

THE SCOTTISH GOVERNMENT'S RESPONSE TO THE EUROPEAN COMMISSION'S GREEN PAPER ON REFORM OF THE COMMON FISHERIES POLICY



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Ministerial Foreword



Richard Lochhead

Cabinet Secretary for
Rural Affairs and the
Environment

To help our fishing communities thrive and to achieve sustainable fisheries, the long overdue review of the Common Fisheries Policy must deliver for Scotland. The European Union has a golden opportunity to do what is right for our fishermen. It is an opportunity that Scotland and our European partners cannot afford to miss. We have to move away from perpetual crisis management to long-term planning to bring about a sustainable and profitable industry.

The Scottish Government's response to the European Commission's Green Paper on the Common Fisheries Policy lays out our key principles on the future of EU fisheries policy.

The CFP has failed Scotland. It is the EU's most discredited and unpopular policy. The Scottish Government favours scrapping the entire policy in favour of restoring national control of fisheries. We continue to urge the European Commission to boldly consider this option. However, for as long as we remain part of the CFP, our guiding principle throughout the debate on its future will be that decision-making powers must be returned to Scotland. And, as this submission makes clear, the protection of Scotland's historic fishing rights will be our top priority.

From Scotland's perspective, the CFP has often appeared a distant, centralised, unresponsive and discredited policy in which landlocked countries can have a greater say than a country like Scotland with a substantial fishing fleet.

The CFP is characterised by micro-management of every aspect of fisheries (allowable catch levels, net sizes, where to fish, catch composition, vessel power, days at sea etc) from Brussels. This approach has led to a top-down, control-heavy regime which has done little to win the support of individual fishermen. As a result the CFP has become increasingly complex and much harder for even well-informed stakeholders to follow. The resulting reciprocal suspicion between fishermen and the Commission has impeded mutual respect and trust, and this has led to a corresponding decrease in effective policy making.

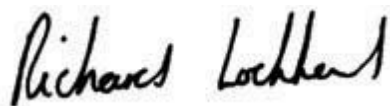
The reform of the CFP also comes at a time of heightened sensitivity to the issue of food security. This emphasises a further and damning aspect of the CFP; namely its failure to deal with discarding of unwanted catches. Discards represent a biological and economic scandal and a waste of a precious food resource.

I welcome the Commission's recognition that the existing CFP does not work and that greater regionalisation and self-management is the way forward. We are at least moving in the same direction, albeit at different paces and with different destinations in mind. My preference is for decision-making to be returned to Member States and, in turn, that will allow us to co-operate on a regional basis with our neighbours to implement tailored fisheries management and end the scandal of discards. However, it is the case that removing decision-making from the Council of Ministers in favour of regional bodies would be a welcome step forward and command Scotland's support.

We have made every effort to develop and influence thinking on how best European fisheries should be managed in the future.

Scotland is already showing the way by using our limited powers to develop local solutions and promote sustainable fishing. The work we have done with our stakeholders in developing Conservation Credits, catch quotas and on board CCTV, and the investment we have made in the Inquiry into Future Fisheries Management demonstrates Scotland's contribution to developing and implementing fisheries policies fit for the 21st Century. It is in that spirit that I present this document.

I would like to thank all those who contributed to the Scottish Government consultation on the Future of the Common Fisheries Policy, and the members of the IFFM for their thoughtful and authoritative input.

A handwritten signature in black ink that reads "Richard Lochhead". The signature is written in a cursive style with a large initial 'R' and 'L'.

RICHARD LOCHHEAD

EXECUTIVE SUMMARY

(i) Scotland is the major fishing nation within the UK and one of the most significant fishing nations within the EU. The Scottish industry has been at the forefront of fisheries management modernisation and innovation aimed at ensuring sustainable fisheries. Many coastal communities in Scotland are amongst the most fisheries-dependent in Europe.

(ii) The Scottish Government aims to manage Scottish fisheries outwith the Common Fisheries Policy. The Scottish Government proposes that the Commission returns management fully to Member States. The Scottish Government regrets that such a path is more radical than the Commission is willing to consider, and will continue to press the Commission to consider this option. The Scottish Government therefore is seeking to influence and improve EU fisheries policy and has sought the views of stakeholders and the public through a range of means in order to inform this response.

(iii) The Scottish Government strongly believes that the CFP has failed to:

- support biological and ecological sustainability;
- match fishing capacity with fishing opportunities;
- establish clear and fair levels of compliance across EU; and
- engage with the industry to improve fisheries policies.

(iv) The Scottish Government believes that a successful fisheries policy should deliver:

- sustainable fisheries management arrangements that will bring an end to discards;
- co-management with industry and marine stakeholders;
- fisheries management arrangements which are aligned with marine environmental and marine planning objectives; and
- fisheries policies which recognise and which are sensitive to the needs of our fisheries-dependent communities and respect their historic fishing rights, including the principle of Relative Stability.

(v) In order to achieve these, fundamental reform is required at EU level. Central to that reform is the delegation of decision making powers to Member States through a regionalised fisheries management framework. Additionally, greater recognition of conservation measures, including discard reduction measures, and closer engagement with marine fisheries stakeholders will lead to improved policy. Finally, the scientific basis of decision making must be reviewed and adapted to be fit for the purpose of advising fisheries managers.

(vi) The vision and objectives laid out provide the basis for addressing the specific questions within the Green Paper. A number of key questions are addressed specifically in the penultimate chapter.

(vii) The Scottish Government response concludes that for as long as Scotland is part of the CFP, a regional model which delegates meaningful decisions to Member States provides the best vehicle for improvement to European fisheries management and asks that the Commission be ready and willing to engage in bringing about the necessary reforms.

1. SCOTLAND'S FISHERIES

1.1 Scotland occupies a fortunate geographical position surrounded by productive seas and a high quality, diverse marine environment. Scotland is the major fishing nation within the UK and one of the most significant fishing nations within the EU.

- Scotland's fisheries zone comprises 60.1% (470,063 km²) of the UK total area and represents the biggest share of EU waters (excluding overseas territories). These waters are some of the most productive fishing grounds in the world.
- 69% of key UK quotas are held by Scottish Producer Organisations.
- Scotland lands around 66% of the UK quota stocks by value (England and Wales 28%, and Northern Ireland 6%)
- Shellfish landings, particularly Nephrops (Scottish langoustine), provide the most significant contribution to the Scottish economy (£155m in 2008), followed by the mixed demersal fisheries (£139m) and pelagic (mackerel, herring) fisheries (£101m).
- The Scottish Fishing industry (sea fishing and processing sector) is the lifeblood of a large number of coastal communities, with many vessels being family owned.
- Fishing in Scotland supports over 5,000 coastal jobs with fish processing enterprises providing employment for a further 5,250.



Fig 1. The Scottish Fisheries zone

Modern and innovative fisheries management in Scotland

1.2 The Scottish industry has been at the forefront of fisheries management modernisation and innovation aimed at ensuring sustainable fisheries. Fishermen in Scotland use larger mesh sizes and have additional gear measures which go beyond EU minimum requirements. Around half of all Scottish fisheries are engaged in the process of Marine Stewardship Council certification. Most recently, Scotland has implemented a ground-breaking series of Real-Time Closures (RTCs) in EU waters to protect young cod. There is still a long way to go but the Conservation Credits Scheme provides a model of how Member States can respond effectively to biological imperatives of fisheries management while mitigating economic and social impacts.

1.3 Scotland takes its marine management responsibilities seriously, and a Marine Bill is currently progressing through the Scottish Parliament. The effect of the Scottish Marine Act when it comes into force will be to afford greater protection to the marine environment and to ensure the rational sustainable use of marine resources through a system of Marine planning.

Fishing dependent communities in Scotland

1.4 The remoteness of many parts of Scotland from the centres of commerce and business both at a national and European scale, mean that many coastal communities in Scotland are amongst the most fisheries dependent in Europe (see Fig 2). The Scottish Government is particularly aware of the importance of fisheries to rural communities, both in terms of economy and identity. A lack of alternative employment sources means that, for the communities to remain viable, local fisheries need to be sustainable and profitable. Historic fishing rights need to be protected to support these important communities. The Scottish Government is engaged in a process of establishing Inshore Fisheries Groups and is also developing community policies through the Scottish Fisheries Council Communities Group.

1.5 The future sustainability of fishing communities is an important priority for Scotland. Developing other activities including tourism and marine renewables will be important for coastal communities, but fishing will continue to be vital to many.

1.6 The challenge is to develop fisheries management arrangements which encourage sustainable behaviour and efficiency without encouraging excessive consolidation of the fleet at the expense of jobs and communities.

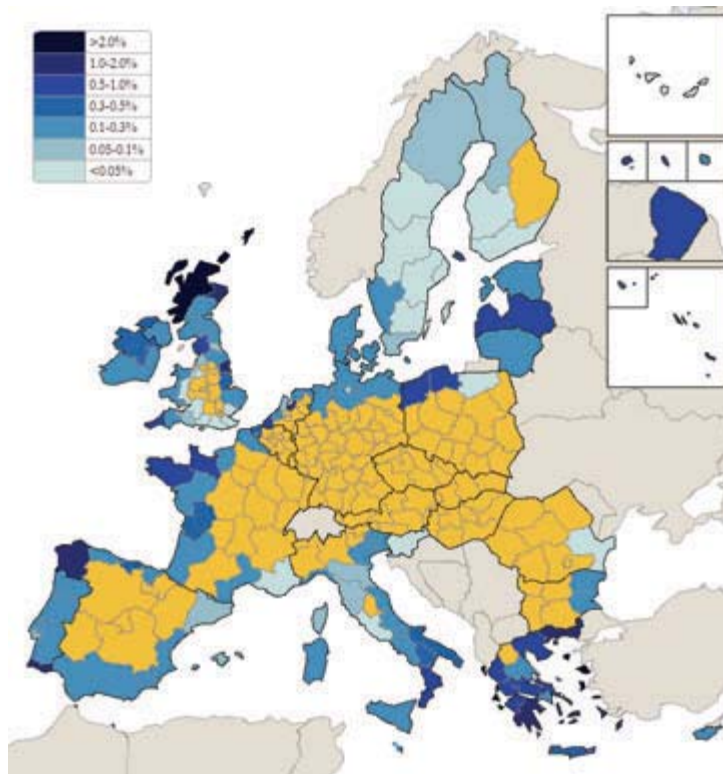


Fig 2. Map of Europe showing total fishery income dependence. (Taken from Regional Dependency on Fisheries Final report for the Committee on Fisheries of the European Parliament, 2006)

1.7 The circumstances and concerns with regards to fisheries are, within the EU, unique to Scotland. Other countries with small populations, large sea areas and a high degree of fisheries dependence outside the EU (Iceland, Norway and Faroes Islands) are able to manage their fisheries effectively in a way that is not possible under the CFP. It is not surprising that Scotland aspires to the autonomy of fisheries management that these countries enjoy. We urge the Commission, in the spirit of fundamental reform, to consider alternatives to a Common Fisheries Policy. Returning power to Member States to manage their fisheries would be a radical change but could deliver the improvements we all want to see. Life outside the CFP is explored in Box 1.

1.8 Notwithstanding our stated desire for the EU to use this review to restore national control, we wish to engage as fully and constructively with that process and it is in that positive spirit that we submit that response.

2. THE SCOTTISH GOVERNMENT'S CONSULTATION

2.1 The Scottish Government has sought the views of stakeholders and the public through a range of means in order to inform this response.

- A programme of workshops on the Future of the CFP reform was held in Shetland, Inverness and Glasgow in September and October 2009. A report on these workshops can be found at:
<http://www.scotland.gov.uk/Topics/Fisheries/Sea-Fisheries/17681/common-fisheries-policy/CFPreformWorkshopReport>
- A series of bilateral meetings with key stakeholders took place over August – November 2009.
- A web-forum was established on the Scottish Government website.
<http://www.scotland.gov.uk/Topics/Fisheries/Sea-Fisheries/17681/common-fisheries-policy/blog>
- The Scottish Government jointly hosted a major international conference on decision-making in fisheries management in Edinburgh on 3-4 November 2009.
- The Inquiry into Future Fisheries Management also consulted widely with stakeholders prior to the publication of their interim report on the future of the Common Fisheries Policy.

2.2 The Scottish Government would like to thank all those involved for their time and thoughts on future fisheries policies. These have helped direct and refine our thinking on a number of key issues.

2.3 We are also grateful to a number of organisations for providing us with drafts of their own responses to the Commission, including the Scottish Parliament Rural Affairs and Environment Committee, COSLA, WWF

Scotland and others. The strong degree of alignment between these reports indicate the growing consensus across Scotland on how we manage our fisheries in the future.

3. THE FAILURES OF THE COMMON FISHERIES POLICY

3.1 The Scottish Government applauds the Commission's Green Paper for its willingness to address many of the fundamental failures of the existing policy. The policy was flawed from the outset, with the principle of "equal access" agreed in advance of UK and other maritime states joining the EU creating a legacy which fisheries managers still struggle to address. We agree with the Institute for European Environmental Policy that:

"Of all the European policies that govern the exploitation of natural resources there is none that attracts the same level of criticism and public bafflement as the Common Fisheries Policy"

IEEP Report: Towards a reform of the
Common Fisheries Policy in 2012 – A CFP
Health Check. Lutchman *et al* 2009

3.2 The Common Fisheries Policy has been over-extended beyond its original limits. When first formulated, the CFP sought to manage fisheries within a limited area including the North and Celtic seas. Now, with the expansion of the European Union, its remit extends from the Baltic Sea south to the Mediterranean Sea and east to the Black Sea. The range of its application has expanded hugely, yet the CFP itself has been subject only to minor changes. The flaws in micro-management and top-down control of policy have been magnified while the burden on Commission officials to manage the diversity of issues over such a geographic range has become intolerable.

Box 1 - Beyond the CFP

The Scottish Government recognises the need to manage stocks in partnership with other nations who share these stocks. The Common Fisheries Policy does not support a partnership approach. Rather it pits the political and economic aspirations of one Member State against another with the European Commission struggling to referee the often unequal competition. Thus European fisheries policies is the product of a collective of Member States each seeking nationally advantageous decisions and outcomes. For Scotland, this critical fault is doubly felt, as we are unable to compete as a full Member State. Landlocked nations with no commercial fishing interests can in principle have more influence on EU fisheries policy than can Scotland.

Norway, a country, with a population similar in size to Scotland, is able to manage its fisheries with great success outside the CFP. The same can be said of the Faroe Islands and Iceland. Each of these states engages in bilateral negotiations with the EU and is able to establish joint management of stocks based on equal partnership. This reflects the aspirations of the Scottish Government.

Our influence over the future of EU fisheries policy would be greatly enhanced with Independence. This remains the key policy for the Scottish Government and one we are pursuing vigorously through our National Conversation and the publication of our White Paper, "Your Scotland, Your Voice" <http://www.scotland.gov.uk/Publications/2009/11/26155932/0>

In the meantime, through our independent Inquiry into Future Fisheries Management we are developing models of how Scotland could best manage its fisheries in partnership with its neighbours. This reflects our ongoing commitment to return decision making powers on fisheries management to Scotland.

Where the CFP has failed

3.3 The Scottish Government disagrees with the principle of a Common Fisheries Policy and we believe that the Green Paper fails to justify why a common policy is an appropriate mechanism to manage fisheries. The failures of the CFP are many and manifest.

3.4 The CFP has failed to support biological and ecological sustainability.

- Achieving sustainable economic growth through establishing and maintaining sustainable levels of fish stocks should be the fundamental aim of fisheries policy. Yet, as the Green Paper itself notes, 30% of EU stocks are outside safe biological limits and nearly 90% fished at levels beyond Maximum Sustainable Yield (MSY). Given these statistics it is not surprising that the CFP is held in such low regard.
- The discarding of marketable fish is perhaps one of the best examples of the failure of the CFP. Discarded fish are a precious resource which the regulations of the CFP prevent skippers from landing. The vast majority of these fish are already dead when thrown back, representing a biological and economic loss. In 2008 it is estimated that 21,800 tonnes of cod was discarded in the North Sea alone. This is only 2000 tonnes less than actual catches for that year. Figures for plaice are even worse, with 49% of all catches thrown overboard. These are shocking statistics and a primary objective of reform must be to address this scandalous waste.

3.5 The CFP has failed to match fishing capacity with fishing opportunities.

- The Green Paper notes that, in spite of capacity reduction targets and decommissioning schemes, on average, fleets have

reduced capacity by only 2% a year. This value is of course an average with a large degree of variation. In Scotland two substantive decommissioning schemes in 2001-2002 and 2003-2004 removed 164 vessels from the Scottish fleet. The over-10m fleet is now 25% smaller than prior to the decommissioning schemes. Technological creep has led to an increase in average engine power in Scottish vessels, but aggregate engine power within the Scottish fleet has decreased by 9% over the past decade. The resultant effect has been that recorded Scottish whitefish fishing effort in the cod recovery zone dropped by 62% in the North Sea and 40% in the west of Scotland between 2000 and 2004. Effort continued to decline between 2004-2007 although at a less dramatic rate.

- Capacity reductions are less obvious in some EU fleets. There is clearly a role for the Commission to demonstrate that each Member State is seeking to ensure that the impact of their fleets, in terms of catches rather than landings, is in line with available fishing opportunities. It would be unjust to require further capacity cuts from those Member States that have genuinely sought to manage fleets responsibly if others have failed to take adequate measures.

3.6 The CFP has failed to establish clear and fair levels of compliance across EU.

- Effective policy making has been dogged in Europe by real and perceived inequality in treatment between Member States and their adherence to regulations. There are a number of aspects to this: the failure of some Member States to reduce overcapacity, alleged poor compliance monitoring in certain fisheries, perceived disregard for regulations by some fleets.

This has led to accusation and counter-accusation, political mistrust and policy inertia.

3.7 The CFP has failed to engage with the industry to improve fisheries policies.

- The disconnect between fishermen and the centralised policy decision apparatus in Brussels means that fishermen have very limited opportunity to influence EU fisheries policies. The Regional Advisory Councils introduced following the previous reform provided a step in the right direction but their effectiveness and influence remains limited. Without a real say, many fisheries conservation measures are not considered workable or desirable by the industry. As a consequence there is often little buy-in for such measures. The decision making process and the punitive regulatory approach of the CFP fails to positively harness the innovation and knowledge of fishermen in better managing fish stocks.

4. A VISION FOR FUTURE FISHERIES

4.1 It is clear that action must be taken to address these and other failures of the CFP. The Scottish Government is developing with the Scottish industry and marine stakeholders a vision and action plan to deliver improvements now and in the future. We will be working closely with the industry to define and achieve that vision. We want fisheries management in Scottish waters to be considered as best in the world. To meet this aspiration our fisheries should be characterised by:

- sustainable fisheries management arrangements that will bring an end to discards and keep fishing activity in line with available resources;
- co-management with industry and marine stakeholders;
- fisheries management arrangements which are integrated with marine environmental and marine planning objectives; and
- fisheries policies which recognise and which are sensitive to the needs of our fisheries-dependent communities and respect historic fishing rights.

4.2 We cannot wait for EU policies to improve. We are taking action now to move towards better fisheries management,

Scotland has led the way in seeking innovative ways to improve sustainability and reduce discard levels. Selective gears and our system of real time closures developed over the past two years have reduced discarding. But more needs to be done. We are currently piloting the use of CCTV onboard whitefish and Nephrops vessels to test their utility as a tool which could enable the establishment of an outright ban on discarding. We are encouraged by the European Council's decision at the

December Council in 2009 that we run a Catch Quota pilot project in 2010 as an incentive for fishermen to abide by a discard ban. [See Box 2].

We work closely with the industry and with other stakeholders as we develop and implement policies. The Scottish Fisheries Council and its constituent sub-groups represents one of the most comprehensive systems of stakeholder engagement in Europe and ensures that stakeholders are involved in the development of policy from the earliest stages. We will strengthen and deepen that relationship in 2010 as we work together with stakeholders to develop an action plan for the industry which marks a step change in the way Scotland manages its fishing industry.

The Scottish Government has promoted the role and concerns of fishing communities through the Scottish Fisheries sub-group on Communities and also through the New Entrants Group. This latter group has the objective of delivering proposals to enhance and sustain new entrants to the fishing industry, including new young skippers and owners across the Scottish catching sectors. The Group is currently drawing up proposals to improve how the industry is promoted and to communicate more effectively on how to access opportunities across the catching sectors.

Greater integration of fisheries and marine policies will be established through the Scottish Parliament. The Scottish Marine Bill will shortly come into force providing additional protection for our marine environment and establishing a system of marine planning to manage human activities in the marine area. Together with the establishment of Inshore Fisheries Groups, fisheries will become integrated within all marine sectors to the benefit of the industry, the environment and coastal communities.

Box 2 – Discards

One of the major causes of discarding of marketable fish is the mismatch of quota held by a skipper, and the mix of fish that is found in the net. The problem is magnified in the mixed demersal fishery, where a single haul is likely to contain a half dozen or more quota species. These differences may occur because Total Allowable Catches set annually do not reflect accurately the abundance of the stock, leading to lack of quota for certain portions of the catch. Alternatively, a skipper may simply not hold the relevant quota which would allow him to land the fish legally.

There are a number of potential solutions which can reduce unwanted catches. For example, avoidance of areas of high abundance of particular stocks (Real Time Closures), gear measures which preferentially allow certain fish species to escape, and trade in quotas to help skippers match their quota portfolios with relative fish abundance on the ground. The role of new technologies, such as on-board cameras, is also being explored by the Scottish Government. A greater input from fishermen on haul composition could improve knowledge on relative abundance of stocks on the fishing grounds.

A more fundamental measure proposed by the Commission's Green Paper is a change from quota to effort management. The Scottish Government can see some advantages of this approach in mixed fisheries to address discarding. By managing fishing effort the incentive to discard is reduced as all catches can be landed legally.

There remain economic incentives to discard, however, in an effort-only system. For example it would make economic sense to an individual to target the most valuable component of a fishery and discard less valuable stocks. A discard ban would make such behaviour illegal. Thus additional safeguards for stocks at risk would need to be developed. Perhaps, more fundamental, an effort system creates an incentive for fishers to intensify their fishing activity to maximise the catch in the time available.

A change to effort rather than quotas as the main tool for managing fisheries also requires effort limits to be allocated to Member States and an effective end to Relative Stability quota shares. This point is discussed elsewhere in this document, but the Scottish Government is firmly of the view that the benefits accrued from Relative Stability, which secure our historic fishing rights, must be evident in any alternative management regime.

5. THE SCOTTISH GOVERNMENT'S REFORM OBJECTIVES

5.1 The actions we have undertaken demonstrate the huge ambition we have to develop, sustain and integrate fisheries within a modern Scotland. However, as part of the UK within the CFP, fundamental changes must be delivered at a European scale. Reform of European fisheries policy does offer an opportunity to bring our vision closer to reality.

5.2 This section of the Scottish Government response identifies 4 aspects of fisheries management which we consider essential if reform is to be meaningful and as far reaching as the European Commission desires. This follows reflection on the results of our consultation, consideration of the Scottish Parliament Rural Affairs and Environment report (<http://www.scottish.parliament.uk/s3/committees/rae/reports-09/rur09-13.htm>), and the interim report presented by the Inquiry into the Future of Fisheries Management (IFFM), published in September 2009. The 4 identified areas are:

- decision making should be delegated to those closest to the fishery,
- fisheries management to bring an end to discards;
- efforts of Member States and stakeholders to manage fisheries should be recognised, encouraged and incentivised, and
- improvements are needed to the data on which fisheries decisions are made.

5.3 Decision making should be delegated to those closest to the fishery

5.3.1 The centralised approach of the CFP leads to general regulations being agreed at EU level with numerous specific derogations to avoid certain fishing practices being caught by inappropriate rules. This has led to some very detailed and complex regulation difficult for fishermen follow and for enforcement agencies to ensure compliance against. Ultimately the mosaic of

regulations that emerges is a political compromise rather than a strategic plan based on fisheries management needs. And at times that complexity and politicisation leads to the collapse of the legislative process, as was recently seen with the failure to agree the Technical Conservation Regulation at the November Fisheries Council this year. That process will only become more complex still through the Lisbon Treaty which gives additional powers to the European Parliament in fisheries matters.

5.3.2 Fisheries measures are best developed by those most familiar with the fisheries; the stock distribution, the fleets and gears, the marine habitats and climatic conditions. For example, gear designs to avoid unnecessary bycatch are often fishery and location-sensitive. Thus measures need to be developed for individual fisheries if they are to succeed in achieving sustainability and eradicating discards.

5.3.3 The best scale at which to manage fisheries is the most appropriate ecological unit for the fish stock. For many of the demersal species within EU waters this would be at the scale of sea basins, such as the North Sea, the Baltic Sea and the Celtic Seas. For migratory stocks, such as mackerel, the scale is larger; while for more sedentary shellfish stocks the management unit may be more local.

5.3.4 This leads to the conclusion that, while subject to a common European policy, fisheries are best managed by governments co-operating at a regional scale. Any regional model within European fisheries must provide genuine management and decision making powers to the Member States. This was first presented in the IFFM interim report and the Scottish Government accepts this framework as a starting point on which to develop a regionalised fisheries policy.

“It is possible to conceive a model involving a cadre of Member States with an interest in a region, such as the North Sea, developing a fisheries management plan and working with the EU on long term strategic objectives. Approval of the fisheries plan by the Commission (sic) would then provide Member States with the statutory responsibility for implementing the fisheries plan. RACs would be expected to work closely or within the regional body in the development of the fisheries plan.”

IFFM Interim Report on the European
Commission’s Green Paper on the future of the
Common Fisheries Policy

<http://www.scotland.gov.uk/Resource/Doc/287875/0087815.pdf>

5.3.5 While there are undoubtedly many issues to address in a regionalised approach to fisheries management, none of these are insuperable. The Scottish Government has taken the framework described in the IFFM interim report and is pursuing how to make the approach operational. There are a number of possible variations on the regional model. The key point for discussion is the degree of responsibility which is delegated to Member States. That might range from simple implementation and technical decisions, to Member States co-operating with neighbours to design and manage a fisheries regime bounded by EU level strategic objectives. The Scottish Government would favour the latter approach as it the option that moves furthest from the centralised bureaucratic approach of today. We recognise greater work must be done to develop and refine these models. That work needs to be taken forward in partnership with stakeholders, Member States and with the Commission itself.

5.4 Fisheries Management measures that bring an end to discards

The discarding of unwanted catches is a complex issue exacerbated by the Common Fisheries Policy. For any reform of the CFP to be deemed to be successful, this terrible waste must be addressed. A number of options are worth pursuing, for example the Commission’s own proposal to move to an effort only scheme. Other measures are also available, such as Real Time

Closures. This issue of discards in mixed fisheries is considered further in Box 2 and also in Chapter 6 where the specific Green Paper questions relating to discards are addressed.

5.5 Efforts of Member States and stakeholders to manage fisheries should be recognised, encouraged and incentivised

“The potential benefits of industry involvement in management are clear, as they would bring greater expertise and knowledge to the design of management measures and greater ownership, and greater understanding of regulations and goals”.

IFFM Interim Report on the European Commission’s
Green Paper on the future of the Common Fisheries
Policy

5.5.1 It has long been accepted that involvement of fishermen in the design and implementation of fisheries management policies leads to more effective management measures. The use of incentives further aids acceptance and compliance.

5.5.2 The rigidity of the CFP has in the past stifled innovation both at national and individual scale. This rigidity is a consequence of the regulatory detail which is established at too high a level within the EU decision-making process. Clearly, a more regionalised policy, with greater delegation of decision making to Member States, will unbind blanket restrictions and allow the development of regionally more appropriate management measures. A regional framework must allow for different approaches, with the EU encouraging and, where appropriate, incentivising positive innovations.

5.5.3 Positive models of how this can be achieved are already established in Scotland. For example, the Cod Recovery Plan implemented by the EU last year impacted greatly on Scottish whitefish and Nephrops fleets. There was, however, new scope provided to Member States to manage how required cuts

in fishing mortality were implemented. This included an option to buy back effort through fishing practices which reduced cod mortality. The Scottish Government and Scottish industry seized this opportunity through its Conservation Credits scheme. The scheme allows skippers to get back some of the effort cuts through reporting and avoiding areas of high cod abundance, and through the use of selective gear. It is estimated that the impact of these measures is a significant reduction in cod mortality.

5.5.4 Thus, through the delegation of decision-making to Scotland, new and innovative measures have been established which have helped meet the cod mortality reduction targets, while mitigating the worst economic impacts for the Scottish fleet. This approach should be widened and deepened in fisheries policy beyond 2013. Those fleets which take action to conserve fish stocks should get the benefits when those stocks recover.

5.6 Improvements are needed to the data on which fisheries decisions are made.

5.6.1 Traditionally, fisheries information provided to managers has been biological, with individual stocks being considered in isolation. Progress towards longer term management plans and stock interactions has been slow, while management decisions in Brussels pay little or no regard to economic or social data.

5.6.2 For stocks below safe biological limits, ICES, the scientific body responsible for providing the EU with scientific advice, is asked to consider how these stocks can recover in the shortest possible timescale, sometimes as little as a year. This can lead to draconian Commission proposals for cuts in effort or quota which do not allow social or economic concerns to be taken into account.

5.6.3 Clearly, such actions may be required in some circumstances. However, where there is no immediate danger of collapse, recovery time becomes less critical. Provided the stock is allowed to grow, a more gradual

recovery can have less severe impacts on fisheries and fisheries-dependent communities. In the United States, for example, a recovery period of up to 10 years is acceptable. It would be possible to seek ICES advice on a range of recovery periods and the risks inherent in each option. Managers would then be better placed to balance risks and timescales in achieving stock recovery.

5.6.4 Many uncertainties remain over the precision of stock estimates. Data are based on scientific surveys and on commercial landings. Collection is expensive relative to the precision and timeliness of the data provided. This can often lead to a mismatch in scientific assessments and the experience of fishermen on the fishing grounds.

5.6.5 In Scotland we have initiated the Scottish Industry Science Partnership, SISP, which allows Government, science and industry jointly to commission research. This research always involves an industry partner. Rolling out such programmes through Europe would be beneficial, as would co-ordinating between the individual programmes. Scotland also has regular dialogue meetings with the industry, where scientists and fishermen provide information and feedback to one another. We wish to build on these initiatives. Regionalisation offers an opportunity to help drive the change towards more longer term management planning and to engage the industry and experts associated with each fishery. Similarly, looking at plans on a fishery basis, rather than species basis, will require a change in the way science is managed and delivered.

6 THE GREEN PAPER QUESTIONS

6.1 The Scottish Government has clear ambitions and objectives for future fisheries management. While it is possible to provide a written response to all 66 consultation questions, to do so would be repetitive and would obscure the major themes of reform identified through consultation and reflection that we wish to emphasise. Therefore the following pages focus on what we believe to be the key questions posed by the Green Paper and provide the Scottish Government response to these. We would be very pleased to provide fuller and wider comments on the Green Paper at the request of the Commission.

Fisheries Management Objectives

- **How can the objectives regarding ecological, economic and social sustainability be defined in a clear, prioritised manner which gives guidance in the short term and ensures the long-term sustainability and viability of fisheries?**

Response: The articulation of biological and ecological objectives can and should recognise social and economic objectives associated with fisheries policies. Conflict between objectives arises where biological and ecological objectives are required to be met within a timeframe that ignores social and economic impacts.

Reasoning: The Scottish Government's primary objective in fisheries policy is to ensure the long term sustainability of fisheries: that is the stock and marine environment, the industry and fishing communities. A sustainable marine environment and sustainable stocks are therefore central to fisheries policy objectives. However, in articulating these objectives, recognition can be given to other social and economic objectives.

Generally the Common Fisheries Policy seeks to re-establish stock levels within safe biological limits in the shortest time possible. The Commission propose that, for stocks outwith safe biological limits, year-on-year reductions

of 30% effort should be implemented until stocks return to safe levels. Such short timescales for such severe cuts leave little flexibility for Member States seeking to implement fisheries measures in a manner that is sensitive to the prevailing economic and social conditions and objectives. Consequently, the ultra-precautionary approach taken by the Commission in the setting of fishing opportunities portrays Member States as arguing against stock sustainability whilst in fact it remains their key objective.

As noted in the Scottish Parliament's Rural Affairs and Environment Committee report on reform of the CFP, in the USA stock recovery plans can be given a timescale of 10 years under the Magnus-Stevens Act, which regulates US fisheries. This allows the authorities to manage reductions in fishing pressure more sensitively, allowing time for diversification, staged capacity reductions and changes in fishing methods and practices, mitigating the worst impacts on the industry and community.

Annual, prescriptive and restrictive quota and effort allocations provide little or no leeway for fisheries managers to implement EU policies sensitively. This is a recognised failing of the current centralised Common Fisheries Policy.

Under a regional model, the European Union would set targets which would be:

- high level, strategic and focussed on biological and ecological sustainability;
- outcome based; and
- long term.

For example, a high level EU target might be articulated as "Reduce fishing mortality on West of Scotland cod to Maximum Sustainable Yield levels by 2018". This provides a clear stock-relevant outcome which Member States, working in co-ordination, can develop a regionally appropriate strategy to meet. Timescales for targets need to be realistic yet challenging, while strategies have to be tested and monitored.

Transferable Fishing Rights

- **Could transferable rights (individual or collective) be used more to support capacity reduction for large-scale fleets and, if so, how could this transition be brought about? Which safeguard clauses should be introduced if such a system is to be implemented? Could other measures be put in place to the same effect?**

Response: The Scottish Government does not support the permanent transfer of fishing rights between Member States.

Reasoning: Within the UK, fishing rights are already transferable to a greater extent than most other Member States. Transferable rights may lead to reduced fishing capacity in the medium to longer term in some circumstances. Their use is, however, controversial. It is often smaller vessels which lose rights to larger, more profitable and financially more powerful operations. This pattern is evidenced in the experience of countries that have unilaterally introduced Individual Transferable Quotas, (ITQs), the most common form of Rights-Based Management. Consolidation has led to fewer but larger vessels dominating the fishing fleet, with associated adverse impacts on smaller fishing vessels and their dependent communities.

While acknowledging the Commission proposal that some form of protection should be afforded to small-scale fisheries to protect vulnerable communities, the Scottish Government does not see how small-scale and large-scale fisheries can be meaningfully distinguished. All fishing vessels help sustain local communities. Some of Scotland's largest vessels land into the most fisheries-dependent communities in Europe. Therefore to differentiate between large and small sectors will not provide the protection to vulnerable communities the Commission foresees.

Rights-Based Management becomes yet more controversial where rights may be traded between nations, leading to a migration of fishing rights from one country to another. This is difficult to accept as it would undermine our stated objective of protecting Scotland's historic fishing rights.

The Commission's purpose of proposing a market based solution is to reduce fishing pressure through capacity removal. Reductions in fishing pressure can of course be achieved through improved fisheries management.

Industry responsibility

- **How can more responsibility be given to the industry so that it has greater flexibility while still contributing to the objectives of the CFP?**

Response: The use of incentives to garner positive engagement with the industry should be increased. Involvement of stakeholders beyond the industry also needs to be promoted.

Reasoning: The Scottish experience, through its Conservation Credits scheme, has shown that stakeholders respond well to measures which they themselves have had a role in designing, and which contain an element of incentivisation. The realistic prospect of buying back effort has led to innovative proposals from the industry and strong compliance with the measures when implemented. A regional approach and a focus on building in incentives provide a rational way of giving more responsibility to the industry.

It is also important to involve other stakeholders, including those who are often critical of the fishing industry. For example, the Scottish Conservation Credits scheme has benefited from the membership of the WWF; and Environment Link (the umbrella organisation for Scottish environmental groups) plays an active role in the Scottish Fisheries Council.

Promotion of Good Practice

- **Are there examples of good practice in particular fisheries that should be promoted more widely? Should incentives be given for the application of good practices? If so, which?**

Response: Yes, the Scottish Government has examples of good practice which demonstrate increasing self regulation by the industry.

Reasoning: Our Conservation Credits system harnessed the innovation and achieved the acceptance by the industry of a range of cod-avoidance measures, including gear measures and Real Time Closures. The implementation of these measures was incentivised by allowing skippers to claim back additional effort allowances (days at sea). Compliance with these industry-agreed measures has been extremely high.

Inshore Fisheries Groups in Scotland also provide an example of how fishermen are being given the opportunity and support to manage local fisheries. There are lessons from both these examples that are relevant to the development of regional fisheries management and increased co-management with the industry.

Compliance and EU Funding

- **Would you support creating a link between effective compliance with control responsibilities and access to Community funding?**

Response: Yes.

Reasoning: In principle the Scottish Government would support such a link. However, safeguards would be needed to ensure that penalties were appropriate and proportionate.

Managing overcapacity

- **How can overall fleet capacity be adapted while addressing the social concerns faced by coastal communities taking into account the particular situation of small- and medium-sized enterprises in this sector?**

Response: The Scottish Government believes that overcapacity can only be considered in a local or regional context.

Reasoning: The Scottish Government believes that it is the responsibility of Member States to manage fishing impacts within prescribed thresholds so as to ensure that commercial fishing operations are sustainable from both a stock and ecosystem perspective. Member States have different levels of overcapacity. Within a Member State, specific fleet segments may be at overcapacity, at capacity or under capacity. Given this variance, The Scottish Government does not support any general EU-wide mechanism to manage capacity. It is however essential that the fisheries management arrangements keep fishing activity in line with available supply, and that the Commission ensures those arrangements are enforced.

Small Scale fisheries

- **How could a differentiated regime work in practice?**
- **How should small-scale fisheries be defined in terms of their links to coastal communities?**

Response: The Scottish Government sees no justification for differentiation of fleet segments as proposed, nor can it see a practical and fair means of so doing.

Reasoning: Given our response above, we believe there is no convincing argument for a differentiated fisheries regime for small-scale and large-scale fisheries. Furthermore, such a distinction is difficult to make in a Scottish

context. No clear line can be drawn between small and large-scale. Certainly no boundary will be equally applicable across the EU. If a common boundary cannot be found, an uneven playing field will be created, leading to further dispute and argument regarding equity of treatment between Member States.

Long term management plans

- **How can long-term management plans for all European fisheries be developed under the future CFP? Should the future CFP move from management plans for stocks to fisheries management plans?**

Response: Long-term objectives set at EU level will require long-term regional fisheries strategies to be developed.

Reasoning: A move to longer term, outcome-focused policy objectives will provide the impetus for the development of long-term management strategies at a regional level. These strategies should seek to manage fisheries, rather than single stocks.

Discards

- **How could the MSY commitment be implemented in mixed fisheries while avoiding discards?**
- **What should the main management system be for Community fisheries and to which fisheries should it apply? Catch limitations? Fishing effort management? A combination of the two? Are there any other options?**
- **What measures should be taken to further eliminate discards in EU fisheries? Could management through transferable quotas be useful in this regard?**

Response: There are numerous causes of discards and these must be tackled through measures addressing the relevant cause. All options are best considered in a regional fishery context.

Reasoning: Achieving MSY simultaneously for all stocks in a mixed fishery is not possible, either practically or conceptually. However, measures can be introduced to reduce discarding caused by mismatched quota levels. Discard bans, while superficially attractive, cannot alone stop discarding.

The Commission have proposed an effort-only system to replace separate stock quotas in a mixed fishery. There are certainly logical arguments as to how this could lead to reduced discards. There are a number of important issues to address before the proposal can be considered seriously. How would effort be allocated between Member States with different quota shares? What measures could be used to prevent the targeting of the most valuable component of the fishery? Is a discard ban required and, if so, how can this be implemented?

An alternative approach would be to consider multi-species quotas for mixed fisheries, perhaps allocating quotas to Member States through a catch value mechanism. These radical proposals need careful thinking through and we stand ready to work with the Commission and others on these matters.

Other options could be implemented more speedily. Increasing the flexibility of quota-leasing could provide some reduction of discarding. Avoidance of high areas of abundance of low-quota species has proved successful, with the adoption of Real Time Closures (RTCs) to facilitate cod recovery. It is estimated that around 150 RTCs in the Scottish fisheries zone during 2009 will effectively reduce cod mortality due to Scottish vessels' activity by around 10%.

An important aspect is the divergence in perception of fish stock abundance between catchers and scientists. If quotas are genuinely set at too low a level, discarding will inevitably result in a mixed fishery. Improved fisheries-

dependent data, for example through the use of CCTV, observers and electronic logbooks, might reduce this divergence. The Danish and Scottish pilot CCTV projects provide a promising test of this tool and we welcome the European Council's recent decision to allow us to pilot a catch quota project in 2010 as a possible means of ending discarding.

Fishermen are best placed to know where to catch fish. The RTC scheme harnessed that knowledge and incentivised the avoidance of areas of high abundance. Seasonal closures are another means of avoiding large catches of scarce stocks and are better designed with fishermen's input. Fishermen are also ideally placed to develop gear measures that help reduce unwanted catches. These may only be regionally or locally appropriate, as is the case for the Swedish grid and Orkney Trawl (fishing gear alterations which increase cod escapes from the trawl). The Scottish Government believes that an incentivised, regional approach to tackling discards provides the best approach.

Relative Stability and territorial waters

- **How could relative stability be shaped to better contribute to the objectives of the CFP? Should it be dismantled or if not should it become more flexible and if so, how? How could such alternatives be set up?**
- **Should access to the 12 nm zone be reserved for small-scale fishing vessels?**

Response: The principle of Relative Stability should be continued within any new EU fisheries regime, but may need to be applied in a different way if we move to a more effective approach to fisheries management. Access arrangements should continue as at present.

Reasoning: Relative Stability should remain as a key pillar of the CFP. It recognises and protects historic fishing rights. It provides an agreed allocation key for Member States, providing a degree of certainty when it comes to negotiations and development of fisheries strategies. However, the Scottish Government also recognises that Relative Stability, applied too rigidly, could exacerbate discarding and may become progressively unrepresentative of fish distribution patterns in the face of climate change.

Any opening up of the principle of Relative Stability would result in winners and losers across the EU, and thus a drawn-out and potentially bitter debate between Member States, the Commission and the European Parliament. Consequently the Scottish Government believes that any new regime must recognise and secure the benefits currently accrued by individual Member States under Relative Stability. Agreement on this point of principle could allow resources to be reallocated to reduce discarding or in response to changes in fish stock patterns caused by climate change without extended political bargaining.

Greater flexibility in quota transfers could be particularly helpful where a Member State has a low quota for a stock which is not fully fished by a Member State with a high quota.

The Scottish Government can see no argument in favour of reserving access within 12 nautical miles to small-scale fishing vessels. Restricting access to the extended inshore area around Scotland would significantly handicap larger vessels, which also have an important role in sustaining communities.

Aquaculture

- **What role should aquaculture have in the future CFP: should it be integrated as a fundamental pillar of the CFP, with specific objectives and instruments, or should it be left for Member States to develop on a national basis? What instruments are necessary to integrate aquaculture into the CFP?**

Response: Scotland supports the EU Strategy for the Sustainable Development of Aquaculture and believes that there is much the EU can do to support its delivery, in conjunction with Member States.

Reasoning: Scotland has an important aquaculture sector, being the largest producer of farmed salmon in the EU, as well as a producer of trout, mussels and oysters. The EU should provide enabling mechanisms for the Aquaculture Strategy, but these do not have to be under the aegis of the CFP. Scotland would welcome coherent Community-level action and funding in relation to such matters as development policy, joint R&D activities, consumer promotion, training and Producer Organisations.

We are supportive of aquaculture growing in terms of profile and importance both at a national Member State and EU level. The relative importance of aquaculture is growing against a background of increased demand for affordable fish and shellfish products that capture fisheries may be unable to meet.

7 CONCLUSIONS

7.1 The profound failures of the CFP demand far-reaching and fundamental reform of EU fisheries policy. At the core of reform is the delegation of decision-making as regards fisheries management, with scope to develop approaches which bring an end to discards. A regionalised approach will move us away from a centralised CFP and allow:

- development of policy appropriate to each fishery leading to improved sustainability and reduced discarding;
- greater engagement of stakeholders in policy development, allowing managers to harness the innovation and experience of fishermen positively and enhancing the responsiveness of policy to environmental changes;
- improvement of co-ordination of science and compliance activities across a region;
- alignment of fisheries policies and regional conservation and marine planning activities.

7.2 The evidence from Scotland indicates that there is a strong appetite for change and greater responsibility from stakeholders. That provides the opportunity for real reform of EU fisheries management and we urge the Commission to take notice.

7.3 The Scottish Government consultation revealed a number of important themes which require to be addressed if reform is to be meaningful. These are identified as:

- decision-making delegated to those closest to the fishery;
- changes to fisheries management to bring about an end to discards;
- efforts of Member States and stakeholders to manage fisheries recognised, encouraged and incentivised; and
- improvements to the data underlying fisheries management decisions.

7.4 Work must now focus on developing a regional model capable of delivering these benefits. The IFFM interim report has helped to stimulate that discussion across the EU and Scotland stands ready to work with partners to develop the model further. It is particularly important that this work be undertaken with the European Commission, for without genuine engagement and willingness to allow for regionally flexibility in management, the opportunity to secure improved management of EU fisheries will be lost.

THE SCOTTISH GOVERNMENT

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