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Improving consultation on Community fisheries management

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1. INTRODUCTION

In order to ensure “the broad involvement of stakeholders at all stages of the policy from conception to implementation” (Article 2(2) of Council Regulation 2371/2002), the current procedures for adopting annual decisions on Community fisheries management need to be changed.

Fishing opportunities available to European Community fishermen are normally set annually at a meeting of the Agriculture and Fisheries Council in late December. The adopted regulation comes into force on 1st January of the next year, and includes decisions setting the TACs and quotas available to Member States, permitted levels of fishing effort by gear type and by area, and some technical measures concerning the permitted fishing gear to be used during that year.

The Council's decision is based on a proposal from the Commission, as is required by the Treaties. Up to now, the Commission has issued its proposal very late in the year in order that the latest scientific and technical information can be taken into account. This timing implies that very limited time is available for consultation with stakeholders.

The depleted state of many fish stocks has recently required more wide-ranging conservation measures. TAC reductions alone have proven insufficient, and a package of measures including effort management, technical measures and control and inspection provisions has proven necessary. The definition of such measures within the short time-frame of the annual decision-making process described above has proven difficult.

The Commission undertook in 2005 an informal consultation process with stakeholders and the Member States about alternative working methods for preparing Community fisheries management decisions. Many Member States were open to considering changes, although most were reluctant to alter the period to which TACs apply. The Commission was invited to explore the possibilities of obtaining scientific advice for fisheries management earlier in the year. Many Member States encouraged the Commission to engage in early discussions with Regional Advisory Councils in relation to decisions about fishing opportunities. However, some Member States considered that the time pressure built into the present system was helpful in reaching decisions efficiently.

The Commission has already taken steps to reduce the accumulation of fisheries management decisions at the years' end. In 2005, a separate and earlier proposal concerning the TACs for stocks in the Baltic Sea was presented by the Commission. Technical discussions were held with Member States throughout the year in preparation of decisions about effort management, setting TACs and associated issues. TACs for deep-sea species are already set in a separate Regulation for two years at a time.

More improvements are necessary, particularly to allow for a meaningful consultation with stake-holders. This paper proposes a new working method for preparing Council decisions on annual fishing opportunities and associated conditions within the Community. The aim is to improve the consultation process with the stakeholders as well as to achieve a better coordination between the Commission, Member States and scientific advisors concerning the long-term aims of fisheries management and the means to reach those aims, in advance of the presentation of Commission proposals for annual fisheries management. The timing of the presentation of Commission proposals would also be changed, at least in part.

Enhanced consultation with the stake-holders will not affect the Commission's right of initiative. The objective of such consultation is to improve the knowledge basis for the Commission's proposal, and to obtain advice from stake-holders.

2. FORECASTING AND MANAGING FISHING OPPORTUNITIES

2.1. Advisory methods and data needs

The advisory and management system for fisheries management generally in use in the Community was developed at the inception of the Common Fisheries Policy in the early 1980s. At this time fish stocks were not considered to be at risk and the main concern was not so much to manage the sustainable development of fisheries as to forecast the short-term catch that could be taken from each fish stock in order to establish national quotas and relative stability shares.

The short-term "catch option" form of advice provided by scientific bodies such as ICES reflected this perception and was formulated with reference to the assumed catch that would be taken under unchanged fishing rates, so long as the stock size did not fall under a minimum biological levels.

With the development of the precautionary approach in fisheries management after the adoption of the UN straddling stocks agreement in 1995, advice was sought with reference to the highest catch that could be taken without prejudicing the spawning biomass of the stocks in the short term, or without developing fishing mortality rates that would cause an excessively high risk to the spawning stock in the longer term. In 2002, the Community incorporated the precautionary approach as well as the implementation of the ecosystem approach to fisheries management in its framework regulation for the Common Fisheries Policy. Furthermore, the Community and its Member States committed themselves in 2002 to maintain and restore stocks to levels that can produce high yields, as defined in the Plan of Implementation of the World Summit on Sustainable Development agreed at Johannesburg in 2002.

2.2. Current Procedure

The Community tradition of fisheries management based on a short-term forecasting methodology has inadvertently made decision-making more difficult.

Firstly, because decisions are focused on the short-term rather than the long term, it has hindered the proper discussion of long-term management. This was recognised in the reform process of the Common Fisheries Policy which resulted in the creation of a legal basis for long-term management¹.

Secondly, it has created a need for short-term forecasts to be as accurate as possible. This has meant that scientific assessments have to be delayed until later in the year so that the latest information from surveys can be used in the forecasting process.

Thirdly, generally high rates of fishing have led to a situation, particularly in demersal fisheries, whereby a large part of the catches taken in any year are made up of young fish that were not available to the fishery in the previous year. This has reinforced the need for the use of "last-minute" surveys for catch forecasting purposes.

Fourthly, for a number of important stocks (e.g. cod stocks in the North Sea, in the Kattegat, in the Irish Sea, in the Baltic Sea, plaice in the Skagerrak and Kattegat, North Sea haddock, Bay of Biscay anchovy), only a small part of the fish stock survives from one year to the next. This has the potential to cause instability in fishing opportunities because recruitment levels can change substantially between years. For example, the North Sea haddock TAC was altered on average by 32% each year in the period 1988-2005. Large swings in fishing opportunities are difficult to manage, both in terms of the market for fish and the employment of fishermen.

This complex of problems has led to a compressed timetable for scientific analysis and management decisions for most demersal fish stocks:

- in September the last surveys are completed and the data are analysed on board the research vessels;
- in early October scientific assessments are completed and the results presented to the Advisory Committee for Fisheries Management of the International Council for the Exploration of the Sea (ICES);
- in late October advice is issued by the ICES to its clients, the European Community, Norway, Iceland, NEAFC and others;
- in November the scientific advice is analysed by the Commission which also consults the Scientific, Technical and Economic Committee for Fisheries and stakeholders, and negotiations take place with Norway and other coastal states concerning jointly managed stocks;
- in early December the Commission adopts its proposal for the fishing opportunities Regulation and Member States, Regional Advisory Committees and stakeholders discuss it;
- in mid-December the Regulation is adopted by Council.

¹ Articles 5 and 6 of Regulation (EC) 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, O.J. L 388, 31.12.2002, p. 59

During 2004 and 2005 the Commission began an early discussion (from the start of the year) with Member States and stakeholders on a number of technical issues in the fishing opportunities Regulation. In these "front-loading" meetings matters such as technical measures, arrangements for effort management and closed areas were addressed in detail. This process facilitated decision-making on technical issues in 2005, especially concerning the implementation of fishing effort management.

2.3. Stakeholders' views

The North Sea Regional Advisory Committee has been consulted on the topic of altering the annual calendar for decision-making. Their main concern has been that additional time should be dedicated to considering the conditions under which TACs can be taken, especially transitional technical measures and effort management systems.

The Advisory Committee for Fisheries and Aquaculture has said that it is open to considering a change in the timing of fishing opportunities regulations provided that any change is made progressively. The ACFA was positive to implementing medium-term strategies (in particular, including a 15% limit on TAC variations) with greater involvement of the stakeholders, and for some stocks scientific advice could be sought less often and TACs set for a longer period (this is already done for Norway lobster and deep-sea species). Like the North Sea RAC, the ACFA's greatest concern was to secure more time for discussions about the conditions accessory to taking TACs, such as technical measures and details of effort management implementation. ACFA did not support the break-up of the TAC and quota package into separate elements and thought an end-of year package solution would remain inevitable.

ACFA was ready to consider an option based on changing the timing of the fishing year to run from (say) 1st April instead of 1st January, but agreed with the Commission that this would only be possible if other coastal states would agree to an altered timing.

3. RECOMMENDATIONS FOR IMPROVING THE SYSTEM

3.1. Changing the fishing year

TACs are currently decided for a calendar year from 1st January, both in the EU and in neighbouring third countries. It might be possible to alter this management period to run for twelve months from a different date. This could have some advantages for specific stocks where the fishing season does not have natural break at the end of the calendar year. However, the seasonalities of the various fisheries are so different that while this may palliate some timing problems in some fisheries, it could introduce new problems in other fisheries. We may need to see whether in order to have a real overall gain a different fishing year would need to be adopted for different stocks. This would entail significant administrative costs. Overall the Commission is of the view that if alternative solutions would give an equivalent result we should avoid pursuing this option in the short term.

3.2. Changing the scientific schedule of stock assessments

Scientific advice is presently provided to the Commission by the Scientific, Technical and Economic Committee for Fisheries on the basis of assessments and advice from the International Council for the Exploration of the Sea. Advice is provided at two different times:

- in June for deep sea species, stocks in the Baltic Sea and several stocks of herring and sprat;
- in October for mackerel, Nephrops, and most demersal flatfish and roundfish.

The Commission has begun to discuss with ICES and STECF what scope exists for providing advice for more of the stocks in June rather than October. It would be necessary to ensure that advice for stocks that are caught together in mixed fisheries is provided at the same time in order to ensure consistency. It is also recognised that an earlier provision of advice will in some cases result in a less precise forecast, but this may be an acceptable consequence. The Commission has also asked whether advice can be provided slightly earlier in the year, starting in 2007.

ICES is undertaking a detailed evaluation of the options for modifying the timing of assessments and advice to accommodate the Commission's needs. This evaluation will include such issues as: the implications of any change with respect to the loss of precision for the various stocks when advice is provided earlier for multi-year assessments and management; more strategic advisory products; protocols for unscheduled updates of assessments and/or advice when new information indicates this is necessary; and the availability of the scientific workforce to deal with assessment and advisory processes in a more compressed time period. On basis of this evaluation the Commission will arrange for agreements with ICES for a revised advisory process from 2007.

Regarding the advice given in 2006 ICES will consider options for an interim process for providing advice, based on the most recent assessments and ACFM advice, allowing refinements if new information is deemed important enough to substantially change the advice. In 2006 an important limitation is that the contributors of data and expertise to the ICES work, the national fisheries research institutes, have planned their use of resources well in advance and that earlier provision of data or rescheduling of meetings is therefore difficult.

3.3. Third country aspects

Presently, management arrangements for stocks managed jointly with Norway (North Sea cod, plaice, saithe, herring and whiting), normally managed with other coastal states (Blue whiting, Atlanto-scandian herring, mackerel) and measures adopted in NEAFC (Deep-sea species, mackerel, redfish) are decided in November. It is traditional to develop a package of measures covering management arrangements such as TACs, technical measures, control measures, and transfers in order to ensure both biological consistency and political balance.

The Commission will begin discussions with other coastal states on moving some of these decisions to earlier in the year. Although some of these joint decisions rely on the provision of the most up-to-date scientific information, others are not so dependent and a scope for change may exist.

3.4. Earlier consultation with EU stakeholders on fisheries management decisions

Management decisions can be better prepared and consultations made more widely than at present. Although the estimate of the abundance of recruiting fish will only be available late in the year, some general characteristics of the fisheries will be known in advance, such as the fishing mortality and the fishing effort in relation to precautionary limits, market demands from the sector, and interactions with other species in the fishery. The preparation of management decisions could be improved through the proposal by the Commission of "harvest rules" that will determine the decisions to be taken about the TAC. Such harvest rules, which have already been adopted by the Council in recovery plans and management plans for individual stocks, could include, for example:

- establishing rules on the inter-annual TAC variation;
- establishing rules on the reduction of fishing mortality rate towards a sustainable level;
- adjusting fishing effort (days-at-sea) in line with fishing mortality rates (the proportion of the fish in the sea that are caught during the year).

A "harvest rule" management approach could, in principle, be extended to all stocks under Community fisheries management. This would have the advantage of allowing more time for discussion of objectives and the means to reach them. While the scientific estimates of the precise quantities of fish involved are still being refined within ICES and STECF, a discussion on management principles could be organised with the concerned parties.

Ideally, such harvest rules would be adopted as part of Council Regulations concerning principal fisheries and fish stocks, and would be updated relatively infrequently. In the short term, however, there is a need for the Community to discuss appropriate TAC-setting procedures for those stocks where no agreed long-term plan exists.

This could be done as follows:

As a first step, in April, the Commission could present a policy statement concerning its intentions for the setting of TACs in the following year. This would present the Commission's strategy and working assumptions for management, based on the underlying trends of the most recent scientific advice (i.e. that presented in the previous year). It would present the elements of a generic approach, such as, for example:

- (a) a commitment to gradually develop stocks to the most appropriate levels to ensure their sustainable exploitation while providing high yields ;

- (b) TACs and effort levels for the following year to be set in accordance with the rules in recovery plans or long-term management plans, where they exist, or with the principle that fishing mortality should not be increased on any stock where mortality exceeds the level that would lead to high long-term yields;
- (c) stocks that are at similar levels of exploitation or depletion to be treated similarly;
- (d) rules on inter-annual TAC variation, subject to special circumstances that might require more significant change for particular stocks.

The Commission would illustrate its approach with practical examples for the most important commercial fish stocks showing how it would be translated into TAC or effort levels, assuming that the scientific advice for the next year would be the same as for the current year. (There would have to be a warning in the text that in some cases the “illustrations” could be significantly affected by forthcoming scientific advice about, for example, the latest recruitment to the stock).

For stocks already covered by existing recovery or management plans, their TAC would be estimated by automatically applying provisions of such long-term plans.

The policy statement will not include the Commission’s negotiating position as regards the Community’s participation in Regional Fishery Organisations.

A round of consultation with RACs and Member States could take place on the basis of the Commission policy statement during the summer. This would enhance and strengthen the "front-loading" process, and would be an opportunity for stakeholders to engage in a more strategic debate concerning fishing activities. A policy debate could also take place in the Council in October, at which the Council would be invited to comment on the Commission’s proposed strategy, taking into account the reaction of the RAC’s.

3.5. Changing the timing of legislative proposals and decisions

It is not necessary that the Commission's proposals concerning annual fisheries management should be a single package covering all resources.

Those stocks for which forecasts are strongly dependent on the latest scientific estimates (and other stocks with which they are caught) will have to continue to be treated at the years' end. For other, more long-lived stocks the decision process could be brought forward. Where stocks are not overexploited and the stock size is sufficiently large that there is a substantial "carry-over" of stock from one year to the next, the latest survey adds relatively little information about the next years' catching possibilities. Earlier proposals can be made and earlier decisions can be taken concerning stocks where fishing mortality is lower.

The Commission therefore suggests the following two-step approach to annual fisheries management decisions:

Step 1 (June - October)

- (i) For fish stocks that are managed by the Community alone and for which ICES scientific advice is available in June, the Commission will seek the advice of the relevant Regional Advisory Councils concerning the relevant TACs during June and July. The Commission will then prepare a proposal for a Regulation by early September. The Council would then be in a position to adopt these TACs in October. At present a separate legislative proposal is made for stocks in the Baltic Sea and for deep-water species. This approach could be extended in future to pelagic stocks managed by the Community alone and (subject to reaching earlier agreement with other coastal states) to blue whiting, mackerel and shared herring stocks.

Step 2 (October – December)

- (ii) For “recruitment-dependent” fisheries, where the stock of fish that is available to be caught in one year is mostly made up of young fish that are newly recruited to the stock, it will remain unavoidable to continue setting the TAC once the incoming year-class strength can be assessed. This will mean postponing the presentation of the Commission proposal until the autumn advice of ICES has been finalised (currently in October, with the possibility of a slightly earlier date in future). This implies very little change in the timing of the Commission proposal (late November). Nevertheless, the previous consultation of stakeholders and the Council on the basis of the Commission’s policy statement should mean that consultation with Stakeholders on the recent advice will be facilitated. The final Commission proposal would contain no surprises for the parties concerned. This second step will also include the TACs, as well as the provisional application of technical measures, resulting from the annual meetings of Regional Fishery Organisations such as NAFO, ICCAT, CCAMLR or NEAFC.

3.6. Separating quota regulations from other management instruments

Stakeholders and Member States have suggested that the inclusion of rules on the limitation of fishing effort as part of the annual fisheries management package complicates the negotiation process, and that such rules should be addressed in a separate regulation.

The Commission agrees that the detailed rules for measuring, transferring and monitoring fishing effort could be the subject of a self-standing regulation. The fixing of the fishing effort limits themselves, however, would have to remain part of the annual decision-making process.

Because the current Community rules on fishing effort limitation will be reconsidered as part of the planned review of the cod recovery plan starting later this year, the Commission considers that it would be appropriate to wait until 2007 before proposing a new and separate Regulation on Community rules for managing fishing effort.

4. CONCLUSION: A NEW CALENDAR FOR THE FISHERIES MANAGEMENT DEBATE

In order to extend opportunities for dialogue and discussion on Community fisheries management the following timetable could be followed:

Date	Action
April	The Commission publishes its “policy statement” concerning setting fishing opportunities for the following year. A dialogue with the sector is opened on policy issues and continues throughout the year. It includes a discussion of harvest rules for TAC and effort levels and other technical issues such as effort management.
Early June	ICES and STECF provide scientific advice for some stocks (notably Baltic, pelagic and (every second year) deep-sea species).
June-July	The Commission consults the RAC’s on the application of Community fisheries policy to the "June advice" stocks. Negotiations take place with third countries concerning jointly managed pelagic stocks, if they agree.
Early September	The Commission issues its proposal for a Regulation on fishing opportunities for the "June advice" stocks.
October	The Council adopts a Regulation on TACs for the "June advice" stocks. ICES and STECF provide scientific advice for the remaining stocks. Discussions on fisheries policy options and the latest scientific advice for the “October advice” stock continue with stakeholders.
November	Negotiations with Norway and other coastal States concerning “October advice” stocks. The Commission takes account of discussions with RAC’s in preparing its second fishing opportunities proposal, to be issued in late November.
December	The Council adopts a Regulation on fishing opportunities for the “October advice” stocks.
January	Fishing opportunities Regulations come into force for the calendar year.