



## Comments on the Commission's proposal for a reform of the Common Fisheries Policy – Framework regulation

Draft

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### 1. Context

In July 2011 the Commission tabled the proposal for a new framework regulation for the Common Fisheries Policy (CFP).

At its meeting in Paris on the 27<sup>th</sup> June 2011 the Executive Committee of the NSRAC agreed to set up a focus group to discuss and possibly prepare a position paper from the NSRAC on the framework regulation. The Focus group met in Copenhagen on 19 September 2011 and had a fruitful reading of the proposal from the Commission.

The Focus Group has prepared this document for discussion in the Executive Committee of the NSRAC at the meeting in Boulogne sur Mer 10-11 October 2011. Following the discussion, hopefully this paper will be finalised for adoption in the ExCom to be sent to the Commission, Parliament and relevant Member States.

### 2. In general

The NSRAC has studied the proposal from the Commission for a new and reformed framework regulation for the Common Fisheries Policy (CFP). We have found some positive elements in the proposal, however also several essential parts that should be improved for the benefit of the CFP.

The position of the NSRAC to what we consider the main issues in the proposal from the Commission is found in the following.

### 3. Landing obligation and full documentation

The NSRAC shares the ambitions of the Commission to reduce the discard in fisheries to an absolute minimum. Discard – not least of depleted stocks – cannot be defended whether they are caused by regulatory, technical, economic or perverse incentives and will always be damaging the reputation of the fishing industry. However, much progress in reducing discard has been made in recent years – certainly also through initiatives from the fishing industry.

For the Commission the solution to the discard problem is between January 2014 and January 2016 gradually introducing a landing obligation for commercial species. Much has been said about discard ban in recent years and many Member States seems to support the idea. However, the landing obligation is such a major change to the fisheries policy that it will take some time for the fishing industry to digest it but also for the fishery markets to adapt to it. The cost of landing all catches could be significant depending on the conditions for i.e. storing and handling of the catches on board, especially in mixed fishery. Therefore an absolutely necessary condition for the introduction of a discard ban is that sufficiently flexibility is provided to ensure that the practicalities of each fishery are fully taken into account. EU can learn a lot on flexibility from the experience in Iceland and Norway with landing obligation.

The NSRAC finds that it would be a mistake to restricting caught fish under a minimum size to be used for fish meal and pet food only. This is not justified by biological arguments and there are still other types of regulation like RTC in place to protect juveniles.

Furthermore, the NSRAC finds that sweeping away all discards generated by CFP regulations (regulatory discards) would be a *precondition* for moving in this direction.

#### **Full documentation**

The Commission also proposes that Member States shall ensure that their fishing vessels are equipped to ensure full documentation. Some would say that given the data requirements in the control regulation we already have introduced full documentation in the CFP. However, the general understanding is that full documentation means the presence of cameras and/or observers on board vessels, but also that Member States can have a reference fleet, whereby the catch of some vessels is sampled and compared with the landings of other vessels.

Therefore, the NSRAC cannot support the introduction of mandatory CCTV on-board fishing vessels.

Furthermore, a prerequisite of this kind of measure would be to include the whole package of a new fishing policy – that is simplification of technical measures and control rules and abolition of days at sea schemes.

At the end of the day the question is of course whether full documentation is needed at all – Norway has so far not introduced any legislation on full documentation as proposed by the Commission.

#### **4. Maximum Sustainable Yield and multiannual plans**

The Commission proposes a commitment for the CFP to achieving Maximum Sustainable Yield (MSY) for all commercial stocks by 2015.

The NSRAC acknowledges that there is an international commitment to reach MSY and shares the objective of more sustainable fisheries and achieving high yield fisheries on the commercial stocks.

However, there are good reasons why it is specified in the declaration from the World Summit on Sustainable Development in Johannesburg, that MSY should be achieved for depleted stocks by 2015, *where possible*.

The two words "*where possible*" reflects a biological reality. Today the concept of MSY is under constant development and several projects are underway to define MSY for different fisheries. The MSY concept was developed with single stock fisheries in mind, but for the waters of the NSRAC the reality is very different. How to apply MSY to multi-species fisheries? – for a number of reasons, including predation patterns, it may not be possible to fish all stocks simultaneously at MSY.

For a reformed CFP to succeed with a move to high yield fisheries in a progressive way the policy should not be locked into a legal framework approach that lacks scientific credibility creating unnecessary rigidities and possibly unachievable objectives.

Therefore, the NSRAC cannot support the Commission's proposal to sweep all the necessary caveats and safeguards aside applying a theoretical MSY concept for all stocks from 2015.

#### ***Multiannual management plans***

The NSRAC considers multi-annual management plans (MAPs) to be the principal vehicle for the CFP in the future. However, it is essential that anything that smacks of prescriptive micro-management must be removed from the European level. Framework of principles and standards should be laid down at the European level by the co-legislators but it is essential that the details will have to be worked out at regional level by Member States and RACs in a regionalised process. Multiannual plans must be real plans and not just polished harvest control rules.

#### **5. Technical measures**

With the proposal the Commission is aiming at giving a kind of rebirth to technical measures. Complex, bureaucratic and in many cases redundant, technical measures are often seen as the classical example of the failures of the CFP where an over-centralised system tries to micro-manage all kind of fisheries.

The NSRAC agrees that technical measures can be important in some cases to protect marine biological resources – in relation to protection of certain vulnerable stocks, marine biodiversity, reduction of by-catch and in relation to mitigating the impact of fishing gear on the eco-system.

However, moving towards a fully documented fishery and more self-management it should be at everyone's interest to move away from prescriptive technical measures. As far as possible, more precise technical measures, when they are necessary, should be decided upon through a regionalised approach within the framework of multiannual plans.

In this respect the decision-making process for future technical regulations is very important – how much room for manoeuvre will be left for Member States' implementation of technical measures?

## **6. Regionalisation**

The decision-making process has widely been regarded as a major obstacle for the CFP and the top-down approach as seen in the last 20 years has seen a lot of ineffectual management. Introducing the co-decision procedure with the EU-Parliament to the CFP as a whole could lead to policy paralysis if no alternative way is found to respond to changes in stocks and fisheries.

There is a need to deliver a management system which is more effective and responsive than the current one. The Commission's response is a permissive clause within the CFP proposal which – under the headline regionalisation - allows Member State to adopt multiannual plans and technical measures, leaving an area of responsibility covered by national decision and hopefully regional cooperation.

As MAPs move from a simple set of harvest control rules for single stocks, to plans based on broader, more comprehensive, multi-species models regionalisation will become more and more essential. Only through close cooperation between stakeholders, scientists and fisheries managers can the objective of effective regional management be achieved.

Though no doubt everyone can agree that it is absolutely appropriate, improved regional cooperation is largely conditional on staff resources. Also, everyone agrees that there is no need for just another level of management. Therefore, one might fear that at the end of the day the regional co-operation could turn out to be at very low level – and regionalisation in practice means nationalisation of the CFP.

To avoid nationalisation of the CFP the Commission and RACs would have a huge task facilitating co-operation among Member States but what is needed in the proposal for the new CFP is some straightforward incentives for Member States to work together. One way to do this would be to give Member States more responsibility/freedom when implementing technical measures and multiannual plans when cooperating with other Member States. In this respect, the proposed 3 months period provision to adopt technical measures is too short and not acceptable as it in reality will lead to a decision taken by the Commission.

## **7. Regional Advisory Councils**

The Commission has repeatedly stated that dialogue with stakeholders has proven essential for the CFP. In respect to the proposal for a reform the Commission also states that the role

of the RACs should evolve – in the future named AC - their role should not be limited to advising the Commission only but also the Member States.

It is a general understanding that the regional advisory councils have exceeded the expectations placed upon them. RACs are uniquely placed to bring insight and experience to management decisions and to help the dialog across borders and between different interests. However, though the positive role played by RACs to date, it is a fact that the current structure of centralised decision-making within the CFP has acted as a bottleneck. The Commission has been incapable of dealing with the sheer quantity of advice that is prepared and submitted by RACs and many pieces of RAC advice have been left ignored or waiting for action.

This underlines the need for a stronger regional dimension in the CFP to policy formulation and development. In a reformed CFP RACs should have a major potential role to play – not only with the Commission but increasingly through engagement with member state authorities and fisheries scientists at the regional seas level to shape and agree policy recommendations.

In this respect, the NSRAC thinks that the RACs should be given a stronger role for facilitating regional cooperation. In this matter, the current proposal of the Commission is not satisfactory and does not reflect its various statement The RAC regrets that the obligation to consult RACS does not appear anymore in the regulation.

In the on-going work it is important to find a proper solution to the fact that RACs today have been constrained in the role that they play by the limited resources that are available to them. The NSRAC suggests that the new financial settlement for fisheries from 2013 shall provide a sound basis for the development of coherent, evidence based RAC advice.

## **8. Transferable Fishing Concessions**

The Commission has proposed that Member States no later than 31 December 2013 *shall* establish a system of transferable fishing concessions (TFCs) for all vessels over 12 metres, and vessels with towed gear below 12 metres. Applying transferable fishing concessions to vessels below 12 meters would be at the discretion of the member state.

Rights-based management systems have evolved in several Member States and seem to work well in relation to the fisheries to which they apply. Right-based management systems are also well-accepted among fishermen that operate under such systems – in fact the evolution of the system has in some cases been the result of a bottom-up process. Other Member States have a more “classical” system of quota pools with catch limits however; many examples exist in which various forms of hybrids coexist within a single management system (tradable concessions for one species; pool limits for other species).

Quota management is also the area of fisheries policy where delegated responsibilities have been developed furthest and successfully, with producer organisations in a position to tailor quota management to the conditions found in their fisheries in a way that centralised control and management finds difficult.

The point is that quota management is a complex area that is not suited to top-down policy from Bruxelles. A mandatory system of TFCs will, like all other top-down policies, prove to lack the flexibility and responsiveness to local conditions necessary for a fully effective system to work. What is suited to one fishery in one Member State with one type administrative culture does not necessarily work in another fishery in another Member State.

Therefore, the NSRAC advocates that quota management should continue to be member state competence and that each Member State should be free to choose in close cooperation with the fishing industry if TFCs should be part of the local quota management.

## **9. Data collection and management**

The NSRAC agrees that fisheries management should be based on the best available scientific advice and that this requires harmonised and reliable data sets. We therefore support the proposal that Member States shall collect data and ensure the quality necessary for the fisheries management and also coordinate their data collection activities with other Member States in the same region.

Of course, Member States should ensure availability of resources and relevant competences when it comes to data collection, data management and not least the scientific work using the data. However, today the burden from obligations to collect data that follows from the Control Regulation, the Data Collection Regulation and other regulations is already enormous for Member States. Lots of data is collected with no well-defined purpose and just ends up in a data base. Lack of resources has the consequence that abundance of data is not as perhaps intended used for scientific assessments giving a false impression of data deficiency.

What is needed is a revision of all the data collection requirements in the EU legislation so that the requirements are more coordinated and less burdensome. Data collection should be result based and not output based as it is today. Only relevant data should be collected following the wisdom of “need to know” is better than “nice to know”. In this matter the Commission should not forget its responsibility of coordination.

## **10. Ecosystem-based approach to fisheries management**

With the proposal the Commission is asking Member States and Parliament to sign up to the commitment that CFP “*shall implement the ecosystem-based approach to fisheries management*”. A much stronger commitment to an eco-system approach than today, where the present regulation states as an objective that the Community “*shall aim at a progressive implementation of an eco-system based approach to fisheries management*”.

The NSRAC is widely concerned that Member States and Parliament are asked to sign strongly up to such an abstract commitment. What is an eco-system approach and what are implications of signing up to such nice words? Scientists can tell you that there is no clear definition today, at least no consensus of what this entails, so it does seem a bit odd to sign up to such a commitment.

The NSRAC certainly can agree to the present text and we should continue exploring the possibilities of making the eco-system approach more understandable and perhaps finding a consensus about what we are aiming at – in this context especially in relation to what the consequences might be for the fisheries activities.

## **11. Environmental Integration in the fisheries policy**

Set out as one of the general objectives in the framework regulation the Common Fisheries Policy shall ensure that fishing activities provide long-term sustainable environmental conditions. Everyone should agree to this as good environmental conditions are prerequisites for a long term economic sustainable fishery industry.

Having said this fishing activity is not the only economic activity that has consequences for the eco-system and marine biological resources. The common fishery policy cannot just by regulating the fisheries activities secure sustainable environmental conditions by itself – many other economic activities do directly or indirectly influence the state of the sea and the eco-system. In the wordings of the regulation the Commission writes that CFP shall integrate the Union environmental requirements. This should of course be the case for all EU legislation – not just environmental legislation. So what is the point of writing it?

The point is that the framework regulation in general must be written more precisely in relation to the specific environmental issues that one wants to deal with in the fisheries policy. You cannot save the world with the fishery policy but you can certainly set up relevant and specific rules for fishing activities.

One example on a “save the world” approach is to be found in the proposal on the Content of multiannual plans where it is drafted that a multiannual plan shall include “minimisation of impacts of fishing on the eco-system”. How tempting this type of writing is, the consequences might be far beyond the whole concept of a multiannual plan and therefore this kind of phrases should be avoided.

Another example is related to Natura 2000 compliance and other environmental legislation. It is solely stated that in special areas of conservation fishing activities shall be conducted to alleviate the impact. However, fisheries are often the last sector to be considered in Marine Spatial Planning and Natura 2000 fails any test of good governance often ignoring the fact that fishermen have the right to fish. Proportionality, genuine participation and dialogue should be at the heart of the process and this should be addressed through the CFP legislation.