

The New Common Fisheries Policy (CFP): Towards Sustainable Management and a Profitable Fisheries Sector?



Magnor Nerheim*

Observer – EIPA Maastricht

Abstract

The new Common Fisheries Policy (CFP) entered into force on 1 January 2003 and has four main elements:

1. Long-term sustainable management approach;
2. A new policy for the fleets, balancing fishing capacity and available resources;
3. Better application and enforcement of rules;
4. Improving stakeholders' involvement.

The framework Regulation is in place, but several main elements are still to be decided and others have not yet been presented in a final draft.

The article seeks to provide an overview of the implementation of the new CFP. After a description of the main elements and the achievements so far, unfinished business and major challenges ahead will be analysed – with particular emphasis on the economic dimension.

1. Introduction – Why reform the CFP?

It is only some 20 years since the Community developed and implemented a common policy for fisheries. From 1977 Exclusive Economic Zones (EEZs) of 200 nautical miles¹ were declared by most coastal states, and in 1983 the CFP as such was established.

By the turn of the century, it had become quite obvious to insiders and observers alike that the decision-making processes were too centralised and overloaded, while at the same time the perspectives of most decisions were short-term. The tradition was that the Fisheries Council meeting in December each year made decisions that were not based solely on the scientific advice given on Total Allowable Catches (TACs), formulated on the state and situation of fish stocks. Most Ministers were under pressure from their national fishing industries and did not necessarily follow the proposals from the Commission. There seems to have been an atmosphere of hoping that the scientists could be wrong – it was of course always possible to find examples where they had been wrong in the past, since fisheries research is not an exact science.

Ministers were simultaneously defining and dividing the TACs. “If the pieces are not considered big enough, it always helps to increase the pie.” It is generally

agreed that quotas were set higher than scientifically advisable in the first place, and that the actual catch was higher still because of poor and variable enforcement and control by the Member States.

1.1 The reform process

In the 1992 Regulation² it was decided that some elements of the CFP were to be reviewed by the end of 2002. The Commission took this opportunity to launch a process on a wide review of the whole CFP. In March 2001, it presented a Green Paper on objectives and options, which generated a broad debate fuelled by a very active and open dialogue from the Commission.

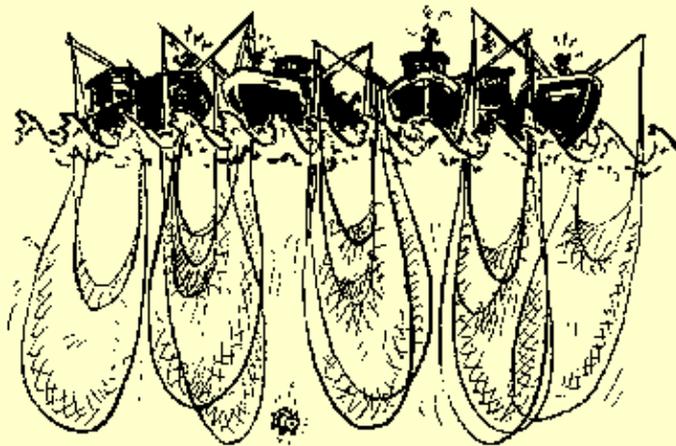
In May 2002 the Commission presented a Communication on the reform (“Roadmap”)³ and, at the same time, a number of proposals for new Regulations⁴ and Action Plans⁵. In the Commission’s own wording in the “Roadmap”, the background for the new policy was:

- The alarming state of many fish stocks outside safe biological limits.
- The fishing capacity of the Community fleets far exceeding that required to harvest the available fishery resources in a sustainable manner.
- Most of the Community fisheries sector facing

**The overall objective of the
new policy is to ensure fisheries
management that provides
sustainable environmental,
economic and social conditions.**

economic fragility, poor financial profitability and steadily declining employment.

- Current control and enforcement arrangements being insufficient to ensure a level playing field across the Union undermining the credibility of the CFP.
- Stakeholders not being sufficiently involved in shaping policy.
- The aspirations of many developing countries [from which the EU has been buying fishing rights] to develop their fishing industry and the requirements of sustainable development of responsible fisheries.
- Increasing demand for seafood and high prices for fish reflecting its scarcity, which on the one hand shelter fishermen from the effects of declining stocks, but on the other reduce the need for financial support to the industry.



The reform process was also influenced by the globalisation of seafood markets and fisheries activities.

2. The elements of the new CFP

The new CFP was debated during the summer and autumn of 2002 and the Commission's proposal was endorsed, with some changes, by the Agriculture and Fisheries Council, which adopted several new Regulations in December 2002⁶.

2.1. *Conflicting policy goals?*

The overall objective of the new policy is to ensure fisheries management that provides sustainable environmental, economic and social conditions. The measures are aimed at:

- responsible and sustainable fisheries and aquaculture activities that contribute to healthy marine ecosystems;
- an economically viable and competitive industry which will benefit the consumer;
- creating a fair standard of living for those who depend on fishing activities.

As in other policy areas with important political elements of socio-economic and employment considerations, these goals are not prioritised, either in the short or long term. It is, however, obvious that the somewhat conflicting goals cannot be reached simultaneously and that a clearer priority and balance between goals is needed.

2.2. *Main elements*⁷

The new basic Regulation also had other elements of great importance for most Member States, including confirmation of the original guiding principles concerning:

- Relative stability [between Member States] as the basis for allocation of fishing rights
- Restricted access to coastal waters.

The four main elements can be summarised as follows:

1. A clearer strategy for sustainable management of resources:
 - Recovery and management plans
 - Long-term targets and harvesting rules
 - Incorporation of an eco-system approach
 - Improvement of scientific advice
2. A new fleet policy:
 - Simpler rules for limiting fishing capacity
 - Fishing effort limitation when necessary
 - Phasing out of public aid
3. New procedures to improve enforcement:
 - Closer co-operation between the Member States
 - Sanctions for poor enforcement against Member States
 - More autonomy for Community inspectors
 - A commitment at Community level to reinforce co-ordination and enforcement
4. Involvement of Stakeholders:
 - Creation of Regional Advisory Councils (RACs)
 - Right of initiative
 - Commitment to consultation

Included in the new CFP are also new priorities for external fisheries policy:

- Partnership Agreements with developing countries
- Commitment to sustainability in international fisheries management

2.3. *Achievements so far*

2.3.1. *Conservation policy*

In February 2003 the Commission presented a Communication⁸ to improve scientific advice needed by the EU for fisheries management. The new CFP is firmly grounded on science, and the decision-making processes depend to a large extent on the quality and timeliness of scientific advice. The Commission examined two ways to improve the present situation:

- Reorganising the provision of advice so that it better delivers what is needed when it is needed.
- Devoting more resources to obtaining scientific advice.

Recovery and management plans will set long-term

standards, targets and other parameters in a legally binding format. These will guide, and to a large extent tie, the decision-making on yearly quotas, based on the inputs given in the scientific advice.

The transition from short-term measures to long-term plans is being implemented. At its meeting in December 2003, the Council adopted the Commission recovery plan for a number of cod stocks and reached political agreement on the plan for northern hake. According to the scientific advice, these stocks are in danger of collapse. Control of fishing effort, effectively limiting the days that vessels spend at sea, is a central pillar in this recovery plan, in combination with reinforced inspection and control measures. This is necessary to avoid over fishing of the TACs set for 2004.

In the transformation to environmentally sound management principles there has been a focus on the challenge of *discards*, meaning the practice of throwing overboard of any unwanted fish for economic reasons or because the vessel has no quota for the specie. The Commission in November 2002 presented an Action Plan⁹ to reduce discards. It will also examine all aspects of a ban on discards, and states that it will consult Norway, where such a ban has been in force for many years.

2.3.2. Fleet and structural policy

The big over-capacity of the Community fleet is a fact, but so far there are only a few policy elements in place¹⁰. An emergency measure for scrapping fishing vessels has been established. From the beginning of 2005, public financing can no longer be used for investments in new fishing vessels – in principle. But the fleets can still get public aid, e.g. for safety equipment and improvement of sanitary and working conditions, for technological innovations that do not increase the fishing effort, and for training.

When outlining the CFP reform in May 2002, the Commission stated that it was necessary to cut fishing effort between 30% and 60% on the basis of current scientific advice. This would result in an estimated withdrawal of some 8.600 vessels. One can observe that the Community has so far only managed to agree on a policy limiting the capacity increase. There is still a need to develop an effective and active policy for reducing capacity and unnecessary capital costs in the fishing industry.

2.3.3 Control and enforcement

Member States are responsible for control and enforcement. They “shall ensure effective control, inspection and enforcement of the rules of the CFP” on their territory and in the waters subject to their sovereignty or jurisdiction. They must also ensure that vessels flying their flags comply with regulations in force wherever they operate.

In March 2003 the Commission adopted a Commu-

nication¹¹ setting out the path towards the creation of a *Community Fisheries Control Agency (CFCA)*. The aim of the Agency would be to ensure more effective use of the 25 EU inspectors and of national means of fisheries inspection and surveillance, through operational co-ordination by pooling available resources.

In December 2003 the meeting within the European Council

“...welcomed the Commission’s intention to submit, before the end of March 2004, a proposal on the establishment of a Community Fisheries Control Agency: they agreed on the urgency to establish such Agency and that such Agency shall have its seat in Spain.”

It is expected that the proposal will be debated by the Council and the European Parliament with adoption some time in 2004/2005. The Board and Director could be appointed in 2005 and the Agency’s operations could start in 2006.

In June 2003 the Commission established a *CFP Compliance Scoreboard*¹². The intention is to increase transparency of information related to the compliance of Member States with their enforcement obligations under the CFP. Whether this will be of value depends on the quality of Member States’ reporting and the Commission’s capacity to issue clear standards for reporting and to secure correct and timely information.

Following the CFP reform, the Commission was authorised to take preventive measures if non-compliance could lead to a serious threat to fish stocks. On this basis, the Commission in November 2003 opened infringement procedures against Spain and the UK for failure to enforce certain fisheries

rules. At the time the letters of formal notice were sent, Commissioner Franz Fischler said:

“At a time when the stocks are threatened, respect for the rules to ensure fair and sustainable fisheries have become all the more important for the future of the industry. The Commission has given Spain and the UK many opportunities to tackle the unacceptable weaknesses in their enforcement. I trust that both will respond promptly to end these counter-productive practices which undermine conservation, particularly of vulnerable stocks.”

The cases are still in an early stage of the three-step infringement procedure, which could end in the Court of Justice. The initiation of the two cases has, however, set a completely new scene, where the Commission is taking an active role in the overall implementation and compliance with the CFP through Member States’ enforcement.

2.3.4 Involvement of stakeholders

It is expected that the proposal will be debated by the Council and the European Parliament with adoption some time in 2004/2005.

There has been strong industry criticism of fisheries management for being too centralised and top-down. Increasing stakeholder involvement has therefore been central throughout the reform process, and the establishment of *Regional Advisory Councils (RACs)* was introduced as a policy element in the new CFP. The Commission in October 2003 presented a proposal for a Council Decision¹³ establishing RACs, setting up:

- the number and geographical areas (Baltic Sea, Mediterranean Sea, North Sea, North Western waters, South Western waters and Pelagic stocks);
- framework rules of procedure for establishing and running RACs, including Community financing of a three-year start-up phase.

The RACs shall be representative of the stakeholders in the given area, since two thirds of the seats are to be allotted to the fisheries sector from the Member States concerned and one third from other interest groups (environmental and consumer NGOs etc). Their main task will be to advise the Commission and Member States on matters of fisheries management in the respective sea areas. The intention is to give the RACs a genuine role in the elaboration by the Commission of proposals for legislative measures relating to stocks in their areas. RACs shall adopt recommendations and suggestions by consensus. If consensus cannot be reached, dissenting opinions shall be recorded.

The industry associations are in general positive on the establishment of RACs, but it is still to be seen how the RACs will function in their consensus-seeking action and to what extent their advice will be taken into account by the Commission and the Council.

It is expected that the Council will adopt a Decision in March, pending the opinion of the European Parliament. With this timetable, it is envisaged that the first RACs can be operative before the end of 2004.

Establishing RACs as an integral part of the new CFP represents an important potential for enhancing participation and influence of stakeholders. On this basis, it can be expected that:

- If RACs are able to give consensus-based environmentally sound advice, it will (to a large extent) have to be followed by the Commission and the Council.
- If the Commission and the Council do not follow RACs' consensus-based environmentally sound advice, it will soon lead to the breakdown of the RACs – and of the stakeholders' confidence in the new CFP.

2.4. Unfinished business

As described above there has been a good start to the new CFP by the endorsement of the main political goals and principles and the framework Regulation. The Commission has – broadly speaking – been able to follow its “Roadmap” in proposing new legislation.

However, the process has barely started on the implementation of new rules, for instance the development of recovery and management plans for all important stocks.

Work has just started on a feasibility study on co-

operation and co-ordination in the area of control and enforcement, and will be carried out during 2004.

There seem to be two factors important for the successful implementation of the new CFP, as it appears today:

- the capacity and capability of DG Fisheries to transform ideas and policy papers into proposals for effective legislation;
- the ability of the Council to make timely decisions.

The political discussion has so far been an exercise in balancing differing interests. It has been possible to find broad agreements on long-term goals and – on the basis of the new policy – on environmentally sustainable management. However, when it comes to necessary short-term measures with tough consequences for the fisheries communities, it has so far been more difficult to make timely decisions that come to grips with the situation.

As already indicated, an aspect not very apparent in the new CFP is the economic dimension of fisheries management. This is in itself a complicated and controversial subject. It includes better economic analysis, more focus on the role of market mechanisms in resource allocation and in restructuring, defining the limits of public aid and cost recovery, and making sure that economic incentives are actually supporting the CFP goals.

3. The balance of power between the Community institutions and Member States

When Franz Fischler was appointed new Commissioner for Fisheries in the Prodi Commission he already had experience from one term as Commissioner for Agriculture. Without much knowledge of the dossier, but with essential political experience relevant to the challenges of natural-resource-based rural communities. It is a general impression that the Commissioner and the Director-General for Fisheries, Steffen Smith, appeared to be a good match. It is, however, a fact that Smith in the summer of 2002 was “sacrificed” after pressure from a southern Member State which was not very satisfied with the Commission after the proposals of the new CFP in May 2002. Smith was removed from his position with immediate effect.

The Commission's reform proposals included moving some short-term decision-making of more detailed and technical nature from the Council to the Commission following the comitology procedure. The Member States have, however, so far been reluctant to delegate implementation to the Commission

It is envisaged that the introduction of recovery and management plans in the management of resources – decided by the Council – will in practice tie the hands of the same Council when it comes to the annual quotas. Recovery and management plans will set long-term standards, targets and other parameters in a legally-binding format. These will guide, and to a large extent tie, the Commission's future work in preparing the proposals for annual quotas, based on the inputs given

in the scientific advice – and consequently also the Council’s decisions. With sound recovery and management plans and good scientific advice, it is to be hoped that the era for Council “horse trading” on account of fisheries resources is coming to an end.

In the Convention’s proposal for the Union Constitution, the balance of competence between the Community and the Member States is being retained. The fisheries sector is included in the list of areas where the Union shall have exclusive competence. “The conservation of marine biological resources under the common fisheries policy” is listed here together with competition rules, common commercial policy, customs union, and monetary policy (for the Member States having adopted the Euro). For the rest of the principal area of fisheries, the Union shall share competence with Member States.

4. Major challenges ahead

One important challenge for the new CFP is establishing a fixed and stable system with the relevant variables and parameters to make the science-based management operable. In the principles for establishing recovery and management plans, there is in place a basic tool to achieve this. Whether this will be successful depends especially on:

- the provision of good and timely scientific advice, which requires increased organisational and financial resources, including giving priority to fisheries management sciences within the EU framework programmes for research;
- the legitimacy that the scientific advisers and policy-makers enjoy in the eyes of stakeholders’ in the fisheries sector.

If this is to become the case, it will significantly limit the room for – and hopefully the practice of – political “horse trading” over TACs and quotas in the Council.

Another equally important challenge is *compliance and implementation* of basic, uniform standards throughout the Union, emphasising:

- control of fishing vessel capacity and the reduction of over-capacity;
- control and enforcement of fishing activities and practices as well as harmonisation of sanctions.

It has become common in Brussels to talk about the need for “a level playing field”. In a policy area where competence is shared between the Community and the Member States, it has in the past been easier to blame someone else than to do something about the problems. The fishermen in the Community, and from third countries fishing in the same seas, need to feel that the same rules apply to everyone. As long as it is possible for the fishermen with the lowest morals to get the highest profits, the CFP will fail. The management must be trustworthy and must have legitimacy in the eyes of the fishermen. They do indeed need “a level blue playing field”.

Enlargement will represent additional challenges for the implementation of the new CFP. One question is

whether enlargement will effect the balance of (Qualified Majority) voting in the Council.

Of the new Member States, seven are coastal countries with fishing interests, four in the Baltic and three in the Mediterranean. They will therefore represent new and added experience and knowledge and widen the perspective of the policy discussions on fisheries. The Baltic Sea, with practically no migration of fish species outside the Sea, will become almost fully an internal EU sea – shared only with Russia. This gives the Union a potential “showcase” for the CFP. In the Mediterranean the Community will have more challenges, but also increased and additional sources of experience represented by the fisheries experts in the new Member States.

The economic dimension needs, as mentioned above, further enhancement and development. At the EIPA Seminar on 2-3 February 2004, Director John Farnell from DG Fisheries said that the Commission is rethinking structural policy in its preparation for the new financial perspectives for the period 2007-2013. One option is to separate the Financial Instrument for Fisheries Guidance (FIFG) from other Structural Funds. He also mentioned “Reduction of fishing capacity” as a priority area.

5. Will the Community fisheries sector ever be profitable and economically sustainable?

The OECD made a study in 2002 “The Costs of Managing Fisheries”¹⁴, as this has become an increasingly important issue in OECD countries in recent years. The study states that:

“The overarching objective of government intervention in the fishing sector is to ensure the optimum use of marine resources and of the capital and human resources applied to the catching of fish. This requires that management should provide for long term sustainable yields and for the allocation of fishery resources among competing uses in the way that is most valuable to society. From an economic perspective, a priority objective of fisheries management is therefore to generate resource rent from the exploitation of available fish resources, subject to sustainable consideration.”

The study defines broad components of costs of fisheries management in order to make comparisons between the OECD countries. In the study the EU is treated as one, aggregating the costs of the Community and the member countries. The study compares costs in relation to the size of the EEZ (Exclusive Economic Zone), coastline, number of landing sites, quantity and value of production, employment, fleet size and fleet capacity. This comparison gives no clear conclusions. It is, however, clear that the EU would not be scoring very high on a list of countries ranging their fisheries policies according to the economic principles defined by the OECD. Australia, New Zealand, Iceland, Canada and Norway all have policies also based on elements of market mechanisms and principles of economic sustainability.

Commission officials are aware of this fact, and see the

need to improve the economic dimension of Community fisheries management.

The fisheries sector in the EU has the same potential to become profitable and economically sustainable as in other OECD countries. If this is to be achieved, the economics of the CFP framework must be developed further, preferably in a process where the industry itself is a partner and ideally also a driving force to increase its economic performance.

6. Conclusions

In economics we learn about “the tragedy of the commons”. It is used to illustrate the need for common agreements or regulations in an area of the economy where there is a limited common resource. Fisheries is such an area, where the marginal investment to increase activity of the individual fisherman is profitable, while the consequences of the increased activities of all fishermen are detrimental to the fish stocks.

In the last few decades fisheries policy has been increasingly difficult to manage, because of the rapid implementation of new technology and consequent increase in catching capacity. Even small improvements in fishing gear and new electronic instruments can represent big increases in capacity. Investments in new technology and capacity have resulted in too much capital being tied up in fishing vessels globally.

There is general agreement on the need for common policies in fisheries. National governments find it difficult to develop and manage policies that make both stakeholders and economists happy. In the European Union, with a Common Fisheries Policy for 25 Member States, and with shared competence between the Community and the Member States, it will of course be increasingly more difficult to strike the right balance.

Commission officials are aware of this fact, and see the need to improve the economic dimension of Community fisheries management.

It is obvious that the new CFP needs to be completed and developed further – not only the policy itself, but also the principles of governance. This implies continued and probably more complicated dialogue and co-operation between the Commission and Member States. To establish “a level playing field” that includes appropriate rules for improving the economic performance of the industry, legislation might become more detailed and comprehensive. One solution to this dilemma could therefore be that the Community institutions set objectives, standards and minimum requirements, leaving the details to someone closer to the industry to make the year-to-year and more detailed policy decisions and regulations – in dialogue with regional stakeholders.

The principle of “Relative stability” as the basis for distributing fishing rights has been confirmed in the new CFP.

Enlargement makes the issue of subsidiarity more relevant. Based on insights into good national and bilateral fisheries management in parts of the Mediterranean, a representative from DG Fisheries at the EIPA seminar elaborated on this, and asked the rhetorical question:

“Is it necessary for Brussels to get involved in the running and management of local fisheries if the countries are able to find good and accepted solutions, given that they respect environmental sustainability?”

The creation of RACs makes the issue of regional management and enforcement schemes more relevant. One alternative could be to delegate Community authority to regional bodies, based on co-operation between Member States with a common sea. This would have the advantage of establishing a shorter distance between policy managers and those who are managed.

NOTES

* Magnor Nerheim is Director General at the Norwegian Ministry of Fisheries. He has been staying at the EIPA as an observer for six months, returning 20 February 2004. His assignment was to study the new CFP in particular and to learn more about EU governance in general. He was Project Leader of an EIPA seminar on the new CFP, held in Maastricht 2-3 February 2004. The seminar had speakers from the European Commission and from the fisheries administrations and industry in Member States, an accession country and a third country. For the seminar programme, see: http://www.eipa.nl/activities/04/30101_2Feb/en/programme.htm

¹ United Nations Convention on the Law of the Sea of 10 December 1982

² Regulation (EEC) No 3760/92, Article 14.2.

³ COM(2002)181

⁴ COM(2002)185, COM(2002)187 and COM(2002)190

⁵ COM(2002)180 and COM(2002)186

⁶ Council Regulations (EC) No 2371/2002, 2369/2002 and 2370/2002

⁷ From Director John Farnell’s presentation at the EIPA seminar 2-3 February 2004

⁸ COM(2003)625

⁹ COM(2002)656

¹⁰ Council Regulations (EC) No 2369/2002 and 2370/2002

¹¹ COM(2003)130

¹² COM(2003)344

¹³ COM(2003)607

¹⁴ ISBN 92-64-09975-1. □