This briefing describes the main aspects of the European Commission’s proposals for reform of the Common Fisheries Policy. It explains the views of a variety of interested parties on the proposals.
EXECUTIVE SUMMARY

The European Commission proposals for the revised Common Fisheries Policy (CFP) were released on 13 July 2011. Agreement needs to be reached between the Commission, the Council of Ministers and the European Parliament in order for the new policy to be implemented on 1 January 2013. Member States, the industry, Non Government Organisations (NGOs) and civil society are debating the issues raised by the reform in order to influence the policy. This briefing gives a summary of the current situation, the changes proposed and some of the debate around these changes.

The main proposals from the Commission are included in three legislative and three non-legislative proposals (referred to from now on as the Commission proposals) and their potential effects examined in an Impact Assessment. The main documents are:

- A communication on reform of the common fisheries policy
- A proposed regulation on the common fisheries policy (referred to as the proposed basic regulation from here on)
- A proposed regulation on the common organisation of the markets in fishery and aquaculture products
- A communication on external dimension of the common fisheries policy
- A report on reporting obligations
- A proposed regulation on the European Maritime and Fisheries Fund (yet to be released)

The Commission proposals cover the following areas:

**Maximum Sustainable Yield (MSY) by 2015**

The Commission proposes including the aim to achieve MSY by 2015 in the basic Regulation. MSY is defined as the highest catch which can be taken year after year which maintains the fish population at maximum productivity. This follows on from the EU’s commitment at the World Summit on Sustainable Development in 2002 to achieve MSY “on an urgent basis and where possible not later than 2015” UN (2005).

**Discard Ban by 2016**

Fishermen would be obliged to land all catches (except those which can survive being discarded). The aim is to phase in discard bans by species groups. The ban would start in 2014 for some species, adding more species in 2015, with a full ban for all commercial species coming into place by 2016.
Multi-annual management plans

Annual quota-setting for single species would be replaced with multi-annual plans, as has already happened with some species. Multi-species plans would also be developed where possible. The plans should include targets for fishing mortality, timeframes and technical measures. They should follow sound scientific advice and the ecosystem and precautionary approach.

Transferable fishing concessions

The Regulation proposes that quotas should be more easily tradable between fishermen and potentially Member States. Exchangeable quotas called Transferable Fishing Concessions (TFCs) would be introduced to deal with the issue of overcapacity. Member States could limit concessions within fleet segments and exclude vessels under 12m in length which do not use towed gear.

Aquaculture

The Commission identifies aquaculture as an area which could be sustainably developed. It is proposed that member states must prepare National Strategic Plans on aquaculture and that an aquaculture advisory group should be established.

Communities

The Commission recognises the importance of the small-scale coastal fleets for particular communities and suggests special measures for such fleets and communities could be put in place.

Labelling

It is suggested that consumers should be provided with greater levels of information about what they are buying including labelling schemes on the environmental claims of products and the production techniques used.

Regionalisation

Regionalisation is identified as a key aim of the proposal. EU legislation should focus on “objectives, targets, minimum common standards and results, and delivery timeframes” while Member States should have the flexibility to decide upon other measures of fisheries management. It is proposed that fishermen should be further involved in the decision-making process and the role of the Regional Advisory Councils (RACs) should be strengthened.

Funding

A support scheme would continue through a new European Maritime and Fisheries Fund (EMFF) which would be aligned with the aims of the policy and Europe’s Strategy for growth up to 2020 (the Europe2020 Strategy). The detailed proposals for the EMFF are expected in November 2011.
**External Policy**

It is proposed that Fishing Partnership Agreements (FPAs) will be replaced with Sustainable Fisheries Agreements (SFAs) which will put more emphasis on achieving the aims of the CFP outside EU waters. Northern agreements will continue with a greater focus on CFP aims. The strengthened involvement of the EU in Regional Fisheries Management Organisations (RFMOs) is also promoted.

**Box 1: Useful terminology**

**Advisory Committee on Fisheries and Aquaculture (ACFA)** – stakeholder group set up by the Commission to provide advice and promote ongoing dialogue

**Benthic** - species that live on the bottom e.g. flatfish, Nephrops; **Demersal** - species that live close to the sea bottom e.g. cod, haddock, whiting; **Pelagic** – species that live in the mid water e.g. herring, mackerel

**Cod Catch Quota Scheme (CCQS)** – voluntary Scottish scheme where fishermen must agree to install Remote Electronic Monitoring, land all cod caught and stop fishing when they reach their cod quota in return for that quota being increased.

**Common Fisheries Policy (CFP)** – policy governing exploitation and conservation of the EU’s of marine biological resources

**Common Organisation of the Market (CMO)** – part of the CFP which aims to ensure a continuous supply of marine produce and stable prices for producers

**Conservation Credit Scheme (CCS)** – Scottish scheme which allocates days at sea in return for fishermen complying with additional restrictions such as temporary closures of areas with high cod aggregations

**Discards** – dead fish thrown over the side of a vessel (usually when quota for one species has been used up, and the vessel continues fishing for other species)

**Ecosystems approach** – an approach which acknowledges that fish stocks do not exist in isolation but are components in ecosystems. Encourages management which maintains the ecological balance of the oceans.

**Effort Management** – tools for managing the intensity of fishing effort. This is mainly controlled through limits of the days at sea set through LTMPs

**European Fisheries Fund (EFF)** – the European financial support mechanism for fisheries. The EFF will be replaced by the **European Maritime and Fisheries Fund (EMFF)**.

**Fisheries Dependent Areas (FDAs)** - coastal communities with a high dependence on fisheries

**Fishery** - entity engaged in raising and/or harvesting of fish defined in terms of people involved, species or type of fish, area of water or seabed, method of fishing, class of boats, etc.

**Fishing Partnership Agreements (FPAs)** – agreements involving payment of a country external to the EU for fishing rights. It is proposed that these will be replaced with **Sustainable Fisheries Agreements (SFAs)**
International Council for the Exploration of the Sea (ICES) brings together marine scientists from 20 countries to coordinate and promote research into marine ecosystems. Main provider of scientific advice to governments and regional organisations responsible for managing fisheries in the North Atlantic and adjacent areas.

Long Term Management Plans (LTMPs) - plans based on mathematical formula known as Harvest Control Rules (HCRs) for calculating TACs on the basis of scientific advice on the state of the stock. Recovery plans are designed to help rebuild threatened stocks while management plans aim to maintain stocks at safe biological levels.

Marine Stewardship Council Certification - certification program and seafood ecolabel recognising and rewarding sustainable fishing

Marine Strategy Framework Directive (MSFD) – EU Directive aiming to achieve Good Environmental Status of the EU's marine waters by 2020 and to protect the resource base upon which marine-related economic and social activities depend

Maximum Sustainable Yield (MSY) – highest catch which can be taken year after year which maintains the fish population at maximum productivity

Northern Agreements – exchange of fishing opportunities between the EU and Norway, Iceland and the Faroe Islands

Precautionary approach – in the case of suspected risk of harm and in the absence of scientific consensus, the course least likely to cause long lasting environmental harm should be taken

Producers Organisations (POs) – set up as a part of the CMO to enable producers (fishermen or fish-farmers) to set up a marketing strategy and spread production across the season to ensure an even supply to the market.

Quota – the size of TAC allocated to a Member State or fisherman

Regional Advisory Councils (RACs) – stakeholder-led organisations representing geographical areas or fisheries. Bring together representatives of the fisheries sector and other interest groups.

Regional Fisheries Management Organisations (RFMOs) – organisations entrusted by the UN to ensure cooperation between the different parties with stakes in fisheries in international waters

Relative Stability – principle under which TACs for each fish stock are shared out between Member States according to a fixed allocation key based on historic catches

Scientific, Technical and Economic Committee for Fisheries (STECF) set up by the European Commission to provide biological, economic and social advice relating to fisheries.

Stock – management unit for fisheries. Can correspond to a biological population but divisions defined by management may not reflect true biological divisions

Technical conservation measures - measures which regulate nets, fishing gear and the mix of fish which can be kept on board, establish closed seasons or closed areas, and set minimum landing sizes

Total Allowable Catch (TAC) - the amount of each species which can be landed
The 1957 Treaty of Rome established the European Economic Community (EEC) and set up the Common Agriculture Policy. It included a brief mention of the products of fisheries, defining them as “agriculture products”. It took over a decade of debate and the prospect of the accession of new Member States with important fisheries (IEEP 2009) before the first rules of the Common Fisheries Policy (CFP) were agreed in 1970.

Since 1970, there have been reforms in 1983, 1992 and 2002. In 1983 the idea of Total Allowable Catches (TACs) and quotas was introduced. The 1992 reform first attempted to reduce the Community fishing fleet and introduced the idea of fishing effort. The reform in 2002 made an attempt to focus on the implications of the policy for conserving marine aquatic resources by introducing long term planning for fish stocks.

The policy is currently undergoing another reform. A European Commission Green Paper on reform proposals was released in 2009. More detail on the background to the policy and the
Green paper is included in a SPICE briefing on the CFP (Edwards 2009). The legislative proposals for the new policy were released on 13th July 2011.

**ISSUES FACING FISHERIES**

The Green Paper frankly acknowledged the problems of the CFP and called for a full scale reform of the policy. In particular it focuses on the structural problems with the policy and highlights the need for changes in management. In reforming the CFP; social, economic and environmental issues need to be balanced to deliver optimum results. The causes and effects of the problems faced by the fishing industry in Scotland and across Europe are intimately interlinked and cannot be dealt with individually.

“The identification of problems and drivers for these problems is difficult because of their interdependence. For example, overcapacity is the main driver for overfishing. However, overfishing is also a driver for overcapacity, as the reduction of quotas intended to curb it, further increases overcapacity. Similarly, overcapacity implies also poor economic performance of the catching sector. But that poor economic performance in turn, fosters overfishing as a short term fix for diminishing revenues. The poor economic performance also results in the continuous industry call for public financial support, which maintains overcapacity. The poor economic (and social) performance also fosters overfishing indirectly because it encourages Council's deviation from TACs proposed by scientists.” (European Commission 2011b)

**Economic issues**

At a European level, the profitability of the EU fleet is declining. While the EU fleet overall is profitable, there are large variations between different parts of the fleet. Between 2002 and 2008 the bottom 30-40% of each type of fishery made losses on average (JRC 2010).

The Scottish fleet is extremely diverse. It is made up of around 1800 vessels divided according to Table 1. The size of the fleet has fallen in recent years with large consolidations seen in the pelagic sector (herring and mackerel) which experienced a decline of 43% between 1998-2008. The Demersal fleet (fishing mixed whitefish bottom dwellers) has also fallen by 41% but largely due to decommissioning and retirement rather than the economic consolidation which occurred in the pelagic fleet. There has been significant growth in shellfish landings over the last ten years largely due to increased effort.

Financial performance between the fleet sectors varies dramatically. The small pelagic fleet of modern, efficient vessels for example makes an average net profit of around £4m per vessel. However, in all of the main sectors except pelagic, there is a great deal of variation between vessels and the vessels in the bottom quartile are on average making a net loss (Scottish Government 2010b).
<table>
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Source: Inquiry into Future of Fisheries Management (Scottish Government 2010b)

While interest is often concentrated on the economic performance of the catching sector; aquaculture and fish processing are significant job providers. The white fish processing sector is currently experiencing difficulties partly as a knock-on impact of the mackerel dispute which has meant that Iceland has decreased white fish landings in the UK (Fish-update 2011).

Environmental issues

The Impact Assessment released with the Commission’s proposals, identifies continued problems with overfishing:

“Overfishing is the main problem of the current CFP. Available figures for 2009 show that out of the 93 stocks for which sufficient scientific advice exists, only 21.5% are exploited at levels delivering maximum sustainable yield (MSY), 35% are over-exploited and 43% are outside safe biological limits. That means that 78.5% of Community stocks for which there is scientific advice are fished unsustainably. The average size of fish has been steadily declining over the last 20 years.” (European Commission 2011b)

While there is no doubt that overfishing is significant in many areas, the problem has been exacerbated by debate around the uncertainties of the scientific advice. Reliable scientific advice exists for only around 30% of all EU stocks, most of them in the Atlantic Ocean, and the North and Baltic Seas (European Commission 2011b). Using different management models it is
possible to come up with variable figures for TAC and interpretation of what the figures mean can vary. For example, the industry would contend that the above figures show a significant improvement in stocks from the early 2000s with 57% now within safe biological limits. This has meant that political debate can be focused around the basis of the advice as much as around what the policy is trying to achieve. While the Commission advocates a precautionary approach in the face of uncertainty, the Council has consistently set TACs considerably above the levels advocated by scientists - between 2003-2011 they were set on average 47% higher (European Commission 2011a).

In Scotland, there are variations in the sustainability of different parts of the fleet. Compared with long-term averages, demersal stocks are more depleted than the pelagic stocks. However, some recovery has been seen in recent years following decommissioning schemes, for example, West of Scotland Haddock is fished below MSY, and ICES advice suggests the TAC could be increased. Nephrops appear to be in a better state than fin fish though historic records are less complete (Scottish Government 2010b). Significant sectors of the Scottish fleet in the North Sea as well as some West Coast Nephrops have received Marine Stewardship Council Certification. Overall, however, Scottish fish stocks are in a severely depleted state compared with historical records. Decreases in abundance have generally been reflected by decreases in landing of individual species reflecting the link between the environmental and economic problems fisheries face (Scottish Government 2010b).

Discarding is a particular problem for mixed fisheries where several different species are caught in the same net e.g. white fish in the North Sea. If a fisherman’s quota for one species is used up, they are allowed to carry on fishing for other species, and any fish they catch for which they do not have quota must be dumped over the side dead. Fishermen also discard fish for other reasons e.g. fish for which there is no market (because of the species or the size) or juveniles below the legal minimum size. This can mean more fish are caught than the population can sustain and if this happens repeatedly then the population can decline. It also has a detrimental economic effect: the value of discarded cod was estimated at £935 million to the UK between 1963-2008 (NEF 2011).

Social issues

While fishing, fish processing and aquaculture are small employers in Scotland as a whole, they can be significant in certain areas. Known as Fisheries Dependent Areas (FDAs), certain coastal communities have a high dependence on fisheries which can represent the only long-term resource base in certain areas.

The social problems faced in FDAs are intimately interlinked with the economic issues described above. Decreases in profits have led to falls in wages and an exodus from the industry with processing in some cases moving abroad. This has led to a weakening of social networks and a lack of young people entering the industry (Scottish Government 2010b).

The lack of new entrants means there is a heavy reliance on foreign labour on vessels and in processing plants. Mainly Scottish fishing vessels rely on Filipino workers often working under “to join ship” visas which allow transit through the UK before joining vessels working in international waters. The UK Immigration minister recently granted a year’s extension to the visas of Filipino fishermen working on vessels operating within the 12 mile limit but has said this will be the last time such an extension will be granted. The loss of Filipino workers could have serious impacts on the viability of Scottish vessels according to MPs who campaigned for the visas extension (Migration Expert 2011).
GREEN PAPER ON THE CFP

In its Green Paper, the Commission blamed the problems facing European fisheries on five structural failings of the policy:

1. a deep-rooted problem of fleet overcapacity;
2. imprecise policy objectives resulting in insufficient guidance for decisions and implementation;
3. a decision-making system that encourages a short-term focus;
4. a framework that does not give sufficient responsibility to the industry;
5. lack of political will to ensure compliance and poor compliance by the industry.

The Green Paper suggested a number of policy solutions to the problems and asked for responses from stakeholders.

Responses to the Green Paper

The Commission has made available the full list of responses to the Green Paper and a synthesis of the consultation. The Scottish Government and UK Government as well as a range of stakeholders from Scotland responded to the Green Paper consultation.

Scottish Parliament report on the Green Paper

In order to inform the Scottish Government’s response, a Rural Affairs and Environment Committee short inquiry into the CFP was carried out “to obtain a “snapshot” view from stakeholders as to their priorities for reform.” In November 2009, the Committee took evidence from a panel of experts. The Cabinet Secretary, Richard Lochhead answered questions at the next meeting. The Committee produced a report described as follows:

“This report does not ... seek to be an exhaustive survey of the workings of the CFP, and of possible future management models ... Instead, it aims to offer a succinct summation of the key issues that the Committee considers the Scottish Government should prioritise in its response to the green paper.”

In 2009, the Committee had also scrutinised the Marine Bill (now the Marine (Scotland) Act 2010) which covered issues related to marine planning, licensing, conservation and enforcement issues. This left the Committee concerned about the “unbalanced... state of some of the waters around Scotland”. They therefore endorsed an ecosystem approach to fisheries management while stating that greater clarity was needed about what this meant in practice. The report included discussion of the problems around managing mixed fisheries using single species TAC and MSY. The importance of greater regionalisation was highlighted, it was suggested that regional management bodies should be established and that the European Institutions should have the power only to accept or reject the plans proposed by the bodies. The report also stressed the importance of Long Term Management Plans (LTMPs) and greater involvement of the fishing industry in decision making.

The RAE report does not contain any major differences to the Scottish Government Green Paper response which focuses on reducing discards in mixed fisheries, working with the industry and integrating fisheries policy with wider marine management. The Scottish Government response was informed by a stakeholder consultation and they also commissioned an independent Inquiry into the Future of Fisheries Management which reported in November.

MAIN FEATURES OF THE CURRENT COMMON FISHERIES POLICY

The CFP applies to EU countries and their waters. Since the policy’s early days, restrictions to access to inshore waters have been applied as temporary measures and reinstated by each reform. These limit fishing within 6 miles of the coast to fishermen from the coastal state. Between 6 and 12 miles, fishermen from other member states only have access based on historic entitlements. Between 12 and 200 miles the principle of the CFP is equal access to fishermen from all Member States. However this principle is limited by the rules around distribution of quotas as described below. In addition, some special restrictions on access in certain areas remain in place – for example, there is a limit to the number of vessels trawling for whitefish in an area known as the Shetland Box, around the Shetland islands.

STRUCTURE OF THE CFP

Council Regulation, No 2371/2002 is the current basic regulation and sets out the framework for the main details of the current CFP. The CFP has four main, interlinked strands:

1. Resource Management

Since 1983, the main instrument of the conservation policy has been to set Total Allowable Catches (TACs) which fix the amount of each species which can be landed. TACs are shared out between Member States as fishing quotas according to a principle known as “relative stability” which means that a Member State is entitled to the same proportion of the quota each year for each species in each fishing area.

Fishing quotas have been supplemented by “technical conservation measures”. These are measures which regulate nets, fishing gear and the mix of fish which can be kept on board, establish closed seasons or closed areas, and set minimum landing sizes. Measures to manage effort have also been introduced by controlling the numbers of days spent at sea.

Long Term Management Plans (LTMPs) were introduced following the 2002 reform. Plans are based on a harvest control rule (HCR) for the fishery in question. This is a formula for calculating TACs on the basis of scientific advice on the state of the stock. EU law requires that recovery plans must also include limits on fishing effort by controlling the number of days spent at sea unless it can be proven that this is not needed. LTMPs currently exist for 22 stocks, about 25% of all EU commercially important stocks (European Commission 2011b).

The plan with the greatest impact on the Scottish fleet is for cod in the North Sea and West of Scotland. The Conservation Credits Scheme (CCS) has been developed by a coalition of government, industry and NGO interests. The scheme allocates days at sea in return for fishermen complying with additional restrictions such as real time closures of areas with high cod aggregations. The CCS is widely praised as an innovative approach. Needle and Catarino (2011) identified a movement away from fishing in areas of high cod concentration and a decrease in discarding of cod; however, it is too early to see conclusive evidence that the scheme is having a beneficial impact on cod mortality.
2. **Structural policy**

The CFP’s structural policy determines the way the fleet is structured and how Member States can support the fishing sector. Up until the 2002 CFP reform, the CFP set targets for the size of the fleet in each Member State through Multi Annual Guidance Programmes (MAGP). MAGPs specified the maximum tonnage and engine power allowed at the end of the programme in different “fleet segments”, (groups of vessels with similar fishing methods). Since 2002, decisions on limiting effort have been integrated into the recovery plans for threatened stocks.

European financial support for fisheries is available through the European Fisheries Fund (EFF). In common with the other structural funds, the amounts of money available to each Member State, and the rules on spending it are set for multiannual periods called “financial perspectives”. The current one runs from 2007-13 and has a budget of €4,304m. Member States are required to produce programmes setting out how they intend to use this money which are approved by the European Commission. Council Regulation (EC) No 1198/2006 sets out options for allocating funds which must fit within four axes:

- Axis 1: adjustment of the fishing fleet
- Axis 2: aquaculture, processing and marketing
- Axis 3: collective actions
- Axis 4: sustainable development of fisheries areas

The EFF in Scotland supports capital investment in the aquaculture, fishing and fish processing industries, strategic trade initiatives, fisheries dependent communities and policy initiatives for the sustainable development of fisheries. Scotland has been allocated around €100m through the fund.

3. **Markets**

The Common Organisation of the Market was established in 1970 with the aim to ensure a continuous supply of marine produce and stable prices for producers. It has four main strands:

- common marketing standards (prices and quality levels), including freshness, size and presentation
- producer organisations (POs), which help plan their members’ production and develop joint marketing strategies
- a price-support scheme, which sets minimum prices for certain products and provides financial aid when products are withdrawn from the market
- rules on trade with non-EU countries

In Scotland, POs vary dramatically in size. There are nine concerned with fisheries and two with aquaculture. In Scotland, the POs main function is quota management rather than organising the market.

4. **External Aspects**

Around 60% by weight of the EU’s catch is taken outside European waters either on the high seas (around a third) or through agreements with partner countries (European Communities 2009). The Northern Agreements (Norway, Faroe, Iceland) are based around exchange of fishing opportunities. Agreements with Faroe and Iceland have recently been affected by the
dispute about mackerel quota. Fishing Partnership Agreements (FPAs) are also entered into with other countries (mainly developing countries). These normally include financial compensation rather than exchange of fishing rights.

The United Nations Convention on the Law of the Sea (UNCLOS) entered into force in 1994. Signatories have to work together to ensure good management of fish stocks through Regional Fisheries Management Organisations (RFMO).

GOVERNANCE AND INTEGRATION WITH OTHER POLICIES

European Governance

Marine fisheries policy in Europe is led exclusively by the European Union – all decisions are made at this level unless explicitly delegated to the Member State. Until recently, decisions were made by the Council of Ministers. The Lisbon treaty has granted co-decision (now “the ordinary legislative process”) to the European Parliament (except for the setting of TACs). It also includes an explicit statement that the Union shall have exclusive competence for the conservation of marine biological resources.

The European Commission produces proposals for new regulations under its sole right of initiative. The European Parliament and the Council review proposals and propose amendments. If agreement is not reached, Parliament has the power to block the proposed legislation. Once all amendments are agreed, the proposed legislation can be adopted.

In forming initial proposals, the Commission seeks advice from several sources. The International Council for the Exploration of the Sea (ICES) is the main source of biological advice, stock assessments and long term management proposals for the North Atlantic and surrounding seas. The ICES has its own secretariat but collects information from national scientific bodies such as Marine Scotland’s Marine Lab. The Scientific, Technical and Economic Committee for Fisheries (STECF) is made up of Commission nominated members. Often members will also be involved with the ICES (e.g. Marine Scotland has staff involved in both). They produce an annual report on the status of fisheries resources and future potential. They also comment on management proposals and data and provide advice on the best course of action. STECF provides economic and social advice to the Commission as well as biological assessment and covers areas not included in the ICES (such as the Mediterranean).

A structure has also been set in place for stakeholder involvement in the policy process. The Advisory Committee on Fisheries and Aquaculture (ACFA) was established by the Commission in the 1970s initially to provide industry advice and input to proposals. ACFA now involves a broader range of stakeholders and adopts opinions through a number of working groups. The 2002 reform established Regional Advisory Councils (RACs). Seven stakeholder-led forums have been established covering the different maritime areas surrounding Europe as well as the pelagic sector and long-distance fleets. As well as being consulted by the Commission, they can make suggestions or recommendations on any aspect of the CFP rules or their implementation to the Commission. Three of these are of particular interest to Scottish fishermen: the North Sea, North-Western waters, and pelagic RACs.

Scottish Decision making

The Scottish Government Directorate, Marine Scotland, is in charge of the integrated management of Scotland’s seas. Marine Scotland was established in early 2009 bringing together the functions of the former Fisheries Research Services, the Scottish Fisheries
Protection Agency and the Scottish Government’s Marine Directorate. The responsibility for marine science, planning, policy development, management and monitoring compliance have all been brought together into one organisation.

In order to provide stakeholder input to the decision-making process, the Scottish Government constituted the Scottish Fisheries Council (SFC) in 2008 (recently superseded by the Fisheries Management and Conservation Group).

Inshore fisheries are less affected by European rules. In order to allow stakeholder involvement with the management of inshore fisheries in Scotland, six Inshore Fisheries Groups (IFGs) have been established to draw up fishing management plans for their areas.

**Control and enforcement**

In order to create a more level playing field for enforcement, a [European Community Fisheries Control Agency](#) was established in 2005 with its headquarters in Vigo, Spain. It is responsible for coordinating the enforcement activities of national control agencies.

Control of the CFP was heavily criticised in a [European Court of Auditors special report](#) in 2007. Following this, the Commission reviewed control mechanisms and the new Control Regulation entered into force on 1 January 2010 before the main CFP reform proposals were made.

Policing the CFP within Scottish waters is the responsibility of Marine Scotland Compliance.

**Integrated Marine Management**

The CFP must integrate its aims with wider EU policies on Marine management and the environment. Particularly relevant is the [Marine Strategy Framework Directive](#) (MSFD) which aims to achieve Good Environmental Status of the EU’s marine waters by 2020 and to protect the resource base upon which marine-related economic and social activities depend. The MSFD establishes European Marine Regions for which Member States must develop strategies including detailed assessments of the state of the environment, a definition of Good Environmental Status and the establishment of environmental targets and monitoring programmes.

The MSFD includes an aim to establish a network of marine protected areas which would include the Natura 2000 network which is designed to assure the long-term survival of Europe’s most valuable and threatened species and habitats. The Natura 2000 network is comprised of Special Areas of Conservation (SAC) designated by Member States under the [Habitats Directive](#) and Special Protection Areas (SPAs) under the [Birds Directive](#).

The goal of the MSFD is in line with the objectives of the [Water Framework Directive](#) which requires surface freshwater and ground water bodies to reach Good Ecological Status by 2015.
COMMUN FISHERIES POLICY REFORM PROPOSALS

CONTENT OF THE PROPOSALS

The European Commission proposals for the new Common Fisheries Policy (referred to in this brief as the Commission proposals) were released on 13 July 2011. They are made up of:

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- A proposed regulation on the common fisheries policy (referred to as the proposed basic regulation from here on)
- A proposed regulation on the common organisation of the markets in fishery and aquaculture products
- A communication on external dimension of the common fisheries policy
- A Report on reporting obligations
- A proposed regulation on the European Maritime and Fisheries Fund (yet to be released)

An Impact Assessment of the proposals has also been released. The proposals cover the following areas:

Maximum Sustainable Yield (MSY) by 2015

The Commission proposes including the aim to achieve MSY by 2015 in the basic Regulation. MSY is defined as the highest catch which can be taken year after year which maintains the fish population at maximum productivity. This follows on from the EU’s commitment at the World Summit on Sustainable Development in 2002 to achieve MSY “on an urgent basis and where possible not later than 2015” UN (2005).
Discard Ban by 2016

Fishermen would be obliged to land all catches (except those which can survive being discarded). The aim is to phase in discard bans by species groups. The ban would start in 2014 for some species, adding more species in 2015, with a full ban for all commercial species coming into place by 2016.

Multi-annual management plans

Annual quota-setting for single species would be replaced with multi-annual plans, as has already happened with some species. Multi-species plans would also be developed where possible. The plans should include targets for fishing mortality, timeframes and technical measures. They should follow sound scientific advice and the ecosystem and precautionary approach.

Transferable fishing concessions

The Regulation proposes that quotas should be more easily tradable between fishermen and potentially Member States. Exchangeable quotas called Transferable Fishing Concessions (TFCs) would be introduced to deal with the issue of overcapacity. Member States could limit concessions within fleet segments and exclude vessels under 12m in length which do not use towed gear.

Aquaculture

The Commission identifies aquaculture as an area which could be sustainably developed. It is proposed that member states must prepare National Strategic Plans on aquaculture and that an aquaculture advisory group should be established.

Communities

The Commission recognises the importance of the small-scale coastal fleets for particular communities and suggests special measures for such fleets and communities could be put in place.

Labelling

It is suggested that consumers should be provided with greater levels of information about what they are buying including labelling schemes on the environmental claims of products and the production techniques used.

Regionalisation

Regionalisation is identified as a key aim of the proposal. EU legislation should focus on “objectives, targets, minimum common standards and results, and delivery timeframes” while Member States should have the flexibility to decide upon other measures of fisheries management. It is proposed that fishermen should be further involved in the decision-making process and the role of the Regional Advisory Councils (RACs) should be strengthened.
**Funding**

A support scheme would continue through a new European Maritime and Fisheries Fund (EMFF) which would be aligned with the aims of the policy and Europe’s Strategy for growth up to 2020 (the [Europe2020 Strategy](#)). The detailed proposals for the EMFF are expected in November 2011.

**External Policy**

It is proposed that Fishing Partnership Agreements (FPAs) will be replaced with Sustainable Fisheries Agreements (SFAs) which will put more emphasis on achieving the aims of the CFP outside EU waters. Northern agreements will continue with a greater focus on CFP aims. The strengthened involvement of the EU in Regional Fisheries Management Organisations (RFMOs) is also promoted.

**RESPONSES TO THE PROPOSALS AND DISCUSSION**

A very brief summary of the main reform proposals is given at above. While more details are included in the Commission Communications, one of the main criticisms levelled at the proposals is that they are short on detail and important delivery mechanisms, time-frames and responsibilities have been left for Member States and the European Parliament to interpret.

The section below goes into more detail on some of the debate around the proposals and the issues likely to cause most contention. Views are taken from Green Paper responses ([Europa 2010b](#)), responses to the actual proposals where available and discussion with various interest groups. The main concerns are how to reduce overfishing and overcapacity while taking into account the impacts this might have on the fishing industry and communities dependent on fisheries i.e. balancing the environmental, economic and social aims. However, much attention has also been focused around uncertainties in the science.

**Maximum Sustainable Yield**

MSY is a conceptual objective aimed at achieving the highest possible yield over an infinitely long period of time. As a theoretical objective, MSY is therefore desirable from all interest groups point of view. Disagreement about implementing such an approach revolves around how it is calculated in practice and what this means for fisheries management, particularly for mixed stocks.

Environmental NGOs have welcomed the commitment to restore stocks to the level of Maximum Sustainable Yield by 2015, though some have cautioned that this should be viewed as a direction of travel and a limit rather than a target (BirdLife 2011).

The UK Government supports the use of MSY but believes that it must be used in conjunction with Long Term Management Plans and that the obligation to meet MSY by 2015 could cause unnecessary hardship to fishermen in mixed fisheries. The Scottish Government has similar concerns and stated that “Achieving MSY simultaneously for all stocks in a mixed fishery is not possible”. (Scottish Government 2009)
Fishing organisations such as the Scottish Fishermen’s Federation (SFF) have expressed concerns that MSY does not recognise the complexities of marine ecology such as “different stocks predating upon each other, or occupying ecological niches vacated by others” (SFF 2011). The industry is also concerned that where a precautionary approach is taken for single stocks where data is poor, the gap between actual abundance and awarded opportunity could exacerbate the discard problem.

**Scientific uncertainty**

The data on which scientific recommendations are based are collected through national catch recording systems and dedicated sampling expeditions. These vary in their accuracy between Member States. Data may be poor for a variety of reasons from poor compliance with catch recording (e.g. underreporting or misreporting) or lack of resources dedicated to sampling, to inherent difficulties with sampling related to the biology or distribution of the stock under assessment.

ICES advice on the state of fish stocks is provided according to requests from the Commission (ICES 2011). Advice is given on a stock by stock basis and, according to agreed policy aims, is evolving to give assessments based on MSY. MSY can only be measured when a stock is in equilibrium. It is affected by factors other than fisheries management such as natural recruitment, mortality and growth rates, climatic conditions and interaction with other species.

Due to problems with available data and modelling uncertainties as described above, there may be high levels of uncertainty attached to estimates of MSY for some stocks. This can lead to large variations in the management recommendations depending on which models are used. This causes particular problems for mixed fisheries where mismatch of quotas for species caught together leads to discards.

**Multi-annual plans**

One way to introduce more certainty around fisheries management measures is to use Long Term Management Plans (LTMPs). This has the benefit of removing the political element from decision making once the rules are set and allows fishermen to plan for the future.

WWF has set out views on key areas for the success of plans. They suggest amongst other things that plans must be based on fisheries as opposed to single stocks; regional stakeholder groups should be responsible for agreeing, implementing and reviewing plans; plans are ecosystem based and should be based on total catch rather than landings (WWF 2009). SFF has also signalled support for a long term management process where regional decision-making bodies are given more input into their content (SFF 2009).

While there are likely to be disagreements over what would be included in LTMPs, most stakeholders agree that a regionalised, fisheries based approach is preferable to the current single-species quota setting process. It is a key concern for stakeholders therefore that the reform proposals do not include details on the process of formulating, implementing and reviewing plans. It is viewed as particularly important for the Commission to set out clear views on competencies for this area given that some plans have stalled at the approval stage due to disagreement between the Council and Parliament about whether or not co-decision applies to LTMPs under current arrangements.
Transferable fishing concessions (TFC)

The Green Paper proposes use of tradable rights as a more efficient way of reducing overcapacity and one which give the industry more responsibility. It suggests that use of tradable rights “has generally led to more rational investment decisions and to reductions in capacity, as the operators adapt their fleet to their fishing rights in order to achieve economic efficiency” (European Commission 2009b). They also believe it could help to reduce discards by allowing transfer of entitlements from fishermen with additional quota to those who are already out of quota for a particular species.

Concerns have been expressed that this amounts to a privatisation of the oceans (BBC News 2011) though all Member States use Rights Based Management (RBM) to some extent already (European Commission 2009a). There are also fears that there could be social impacts and that such a system could lead to a concentration of rights with a few larger vessels. A Commission Analysis found that “Transferability can and has resulted in a concentration of fishing rights in some cases (e.g. Spain, Denmark)” (European Commission 2009a).

Views on the use of use of transferable quotas are therefore divided. In general across Europe, representatives of smaller-scale fisheries are against greater use of transferable rights while representatives of larger scale fisheries are more likely to favour them (Europeche Cogeca 2009).

While there are ideological divides on the use of RBM, the Commission’s proposals have attracted criticism from both sides of the debate. The main change proposed is that all member states would have to introduce TFC and that concessions would be allocated for a period of 15 years. In theory Member States could limit trading to within their boundaries and could also exclude smaller-scale vessels, however, there is little detail on how this would work in practice.

While the UK already has one of the most liberal approaches to quota management, in theory the rights belong to the state, are loaned to fishermen and no time period is attached to the right. The UK Government, despite supporting moves to a more market-based system does not agree with the Commission’s proposal to make this compulsory for every fishery sector and believes the choice should remain with the Member State.

The Scottish Government, for whom protection of Scotland’s historical fishing rights is seen as being the highest priority, is concerned that once tradable concessions are established, it will be difficult to argue that there are “transparent and objective” reasons according to the regulation to prevent quota being sold to foreign vessels. This could lead to a loss of quota from Scotland. The Cabinet Secretary, Richard Lochhead stated: “There is a huge threat to Scotland lurking within these proposals ... Selling quota to Europe's highest bidders will erode Scotland's historic rights which in turn could spell doom for our fragile fishing communities” (Scottish Government 2011).

While some environmental organisations support greater use of rights based management, they believe that, in order to reduce capacity, it needs to be part of a toolbox of options to be decided upon at the regional level according to the LTMP in place (WWF 2011). An additional concern is that there is no safeguard in place to encourage retention of the most environmentally sustainable segments of the fleet (BirdLife 2011).

The fishing industry has concerns that if the aim to reduce the capacity of the fleet succeeds, it would have detrimental effects on the industry with large-scale job losses predicted in the impact assessment (SFF 2011). The Impact Assessment’s Scottish case study indicates a larger decrease of employment in Scotland (19%) compared to the EU as a whole (14%) and predicts this could increase further if quotas can be traded internationally. However, the economic effects are not necessarily clear-cut. While employment would decrease, those remaining in the
sector would benefit through higher wages and employment in the processing sector would increase in the long-term due to increased catch (Commission 2011b).

Discards

One of the most emotive issues around CFP reform has proved to be the question of discards, where fish are caught and then thrown back over the side dead. Over three-quarters of a million people have signed a petition asking for discards to be banned following the Fish Fight campaign led by Hugh Fearnley-Whittingstall.

While discards are abhorred by environmentalists, fishermen and Governments for the appalling waste of resources they represent, the question remains, how discards can practically be banned while retaining rules on what types of stock can be caught and without placing undue restrictions on fishing healthy stocks. There are also concerns that compliance monitoring could be extremely costly (e.g. an onboard observer costs around £400 per day (Scottish Government 2010a)) and without it, illegal discarding will continue.

For these reasons, while the discard ban has been welcomed warmly for example by the Fish Fight campaign, and environmental NGOs in general favour eliminating discards, some have sounded a note of caution stating that the focus should be on using selective fishing gear to avoid the capture of discardable fish in the first place rather than creating markets for bycatch which could create perverse incentives to catch fish unsustainably (WWF 2011). The Commission proposals have also been criticised for focusing only on marketed species and ignoring discarding of non-target species such as seabirds and marine turtles (Birdlife 2011).

The SFF has expressed its dismay at the proposals stating that they believe a ban to be impractical in mixed fisheries and prefer greater use of avoidance tactics (SFF 2011).

The Scottish Government favours eliminating discards but is also concerned about the effects of an outright ban on mixed fisheries. They are keen to focus on methods trialled in Scotland such as the Cod Catch Quota Scheme (CCQS) – a voluntary scheme where fishermen must agree to installation of Remote Electronic Monitoring, land all cod caught and stop fishing when they reach their cod quota in return for that quota being increased.

Fisheries Support

The poor economic performance of parts of the sector, and its importance to remote fishing communities has meant that fisheries has a dedicated EU support mechanism. It is also common practice for member states to assist fishermen by exemptions or refunds on fuel duty and VAT. While there are no precise figures, estimates indicate that the overall size of direct and indirect public support by the EU and Member States may represent on average close to two-thirds of the value of landings in the main EU fisheries while the EU's public financial support accounts for around 10% of the value of landings (European Commission 2011b).

There have been criticisms of the current model of support from both the economic and the ecological perspective e.g. for continuing to support increases in capacity ECA (2007) and for wasting EU funds by paying the same vessels for modernisation then scrapping (fish-subsidy.org 2010).

The UK Government envisages a situation where support can be phased out in the long-run. This view is supported by environmental NGOs such as BirdLife. However, most EU Member States want to retain support to the fishing sector in one form or another (CFP reform-watch 2011).
Governance

One of the most consistent criticisms of the CFP made by all interest groups is the top-down mode of decision-making employed through the CFP. This has meant that every detail of the policy is controlled through regulation.

The top down approach has not created incentives for the fishing industry to support the objectives of the policy, and take responsibility for implementing it (European Commission 2009b). The Commission suggests that the solution is greater self-management by the industry. The setting up of Regional Advisory Committees has been one step towards such an approach but these bodies do not have decision-making powers. There have been calls for greater regionalisation of the policy.

The European Commissioner for Maritime Affairs and Fisheries Maria Damanaki has stated that she would like to introduce further regionalisation: “The choice of instrument, or instruments' mix, is up to Member States, cooperating at regional level; what counts for us is that they do achieve the objective, not how they achieve it. The EU has to be the lighthouse, if you will, showing the way. Member States, regions and industry have to steer the ship - and avoid the rocks.”

This has been welcomed by many though there is concern about the lack of detail. The SFF has said: “We do...welcome the move towards greater regional control of fisheries but the proposals are vague at this stage and it is essential that these measures are robust and provide the opportunity for meaningful management on a local scale” (SFF 2011). This was echoed by the Scottish Government “The Commission's proposal for regionalisation is a welcome start but they don't go far enough. In the complex mixed-fishery of the North Sea it makes sense for Scotland and other nations to have more control over their own fisheries, working in partnership with neighbouring maritime nations” (Scottish Government 2011). Similar concerns have been echoed by environmental organisations and MEPs. The lack of detail appears to be due to concerns from the Commission’s legal services that devolving powers could breach the EU’s exclusive competence for the conservation of marine biological resources through the CFP as enshrined in the Lisbon Treaty. The Commissioner has challenged Member States and MEPs to find ways around this legal barrier.

Compliance and controls

Member States have been criticised for not taking strong enough action to standardise data collection and ensure it is accurate. The Commission has also faced criticism for not cross checking member states’ data collection systems and also lacking power to ensure Member States fulfil their obligations. Under the current system, such a failure would be subject to a formal notice, then a reasoned opinion before finally being taken to the European Court of Justice. The procedure takes such a long time that only one ruling against a Member State has occurred. It has been suggested that suspending aid allocated to a Member State might be a faster way of penalising non-compliance (ECA 2007). A new control system was introduced at the start of 2010 so compliance is not a strong strand of the reform proposals. Environmental NGOs have criticised the fact that the link has been made between meeting social and environmental criteria and receiving EU support is still not clear in the proposals. They have called for a system of “cross compliance” which would allow the Commission to withhold support if European rules are not adhered to.
Aquaculture

Currently the Commission has little influence over Member States activities in aquaculture. The Scottish and UK Governments have expressed concerns about intervention in the Member State’s own management though they have acknowledged that the EU could have a role in supporting the coordination of some areas of research.

Extent

The Scottish Government has welcomed the retention of relative stability and the 6 and 12 mile limits for coastal fisheries. They are concerned however that no explicit mention of the Shetland box is made in the proposals.

Fish farm in Shetland. Image: AnyTee / iStock images

NEXT STEPS

European Timetable

The new CFP is due to enter into force 1 January 2013. Before then, the policy will be subject to the scrutiny of the European Council and, for the first time for a CFP reform proposal, the European Parliament.

Within the Parliament, each proposal from the Commission will be appointed to an MEP who becomes the rapporteur with the job of drafting amendments to the Commission’s proposals. There have already been disputes between the political groups about how the six reports should be distributed. The Fisheries Committee will discuss the reports at their October and November meetings. If the Committee adopts the position it is forwarded to the European Parliament and amendments can be proposed by other interested MEPs.
The Agriculture and Fisheries Council will discuss proposals in their monthly meetings, though the December quota negotiations also occur in this time period. Working Groups of Member State representatives will meet over September to discuss positions. It is likely the Council will cover the proposals first at their October meeting.

Once the Parliament has an agreed position, this will be discussed by Council and amended through the ordinary legislative process (formerly known as co-decision - see McIver 2011 for a detailed explanation). It is as yet unclear how long this could take though final agreement is unlikely to be reached until the middle of 2012 at the earliest with some commentators predicting this could be pushed into early 2013.

Once the package has been agreed between the European institutions, the member states must put in place the necessary rules to implement the policy.

**UK Government**

Defra launched a consultation on the European Commission’s reform proposals on 10 August 2011. This asks interested bodies to respond to a number of broad questions around the reform proposals.

**Scottish Government**

The Scottish Government is forming a steering group of key stakeholders from the fishing industry and NGOs to help develop a 'Team Scotland' position and help steer their approach to the negotiations. Additionally the Scottish Government will be in regular consultation with Scottish MEPs as well as DEFRA, Northern Ireland and Wales regarding their approach to CFP Reform. Finally the Scottish Government intends to hold events in Scotland and Brussels in order to discuss and promote the 'Team Scotland' approach.

**UK Parliament**

An Environment, Food and Rural Affairs (EFRA) Committee Inquiry will be carried out into the European Commission’s proposals examining “whether they will deliver long-term environmental and economic sustainability for Europe’s fisheries, its marine ecosystem and for coastal communities through implementing science-led ecosystem based management”. The Committee asked for views on the CFP package from interested parties by the end of August.

Mr Peter Bone, Conservative MP for Wellingbough introduced a Private Members Bill the Common Fisheries Policy (Withdrawal) Bill 2010-11 currently undergoing a 2nd reading in the House of Commons.

**Scottish Parliament**

The Scottish Parliament will debate the reform proposals on 22nd September.

The Rural Affairs, Climate Change and Environment Committee’s work programme was agreed on the 7th September and includes scrutiny of the Common Fisheries Proposals. The Committee agreed a three stage process:
- a session with Scottish MEPs who sit on the EU fisheries committee (Ian Hudghton and Struan Stevenson), which took place on 14 September 2011;
- evidence from stakeholder organisations, possibly via an event; and
- evidence from the UK Minister for Natural Environment and Fisheries and the Scottish Government’s Cabinet Secretary for Rural Affairs and Environment, with a view to producing a motion for debate in the Parliament.

At the conclusion of this work, the Committee agreed to produce a letter summarising the evidence received and the Committee’s conclusions, and to send that to a range of players – such as the Scottish Government, relevant Committees in Westminster and the European Parliament, and the European Commission.
SOURCES


Fish Fight. Available at: www.fishfight.net [Accessed 6 September 2011].


RELATED BRIEFINGS

SB 09-77 Reform of the Common Fisheries Policy

SB 10-63 Sea Fishing: Quotas for 2011

SB 11-40 Rural Affairs and Fisheries: Subject Profile

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