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Regional Governance: Making it work for fisheries and the environment

BACKGROUND PAPER

Conference on Regional Fisheries Management
Brussels 29 September 2009



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Introduction

This paper is intended to provide you with a thought-provoking background before the Conference “Regional Fisheries Management – making it work for fisheries and the environment” which will take place on September 29th 2009 in Brussels. The organisers’ purpose is to help you:

- Think about the concept of regional fisheries management, particularly in a European Community context;
- Explore potential reforms that might be useful or possible under the Common Fisheries Policy (CFP); and
- Consider the key issues and challenges that may affect the possibilities to take a more regional approach to the management of the European Community’s (EC) fisheries.

There are three main sections to the paper, each one designed to introduce information linking to some of the presentations you will see at the conference and help inform our discussions.

First we define and describe our terminology “*regional fisheries management*”, inspired by approaches from around the world. This is followed by a background to the European Community’s legal and policy context in relation to regional fisheries management and what may be contemplated under a reformed CFP. Then four examples describe different international, national and local ‘regional’ fisheries governance structures or management arrangements. We have selected examples that illustrate different approaches to give an overview of the issues, challenges and the potential or actual benefits of successful, or innovative, regional fisheries management. Throughout the paper you will find text boxes with questions, statements or issues that we hope will inspire an interesting discussion and debate at the conference.

What do we mean by “regional fisheries management”?

One way of defining “regional fisheries management” may be:

The division and/or delegation of decision-making responsibilities to the most appropriate institutional or governance structures and level of society given the circumstances of the fishery (fisheries) or marine regions concerned.

For the purposes of this paper, we are presenting a variety of ways of thinking about regional fisheries management:

- International frameworks involving multiple Coastal States or Contracting Parties in Regional Fisheries Management Organisations (RFMOs);
- Approaches where a federation or union of “member” states may be governed by centralised laws of the federation or union and so-called “sovereign” laws of the States; and
- Regional management at a more local scale directly involving fisher communities.

A concept participants may wish to consider in relation to regional fisheries management is the notion of “as local as possible”. This may be at marine region level involving shared stocks and ecosystems over wide geographical areas or may refer to much smaller management units within individual Member States.

Finally, in the literature, co-management and regionalisation are often referred to together or used interchangeably as if they mean the same thing. Co-management is generally defined as an arrangement where both government and stakeholders legally share decision-making responsibility for managing resources¹. In the course of the conference, and in order to gain clarity it may be relevant to ask: are these terms synonymous, do they or should they have the same meaning, or could there be effective regionalisation without co-management?

¹ Sen, S. and Nielsen, J.R. (1997) *Fisheries co-management: a comparative analysis*. In: *Developing and Sustaining World Fisheries Resources: The State of Science and Management*. Proceedings of the 2nd World Fisheries Congress, 1996. Australia: CSIRO. Pp: 374-382.

The EC legal and policy context

Green Paper on the need for CFP Reform

It is almost universally acknowledged that the CFP is failing to deliver long-term, sustainable fisheries management outcomes. Indeed, the Commission's Green Paper² on CFP reform for 2012 sets out a vision of European fisheries in 2020 which paints a picture in stark contrast to the fisheries management outcomes present in 2009:

- Healthy, robust fish stocks;
- Young people wanting to work in a stable, financially robust and independent industry on environmentally friendly fishing boats;
- A healthy, small-scale sector producing high quality fish for local markets; and
- A CFP that is cheaper and easier to manage.

The vision suggests that decision-making in 2020 allows for closer involvement of fishers in 'specific' technical decisions and for stakeholders to fully participate in decisions and debates about fisheries policy implementation.

The Commission suggests five major structural failings of EC fisheries management and numerous related issues that need change. Within the complexity of the CFP many issues are connected. However, we have chosen to highlight four issues we believe are most relevant to regional fisheries management:

Insufficient guidance for decisions, implementation and evaluation

Today, decision-makers have no mandated priorities among the ecological, social and economic objectives of the CFP to guide their decisions. Yet ecological sustainability is the foundation for the economic and social future of European fisheries. In addition, there is no concrete guidance, or set of guiding principles, for adopting the precautionary and ecosystem approaches, nor are there benchmarks or clear indicators to help measure policy achievements.

A decision-making system that encourages a short-term focus

All decisions, regardless of whether they refer to high-level principles or operational implementation of fisheries management, are made by the politicians in the Council of the European Union. This decision-making process supports short-term considerations instead of long-term sustainability. In addition, Council regulations are not flexible enough to implement rules which are sensitive to specific local conditions or for finding the best environmental, technical or economic solutions suited to local circumstances. Micro-management by politicians may be exacerbated by a ratified Lisbon Treaty with co-decision by the European Parliament.

A framework that does not give sufficient responsibility to the industry

Top-down, centralised fisheries management provides few incentives and little motivation for the industry to take its share of responsibility to ensure sustainable fisheries.

A need for protection of small-scale coastal fleets

There is a legitimate social objective to protect small and medium sized fishing enterprises within fragile coastal communities.

² COM (2009) 163 final, 22.4.2009. Green Paper: Reform of the Common Fisheries Policy.

Solutions considered by the Commission

The implications for reform are: placing ecological sustainability at the top of a hierarchy of CFP objectives to allow economic and social sustainability and providing guiding principles, benchmarks and indicators to aid decision-makers (whoever they may be) in making informed and transparent fisheries management decisions.

Some of the options to solve the problems of current micro-management and lack of regional/local perspective are outlined in the Green Paper.

Three alternatives are considered:

- 1) exploring how comitology procedures could be used to delegate decision-making to the Commission in close consultation with Member States and the Parliament;
- 2) finding ways to delegate regional responsibilities to Member States under whichever Treaty is in place, allowing them to be responsible for regulating within Community standards; and/or
- 3) finding a way to allow the industry to co-manage or self-manage within a results-based management framework.

The Commission is also contemplating whether a differentiated fishing regime for small-scale coastal fleets will offer protection for the social fabric and cultural identity of Europe's coastal and fishing communities. Areas of interest for CFP reform include: direct allocation or collective quota schemes to a defined small-scale sector and making fisheries management decisions as close as possible to coastal communities.

The Commission is also weighing up the Community's role in external fisheries affairs and how it might explore regional co-operation in the international arena.

Questions to prompt discussion

- What decision-making or governing entities could be created to implement "as local as possible" fisheries management decision-making?
- How should we define the small scale sector for management purposes?
- What is legally possible under the Treaty? What can be changed to enable regional fisheries management?
- Is the Treaty flexible enough to delegate powers to Member States through multi-national regional decision-making bodies?
- Could existing Comitology procedures foster a workable regional approach?
- Guiding principles, Community-level standards – which decisions should remain at the Union level?
- Which decisions should and can be devolved?
- How can we create flexible enough legal instruments, with supplementary guidance that will enable flexible, adaptive and innovative fisheries management suited to "local" circumstances?
- How can we make "regional" bodies accountable?
- What safeguards and sanctions can we specify to protect against non-delivery by regional bodies?
- Can we, or should we, make legally binding rules about following scientific advice on sustainability measures?
- How can we use the RACs or other stakeholder forums to leverage co-management benefits?
- How do we integrate or take account of emerging legal / policy initiatives?

Decision-making and the EC's Institutions

Today, the CFP is under the exclusive competence of the European Community: with the Commission having sole competence for initiating policy and regulatory proposals, and the Council exclusively responsible for decision-making. In practice, using delegated authority, Member States can and do adapt fisheries management policy to their circumstances³, with inshore fisheries management and quota management particularly. Industry organisations, within some Member States, may also take an active role in self-managing the practical implementation of certain aspects of fisheries management. For example, some Producer Organisations set quota allocation rules, sanctions and penalties.

The basic framework for this is set out in the current Treaty and unless changes are made at the Treaty level, the adoption of any form of regional approach to European fisheries management will mean being creative and innovative within that which is legally possible. In other words: the Treaty determines, under the law, the powers or competences that may or may not be devolved, to whom and the form of institutional framework.

Legal experts both within and outside the Commission are currently exploring whether it is possible to constitute legally recognisable 'regional bodies'. Opinion suggests that the Regional Advisory Committees (RACs) cannot simply be transformed into legally constituted regional management institutions, as they would not have legal competence for making fisheries management decisions. It has also been suggested that local co-management may not be a viable option under the constraints of the Treaty. One of the key questions being asked is: how, under either the current or Lisbon Treaty, can Member States form multi-national regional bodies, for instance for the Baltic Sea, that can take responsibility for making, implementing and enforcing fisheries management decisions.

The options the Commission is exploring are set out in the previous section. As a matter of principle however, borrowing from Symes (2007, p.64-65)³, successful division of responsibilities may rest upon finding ways to ensure that:

1. High-order, meta-governance of principles, broad policies on ecologically sustainable development and long-term management remain the function of the European institutions;
2. Second-order responsibilities are delegated to legally constituted regional bodies that are "as local as possible" to implementing fisheries management, involving or via Member State mechanisms; and
3. Day-to-day management of fisheries is co-managed or self-managed by fishers themselves with appropriate oversight by the EU and/or Member States and accountability measures for fishers to ensure implementation meets relevant standards.

In addition, it might also be appropriate to find ways to remove barriers and boundaries between separate parts of the fisheries management process: science, policy and decision-making, and stakeholder engagement through rigid engagement structures (ICES, STECF, ACFA, RACs), to bring them together into regional management forums may represent a significant step forward. Thus the roles of consultative forums like the RACs and the Advisory Committee for Fisheries and Aquaculture (ACFA) may need reviewing.

³ Symes, D. (2007) In: Sissenwine, M. and Symes, D. (2007)

Reflections on the Common Fisheries Policy. Report to the General Directorate for Fisheries and Maritime Affairs of the European Commission. 75pp.

The Lisbon Treaty

The implications of the Lisbon Treaty will need to be taken into account when thinking about the future of regional fisheries management. If ratified, the co-decision procedure, where Council and Parliament make decisions together, would apply to all fisheries management decisions with the exception of annual fishing opportunities. As the Commission acknowledges in its Green Paper:

“This makes it all the more necessary to re-evaluate the current approach on micro-management at the highest political level and bring decision-making under the CFP in line with all other EU policies i.e. a clear hierarchy between fundamental principles and technical implementation.”

Emerging policy instruments which may interact with EC regional fisheries management

Recent policy instruments on marine environmental management throughout the EU will also need to be factored into the options considered for regional fisheries management, particularly how regional collaboration may take advantage of any synergies and reduce any potential policy conflicts or redundancies. The two main policy instruments to consider are the Integrated Maritime Policy and the Marine Strategy Framework Directive.

Integrated Maritime Policy for the European Union (SEC(2007)1278)

A strategic framework that establishes an overarching, cross-sectoral maritime policy that, in fisheries terms, captures the idea of an ecosystem-based approach to management. Some of the key elements of the policy that require Member State action and are likely to have relevance for regional fisheries management include:

- Marine spatial planning policies
- Coastal community development
- Surveillance, data, knowledge & research
- Climate change, emissions policies, energy efficiency

Marine Strategy Framework Directive (2008/56/EC)

This Directive requires Member States to co-operate with each other and relevant non-EU countries to develop ‘Marine Strategies’ in reference to four marine regions, two of which are sub-divided into smaller areas. One of the main objectives of the Directive is to achieve “good environmental status” of European Community marine waters by 2021. Appropriate and clear environmental targets and monitoring programmes will need to be established, along with Member State programmes of cost effective measures.

Examples of Regional Fisheries Management

International – North East Atlantic Fisheries Commission

The North East Atlantic Fisheries Commission (NEAFC)⁴ is a Regional Fisheries Management Organisation established by an international Convention⁵. It is responsible for multi-lateral fisheries management in the north east Atlantic Ocean, the Barents and Norwegian Seas and the Arctic Ocean. Most of the region (called the “Convention Area”) falls within the national jurisdiction of surrounding Coastal States. Figure 1⁶ shows a map highlighting in orange the zones referred to as the “NEAFC Regulatory Area”.

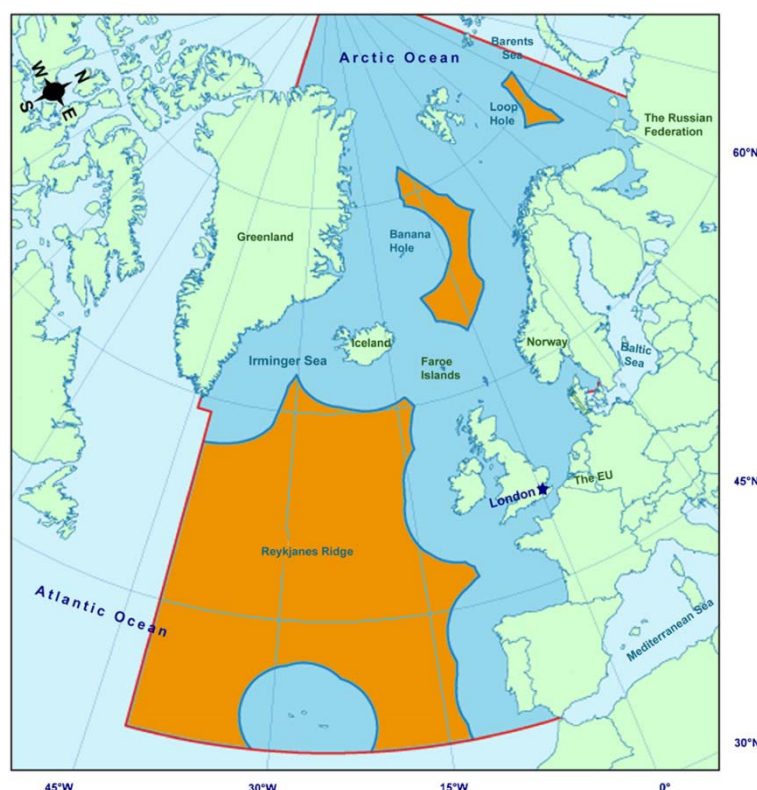


Figure 1: NEAFC Convention and Regulatory Areas

NEAFC adopts fisheries management measures for major straddling fish stocks including: herring, mackerel, blue whiting, pelagic redfish and deep-sea species. In 2004, four million metric tonnes were taken in the Convention Area, about one million of which were reported as caught in the Regulatory Area⁴. Of the five major fisheries managed by NEAFC, only the Norwegian spring spawning herring stock is considered sustainable⁷.

Management measures are binding on its “Contracting Parties”, i.e., the five States that are party to the NEAFC Convention: Denmark (in respect of the Faroe Islands and Greenland), the EU, Iceland, Norway and the Russian Federation. There are also five so-called “Co-operative Non-Contracting Parties”: Belize, Canada, Cook Islands, Japan and New Zealand, who agree to comply with annual NEAFC regulatory requirements.

⁴ Primary references: NEAFC (2007) Performance Review Panel Report of the North East Atlantic Fisheries Commission, NEAFC. London: NEAFC Secretariat. 102pp. And NEAFC website: www.neafc.org

⁵ The Convention on Future Multilateral Cooperation in North East Atlantic Fisheries (1982).

⁶ Source: www.neafc.org (Permission for use of image granted by NEAFC, 17 July 2009).

⁷ Bjorndal, T. (2009) Overview, roles and performance of the North East Atlantic fisheries commission (NEAFC). *Marine Policy*, Vol. 33: 685-697.

Three management scenarios operate within or across the boundaries of the NEAFC Regulatory Area: 1) Coastal States adopt measures and allocations for the whole distribution of fish stocks both within their own jurisdiction and inside the Regulatory Area; 2) NEAFC adopts measures and allocations for stocks within Coastal State jurisdiction and inside the Regulatory Area; and 3) bi-lateral arrangements such as the Joint Norwegian-Russian Fisheries Commission for demersal fisheries in the Barents Sea. Fisheries management measures are adopted through qualified majority voting and once they become binding, Parties are required to effect the measures.

NEAFC's governance structure is shown in Figure 2, highlighting its sub-committees and working groups. The Commission itself is made up by two appointed representatives from each of the Contracting Parties, who may bring with them such experts or advisers as they deem appropriate. Delegations are therefore made up of a multitude of people, with the EU making up the largest. There are usually also significant numbers of observers from the Co-operating Non-Contracting Parties, representatives of NGOs and representatives of International Governmental Organisations such as FAO and OSPAR. The Commission also has links with the Northwest Atlantic Fisheries Organisation (NAFO) and formalised Memoranda of Understanding with ICES and OSPAR.

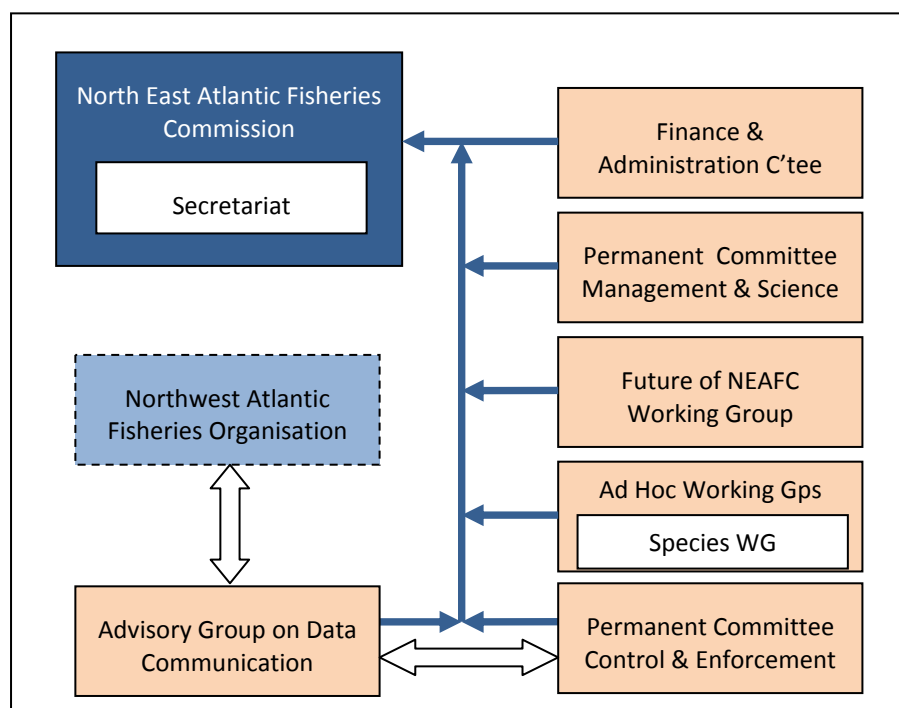


Figure 2: NEAFC governance structure

The cost of running NEAFC is divided between Contracting Parties according to a formula which includes: an evenly split proportion; a proportion based on nominal catches in the Convention Area; and, a mitigating factor based on population size. In 2006, excluding the costs of attending meetings, NEAFC running costs were GB£760,000, 30% of which represented secretariat staff costs.

The Convention⁸ which guides the functions of NEAFC is a set of guiding principles and high level objectives, as well as a document that gives NEAFC the 'operational' power to exercise its functions by making fisheries management decisions. In that context, however, NEAFC

⁸ The "new" Convention on the Future Multilateral Cooperation in North-East Atlantic Fisheries (2006).

does not determine TACs for Convention and Regulatory Areas, nor does it determine quota allocations between Coastal States. These activities are first conducted by Coastal States amongst themselves, in theory based upon non-binding scientific advice from ICES. After TACs and quotas are agreed, NEAFC develops and implements management measures based on those decisions⁴.

In 2006, NEAFC commissioned a review of its performance against the requirements of the Convention. To provide some independence, three external reviewers with international fisheries management, law and science expertise joined three reviewers involved directly in NEAFC. The Review Panel published the following conclusions⁴:

- Satisfaction that the legal framework encompasses relevant international instruments;
- Concern that Contracting Parties have, in many instances, been unable to effectively implement the Convention by not agreeing allocation arrangements in many key fisheries;
- Status of main fish stocks is at a critical point, unless effective action is taken promptly, there is a strong possibility sustainability will be compromised;
- Concern about the lack of social and economic information preventing assessment against the Commission's 'optimum utilisation' objective;
- Recommendation for greater transparency in some key management processes;
- Evidence of strong performance in implementation of two monitoring and enforcement schemes and international co-operation within the RFMO framework; and
- Resolving outstanding allocation issues would pave the way for a move away from management driven, bi-annual, ad hoc negotiations between Coastal States towards management systems driven by transparent objectives and implementation processes.

While NEAFC is an example of a regional fisheries management approach, it clearly is not an example of co-management. It is a high level forum determining both the principles for management and the implementation of management arrangements in a structure that does not formally include those whose behaviour NEAFC seeks to manage. There seems to be insufficient transparency about the balance of interests making up the delegations, committees and groups – are they government or Commission representatives, experts, stakeholder advisors and so on? Civil society (via NGOs) has observer status, but no formal seat at the 'decision-making' table. Nor does industry appear to have formally recognised seats at the table. Even though NEAFC is not a forum for elected politicians, it is a politicised process where national interests and arguments about allocation create tension, prevent agreement and inevitably cause upward pressure on catch limits, pushing fish stocks towards unsustainable levels.

The recent changes to the Convention have brought it more 'up to date' in terms of guiding principles such as the precautionary approach and consideration of factors beyond single species management. While these are now codified within the Convention, one of the challenges may be to ensure their implementation in fisheries management decisions. NEAFC has also been commended on its monitoring and enforcement schemes and further improvements since the Review Panel report. For example, improving Port State control on landings and transshipments and co-operating with NAFO to create co-ordinated IUU black lists⁷. However, until and unless the Parties resolve their outstanding allocation issues, the process and its results have an alarming echo of the CFP about them.

Regional Fisheries Councils - USA's approach to fisheries management

Fisheries in the United States of America are highly diverse from multiple perspectives: ecological, geographical, technological, social, political and economic⁹. The USA is a federation of states; it has multiple jurisdictions governing fisheries in both State and Federal waters (inside and outside three nautical miles, respectively). These characteristics are similar to the European Community context, which also embraces cultural and linguistic diversity which present other challenges and opportunities.

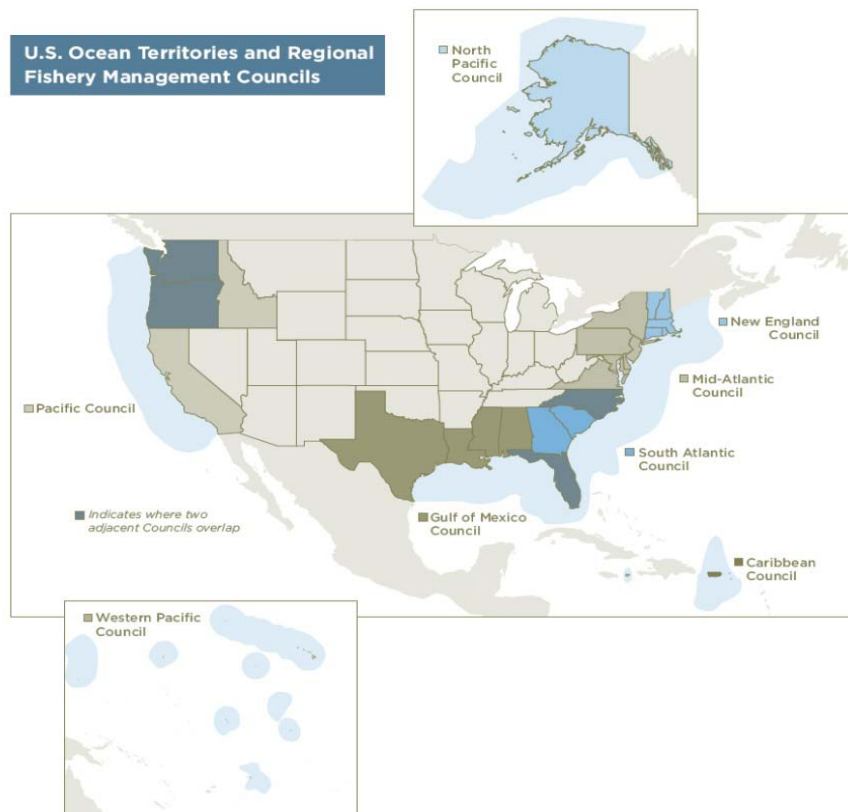


Figure 3: USA's Regional Fisheries Councils

In the USA, fisheries management is governed by the amended Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (2006) (the MSA). As primary legislation, the MSA establishes a framework for regional fisheries management, as well as the high level objectives and principles by which fisheries are to be managed. The MSA creates eight Regional Fisheries Councils (Figure 3¹⁰) and ten National Standards for fisheries management. Councils are delegated the responsibility to develop Fisheries Management Plans (FMPs) and regulations that are consistent not only with National Standards, but other legislation such as the National Environmental Policy Act, the Endangered Species Act and the Marine Mammal Protection Act and relevant operational guidelines.

The FMPs are subject to the approval of the Secretary of Commerce following review by the National Marine Fisheries Service (NMFS). The Secretary has limited scope for action in relation to FMPs and may only approve, disapprove or partially approve a Plan based upon its consistency with the National Standards, the other provisions of the Act or other applicable law. But the Secretary can act to prepare an FMP if a Council fails to do so or fails

⁹ Primary references: National Marine Fisheries Service (NMFS) publications via: <http://www.nmfs.noaa.gov/>

¹⁰ Source: www.conservefish.org/.../images/council_map.jpg (permission sought 19/7/2009)

to submit a revision to a disapproved FMP. Also, the Secretary must act to implement measures to end overfishing within two years if Council's fail to do so.

Council membership includes officials with marine fisheries management responsibility representing each constituent State, the NMFS regional director for the geographical area concerned and individuals, appointed by the Secretary of Commerce, who, by reason of their occupational or other experience, scientific expertise or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Appointments by the Secretary must demonstrate fair and balanced apportionment of stakeholder representation, including States and those who actively participate in the commercial or recreational fisheries under the relevant Council's jurisdiction. A member may be appointed for three years for a maximum of three terms. Councils also have non-voting members from State fish and wildlife agencies, the Coast Guard, Marine Fisheries Commissions, and in the case of the Pacific Council an appointee by the Governor of Alaska. Representatives of environmental NGOs or other civil society groups can be appointed as voting Council members provided they are knowledgeable about conservation and management of fisheries resources.

The costs of establishing and running Councils are met by the Federal Department of Commerce. Voting members are paid day rates for their attendance at Council meetings. Both voting and non-voting are reimbursed expenses.

Recent amendments to the MSA will enhance Councils' ability to carry out their mandate:

- Requiring implementation within two years of management measures aimed at ending or preventing overfishing. In January 2009 guidelines were produced for Councils on implementing annual catch limits taking account of scientific uncertainty and accountability measures to address excessive catches quickly¹¹;
- Ability to implement market-based management measures through Limited Access Privilege Programs allocated to individuals, corporations, communities or regional fishery associations;
- Improving science and enhancing the role of Councils' Science and Statistical Committees, requiring five year research priorities and enabling pilot programs for ecosystem research;
- Strengthening rules about managing conflicts of interest for Council members; and
- Enhancing the ability to designate protection for deep sea corals and conservation measures for non-target species.

The amended MSA also enabled the creation of a Council Coordination Committee consisting of the Chairs, Vice Chairs and Executive Directors of each of the eight Councils to enable discussion of issues relevant to all Councils. The Act also required NMFS to create a Council Training Program which all new Council members are required to complete. The Course¹² focuses on the legal and regulatory requirements of Councils and members, the development of FMPs, fishery science and management, social science and fishery economics, tribal treaty rights, native customs, access and other rights, and fishing gear and vessel technology. The Course can be made available to existing Council members and, as resources allowed, members of relevant committees and advisory groups.

There are general similarities between the fisheries context in the USA and EU: diverse regions and needs; centralised governing institutions and 'member' states; need for co-ordinating legislative framework. However, US law clearly divides responsibilities: meta-

¹¹ NOAA National Marine Fisheries Service (2009) Status of US Fisheries in 2008. Office of Sustainable Fisheries, NMFS.

¹² http://www.nmfs.noaa.gov/sfa/reg_svcs/Council%20stuff/council%20orientation/CCcmgtstuff/CouncilTraining_CCC.htm

governance (principles in the Act); RFCs devolved to make decisions about FMPs and other management measures (with any scope for 'micro-management' by Secretary of Commerce limited by the law); and allocation and management of day-to-day activity can be devolved to more local levels.

Reauthorisation of the MSA in 2006 was necessary to better enable RFCs and NMFS to prioritise prevention of overfishing and to bring in measures that could incentivise fishers to greater stewardship of resources, such as market-based measures. The following box illustrates some of the outcomes achieved by RFCs since 2007.

Selected Council highlights from 2007 and 2008^{13,14}:

- Gulf of Mexico Fishery Management Council reached agreement on measures to address overfishing of gag, red snapper, greater amberjack and gray triggerfish. The Gulf Council has used Marine Protected Areas as a tool to protect vulnerable habitats types and nursery areas from fishing activities.
- Western Pacific Fishery Management Council agreed upon new regulations for permits, reporting, closures, bag limits and annual catch limits to end overfishing of the bottomfish stock complex in the Main Hawaiian Islands.
- Pacific Fishery Management Council adopted major changes to rationalise the West Coast groundfish fishery, including structured harvest cooperatives for the at-sea whiting fishery and individual fishing quotas for the nearshore trawl fishery.
- In Alaska, Bering Sea Groundfish Cooperatives and sector allocations for Pacific cod were established by the North Pacific Fishery Management Council. In 2007, the North Pacific Council adopted a Fishery Ecosystem Plan for the Aleutian Islands area including guidance on the biological, physical, fishery, regulatory and other socio-economic relationships within the ecosystem. It also provides a non-quantitative risk assessment methodology.
- New England Fishery Management Council developed "research set-asides" – a percentage of the TACs for scallop, herring and monkfish fisheries to provide funding for cooperative research projects where fishers partner with scientists to answer questions of mutual interest and address management questions. Cooperative research has led to gear modifications which reduce groundfish bycatch and lower the risks of encounters with turtles. Cooperative funds have supported industry-based surveys, tagging programs and habitat assessments.

¹³ RFMC (2009) US Regional Fishery Management Councils: Opportunities and Challenges. Published by Regional Fishery Management Councils. http://www.fakr.noaa.gov/npfmc/misc_pub/USRFMCweb.pdf Downloaded 20 July 2009.

¹⁴ NOAA Fisheries Service (2009) *Business Report, 2008*. National Marine Fisheries Service.

Scotland's Inshore Fisheries Groups

Scotland's distinctive coastline is of major ecological significance to some of the most productive fishing waters in the world. With over 100 lochs (sea inlets), six firths (large sea bays associated with river estuaries), literally hundreds of islands, skerries (small rocky islands) and rocks, Scotland's inshore waters are home to more than 40,000 species and provide critical spawning and nursery grounds for many commercially exploited species¹⁵.

Shellfish are the most important inshore species. In order of economic value, key species are Norway lobster (*Nephrops*), scallops, brown crabs and lobsters. Squid, other shellfish and finfish also make up the diverse range of fisheries vital to Scotland's inshore fleet¹⁵.

The majority of the fleet, approximately 1,600 vessels under 10 metres, is family owned, helping sustain Scottish rural communities. Unlike major changes seen in the larger pelagic and demersal fleets, the number of inshore vessels has remained relatively stable over the last decade¹⁵.

Member States have the exclusive right to fish inside six nautical miles. While the competence for regulating fisheries exists at European Community level, Member States have the delegated authority to regulate and manage inshore fisheries and, where not already regulated by the EU, fisheries between six and twelve nautical miles. The devolved Scottish government has the jurisdiction to manage fisheries in the Scottish zone of the UK's fishery limits and there is "*particular scope for Scotland to introduce its own management measures in the inshore*"¹⁵.

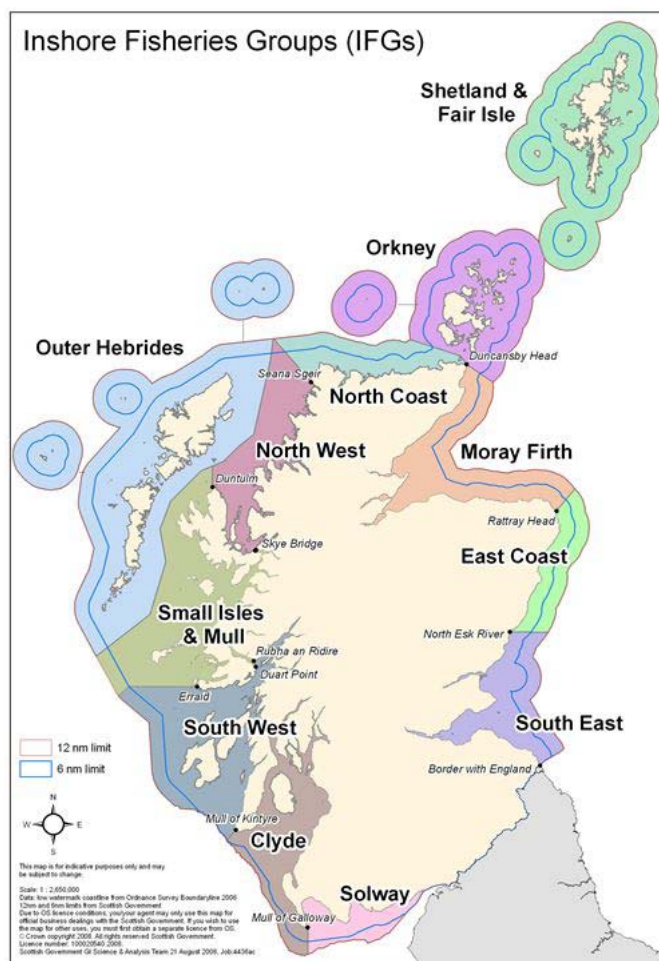


Figure 4: Scotland's Inshore Fisheries Groups

In 2002, acknowledging that fisheries decision-makers were distant from the day-to-day reality of fishing and that the process was reactive, emphasising prohibition rather than proactive management, the Scottish government embarked upon a thorough strategic review of the institutional framework and management of Scotland's inshore fisheries¹⁵. By 2005, after exploring the strengths and weaknesses of various regulatory tools through wide-ranging stakeholder dialogue, a new strategic framework was launched. This set out how Scottish fisheries within a six nautical mile limit would be managed in the future. Two central ideas within the framework establish the strategic direction of Scottish inshore fisheries policy:

¹⁵ Scottish Executive (2005) *A Strategic Framework for Inshore Fisheries in Scotland*. Edinburgh. 27pp.

1. Creating a network of Inshore Fisheries Groups¹⁶; and
2. Devolving management planning for inshore fisheries to a local, regional level.

The strategic framework for inshore fisheries included:

- High level fisheries management objectives set at the national level (i.e., Scotland);
- A mandate for Inshore Fisheries Groups (IFGs) to develop local objectives, consistent with high level, national objectives, but reflecting local priorities and circumstances;
- A mandate for IFGs to develop local management plans to deliver on the objectives using the most appropriate management measures;
- A requirement to test local objectives and measures for inherent conflicts between them and the national objectives and the potential for unintended consequences;
- A requirement to develop performance indicators to enable assessment of management effectiveness; and
- Approval mechanisms by which the management plans would become law.

The aim of IFGs is to give fishers a strong voice in marine and fisheries management. According to the government strategy, IFGs should enable fishers and their representatives to sit at the heart of the management process and their knowledge and ideas will drive the Groups' work.

In legal terms, IFGs are not statutory bodies empowered to make fisheries law, this rests with the Scottish minister responsible for fisheries management. However, their primary goals are to develop local fisheries management plans and to contribute to national debate about fisheries and marine management. Local plans will first be approved at the national level by both the Scottish Inshore Fisheries Advisory Group (SIFAG) and Marine Scotland (the government agency responsible for fisheries) before being translated into secondary legislation. Their and the relevant ministers' powers to approve or disapprove local plans is limited to considering plans' consistency with objectives, whether IFGs have considered the options and whether consultation has been open, inclusive and transparent. In theory, high level political 'short-termism' and micro-management ought to be minimised.

To facilitate their establishment and day-to-day operations, each IFG is urged to form a legally-based constitution based upon guidelines provided by the Scottish government. Suggested means include establishing an unincorporated association or a limited company under British law. The guidelines set out the structures for IFGs, including the establishment of an Executive Committee and an Advisory Group consisting of Scottish research agencies, relevant enforcement and environmental protection authorities and nature conservation bodies. Local government authorities, relevant enterprise networks, national seafood bodies and representatives of the environmental NGO community are also included on the Advisory Groups whose role is to act as partners and advice givers in the management process¹⁷.

Importantly, the Chair of each IFG must be an independent person with no financial interest or commercial connection to the fishing sectors in the IFG area. Full membership of an IFG will be limited to fishers who have an active interest in the fisheries covered by the IFG and will be drawn from both Fishermen's Associations and individuals who are independent, i.e. not affiliated with any Fishermen's Association. Each IFG will have an appointed IFG Coordinator whose job it will be to provide technical and administrative support to the IFG, report to the National IFG Co-ordinator and liaise with other bodies and institutions on the IFG's behalf.

¹⁶ Source: <http://www.scotland.gov.uk/Topics/Fisheries/Sea-Fisheries/InshoreFisheries/IFGsMap/IFGMap> (Permission for use of image granted by Bill Ellis, Marine Scotland, 17 August 2009)

¹⁷ Scottish Executive (2008) *Inshore Fisheries Groups Constitution and Guidance Notes*. 22pp.

Establishment and ongoing IFG running costs and a modest per diem for chairs are met by the Scottish government, while members pay for their own travel, accommodation and time¹⁸. Project, development and research costs may ultimately also be met by the government, as some functions would be aligned with existing infrastructures.

So far, six IFGs have been launched, with three IFGs having appointed independent chairs and co-ordinators, and three more are in the process of being constituted and appointments being made in 2009. Initial work is being conducted on developing pilot management plan guidelines with the help of external consultants¹⁹. Some IFGs have got as far as developing their local objectives in line with the national objectives. For example, the Outer Hebrides IFG has worked with its advisory group to develop and implement sustainability measures such as a combination of increased minimum landing sizes and improved gear selectivity. It has also led initiatives to reduce operating costs and improve product quality, thus keeping an eye on a balance between sustainability concerns and longer-term socio-economic interests²⁰.

Recent national developments of significance to Scottish inshore fisheries management are the creation of Marine Scotland as a new government agency responsible for marine and coastal environmental management, and the Scottish Fisheries Council created to promote a sustainable and profitable future for Scottish fisheries with a slightly different articulation of the high level goals and objectives to which the IFGs are working. The impact of, the interface between and the practical integration of the work of the IFGs, the SIFAG, the new government agency and a high level stakeholder forum is as yet unknown.

The Scottish approach might offer some insights and opportunities in a European context. Acknowledging that the creation of IFGs would not overcome the issues of 'competence' or jurisdiction for creating fisheries law, the Scottish government has created a clear infrastructure and some quasi-legal boundaries that limit the scope for high level interference in local fisheries management.

Collective fisheries management in France

About 90% of the fishing that takes place along the French Mediterranean coast is conducted by small-scale vessels measuring less than 12 metres in length. Around 1,650 fishers use longlines, set nets, traps and pots to target multiple species on a seasonal basis, changing gears to suit their target species of choice. Species of commercial value include flatfish, sea bream, hake, eels, molluscs and crustaceans.^{21,22}

For nearly a thousand years, the fishers who fish the inshore territorial waters and *étangs* (coastal lagoons) of the French Mediterranean have collectively managed their small scale, artisanal fisheries in organisations called «*Les Prud'homies*»²². A *prud'homie*, in the first instance, signifies a territory, in this case a fishing area. Secondly, the organisations called *prud'homies* can be likened to professional guilds empowered to make rules to manage local fish resources, acting as guardians of the small-scale, artisanal fishing profession. Usually made up of experienced and active, self-employed fishers elected from within the area,

¹⁸ Personal communication: Bill Ellis, IFG National Coordinator, Marine Scotland

¹⁹ <http://www.scotland.gov.uk/Topics/Fisheries/Sea-Fisheries/InshoreFisheries/IFGsMap>

²⁰ Woolmer, A. (2009) *Partnership approaches to fisheries management: Lessons for Wales*. WWF Cymru (Wales). 68pp.

²¹ van Hoof, L. *et al* (2005) *Sharing responsibilities in fisheries management*. Annex 2: Case Studies. The Hague: LEI. 222pp.

²² Decugis, C. (2008) *Gestion collective de pêche en Méditerranée : les prud'homies*. Presentation to the 2008 Seafood Choices Alliance Seafood Summit, Barcelona. Downloaded 21 August 2009. Translated by C. Grieve.

http://www.seafoodchoices.org/media/documents/Decugis_CollectiveFisheriesManagement_French.pdf

prud'homies are entrusted with ensuring the best fishing conditions for their members. In this sense, *prud'homies* are like communal marine tenure systems²³. To be authorised to fish in an area, a small-scale fisher must be a member of a *prud'homie* and abide by its rules²³.

Along the approximately 700 kilometre French Mediterranean coastline, including Corsica, there are 33 *prud'homies*. Their primary functions are: 1) to create local fishing regulations which assign access to, and gear rotation through, fishing grounds; and 2) to act as a tribunal to resolve conflicts between members. *Prud'homies* also manage coastal waters to minimise fishing hazards and obstructions such as mooring buoys; verify offenses that may harm resources such as pollution; establish and monitor protected areas together with scientists; represent their respective communities in local and regional committees; and negotiate with other authorities on issues such as mooring rights, landing sites and storage of fishing gear. Members also act as auxiliary police and may investigate and record breaches of fishing rules and draw up relevant statements.²²

The main measures *prud'homies* use to manage fisheries resources and fisher access are²²:

- Regulating seasonal openings and closures;
- Regulating when and where different gear types can be used;
- Determining the total number of vessel authorisations, vessel sizes and other specifications to reduce fishing pressure on each species;
- Regulating mesh and hook sizes to ensure only mature fish are targeted; and
- Specifying soak times for gear to ensure freshness and limit rejection of damaged fish.

The legal status and future role of *prud'homies* has been under discussion in France. However, according to *Prud'homie de Saint-Raphaël* representative, Christian Decugis, the organisations are answerable directly to France's fisheries minister²². Decugis also reports that one of the real strengths of the *prud'homie* model is their adaptability: having the capacity to react quickly to changing circumstances and make decisions that have immediate effect on the water²². Their decisions can be made in the sole interest of fishers and fishing, independent of other local and political pressures²².

Conversely, van Hoof *et al* (2005)²¹ wrote that *prud'homies* “have no official recognition in the French fisheries management framework” despite being the “initiators of most of local fishing regulations in the Mediterranean”. *Prud'homies*' management decisions do not apply to larger more intensive vessels such as trawlers or seiners fishing inside territorial waters. These activities are regulated by regional fisheries committees in conjunction with the relevant French government department. Nor do *prud'homies* have authority over recreational fishing and other recreational uses of their waters.

Although the function and authority of *prud'homies* has been progressively weakened over the last 30 years due to the increasing level of authority assumed by the state and regional organisations, *prud'homies* continue to have an active role in local fisheries management²³. In the broader context of Mediterranean fisheries governance, *prud'homies* appear to form the local base of a pyramid of French fisheries management structures. Throughout maritime France, administrators and representatives of fishing interests are organised into local, regional and national fisheries committees. This arrangement is said by Symes *et al* (2003) to be more of a participative and interactive management framework, than strictly a co-

²³ Frangoudes, K. (2001) France. In Symes, D. & Phillipson, J. (Eds) *Inshore fisheries management in Europe*. Dordrecht: Kluwer Academic Publishers. Pp: 139-155.

management framework with real division and delegation of powers²⁴. Throughout all of France, there are 39 local fisheries committees (*Comités Locaux des Pêches Maritimes et des Elevages Marins*) organised at departmental level. They develop fisheries policy proposals on local issues which are then taken up by regional committees and with the regional offices of the relevant government department (e.g., *Affaires Maritimes*) who make fisheries regulations.

Despite an uncertain future and question marks over their ultimate role in French fisheries governance, *prud'homies* have demonstrated recently that collective management organisations at local fishing community level can be effective. Decugis cites the example of the creation of a no fishing zone off Cap Roux between Cannes and Saint Raphaël²². A 400 hectare marine protected area in which no fishing is permitted was created in 2003 by the 30 member *Prud'homie de Saint-Raphaël*. From 2004, scientific monitoring of target species abundance was conducted by researchers from the University of Nice. Six sites were regularly monitored: two inside and four on the edge of the protected zone. Preliminary results from the site have been encouraging: within three years, experimental fishing and underwater visual census revealed that catch rates increased from 5kg to 25kg per set, fish were larger and overall fish abundance was at levels last recorded in 1985²². In 2008 the *prud'homie* concluded that it is an effective marine reserve and decided to renew the protected zone for a further six years²².

While *prud'homies* are an excellent example of collective management of small local fishing areas by local fishers, they are clearly not an example of co-management of all fishing activities in inshore waters by a representative group of stakeholders. They are local level forums that can and do implement day-to-day fisheries management decisions. And while they may have been created and maintained in order to protect the interests of fishers in terms of making a living from the sea, their effect seems to demonstrate that they also serve to manage and sustain fisheries resources.

²⁴ Symes, D., Steins, N. & Alegret, J (2003) *Experiences with fisheries co-management in Europe*. Chapter 7 in: Wilson, D.C., Nielsen, J.R. and Degnbol, P. (Eds) *The Fisheries Co-management Experience: Accomplishments, Challenges and Prospects*. Fish and Fisheries Series 26. Dordrecht: Kluwer Academic Publishers. Pp: 119-133.

Questions for you to think about before the conference

The aim of the conference organisers is to inspire new thinking and create a productive forum for participants to exchange views and ideas about the future of regional fisheries management under the CFP. We have created a list of questions and issues we hope you will consider as part of your preparation for the conference. The agenda has been developed in a way that will allow time for discussion amongst participants.

- How to create structures that avoid micro-management of operational fisheries management by politicians?
- How to create structures that enable operational decision-making to be conducted as “locally as possible”?
- What is the most appropriate division of responsibility and devolution of decision-making authority: meta-governance; development of regional FMPs; implementation, enforcement and evaluation, including research.
- How might it be possible to make decisions consistent with, or require decision-makers to adhere to, scientific advice about conservation and sustainability of resources?
- What factors should determine level and boundaries of “region” for application of fisheries management.
- Will “region” fatigue be an issue? With multiple regions, will Member States and stakeholders (industry & non-industry) have the capacity to participate financially and in terms of human resources in multiple regional bodies?
- Is it possible to have regional fisheries management without co-management?
- What should be the roles for ‘partners’ in fisheries management? How to move from ‘advisory’ stakeholder to co-manager and partner in fisheries management decision-making?
- How can existing stakeholder engagement structures, such as ACFA and the RACs, be strengthened to deliver benefits under a regional fisheries management approach?
- How to break down the silos (separation) of science, policy, decision-making and stakeholder ‘advice’?
- How can consistency across regions be ensured: should there be a co-ordinating regional body on which the Chairs and key representatives of each regional body sit?
- Transparency, accountability and evaluation of outcomes - how can we ensure these: adherence by decision-makers to high-level principles; implementation and enforcement of decisions; achievement of the expected outcomes?
- Costs and funding - who should pay for what?



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