Third country agreements**

- It was noted that acting outside the CFP and the EU would create a requirement to negotiate with third countries for access to their waters. With the potential for them to require more stringent technical measures and enforcement as part of any agreement. The EU as a large negotiating block can resist this type of requirement, where as the UK alone may be in a weaker position.

### **Data Collection and structural funds**

- Central requirements for data collection are placed on member states by the EU. While this is helpful in supporting the collection of data to support fisheries management decisions for species and areas of interest to UK, the rigid framework requires we provide data on species not caught by the UK vessels.
- Acting outside the EU would remove data collection requirements but also remove access to the EU structural and enforcement funds. These are used to support enforcement activities, and data collection worth approximately 6 Million Euros a year.
- In future it was felt important to make better use of these EU funds in the climate of increased budgetary pressures. While not a large amount of money in EU terms, they provide important support for activities unlikely to receive funding directly from the public purse under other circumstances.

### **Future challenges and opportunities**

- It was recognised that the immediate focus for enforcement is to implement the requirements of the reformed CFP. It was noted that there is a need to ensure a common understanding of the legal frameworks interpretation across the EU.
- Regionalisation provides an opportunity for a change in approach to enforcement. With more measures developed at a regional level there will be

a greater need to consider the enforcement of the measures at a regional level in order to support a level playfield for operators.

- Allowing measures to be developed by those directly affected by the measures has the potential for more proportionate measures and applied on an outcome basis. It was noted that others may have other interpretations of how regionalisation may be used, burdens could be increased if detailed and stringent requirements are introduced.

## Brussels Workshop

**26<sup>th</sup> November 2013**

### **Attendees:**

Brown, Anthony – *European Freedom and Democracy (EDF) Group Advisor*

Davies, Chris MEP

Girling, Julie MEP

Hazlewood, Richard – *European Conservatives and Reformists (ECR) Advisor*

Hudghton, Ian MEP

Lindebo, Erik - *European Parliament Fisheries Secretariat*

Muir, Lachlan - *Greens / European Free Alliance Group Advisor*

Ocean 2012

Office of Struan Stevenson MEP

Office of Chris Davies MEP

Office of Julie Girling MEP

Pew Trust Scottish Government – *Brussels Office*

Telejbo, Bartlomiej - *European Conservatives and Reformists (ECR) Advisor* UKrep

Welsh Assembly Government – *Brussels Office*

### **Views on the current balance of competence between the EU and the UK**

Participants argued:

- We should assess the CFP based on two criteria: The health of industry and condition of fish stocks.
- That the Fisheries Policy necessarily becomes bureaucratic and slow to respond to changes, when 28 member states become involved in all levels of decision making.
- The counter argument was also made that without the CFP there would be a need for bilateral agreements between all European States who share a fishery. This could lead to fragmented decision making and be resource intensive for member states.
- The shared nature of stocks was recognised and the fact that fisheries conservation requires collaboration between a number of member states to ensure conservation of fisheries stocks that by their nature do not respect national boundaries.
- That the CFP exists to motivate member states to collaborate in good fisheries management. Similarly one member state can take advantage of the conservation efforts of others, emphasising the need for a level playing field.

- Some felt that the current system where non-fishing countries have a vote on fisheries matters does not serve the interests of the fishing member states. This reflects that voting can appear to be influenced by alliances rather than thinking holistically about what is the best decision for EU fisheries.
- It was argued that if the UK was acting outside the EU / CFP, it won't be involved in the decision making for EU member states. This could put the UK at a risk of not being able to shape fishing policy that may affect us.
- The need for effective relationships and influence was linked to the perceived failure to negotiate a higher share of quota when the UK entered the EU and the CFP. This was juxtaposed against the success achieved in CFP reform when working collaboratively with other member states.
- It was felt by some that there was insufficient competence at an EU to ensure that member states and their vessels were compliant within the rules in order to maintain the level playfield amongst member states. Infraction procedures as means for doing this were noted but along with the point that these take a long time to take effect and may provide insufficient incentive.

### **Domestic competence and repatriation**

Participants commented:

- A view was offered that the EU competence on fisheries should be repatriated to the UK. This argument rested on the idea that a property rights approach would incentivise users to value the commodity, incentivising more sustainable behaviour. This approach avoids a 'tragedy of the commons' situation in which a shared resource is depleted by individuals as they do not have such a strong interest in maintaining long term husbandry. It was felt that the UK would particularly benefit from repatriation because the UK would have rights to a significant area of sea to access.
- In response some noted that the potential for rights based management is possible within the CFP framework. For example the approach taken in the UK and Denmark. Efforts to formalise this in the CFP reform were rejected.
- Some felt that the positive possibilities of repatriating competence to member states is demonstrated by Norway and Iceland who have greater flexibility to negotiate with other parties as they do not need to agree their position with others before entering the negotiation.
- Comments were made that the general public were unaware of the areas in which member states had competence to act sometimes it was not clear whether certain fisheries results were accountable to an EU competency or UK competency. An example of allocation of quota to the small scale fleet in the

UK was given. Many decisions already lie with individual member states, even under the CFP.

### **Discussion on alternative balance of competences – decentralisation and regionalisation**

Participants commented:

- Some argued that limits to decentralisation are imposed by the fact that the CFP is an exclusive competence under the treaty. Some questioned whether there is a need for fisheries conservation to remain an exclusive EU competence if it has not achieved its aims.
- Arguments were made to decentralise CFP as much as possible into the hands of member states with an interest in the fishery so that decisions should be made locally. It was suggested that this would allow decisions to be made on an informed basis reflecting local needs.
- An example was given of how there has been a noticeable recovery of stocks in the North Sea. Views in the room suggested that local initiatives were mostly responsible for the recovery seen. Other views were also expressed including recognition of the role of the EU in setting the goals and for triggering this activity to go ahead.
- A discussion on the benefits and challenges of regionalisation followed. It was noted that making decisions at a member state level may not always lead to the most environmentally and economically sustainable outcome.
- The challenges in managing compliance and enforcing measures to ensure a level playfield were noted.
- On balance a view emerged that the UK pursuing more regional initiatives to manage fisheries would be a positive move for conserving fish stocks on the basis that member states would have a vested interest in fisheries they were directly involved in, effectively managing the resource.
- This approach also avoids the perceived bartering for votes from non-fishing countries at and EU level when they are not directly affected by the CFP decisions.
- Regionalisation of fisheries management was considered pragmatic because fisheries management could be adapted to suit the local conditions. An example was given that many Mediterranean countries have thousands of landing points as opposed to Scottish coasts where there are fewer.
- A regionalised approach allows the measures taken to be proportionate and appropriate to the place where the decision will apply.

## **CFP reforms**

- There was a consensus that the current reforms have improved the CFP, although some felt this improvement did not go far enough. Five key achievements of the reforms include: Introducing the binding commitment to set quotas sustainably in line with Maximum Sustainable Yield; greater emphasis on long term management through multiannual management plans; greater regionalisation; a recognition of the need to base fisheries management decisions on science and the landing obligation which will be phased in for white fish stocks from 2016.
- It was felt that although CFP reforms improved the CFP, the full impact of these changes has yet to take effect. In part its success is dependent on effective implementation of the policy, in particular the discards ban.
- Comments were made that the debate in the UK on Common Fisheries Policy (CFP) were generalised and made little remark on the current reform negotiations that are coming to an end soon. Also, there were aspects of British fisheries management that have rarely been discussed in parliament.

## **Overfishing**

- That the existence of Common Fisheries Policy itself was not the reason for the noted decline of the majority of fish stocks in the EU rather that the CFP was unable to address an existing trend.
- It was possible to argue that the CFP had failed to protect fish stocks. In contrast it can also be argued that CFP has a potential for to deliver a more sustainable policy as part of the EU but this must be reflected in the decisions made under the policy. This has been seen in the reform where amendments promoting a fishing industry perspective that were successful in the PECHE committee are voted down at the plenary in favour of a more holistic perspective.

## **Multiannual plans**

- It was noted that multiannual plans were at the heart of the reformed CFP. However, further work is needed to address the inter-institutional impasse so that these plans can be developed and reach their true potential.
- It was noted that the challenge remained in getting a process for multi annual plans confirmed by EU bodies including the EU Council.

## **Fisheries management**

- The possibility of formalising a rights based management in the UK was discussed and reference to Denmark was made on their success on achieving this type of fisheries management. This type of management was suggested in order to solve the ‘tragedy of the commons’ issue, but it was also noted that such measures are possible under the CFP.
- It was also felt that the CFP quota allocation negotiations did not reflect the standard political process in thinking about fisheries management holistically. Instead, the process induces thinking along nationalistic lines of obtaining most quota for their country. It was felt that this produces short-term thinking.

## **Funding**

- The EMFF was briefly discussed. It was felt by some that the subsidies sometimes produced perverse incentives that do not help achieve a sustainable CFP, such as subsidies for fuel. However, others countered that the reform of the fund currently underway was addressing this issue by minimising subsidies and ensuring that money is spent to support the wider goals of the CFP.
- It was also commented that current subsidies are relatively small to other EU policies such as the Common Agricultural Policy.
- It was noted that some member states do not spend all of their allocation and this had the potential impact on the level playing field if some vessels in a market were benefitting from support but others did not.
- Some commented that subsidies do not facilitate the fishing industry towards becoming more market facing.

## **Agreements with third countries and the external dimension**

- It was recognised that in making agreements with developing third countries that the EU has more bargaining power to make these agreements where the UK may not alone.
- There have been concerns over whether current agreement fulfilled the wider objective of these agreements are made. It was thought that the EU approach which took steps to put in place checks and balances was a reasonable approach and other countries may be less diligent.
- Questions were raised as to whether the EU is doing more to discourage corruption when finalising agreements with third countries.
- Suggestions were also made that integrating behavioural economics could also ensure agreements achieve more well rounded benefits and are ethical. However, it was also remarked that the EU was making some progress towards

this by citing that many third agreements ensure the contract cites that the fish caught in the third country should be also processed there.

- It was considered a positive move to link fisheries agreements with development goals including development of local industry of those third countries to ensure all parties benefit from such an agreement.
- The Norway agreement was mentioned along with views that it derived many positive benefits for the UK. A comment was raised that it would be easier to negotiate bilateral agreements as there are only two interests to take account of. In the case of Norway they are able to use their influence to have greater effects on other countries fisheries policy than can sometimes be achieved under the EU system of consensus.
- There were some comments made that if the CFP exists then the competence should sit with the EU to make agreements with third parties. Other disagreed that the EU should have such a role.

### **Future challenges and opportunities**

- A point was made that with relative stability in relation to quota allocations remaining unchanged this provides little flexibility to adapt to changing circumstances. It was felt that alternatives needed to be considered to ensure fisheries are being managed in the best way possible.
- Regionalisation was mentioned as an opportunity to deliver democracy and deliverability at the smallest unit possible. It was also felt that this was an opportunity to demonstrate to the EU that regionalisation can deliver fisheries management objectives effectively. Supporting the assumption that EU micromanagement has been one of the drivers for the failure of the CFP to date.
- A comment was made on whether the data could be entirely reliable as there would be incentives not to report non compliant activities which therefore could skew the data. Data reporting systems have not yet removed incentives to under-report or misrepresent fishing activity despite a tightening of rules in recent years.

## Consumers' Roundtable (London)

**18 December 2013**

### **Attendees:**

Burrington, Tessa *Individual*  
Coleman, Kevin *Individual*  
Compassion in World Farming  
European Movement  
Institute of Food Science & Technology  
TaxPayers' Alliance

### **How does the EU approach to agriculture and fisheries benefit or disadvantage UK consumers?**

One or more attendees raised the following points relating to agriculture:

- EU competence for animal welfare benefits consumers by setting uniform welfare standards across Member States. UK consumers can be assured that animals in other Member States are reared to common welfare standards to those in the UK. Legislation on veal crates, sow stalls and battery cages were provided as examples.
- EU competence assures UK consumers that food should be produced to the same safety standards and quality across all Member States. It is in the UK's interest to push for improved standards across the EU to raise standards whilst maintaining a level playing field.
- It was felt that EU level competence for agriculture was generally aimed at *producers* in the early stages. Consumers were therefore an afterthought and this led to policies that did not always reflect their interests.
- Total support to agriculture as a percentage of GDP in the EU has declined by three-quarters since the late 1980s according to the OECD. The move towards a more market based model has also benefited food production overall by lowering prices and providing a wider choice for consumers than before.
- A negative impact of the current market system was the increase in prices for consumers as a result of less favourable access to the market for cheaper imports.
- It was noted that taxpayers may not receive the best value for money from the current CAP system. It was felt that funding was not always being used to

support the right sectors with examples given of golf courses and airports being supported.

- One disadvantage of the CAP is that it can tend to support industrial models of farming. The pollution costs to the environment of large factory farming practices are often hidden and not considered, and it was felt that the pursuit of sustainable agriculture was a priority for consumers.
- If taxpayers' money was withdrawn from funding the common agricultural policy it could potentially save the UK tax payer £1 billion a year. The UK has a better degree of transparency over CAP payments than other Member States but it is hard for the consumer to understand where the money goes, if it is at the right level or whether it should be cut.
- It was suggested that more needs to be done at an EU level to source food locally within each Member State rather than importing similar items between Member States or outside of the EU.
- Where CAP payments are used appropriately they can help achieve UK objectives. For example, supporting the transition to higher welfare systems which can encourage better practices throughout Member States. This can create broadly comparable standards across the EU that would not be easily assessed if governance was at a different level.

One or more attendees raised the following points relating to fisheries:

- It is noted that there is use of subsidies in fishing around the world. This is with the aim of lowering costs, maintaining employment and maintaining fish stocks. Finding an appropriate balance between these factors is difficult to achieve.
- There has been a change in management approach in fisheries across the world as a result of greater understanding of fish population dynamics. The previous approach had led to a decline in stocks creating a problem which increased the cost of fish for consumers.
- It was commented that fish farming practices should also be considered. At present, harvesting of fish for fish feed can have negative impacts on other ecosystems. This principle was not thought to be fully considered under EU requirements.
- Effective enforcement of fisheries requirements was raised. It was argued that the perception of ineffective enforcement by other countries does not incentivise compliance and best practice in the fishing industry.
- A view was given that fisheries management decisions should be taken at a local level in order to provide appropriate accountability and ensure democracy

in the decision making. There is a need to increase the feeling of ownership to improve the quality of decisions made.

- Some participants felt it was wrong that EU processes allowed landlocked countries a say in decision making on fisheries. It was argued that these countries were able to barter fisheries issues against other priorities, leading to decisions which did not meet the needs of the fishery. This problem was thought to be exacerbated with EU expansion.
- A view was given that while fish cross borders there is a need to make agreements with those that share fisheries but there are other models for achieving this other than the CFP. It was noted that there were benefits in EU level stock management in keeping quotas between Member States stable. However, some participants felt that management of stocks at national level would be more effective increasing quotas.
- It was commented that as part of the EU we have less say at international fora than other countries, for example Canada. This reflects that the EU speaks at these fora on behalf of all Member States. This has disadvantages when it relates to important issues or markets for the UK.

**From a consumer perspective, what future challenges and opportunities do you think will affect agriculture and fisheries policy?**

One or more attendees raised the following points:

- Some participants felt that there should be greater consideration of trade in developing agriculture policy in a global market. The example was provided of sugar beet and sugar cane and the need to consider these products in an integrated way.
- Concerns were raised about support for biofuels, given the wider consequences these can have in terms of pollution or creating unsustainable markets that damage ecosystems in the long term.
- It was argued that we already produce enough food but are storing it wrongly by not distributing it to areas where it is needed most. How far EU competence exacerbates or mitigates against this problem is questionable but it represents a challenge for the future.
- The horsemeat incident highlighted many concerns for the consumer over the safety of food. This was linked to the importance of enforcement of food law to improve consumer confidence.
- The EU trading bloc can help to protect high standards. A large trading bloc has a lot of weight when trading internationally and can sometimes create an

opportunity to increase standards of third countries. This is true for food quality but also ethical considerations.

- It was suggested that labelling is an important area for consumers which can be difficult to achieve at a national level due to the international trade in food. With increased complexity of the food chain, some consumers would like to see an increase in method of production labelling across a wider range of their food. It was argued that this would be best achieved multilaterally, such as through the EU.
- Some attendees argued that not all UK consumers are convinced of the safety of GM food. It was argued that there was a pro-GM lobby which ignores consumer choice and that there is not a scientific consensus on the safety of GM. It was suggested that Defra (and therefore the UK) was becoming progressively pro-GM, and that it was positive that EU processes had slowed the introduction of GM products to Europe.

Consumers are concerned about climate change and sustainability. In the future, it was argued that the consumer would benefit from an EU and UK agriculture policy that follows the principles of agroecology and sustainability.

## London Workshop

### Attendees:

Client Earth  
Environmental Defense Fund  
British Trout Association  
Food and Drink Federation  
Institute for European Environmental Policy  
National Federation of Fish Friers  
Royal Society for the Protection of Birds  
European Commission to the UK

### Structure of fisheries management

- Although there were issues with the existing Common Fisheries Policy (CFP), it was felt that joint fisheries management between countries sharing fisheries is necessary to manage a shared resource. Therefore EU intervention and management is appropriate.
- However, it was thought appropriate to examine what alternative structures to EU management could look like, but that such an examination should also anticipate benefits and the disadvantages of those alternative structures.
- The Norway example was given, where a country benefits from being in the European Economic Area (EEA) but not in the EU. It was felt by some that this gave them the benefit of competence in managing their fisheries.
- Outside the EU member states would need to conclude bilateral agreements with all relevant countries with whom they share a fishery. This had the potential to be very resource intensive and complicated.
- It was argued that there were benefits of setting common objectives at the EU level. Without a common standard, there is not incentivisation to take decisions that may only bring benefits in the longer term.
- There was a discussion on the merits of the EU as a setter of goals and targets. The example given was the Cod recovery plan where EU measures have been questioned as to their benefit. In contrast it was felt the target incentivised work at a local level that effectively achieved the overall objective, using an alternative approach.
- Regionalisation was felt to provide a good opportunity to address the tension between giving member states more scope to develop solutions to fisheries

management and having central coordination to ensure goals were aligned and compliance is enforced.

- That the new CFP approach of regionalisation where high level goals are set at EU level with technical measures developed more locally was a positive development. Allowing measures to adapt to local needs. Although it was noted that how the CFP will work in practice was yet unknown.
- The CFP approach allows measures associated with markets and resource management to be addressed in the same place. This allows consideration of environmental aspects and cross fertilisation between the two aspects in achieving the wider goals of the CFP.
- There was also a concern that without central management of fisheries through the EU, more problematic relationships with other countries might arise without a central mediator.
- A comment followed that care had to be taken that the interim goals support the long term goal sought and did not have perverse implications.
- It was noted that the legislative process is time consuming and doesn't reflect the time taken in the marine environment to respond to measures. Many years may be needed for the measure to take their effect after they are agreed

### **Use of scientific data in fisheries management**

Participants commented:

- The importance of science in decision making under the CFP was recognised. With the key action at EU being to maintain the standard of data collected and used for fisheries management decisions.
- It was felt by some that the use of scientific data is structured and formalised, and under the new Advisory Councils it would be ideal if the availability of data was more fluid to inform local decisions. This should be examined more closely under the reformed CFP governance structure.
- In contrast some felt the formalisation of science data handling is a reflection that the scale of the task of data management for 28 member states. It was suggested that it would be useful to use science throughout the system e.g. regional advisory councils to assist them in their decision making.

### **Aquaculture**

- It was noted that applying the CFP methodology wider for example to aquaculture has limitations. The diverse nature of aquaculture, reflects that its methods fall between terrestrial animal farming and CFP and therefore it is not managing a wild common resource.

- An example was provided for this with the proposed new Aquaculture Advisory Council which is to perform the same functions as a RAC for the capture sector, but which is intended to operate across the whole EU. It will need to reflect the diversity of species and husbandry methods that make up the aquaculture industry across the EU, in addition to the different routes to market and regional consumer preferences.
- The new Aquaculture plans in the reformed CFP have reflected in their scope in the regulation the need to take a more flexible approach. Care would be needed in implementing the plans to take account of the diversity in the aquaculture sector in the EU. This should be reflected through flexibility of approach and not setting detailed rules such as production targets.
- The UK industry favour a “toolbox” approach to regulation – that is to say the creation of various enabling measures to help deliver CFP objectives, but on the proviso that they remain optional / at the discretion of industry to invoke such powers / measures (for example, through establishment of POs etc). Responsibility for production should remain with industry and not be dictated at the EU or MS level.
- From a market context aquaculture was felt by some to be vertically integrated into the supply chain in the UK in contrast to certain other EU states.
- Aquaculture planning is not centrally planned and that EU intervention in doing this wouldn't be necessary as planning already reflects the local needs and the opportunities to sell into the market as with other species raised for consumption.

### **EU single market**

- A point was made that the market driven change is important, as it was felt that markets can be more effective in driving change than regulation.
- It was cited that the processing businesses often operate on a pan European basis and access to the European market for seafood, one of the largest in the world, is important for UK businesses.
- It was felt that the common market solved a number of trade disputes that existed prior to its creation.
- It was noted that the bulk of fish consumed in the UK is imported from third countries such as Norway and Iceland. With the fish landed in the UK largely exported to others where there is demand for those species. Even doubling the level of EU catches was unlikely to be sufficient to meet current levels of demand.

- To some extent the need to manage fish stocks sustainably is a dual goal; for our fleets operating in EU waters but also in our sourcing policies to incentivise those countries with whom we trade in fish to act appropriately.
- The UK has had an established pattern of consumption for some time and continues to eat white fish species caught in Icelandic and Norwegian waters. The change over time has been whether it is UK vessels or others landing this fish.
- It was noted that while there may be a role for diversifying UK tastes for fish. It was questioned whether it was better to change UK tastes or to accept that there will be greater demand and therefore profit in trading these elsewhere.
- It was commented that despite fish processors using sustainable sources, the failures of the CFP has made people nervous about eating fish when the fisheries stocks from which the majority of UK consumers consume from are sustainable stocks.
- Some participants stated EU regulation and third party intervention act to incentivise business action in this area. While others felt that the competitiveness of other private sector businesses operating in the same market is often more of concern than government intervention.
- The role of ecolabelling was considered as a means for informing consumers and allowing the market to incentivise sustainable behaviour. To date this was voluntary but the merit of common labelling standards in other areas was noted.

### **External dimension**

- The relationship between the EU and Norway was felt to be a benefit to the UK's national interest.
- It was felt that although it would be more complex to negotiate and mediate interests if all countries were operating outside the CFP and separate agreements were required.
- In contrast it was also commented that Iceland and Norway can serve as an example of how third countries with relatively good fish stocks can take ownership of their own fisheries and still work in an equal partnership with the EU.
- It was thought to be important to maintain the balance of import tariffs and incentives for third countries to trade with the EU single market, in order to maintain the effectiveness of the EU single market.

### **Future challenges**

- Given the demand for seafood in the EU it is unlikely that we could become self sufficient and effective trade with others is an inevitable part of ensuring security of supply.
- With the importance of imports and exports of seafood from the EU the implications for food security were thought to be important. With some countries becoming more protectionist with the use of important tariffs etc there were potential implications for food security at EU level. A distinction was made here between self sufficiency and food security achieved through a market that allows exports and imports of more food or types of food not produced in the UK.
- It was felt the system was too rigid with too little flexibility to respond to changing circumstances in the dynamic marine environment. The example stated was the relative stability principle. The alternative view was also given highlighting that without relative stability there would be greater economic instability in the catching sector.
- Further examples of the rigidity of EU rules constraining innovation in the face of changing circumstances was the use of innovative methods invented by the UK to minimise unwanted catch and discards. The approach could not be fully utilised due to the constraints of existing regulations.

## National Federation of Fishermen's Organisations members' Discussion (Brussels)

**17 December 2013**

### **Attendees**

Anglo Northern Irish Fish Producers Organisation (ANIFPO)

Cornish Fish Producers Organisation

East of England Fish Producers Organisation

National Federation of Fisherman's Organisations (NFFO)

National Federation of Fisherman's Organisation's South East Chairman and NFFO  
Chairman-elect

North Atlantic Fish Producers Organisation

### **Current management arrangements**

- The complexity of fisheries was highlighted by participants. It was noted that a number of interacting variables are to be considered in making the assessment of the impact of EU competence and whether there would be benefits to work outside the CFP. Variables included the terms of agreements with those whom we share fisheries, the share of quota that the UK would receive and several others would all impact the assessment made.
- It was highlighted that in any assessment there would be parts of the fleet that may benefit from alternative forms of management and others would not. Identifying a system that performed optimally for all, would be challenging.
- Developments in marine conservation law mean that while the UK is a member of the EU, irrespective of whether the UK is in the CFP, there will be EU regulation impacting on fisheries management for example in setting quotas through the Marine Strategy Framework Directive.
- The shared nature of fisheries was felt to be important, presenting a need to work effectively with neighbouring countries in managing fisheries. Unsustainable behaviour by one member state will impact the productivity of others and there is a need to work together to find an appropriate management approach.
- A point was made that it is difficult to assess to what extent the concerns with the CFP are a reflection of EU competence or the outcome of the process. Some participants felt that without the CFP or EU there would be a need for a management structure, the question was whether the current approach serves our needs effectively.

- An example of the challenges operating outside the EU was given of the current situation with Iceland and Faroes where without a formal structure it has proved difficult to find a solution to quota allocations in the face of changing circumstances.
- The micromanagement approach to fisheries management in the past was criticised. This tries to place detailed rules in a technical area when a results based management approach would be preferred and was felt to be more effective. Under this approach incentives can be used to achieve the over arching goals.
- Different implementation of regulation in the EU was raised as a concern. There is a perception that the UK implements on the basis of the letter of the law verses the spirit, which is perceived as being the practice elsewhere.
- The implementation issue is felt to be a function of each country applying the rules to their fleet and is a result of the great diversity in fisheries operations across the EU. Participants commented that the more countries involved, the greater likelihood of a range of interpretations.
- The number of member states in the EU and the impact of decision making was raised in several contexts. It was felt by some that without the need to agree positions with the full 28 member states would increase efficiency and reduce costs. This was seen as important in the EU Norway negotiations where the EU negotiators who have to balance the needs of 28 member states before negotiating with Norway who in contrast are able to be quicker in their response as a single country. It was also felt the Norwegian negotiators operated from a position of knowledge and understanding of the industry enhancing their position.
- Participants raised concerns that EU decision making involves those who don't have direct interest in a fishery. This creates a climate where land locked member states can influence the decision on a fishery on the basis of wider political concerns rather than having informed decisions based on local needs. A recent example provided was the position on Nephrops quota in the Irish Sea where the countries involved can reach an agreement but are hampered by those not involved in the fishery.
- Some present felt that a true level playfield across member states is difficult to achieve as each member state will have its own priorities. Greater flexibility is needed to ensure the requirements are applied appropriately across the diverse fisheries of the EU.
- Elements that worked effectively in the current system were the RACs. The benefits of a forum where a number of member states and interested parties can discuss and develop advice was felt by some to be important. This has

lead to more effective relationships between the industries of neighbouring member states.

### **Third Country Perspectives**

- Norway approach was seen as an example of good practice in relation to fisheries management. It was felt that they focus efforts on getting the basics right so that fisheries management worked effectively. This allowed greater flexibility in other areas. Where issues arose, for example if there was over capacity in the fleet they were able to address this quickly.
- Fisheries partnership agreements. There were concerns that EU negotiators were less able to achieve a good outcome than could be achieved unilaterally by a member state. This was thought to be linked to technical knowledge or experience of the fishing industry and therefore would be less able to identify the approaches that are likely to be most effective.

### **Impact of the market**

- There was support from some for the single market and the benefits this can provide for fisheries. It was flagged that the price for market access through the CFP has been additional regulation that goes beyond the original intention of the requirements.
- Consideration of this issue needed to be on the basis of extent to which WTO has rules would apply and level to which the EU market would be accessible to the UK if operating outside the EU. The impact would alter depending on the terms for trade with the EU and other states with whom we compete including non EU states such as Norway, Iceland and Faroes.
- It was commented that greater availability of catch from large producers such as Norway and Iceland can significantly impact on the price received at the quay side by fishermen.
- It was noted that competitors such as Norway and Iceland operate on different basis for trade but that they receive favourable terms. For example through operating in the EEA. Others pointed out that this was not without cost, both in terms of contributing to the EU budget and on a fisheries specific level in swapping quotas for access to other shared stocks.
- Some argued that the countries such as Norway are required to apply EU rules in order to trade within the single market but have no seat at the negotiating table in which to influence the development of the rules.

### **Future challenges and opportunities**

- A comment was made on the impact to the development of fisheries policy post Lisbon. With the input of the European Parliament there is an additional variable influencing the outcome of negotiations. While this makes the process increasingly democratic and with greater reflection of environment views it opens it up to over simplification of the issues in a highly technical area. The example provided was the recent deep sea proposal where there was an attempt to ban bottom trawling which had not taken into account existing practice
- In contrast others highlighted that the view point of the UK government and how they balance environment and industry issues can also impact on industry. This reflects their important role in negotiating on behalf of the industry in Europe.
- Participants felt that making decisions closer to the fisheries was preferred but there was realism over the challenges that would need to be overcome to achieve this as treaty change would be required. It was noted the regionalisation provided opportunities in this area. It was argued that in an ideal scenario there would not be a need for a large annual meeting to decide quotas as these could be agreed locally.

## Welsh Perspective Workshop (Cardiff)

**Tuesday 3 December 2013**

### **Attendee list, 19 individuals representing:**

Chairman of the Welsh Federation of Sea  
Anglers  
Dawn Meats  
Farmers' Union of Wales  
Hybu Cig Cymru  
Institute for Archaeologists  
National Assembly for Wales  
Natural Resources Wales  
PLANED  
RICS Wales  
Royal Society for the Protection of Birds  
Welsh Government  
Welsh Local Government Association

### **Note of meeting and evidence for the Agriculture Report**

Participants discussed the following questions:

#### **Should the EU have competence for agriculture?**

#### **What are the benefits and disadvantages of the EU having competence for agriculture?**

##### **Benefits**

- It was argued that EU competence for agriculture had significantly benefited the UK. It was noted that 80% of Welsh farmland is upland and is therefore classified as Less Favoured Area, with 56% designated as Severely Disadvantaged Area. One attendee argued that only with the introduction of the Agriculture Act had farming in the UK become profitable and that EU competence for agriculture helped to make farming economically viable.
- It was felt that EU competence for agriculture was of particular advantage to Wales as it provided a focus on rural issues which would not be as evident in UK policy-making. One attendee argued that Brussels had a greater understanding of the place of agriculture in the wider economy than London.
- It was mentioned that farming was not profitable without direct payments and that even with subsidies the average income was very low. It was stated that without direct payments, farmers would have to raise product price, e.g. by £40

per lamb, or else find ways to spend significantly less on production which was not feasible.

- Attendees discussed a range of counterfactuals and different options for subsidies. It was pointed out that Switzerland is outside of the EU but has higher levels of support than the EU. It was felt that it was difficult to gauge the advantages and disadvantages of differing competence scenarios as it was tricky to identify the specific costs of each option.
- Some attendees argued that EU competence was beneficial for trade agreements in agricultural products as the EU could negotiate as a bloc. Another felt that EU competence for trade was desirable because it protected UK production. For example, although after EU-Mercosur negotiations cheaper South American imports could negatively impact UK beef production, the free market situation outside the EU would be significantly worse.
- Attendees agreed that EU competence was necessary in order to embed wider environmental objectives in agricultural policy. Cross-compliance ensured that farmers met environmental objectives. It was also argued that it was advantageous to farmers to have a common EU policy, ensuring a level playing field as competitors across the EU are forced to take similar action to reduce their greenhouse gas emissions.
- One attendee argued that there was a misperception about the potential benefits of Member State competence in reducing red tape for agriculture. They argued that there would still be legislation even if competence was repatriated and that some non-EU countries have greater rules and regulations than EU Member States.
- It was also argued that outside the EU, the UK would still need a complementary regulatory regime to allow UK businesses to trade with the single European market. One attendee argued that gaining access to the single market could be very costly to business and cited the example of the restrictions placed on Hungary pre-accession.
- There was discussion about the extent to which there was a level playing field within the single market. CAP direct payments which remained coupled were cited as an example of market distortion. It was agreed that although the level playing field was not perfect internally, options outside of the EU were significantly worse.

### **Disadvantages and doing things differently**

- One attendee argued that the UK could have “punched harder” with a different set of rules had it retained UK competence in areas which have negatively affected Britain e.g. sugar quotas.

- Although the UK fought for flexibility on implementation of the CAP, it was argued that this was not always respected by the European Commission. Some attendees felt that there was a climate of fear at the Devolved Administration level as a result of EU audits and heavy disallowance fines. The Welsh Government had asked for advice on its interpretation of certain rules, which the Commission had not provided. The cost of disallowance had had huge consequences for Wales and attendees argued for further guidance.
- It was felt that the UK was not making full use of derogations that it had secured in negotiations. For example, a derogation on when to test water in Wales had not been used even though it was designed for rural policies. Failing to use these opportunities had increased the burdens on business as the UK had essentially goldplated the water testing regulation.

### **Plant health**

- It was noted that plants and therefore pests and diseases were able to move freely within the EU single market and that it was difficult for the UK to take unilateral action to ensure biosecurity. Attendees argued that current EU processes were too slow to react to biosecurity risks – rules were always out of date and not reviewed regularly enough. One attendee argued that traded plants should be passported to ensure they are disease free.

### **Forestry**

- Attendees argued that forestry should remain Member State competence whilst the EU played a strategic role in joining up interrelated policies. Some argued for the EU to play a greater role in governance of forestry.

### **How could EU competence be used more effectively? What are the alternatives to EU competence?**

- Attendees felt that EU competence for agriculture was “the least worst option”. While EU policy had its flaws, EU competence remained preferable to a return to UK competence.
- It was felt that the CAP should focus more on the environment, as ‘green’ reform would lead to greater financial security e.g. for farmers in the uplands.
- Attendees felt that the CAP reform process must begin earlier due to the length of time taken by co-decision. It was argued that the UK must engage early in the process.
- Some felt that a common EU framework meant that the CAP was insensitive to local situations. Attendees criticised EU ‘horse-trading’ which led to even less commonality. For example, greening was supposed to fit all Member States but elements such as the crop diversity requirements were too general and were unlikely to deliver the desired benefits. Likewise, there are EU rules relating to

vines and olives which are not relevant to Scotland or Wales but still need to be applied and enforced.

- Attendees felt that the EU is increasingly moving away from a *common* agricultural policy. A case in point was how the recent CAP reform only allowed MS which already had coupled payments to apply for an increase – potentially exacerbating the distortion in the market.

## **CAP Funding**

- There was disagreement as to whether or not it was illegal to reward farmers for delivering environmental goods through Pillar 2 rather than simply compensating for income foregone. It was felt that as farmers provided environmental benefits such as enhanced biodiversity or water quality this should be recognised in public payments.
- Most attendees agreed that there should be a shift of funding from Pillar 1 to Pillar 2 of the CAP, arguing that Pillar 1 support inhibited innovation and development. Attendees argued that Pillar 2 funding improved competition, helped farmers to diversify and rewarded farmers for environmental standards to the benefit of all.
- There was pragmatism as to the possibility of an EU agreement to increase Pillar 2 funding. Attendees discussed whether the UK could withdraw from the CAP, enabling the UK to move all funding into Pillar 2 schemes, but it was felt that the consequences of leaving the EU would be worse than remaining. It was argued that a UK agricultural budget would likely be smaller than the EU provision.
- Some attendees argued that the transfer of CAP funding from Pillar 1 to Pillar 2 would make Welsh sheep and cattle production unsustainable and decimate the industry.
- Attendees emphasised that the Welsh economy was based on its rural economy, and it was felt that the benefits of direct payments were multiplied through the wider economy.
- It was argued that the Welsh Government needed to take a holistic approach to protect the broader economy. Attendees felt that the CAP budget would only reduce in the future and that the UK/Welsh Government should act now to help farmers and the rural economy to adapt.
- It was felt that Pillar 2 was particularly beneficial to the UK as it had supported the rural economy through the funding of rural broadband.
- Attendees were agreed that the CAP funding was critical to ensure synergies between agriculture and protection of the natural and historical environments.

Benefits were provided both through Pillar 1 (e.g. greening and cross compliance) and Pillar 2 (e.g. funding to protect old farm buildings).

**What are the key issues for the future? Is EU/national/regional/international action most appropriate to tackle and benefit from these?**

- As the CAP budget would most likely continue to shrink, it was felt that greater market alignment was a key issue for the future. Destocking was a key issue because of the move away from coupled payments and realignment from a changing support market to self-sustainability.
- Attendees argued that there was policy incoherence within the Commission e.g. across DG AGRI, DG SANCO and DG ENV. It was also felt that the Commission was a key player which impacted on negotiations, but was not answerable through codecision.
- Maintaining food supply was seen to be a key issue for the future - ensuring food security and affordable food prices. Attendees argued for effective land management and diversification to provide environmental benefits.
- Some attendees argued for greater co-funding, where EU and MSs agree on the objectives.

**Note of meeting and evidence for the Fisheries Report**

Participants discussed the following questions:

- Should the EU have competence for fisheries?
- What are the benefits and disadvantages of the EU having competence for fisheries?
- What are the key issues for the future? Is EU/national/regional/international action most appropriate to tackle and benefit from these?
- How could EU competence be used more effectively? What are the alternatives to EU competence?

**Alternatives to EU competence**

- Attendees discussed the general perception that fisheries around the Welsh coast are in a healthy state. It was explained that 90% of the Welsh fishing fleet are small in size and that over the years (for various reasons) the number of boats out to sea has reduced e.g. Welsh shellfisheries. It was stated that most of the shellfisheries caught by Welsh fishermen do not have quotas placed on them.
- There are restrictions placed on Welsh fishermen regarding how much they can fish around the coast due to Common Fisheries Policy (CFP) rules. It was

mentioned that it would be advantageous to Welsh fishermen if there was UK competence so they could fish according to UK interests.

- It was commented that the decline of British fleets and profits of the fishing industry have made the repatriation of CFP to the UK seem appealing. However, concerns were also voiced that sustainability should be factored into any decision about repatriation of EU competence for fisheries. Regardless of the state of competence, there was a general view that there is a need to give UK fishermen more of a sense of ownership into fisheries decision making.

### **Use of scientific data**

- It was commented that it is difficult to truly assess the health of fish stocks due to a lack of scientific data. Currently the assessment of fish stocks is mainly based on past data about the quantity of landed fish, which does not give a complete picture of fish stocks at any point in time. It was felt that this could not be reliable in predicting the health of fish stocks in the future. It was felt that a lack of scientific data makes it difficult to make decisions factoring in sustainability issues. It was argued that while EU legislation itself wasn't causing problems in building scientific data, it could do more to facilitate the gathering of data. That said, it was also noted that the UK fishing industry, compared to countries such as France, hasn't traditionally had a culture of record-keeping that might prove necessary for generating different types of scientific data.

### **Regional Advisory Councils**

- The recent CFP reform towards devising regional councils was commented on as a positive move towards improving the balance of competence between Member States (MSs) and the EU. However, it was questioned whether regional councils were still too large to match decision making to relevant MSs. A suggestion was made as to whether it would be possible to set up task forces on each regional advisory council as a way to ensure the relevance of actors that input into the decision making.
- A comment was made on the discard ban and the anticipation of introducing protocols to require fishermen to land all quota species including by-catches. Concerns were raised that if fishermen would benefit from landing by-catches, this would incentivise fishermen to catch more by-catch. This could potentially undermine the sustainability objectives underpinning the discard ban.

### **Challenges and opportunities**

- It was iterated that more accurate information on fish stocks is needed for truly sustainable fishing.
- Participants recognised that the shared nature of stock means that input in managing stocks is required from a number of Member States. This presents a

challenge in ensuring the rules are responsive to changes in the marine environment in UK waters.

- It was felt that the soon to be implemented EU co-decision procedures might make the fisheries decision making process even more bureaucratic. There were concerns that this will further delay the decisions being made and implemented.
- It was suggested that the UK could learn from other models used by countries such as New Zealand, Norway and Iceland, to seize opportunities posed by having healthy fisheries stocks. It was commented that in examining alternative structures, the Welsh coast has two fisheries including 'under ten' and 'over tens' with quota management from Producer Organisations (POs).
- Consensus was reached on regionalisation and the recent CFP reform was viewed by all participants as very positive. It was felt that the UK should use this move as an opportunity to make more responsive decisions.