



**INFLUENCING STRATEGY FOR THE 2012
REVIEW OF THE COMMON FISHERIES POLICY
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JOINT NATURE CONSERVATION COMMITTEE

INFLUENCING STRATEGY FOR THE 2012 REVIEW OF THE COMMON FISHERIES POLICY

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1. Background

- 1.1 The Common Fisheries Policy (CFP) provides the framework for fisheries management in the EU. Member States can act to manage fisheries only if they are given express powers to do so under the CFP. Securing sustainable fisheries at national or local level in any of the Member States therefore depends on getting the overarching regulatory policy framework right, as well as ensuring its correct implementation. The CFP furthermore places constraints on Member States' capacity to enact legislation to protect vulnerable marine habitats and endangered species in their own waters. A brief summary of the development of the CFP and its use to manage fisheries is provided in Annex 1 of this paper.
- 1.2 Since its inception in 1983, the CFP has been subject to two reviews (in 1992 and 2002). The next review is due in 2012. The inter-agency Marine Fisheries Working Group (MFWG) recognised the 2002 review as a good opportunity to enhance nature conservation at a European level and focused much of its work between 1997 and 2002 on influencing this review. It is impossible to judge conclusively the degree to which our work influenced the review but some success can be inferred from the fact that many of our priorities were incorporated into the resulting CFP regulation. We consider that, through building alliances with similar organisations in other Member States, targeting key players in the review process, and developing a position that was well grounded in science, legislative understanding and policy, we had an influence that was disproportionate to our size. A summary of the 2002 review and the role of the MFWG can be found in Annex 2.
- 1.3 There is no doubt that the key changes introduced during the 2002 review of the CFP have improved the EU fisheries management framework and allowed for better integration with nature conservation objectives. Nonetheless, the state of too many European fish stocks is unfavourable and the impact of fisheries on the wider marine environment has to be further minimised. A brief evaluation of the relative success of the current policy and the need for further reform is provided in Annex 3. In addition, recent EU enlargement and new policies and directives have opened up novel challenges and possibilities to increase the integration of nature conservation within fisheries management. In this context, the 2012 review of the CFP is an opportunity we cannot afford to miss.

2. Objectives for the 2012 review of the CFP

2.1 The MFWG's current thinking on priorities for the 2012 review of the CFP are set out below. Our position will continue to be refined through internal discussion and external consultation.

2.2 *Further regionalisation of fisheries management*

- i. Fisheries management under the CFP has traditionally been 'top down' and highly centralised. However, local variations in exploited stocks, fleet composition and cultural traditions mean that a 'one size fits all' approach is unlikely to produce the best management solutions. Regionalisation could put fisheries management in the hands of those with the greatest interest in the sustainable future of fish stocks. The emerging Marine Strategy Framework Directive has regionalisation at its core. To become fully integrated with these aims, it is essential that the CFP incorporates some degree of regionalisation. A first step towards regionalisation has been taken in the establishment of Regional Advisory Councils.
- ii. Further regionalisation of the CFP is highly desirable but there are many outstanding issues that need to be addressed. For instance, what level of regionalisation would best succeed in delivering the ecosystem-based approach and ensuring integration of nature conservation within the CFP? At what level of management is regionalisation most appropriate and who should the managers be (the European Commission, stakeholders, scientists, etc)?
- iii. It is clear that different attitudes towards the environment and conservation prevail in different regions of Europe. It is important to ensure that regions with less progressive attitudes are not allowed to fall behind and thus clear minimum standards must be maintained with regional management occurring only within this framework. Regionalisation must be geared towards finding regional management solutions to achieve the same CFP objectives in all regions.
- iv. In the run-up to the CFP review, MFWG intends to stimulate debate around the issue of regionalisation through a study contract and possibly one or more workshops. We hope it will be possible through these to move towards a consensus on the form that regionalisation will take.

2.3 *Further development of the Regional Advisory Councils*

- i. In the 2002 reform of the CFP, seven Regional Advisory Councils (RACs) were proposed to allow stakeholder participation in the fisheries management process. Their composition is two thirds fishing interests and one third others, including environmental non-governmental organisations. The first RAC (North Sea RAC) was

established in 2004, but the last one (Mediterranean RAC) has only recently been announced. The current role of the RACs is purely advisory but there is a perception that extending their powers to include management responsibilities might be a feasible option.

- ii. The fishermen's organisations that make up the majority of the RAC membership vary greatly in the extent to which they have embraced science and/or the concept of sustainable management. While old attitudes of opposing science and blindly advocating increased catches persist among some, others are now beginning to take a much more enlightened view and realise that they can only play an active role in management if they are willing to engage with science and environmental concerns. Some of the RACs are starting to move in the right direction, and we regard these developments as very positive for the future. However, progress on environmental integration has been slow at best and in some RACs, virtually non-existent, and we are concerned that progress can only be as fast as the least willing members are prepared to move.
- iii. While we would oppose the immediate handing over of large-scale management responsibilities to the RACs, we wish to encourage further development of a culture of responsible management. This might be achieved by giving specific pieces of work to the RACs (e.g. Strategic Environmental Assessment of fisheries) so that they can develop their ability to take responsible management actions and increase their understanding of environmental sustainability. Responsible behaviour in these areas would be rewarded with further management responsibilities in other areas
- iv. The RACs (especially the recently established ones) might benefit from an interface between themselves and the scientific world, and this might be provided by creating a position for specifically appointed scientists – maybe people hired and trained within the UN's Food and Agriculture Organisation – whose job is to develop within the RACs a more scientific sound mentality.
- v. In advance of the 2012 review and any consideration of possible extension of the RACs' responsibilities, we will press for the European Commission to conduct a full audit of the environmental record of the RACs.

2.4 *Strategic Environmental Assessment (SEA) of fisheries*

- i. The MFWG has been arguing for some time that all European fisheries should be subject to full Strategic Environmental Assessment (SEA). The North Eastern Sea Fisheries Committee has recently completed a pilot SEA for inshore fisheries in their area and this can be seen as a successful model for other such assessments. We would like to see this taken further with a pilot SEA of a major European fishery (exploited by more than one Member State) to further prove the concept. There

are a variety of geographical scales at which this could be applied but, in general, we envisage SEAs being performed at the level of fleets, fisheries or stocks.

- ii. In many cases, RACs would be well placed to carry out SEAs. However, we recognise that it would be beyond their present capacity and may require additional investment in capacity building. If RACs were given this responsibility, we envisage a series of advantages to all stakeholders, mainly:
 - a. greater collaboration and understanding between the fishing industry and fishery scientists – as some of the problems with existing stock assessments are due to inaccurate data, so this would ensure a greater appreciation by fishermen of the consequence of unreported fishing and should in itself improve reporting;
 - b. greater awareness of the cumulative environmental effect of different fishing practices on the environment in a given region;
 - c. greater awareness of how different fishing management options can result in different impacts on the environment and on the stocks themselves and therefore on the long-term success of the industry.
- iii. We propose to develop this concept further with stakeholders at the European level through a series of international workshops and technical briefing papers.

2.5 *Implementation of the ecosystem approach*

- i. The 2002 review contained a commitment to the ecosystem approach. However, what is less clear is the mechanism by which this is to be implemented. A number of recent proposals from the Commission seem to be aimed at achieving this (e.g. measures to reduce discarding and bycatch) but the general approach has been piecemeal and not fully integrated with other management measures. The 2012 review must put in place clear mechanisms through which the ecosystem approach will be integrated within all management measures. A key tool in achieving this is likely to be Strategic Environmental Assessment (see above).

2.6 *Long-term management plans for fisheries*

- i. Fisheries managers have a wide range of tools available to them, but within the context of the current CFP the full use of these tools is severely constrained by the political decision-making process. Political ‘horse-trading’ in the tactical decision-taking process can effectively undermine the best advice of fisheries scientists and intentions of managers. In a similar way to the current management of the Bank of

England, we consider that political input and balancing of objectives is best achieved at a strategic goal-setting level rather than through tactical negotiation of the size of the Total Allowable Catch (TAC) and quotas.

- ii. The 2002 review contained a commitment to long-term management plans for all stocks but implementation has been slow and, in many cases, the resulting management plans have been assessed by the International Council for Exploration of the Sea (ICES) as not precautionary.
- iii. It is important that the 2012 review of the CFP recognises that progress has been far too slow, takes steps to accelerate the process and put it on a more sound footing, and ensures that all long-term management plans are consistent with the precautionary approach. Long-term management plans should consider impacts of fisheries on the wider ecosystem as well as on exploited stocks.

2.7 *Retention (or permanence) of the 6 and 12 nautical mile derogations*

- i. A key feature of the current CFP is the derogation that gives coastal states certain powers to manage fisheries within 6 and 12 nautical miles of their coasts. Within 6 nautical miles, the coastal state can restrict access to its own vessels and enact legislation to manage fisheries provided it is at least as stringent as the CFP. Between 6 and 12 nautical miles, states must allow access to vessels from other Member States which have historically fished there and can only enact legislation with the consent of the EU after consultation with the other interested states.
- ii. In the run-up to the 2002 review, there was widespread concern that these derogations would be removed; however, the MFWG successfully advocated their retention. The loss of the 6 and 12 mile derogations would severely constrain the UK's ability to manage inshore fisheries and protected areas within our coastal waters. In the 2012 review, we will strongly advocate the retention or permanence of these derogations.

2.8 *Further capacity reduction*

- i. Sustainable management of European fisheries is hampered to a large extent by continued excess of fishing capacity. Excess capacity reduces the profitability of fisheries and creates an incentive to over-fish. The European Commission has recently recognised that the effective fishing power of the European fleet has increased over the past 15 years despite several rounds of vessel decommissioning. This is largely a result of technological improvements which have increased the effective fishing power of the remaining vessel, often referred to as 'technical creep'. Economic modelling carried out for the Prime Minister's Strategy Unit report *Net Benefits* in 2004 demonstrated that

reductions in capacity in the UK whitefish fleet would create a more profitable industry and would reduce the incentive to over-fish.

- ii. We will advocate that the 2012 review of the CFP contains further measures to reduce fleet capacity to bring it into balance with current stock levels, followed by year on year adjustments to counter the effects of technical creep.

2.9 *Reform of European distant water fisheries*

- i. The existing over-capacity in the European fleet has led to significant over-fishing in Community waters. One mechanism that has been used to reduce some of this overcapacity is to export it to non-Community waters. Several EU countries have large distant water fleets operating world wide in the high-seas as well as in the Exclusive Economic Zones of countries with limited industrial fishing fleets, through third-party agreements. While the CFP regulations apply to vessels and nationals of Member States wherever they are fishing, concerns have been raised that EU fleets operating in distant waters are leading to similar adverse environmental impacts as those experienced in EU waters. We wish to maintain scrutiny of these fleets and maintain pressure to ensure that the precautionary and ecosystem-based approaches are implemented when signing third party agreements.

3. Proposed action

3.1 The following have been identified as key actions for the MFWG to achieve the aims identified in section 2 above:

- i. commission a study contract to examine options for greater regionalisation of fisheries management;
- ii. engage with fisheries stakeholders (through the RACs) to trial Strategic Environmental Assessment in a major European fishery;
- iii. engage with RACs to develop potential strategies to enhance their scientific base;
- iv. seek opportunities to meet with appropriate people in Government and the European institutions to ensure our views are incorporated into the review of the CFP at all levels;
- v. respond to all relevant consultations from Government or European institutions in a co-ordinated and timely manner;
- vi. co-ordinate actions within the MFWG and, as far as possible, with similar organisations in other Member States and with environmental NGOs;

- vii. work within ICES and the European Commission's Scientific, Technical and Economic Committee for Fisheries to ensure the provision of sound scientific advice to the Commission;
 - viii. commission further studies and hold workshops on the sustainability of the marine environment to develop our thinking on how fisheries should be managed to produce the best outcomes for the environment as a whole, fish stocks (including non-target stocks) and wider conservation objectives.
- 3.2 To fully implement all of these actions JNCC will need to make a modest increase in resources allocated to fisheries work between 2009 and 2012. This will be considered as part of the normal corporate planning process.

Annex 1. The development of the Common Fisheries Policy

1. The Common Fisheries Policy (CFP) has its roots in Article 38 of the Treaty of Rome (1957) which stated "... the Common Market shall extend to agriculture and trade in agriculture products". 'Agriculture products' means the products of the soil, stock farming and fisheries. The first common measures in the fishing sector date from 1970, when it was agreed that, in principle, EU fishermen should have equal access to Member States' waters. However, in order to protect the interest of smaller vessels, waters within 12 nautical miles of the coast were reserved for local fishermen and those who had traditionally fished these areas. Other Member States with 'historic fishing rights' retained access to the 6-12 mile zone through specific arrangements. Measures were also adopted for a common market in fisheries products.
2. In 1976, Member States extended their rights to marine resources from 12 to 200 miles from their coasts in line with international developments. Following years of difficult negotiations, the CFP was established in 1983 by Council Regulation 170/83. This regulation retained the principle of equal access for community vessels to the waters of other Member States with a derogation allowing coastal states powers to restrict access and manage fisheries in coastal waters. For the first time, the CFP attempted to regulate the exploitation of resources through a system of Total Allowable Catches (TACs). Fishing opportunities were allocated among the Member States in such a way as to ensure the relative stability of the fishing activities of each Member State for each stock concerned. This principle of relative stability, based on historical catch levels, resulted in the division of TACs into national quotas. Thereafter, TAC and quotas allocations were fixed annually by the Council.
3. The CFP has since been the subject of two (mid-term) reviews, one in 1992 and the other in 2002. The review of 2002 was more comprehensive and resulted in major changes in fisheries management and the adoption of a new basic regulation (Council Regulation 2371/2002). Further details are given in Annex 2.

Annex 2. The 2002 review of the Common Fisheries Policy

1. *The role played by the Marine Fisheries Working Group*

- 1.1 The inter-agency Marine Fisheries Working Group (MFWG) was established in the 1990s with the aim to jointly consider major fisheries issues that affect nature conservation and ensure co-ordination of approach between the agencies. The group generally meets four times a year and currently comprises fisheries specialists from JNCC, SNH, CCW, NE and NIEA. The MFWG has worked together on a number of national and European issues but in the late 1990s focussed collectively on the development of a CFP influencing strategy.
- 1.2 Following a workshop in September 1997, the MFWG identified six broad themes that required action in order to achieve the overarching aim of integrating environmental objectives within fisheries policy. These were to:
 - i. reduce fishing effort;
 - ii. retain the 6/12 mile limits and “Shetland Box” (an area in the northern North Sea partially reserved for smaller vessels);
 - iii. integrate environmental fisheries policy/ecosystem approach;
 - iv. implement the precautionary approach;
 - v. use suitable management methods and tools, including closed areas for fisheries and natural heritage conservation;
 - vi. improve understanding of the natural heritage/fishery interactions.
- 1.3 In the run-up to the 2002 review, the MFWG considered that greatest influence could be achieved through coordinated action with other like-minded organisations in Europe. To that end, the European Nature Conservation Fisheries Advisors Network (ENCFAN) was set up, comprising agencies from Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Spain, Sweden, the Netherlands and the UK. This network undertook a number of key activities in relation to the 2002 review.
- 1.4 The MFWG provided input into a number of key consultations at the national level. At the EU level, the MFWG submitted a joint response to the EU’s Green Paper. The MFWG also joined forces with ENCFAN and submitted an additional response to the Green Paper which reinforced our positions on key elements of the reform.
- 1.5 English Nature, on behalf of MFWG, commissioned, published and distributed two studies: *An ecosystem based approach to the CFP: Defining the goals and Achieving objectives*, by John Pope and David Symes. In June 2000, Pope and Symes presented their ideas to a seminar at JNCC at which MAFF, DETR and fishing industry representatives were present. They also presented their ideas to representatives of the fishing industry at Grimsby. Pope and Symes are

highly respected fisheries scientists and these publications proved to be very influential.

- 1.6 David Symes and colleagues at Hull University also worked with the agencies to develop the idea of integrating fisheries management and marine nature conservation, initially for JNCC in 1998, then more specifically reporting on the feasibility of integrated fisheries management in the Irish Sea for CCW in 2002.
- 1.7 Although it is difficult to judge the extent to which the UK conservation bodies were responsible for some of the key changes during the 2002 CFP reform, many of our key objectives were achieved (see table below), including the establishment of Regional Advisory Councils (RACs) to increase the involvement of stakeholders in decision-making, the embedding of the ecosystem approach, and the retention of the 12 nautical mile limit.

MFWG objectives	Relevant incorporation of terms into new CFP regulation
Reduce fishing effort	Successful to some degree although perhaps not as stringent as wished for.
Retain the 6/12 mile limits and Shetland Box	Successful. Limits retained.
Integrate environmental fisheries policy/ ecosystem approach	Successful. Ecosystem based approach to fisheries incorporated more fully into the legislation.
Implement the precautionary approach	Successful. Introduction and definition of the term 'precautionary approach' throughout.
Use suitable management methods and tools. including closed areas for fisheries and natural heritage conservation	Partially successful. Closed areas are defined as one type of conservation measure in Article 4 of the CFP regulation but no specific mention is made regarding natural heritage conservation.
Improve understanding of the natural heritage/fishery interactions	No direct link to this point in the new legislation.

- 1.8 In 2008 the MFWG commissioned a study from the Institute of European Environmental Policy to evaluate the success of the MFWG in influencing the 2002 review. The study concluded:

The review process and the reform of the CFP in 2002 presented key opportunities to influence the CFP. The MFWG was in a good position to influence the policy at a UK and EU level at that time. The involvement of agency staff at the Director and officer level in the implementation of the influencing strategy and tasks identified was critical for success. The objectives of the MFWG were largely achieved.

2. *Key changes resulting from the 2002 review*

- 2.1 The new regulation established following the 2002 review (2371/2002) retained many of the key features of previous regulations, including the principles of equal access and relative stability and the derogations for 6 and 12 nautical miles. However, it is a much more comprehensive regulation than its predecessors, containing specific chapters relating to, among other things, ‘conservation and sustainability’, ‘adjustment of fishing capacity’ and ‘decision-making and consultation’.
- 2.2 The new Regulation sets out definite objectives, clearly advocating and defining the precautionary principle and ecosystem-based approach to fisheries management. The previous regulation (3760/92) made brief mention of the ecosystem but not the precautionary approach.
- 2.3 The chapter on *conservation and sustainability* contains a clear commitment to a multi-annual approach to management. Previous regulations stipulated that TACs should be set on a multi-annual basis ‘where appropriate’, but in reality most TACs were set annually. The reformed CFP emphasises a long-term approach to management, advocating a multi-annual approach to a much greater degree. This is to be achieved through multi-annual management plans for stocks at or within safe biological limits and recovery plans as an absolute priority for stocks outside safe biological limits.
- 2.4 *Adjustment of fishing capacity* was not addressed in previous regulations although attempts were made to reduce fleet capacity under several community Multi-Annual Guidance Plans for fisheries (MAGPs) and Financial Instruments for Fisheries Guidance (FIFG). The new regulation includes an Article on ‘entry/exit scheme and overall capacity reduction’ and another explaining ‘Conditionality of Community financial assistance and reduction of fishing effort.’ These explicitly provide a mechanism for the adjustment of fishing capacity to match stock levels.
- 2.5 A significant addition to the CFP in the 2002 Regulation is contained within the ‘decision-making and consultation’ chapter, which establishes Regional Advisory Councils which are to be composed principally of ‘fishermen and other representatives of interests affected by the Common Fisheries Policy’ and set up in sea areas falling under the jurisdiction of at least two Member States.

Annex 3. Evaluation of the success of the Common Fisheries Policy and the need for further reform

1. While the 2002 review of the CFP undoubtedly contained a number of positive changes, many of which were in line with the recommendations of the MFWG, their success or failure has been dependent on how effectively they have been translated into actions.
2. The overall effectiveness of the revised CFP in conserving fisheries resources may be judged by examining changes in the state of stocks over the period since 2002. Scientific advice on fish stocks is provided to the European Commission by the International Council for the Exploration of the Sea (ICES). This annual advice is reviewed by the Commission's Scientific, Technical and Economic Committee on Fisheries and provides the scientific basis for management (although, in the political process of setting TACs, socio-economic considerations are frequently allowed to over-ride scientific advice). Based on recent ICES advice, 30% of the stocks for which information exists are outside safe biological levels. This means that their populations have been reduced to levels where ICES considers that their ability to reproduce may be impaired. Although the status of some stocks has improved, there is no evidence of an overall improvement in stock status since 2002.
3. In relation to the adjustment of fleet capacity, the Commission's 2008 working document *Reflections on further reform of the Common Fisheries Policy* contains an evaluation of trends in nominal fleet capacity and effective fishing power under the current exit/entry scheme and under previous decommissioning schemes (MAGP and FIGG). This is reproduced in Figure 1 below.

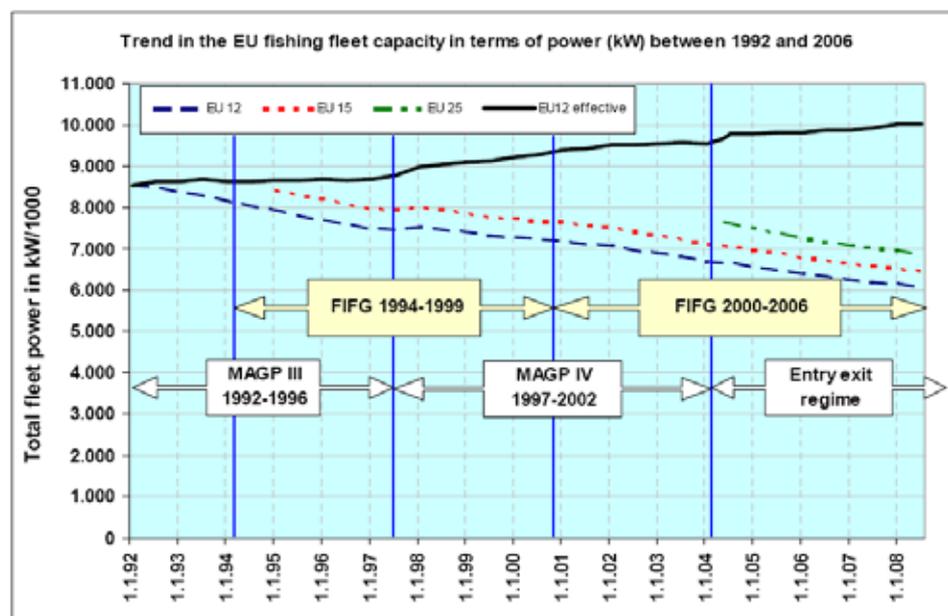


Figure 1. The development of the nominal capacity (kW installed engine power) of European fishing fleets (of 12, 15 and 25 Member States) since 1992. The policies relating to capacity which were in place during the period are indicated. A line has been added to indicate the development of the effective harvest capacity of the fleet of the original 12 member states due to an increase in efficiency from technological development, assuming an increase of 3% per year.

4. The revised CFP calls for rebuilding plans and management plans for stocks as mechanisms for fulfilling the objective of sustainable management. Several rebuilding plans have been adopted, but they have not always been followed. Of these, only one (northern hake) has so far achieved its objectives. Preparation of management plans has been slow and the majority of stocks are not yet covered. Several of the existing plans that have been evaluated by ICES have been found to be inconsistent with the precautionary approach.
5. The RACs set up under the revised CFP have had mixed success. Perhaps reflecting the differing political and social culture of the various regions they cover, they differ greatly in their composition, maturity and ethos. This is particularly evident in their attitudes towards conservation. The first to be constituted was the North Sea RAC and this has matured to the greatest degree with strong scientific input, effective environmental NGO participation, and a relatively progressive attitude towards engaging with environmental issues. Among the most recently established is the Distant Waters RAC and this, in contrast, has no environmental representation and does not appear willing to address environmental issues.
6. Although the 2002 regulation contains a firm commitment to the ecosystem approach, and despite producing a communication on the subject earlier this year, the European Commission has not yet formalised a strategy for its implementation or for documenting that it is doing so.
7. However, before judging the CFP to be a failure, it is important to remember that its success has almost certainly been greater than if there were no common policy. Achieving a management system that takes account of the wide variety of stocks found within European seas and the differing fisheries and political cultures of Member States is not easy. The continued existence of a modern and dynamic fishing industry (albeit less productive than it should be) and reasonably diverse marine ecosystems are evidence of some degree of success for the policy.