Scottish Parliament’s Rural Affairs, Climate Change and Environment Committee

Reform of the Common Fisheries Policy

Introduction

Background
The Scottish Parliament’s Rural Affairs, Climate Change and Environment Committee (RACCE) has been considering the European Commission’s proposed reforms to the Common Fisheries Policy (CFP) and took evidence on how these may effect Scotland at its meetings on 14 September, 2 November and 9 November.¹

The Committee initially took evidence from Struan Stevenson MEP, and Ian Hudghton MEP, both of whom sit on the European Parliament’s Fisheries Committee. Struan Stevenson is also the Committee’s rapporteur on the proposal for a regulation on the common organisation of the markets in fishery and aquaculture products. This was followed by a roundtable session with stakeholders.² The Committee then questioned the UK Minister for Natural Environment and Fisheries and, finally, the Scottish Government’s Cabinet Secretary for Rural Affairs and the Environment.

Aims
The Committee’s intention was not to undertake an exhaustive scrutiny of all the proposals contained in the reform of the CFP, but rather to get initial views of stakeholders in Scotland together with views from the UK and Scottish Governments, to assess the potential effects the proposed reforms could have on the Scottish fisheries industry and related sectors. The Committee focussed on the following areas: governance; relative stability and transferable fishing concessions; the proposed discard ban; maximum sustainable yield and the associated scientific basis; and related issues such as multiannual plans, aquaculture, the impact on the fish processing industry, and funding.

Given the significant Scottish interest in fisheries, with the majority of UK fisheries activity based in Scotland, the Committee was very keen to consider the CFP reform proposals at this stage to ensure that Scottish specific interests were understood and represented. There is a general consensus that the current CFP is “broken” and has not worked well for regional mixed fisheries, and therefore urgently needs to be reformed. However, it should be also be acknowledged that parts of the CFP have delivered benefits for some pelagic fisheries, and it is important that the reformed CFP retains the positive aspects of the current policy, a point made to the Committee by a representative from the Scottish pelagic sector.

² Bertie Armstrong (Scottish Fishermen’s Federation), Professor Ian Boyd (University of St Andrews), Kara Brydson (RSPB Scotland), Will Clark (Seafood Scotland), Ian Gatt (Scottish Pelagic Fishermen’s Association), Mireille Thom (WWF Scotland), Niels Wichmann (North Sea Regional Advisory Council).
De-centralised decision-making

An essential outcome of this reform to the CFP is to correct the well documented failings of the current top-down micromanagement at European level, by devolving decision-making to a member state and regional level. The proposals put forward aim to allow member states to have greater flexibility to decide on fisheries management measures, with EU input limited to a broad principle level, but can they actually deliver that aim as they currently stand? The answer to that question given by those who provided evidence to the Committee was a resounding “no”. The Committee agrees with all those who told us that achieving proper de-centralised decision-making must be at the heart of these reforms, and if the reforms do not deliver that, then they will have been a failure.

The Committee notes that although the European Commission seems to be committed to achieving greater decentralisation to a certain extent, many of the proposals appear to run counter to achieving this, such as the proposals on discards, transferable fishing concessions and maximum sustainable yield. These have no substantial regional element which would allow individual, or groups of member states to use relevant local knowledge and experience of their own fishing waters to take appropriate management decisions.

The Committee believes it is essential that a means is found not only to devolve power to individual member states, but to devolve power to groups of member states, to allow sea basins to be managed by those countries that fish and manage those waters.

The Committee believes that any reform of CFP must result in member states being able to introduce the most appropriate management tools to manage their fishing industry effectively and sustainably. The Committee recommends that all of those involved in the negotiations to agree a new CFP apply maximum pressure to try and ensure the proposals for regionalisation are realised.

Concerns were also raised by a number of witnesses regarding the legal basis for the Commission’s proposals and the potential difficulties which could materialise as the reform proposals are scrutinised through the European Council and European Parliament. Put simply, there is a legal question as to whether devolving powers to member states in relation to a common policy such as the CFP would be a breach of article 3, part 1 of the Treaty on the functioning of the European Union. This gives the European Union exclusive competence in the conservation of marine biological resources under the common fisheries policy.

The Committee is also well aware that as well as being a legal issue, a solution to this situation requires a collective political will across member states to realise the ambition.
It is essential that these issues are considered and resolved before any reform is implemented otherwise the CFP will continue to be bogged down by inefficiency and lack of clarity, rather than helping and supporting the fishing communities of Europe.

The Cabinet Secretary in the Scottish Government acknowledged the legal challenges facing this proposal. He has asked the European Commission to provide further information on the options for regionalisation and how the aspirations for CFP reform can be realised and has sought clarity on the legal basis for promoting regionalisation in the face of the legal challenges. The Cabinet Secretary told the Committee that this will be provided to the Scottish Government in a “non-paper”3 published by the European Commission. The Committee supports the concerns of the Cabinet Secretary and awaits the paper from the Commission with great interest.

The Committee is concerned that a fundamental aim of the proposals to devolve more decision-making powers to member states could be lost in legal arguments and that this could detrimentally affect the Commission's ability to turn this proposal into reality. The Committee believes that the political will must be found from all parties to overcome these legal obstacles and believes that the EU institutions must not be diverted from the task of finding a mechanism to allow member states to develop their own fisheries management policies, as this is a proposal that has widespread support.

It is also clear to the Committee that Regional Advisory Councils (RACs) need to be reformed to ensure their membership contains the correct balance of representation including the onshore fish processing sector as well as the catching sector and that they are given greater powers. The Committee was interested in the suggestion put forward4 that RACs should play a greater role in effective regional management, perhaps by the establishment of a new body with legal powers which is advised directly by RACs.

The Committee is interested in the idea of establishing new regional bodies, such as groups of member states with legal powers, to manage regionalisation. The RACs, with representation from onshore fishing sectors, should have an increased role in advising these bodies. We recommend that the European institutions give further consideration to this suggestion.

Relative stability and transferable fishing concessions

Relative stability and a lack of clarity
Currently, Total Allowable Catches (TACs) are shared out between member states as annual fishing quotas according to the principle of ‘relative stability’ where each member state is entitled to the same on-going proportion of the

---

quota allocated for each species, based on historic entitlements. The proposals include the introduction of transferable fishing concessions (TFCs) which will allow the trading of quotas within member states, and, potentially, between member states, with the aim of reducing overcapacity and allowing market forces to determine overall capacity.

While several witnesses made the point that Scotland could potentially benefit from the trading of concessions to increase its overall fishing assets, most witnesses saw maintaining relative stability as essential and believed that the proposed TFCs threatened this basic principle. Concern was expressed, which is shared by the Committee, that the introduction of TFCs could result in centralised ownership of fishing rights and vessels by large companies which could have a detrimental effect on Scotland’s coastal fishing communities. The Scottish Government echoed these concerns.

The lack of clarity as to whether TFCs can be traded solely within member states or traded between member states was highlighted by witnesses. The Cabinet Secretary expressed concerns that introducing transferability within member states would inevitably lead to a move towards transferability between member states, with only tenuous links with Scotland, or the UK, having to be demonstrated before transfers could take place. This could ultimately result in Scottish fishing quotas sitting outside Scotland. Some witnesses argued that trading between member states could potentially have a more damaging effect on Scotland’s traditional fishing rights relative to other parts of the UK and Europe.

The Committee believes that maintaining relative stability is essential and that any suggested reforms, such as the current provisions on TFCs, which pose a potential threat to relative stability, should not be pursued.

Over-capacity
As stated, one aim of introducing TFCs is to address problems with overcapacity by reducing the total number of EU vessels. In Scotland, however, the number of vessels has already reduced significantly over recent years through the adoption of decommissioning schemes and economic consolidation. Many witnesses are of the view that there is no need to reduce capacity further. Moreover, there is uncertainty about whether TFCs would actually be able to deliver fleet reduction effectively. Bertie Armstrong, from the Scottish Fishermen’s Federation, told the Committee—

“There was coincidence between Denmark introducing a form of TFCs and a reduction in the Danish fleet. However, the Danish fleet needed to rationalise at that point anyway, so there is an interesting question around whether it would have rationalised by any means and whether its reduction just coincided with the TFCs. The proposal says that TFCs
will reduce capacity, but that is not necessarily true. We should wait to see about that."\(^5\)

It is clear that there are widely shared concerns about introducing a scheme which might threaten relative stability and where the outcomes are so uncertain.

The Committee believes there should be recognition that Scotland has already reduced the capacity of the fishing fleet in recent years. The Committee suggests that allowing market forces, through the introduction of TFCs, to address the overcapacity issue could be perceived as a crude method with uncertain and untested outcomes. The lack of control over where and when capacity is reduced could have a disproportionately detrimental effect on Scotland's fishing industry, fishing communities and marine environment.

**UK and Scottish view**

The UK and Scottish Government’s appear to share concerns regarding TFCs, but there did seem to be some divergence of opinion due to the different profiles of the fleets north and south of the border. In Scotland, it is not just the smaller-scale fisheries that need to be protected as larger boats are of social and economic importance to local fishing communities and vital to Scotland’s fishing industry. Bertie Armstrong of the Scottish Fisherman’s Federation (SFF) outlined the profile of the Scottish fleet succinctly—

“The Scottish industry is basically a large collection of small and medium-sized enterprises. There is good and bad in that. It gives great territorial connection, so there is a community support aspect. If a vessel is owned by a family or small consortium, it will have territorial connections. However, the difficulty is that that also makes the business vulnerable.”\(^6\)

The UK Minister told the Committee that he had seen successful examples where TFCs could benefit stock conservation. One of his concerns with the current proposal was that the scheme would run for 15 years, which he believes is too long, and it lacks an absolute guarantee that the transferable element would be retained within member states. He also added - “We in the UK have a system of devolving the allocation of quota and I strongly believe we should be able to devolve the TFC system”\(^7\).

The Cabinet Secretary highlighted the different circumstances in Scotland which raises concerns regarding TFCs and the threat to relative stability. He told the Committee—


“It is quite clear that the UK Government is, to an extent, more relaxed about the issue than we and the fishing industry north of the border are […]”

He went on to explicitly state that the Scottish Government is “[…] extremely reluctant to support the introduction of transferable concessions.”

The Cabinet Secretary told the Committee that should TFCs be introduced, they need not be introduced in Scotland. He stated, “I welcome the UK Government’s assurance which I think the UK Minister gave the Committee as well, that, under devolution if transferable concessions were to be introduced at member state level, the Scottish Administration would have the opportunity not to implement them in Scotland.”

Despite differing views on the broad principles and potential benefits of TFCs, the UK Minister did state that he felt the UK and Scottish Government were not that far apart on the issue – both essentially viewing TFCs with a level of caution and both believing firmly that retaining relative stability was a real priority.

The Committee notes the difference in view between the UK and Scottish Governments regarding the principle of transferable fishing concessions. The Committee supports the position of the Scottish Government’s Cabinet Secretary that the inclusion of any form of transferable fishing concessions poses a threat to the principle of relative stability and therefore should not form part of the final reforms.

The Committee welcomes the Cabinet Secretary’s statement, and the comment of the UK Government, that the decision to implement TFCs, if they do unfortunately form part of the final CFP reforms, be devolved to the Scottish Government.

Ownership of quotas
An additional point raised by witnesses was the lack of clarity on information related to current quotas and who owns them. This lack of transparent centralised information could become more of a problem should TFCs be imposed.

The Committee is concerned about the lack of robust transparent information regarding the ownership of fishing quotas and their allocations across Europe. The Committee welcomes the assurance of the UK Minister that a UK register will be established and looks forward to receiving more information on current ownership of quota in the UK.

---

The Committee believes it is essential that the European Commission undertake work to establish a Europe wide quota register.

Discard ban

The proposals include establishing a complete discard ban by 2016, by which time fishermen will be obliged to land all catches except those that can survive being discarded, such as nephrops. The ban would start in 2014 with the aim of having a full ban on all commercial species in place by 2016.

Evidence to the Committee highlighted that there is more to the issue of discards than perhaps meets the eye. The practice of discarding fish is not something fishermen do purely out of choice, but rather is an extremely unfortunate consequence of current management practices and regulatory regimes set at a European level, and the problems associated with operating quotas in a mixed fisheries setting. Fishermen are left with little choice but to discard fish if they have no quota for a particular species, if there is no market for that species, or if juvenile fish are caught.

The Cabinet Secretary highlighted to the Committee the successful work currently being done in the Scottish fishing industry to reduce discards and told the Committee—

"Unlike the Commission, we think that there must be a plan to do that, not just a ban. It is one thing to have a headline that says discards will be banned by 2016, but a plan for how to get there is needed."

After hearing the evidence, the Committee considers it would be very difficult to implement a complete discard ban in mixed fisheries, such as the North Sea. Imposing a blanket ban requiring that all fish caught are landed, without properly thinking through what will be done with those fish, could simply move the problem from the sea to the land, resulting in a landfill problem.

The Committee considers that attention should be focussed not on delivering a discard ban by a certain date come what may, but on how discards can be limited as much as possible by proactive methods. The Committee was heartened by the work being done within the industry to operate more selective fishing methods involving specific fishing gear and varying net sizes to help minimise discards in mixed fisheries.

The Committee is well aware of the public outcry in relation to the discarding of fish and shares the view that the practice of discarding perfectly edible fish is abhorrent. However, the Committee notes the difficulties a discard ban would pose to mixed fisheries and believes that to implement the proposed discard ban by 2016 would be an over simplistic approach.

It would be more helpful if technical and management solutions were put in place to reduce the unwanted catch in the first place. The Committee recommends that greater emphasis is placed on implementing the practices from successful pilot schemes, such as the catch quota scheme mentioned below, rather than implementing a blanket ban.

*Catch quotas*

The Committee heard about voluntary schemes based on catch quotas and conservation credits introduced by the Scottish Government which have been successful in reducing the number of fish discards. These schemes incentivise fishermen to avoid areas with high cod concentration and introduce new measures to avoid catching non-quota species and undersized fish. Fishermen who take part in the scheme are awarded extra days at sea or additional quota.

When discussing other possible alternative approaches to a blanket discard ban, such as the implementation of a species by species discard ban, the UK Minister stated that “the catch quota scheme is, of course, the prime example and will see most vessels having zero discards of cod because of the change in fishing techniques.”

Despite their success, the Committee heard the frustration from witnesses that such catch quota schemes cannot be adopted by fishermen across the industry in Scotland due to the difficulties in reaching agreement with other countries.

The Cabinet Secretary told the Committee, “We have a crazy situation. We have a scheme that reduces discards, eases the fleet’s financial pain and increases its profits, and is good for the environment and businesses, but the number of vessels that can be in it is limited by a bizarre set of negotiations. The regime says, “No, no.””

The Committee recommends that the European Commission fully support innovative schemes such as the catch quota scheme. The European Commission should do all in its power during the fisheries negotiations to ensure that a solution is found to allow more vessels to enter the scheme.

*Maximum sustainable yield and the associated scientific basis*

Maximum sustainable yield (MSY) is defined as the largest average catch which can be taken year-after-year without affecting the long-term sustainability of the stock. The reform proposals include the target of achieving MSY for all stocks by 2015.

---


The Committee explored the use of MSY as a fisheries tool and the scientific basis on which MSY is measured. The Committee also explored the difficulties of setting individual fishing levels to reach MSY for stocks in a mixed fishery setting, as is the case with the whitefish fleet in Scotland.

The Committee understands that the scientific information relating to mixed fisheries is complicated and not yet properly understood and heard that adopting a MSY approach could prove unhelpful for mixed fisheries. Evidence from the academic field suggested that given the theoretical nature of MSY, achieving the precise fishing mortality required to reach MSY is virtually unattainable for any fish stock. The uncertainty in calculating the number of fish that exist, their capacity to reproduce and the interactions between fish stocks make any MSY calculations imprecise. It was suggested that a risk-based management approach would be more appropriate in achieving long-term sustainability of fish stocks.

The Committee recommends that the European Commission explore ways in which member states could be allowed to implement individual and flexible long term management plans and innovative management techniques and encourage the uptake of these schemes.

It is essential that the best possible scientific information is gathered to inform the CFP, and that this information is as robust as possible. Perhaps this could include greater involvement of fishermen and the fishing industry. The Committee encourages the European Commission to allocate further funding to support work on improving the gathering scientific information and investigating better modelling methodologies relating to the fish industry to help achieve a sustainable fishing sector.

Other issues

Aquaculture
Aquaculture has been identified as an area which can be sustainably developed. It is proposed that aquaculture National Strategic Plans are developed by member states and an advisory group be established. Witnesses welcomed the EU’s interest in aquaculture issues, however, the views expressed to the Committee were that aquaculture should be dealt with locally at member state level and should not form part of the new CFP.

The Committee believes that it makes sense to share information on aquaculture matters across the EU but that aquaculture should not form a part of the new CFP as regulation of this area is a matter for member states. Furthermore, Scotland is well positioned to take a lead in this area given the growing development and importance of aquaculture in Scotland and the Committee encourages the Scottish Government to use all levers available to try and influence the agenda on aquaculture at an EU level.
Multiannual plans

The proposals state that multiannual plans will replace the current annual quota-setting for single species, and that multi-species plans would be developed where possible. The plans should include targets for fishing mortality, timeframes and technical measures. A number of witnesses stressed that multi-annual plans must target multiple species if they are to be achievable. The Committee heard that the flexibility that multi-species plans provide is essential if fish discards are to be reduced effectively.

The Committee believes that regional multiannual and multi species plans, which could be approved by the European Commission, are required in order to strike an appropriate balance between the responsibilities of member states and the EU.

Impact on the fish processing industry

The impact of the CFP reform proposals on onshore jobs related to the fishing industry was highlighted to the Committee. The majority of Scotland’s food exports are fish exports, therefore any impact on the onshore fishing industry could impact greatly on Scotland’s economy.

The Committee heard from witnesses on the potential negative impact on the fish processing industry, should TFCs be introduced. Increasingly, fishing boats could become foreign owned and if that is the case there may be more incentive to land much of the fish that is currently caught in Scotland elsewhere. This practice occurs at the moment and the Committee does not want to see it increasing. Should more fish end up being landed in other countries, the result could mean a serious shortage of supply for Scottish fish processors.

Will Clark from Seafood Scotland also told the Committee of the potential difficulties for the processing industry if increased stock were landed, giving the example of the west coast haddock fisheries achieving MSY. He told the Committee—

“[…] the onshore processing industry has shrunk just as the fleet has shrunk and so it cannot absorb such increases in stocks in one go; we cannot just turn things on and off like a tap.”\(^\text{14}\)

The Cabinet Secretary highlighted the potential negative effect of the proposed cut in days at sea for the fleet, on fish processors. This could make achieving quotas very difficult. He confirmed that this issue is being pursued with the European Commission.

The Committee is deeply concerned about the current state of the fish processing sector in Scotland. The CFP reforms are clearly an opportunity to improve, not only the situation for those taking the fish out of the water, but also for those who deal with the fish once they are

---

\(^{14}\text{Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Official Report, 2 November 2011, Col 318.}\)
landed. The Committee does not wish to see a reduction in landing rates in Scotland and recommends that all those involved in the negotiations work with, and take note of, the views of, and possible effects on the fish processing sector.

The Committee shares the concerns of the Cabinet Secretary regarding the possible negative effect on the fish processing sector of reducing days at sea, which could leave quota un-fished. The Committee draws this to the attention of the European Commission.

Funding
The European Fisheries Fund (EFF) will be replaced by the European Maritime and Fisheries Fund (EMFF). The Committee was aware of the problems with the scientific data available on certain fish stocks and this was confirmed in the evidence to the Committee and in particular, in relation to MSY.

The Committee recommends that funding from the new EMFF should in part be directed to targeting funds at improving the scientific information which underpins fisheries management decisions.

The Cabinet Secretary, when asked should the new EMFF fund support the upgrading of fishing vessels, told the Committee that funds should be made available to modernise vessels and make them more energy efficient but should not be used to subsidise the scrapping and replacement of vessels which is not sustainable.

The Committee agrees with the Scottish Government’s view on funds being made available to modernise and upgrade vessels in line with current and proposed regulations. The Committee welcomes the Commission’s commitment not to continue funding the scrapping and replacement of vessels in the new EMFF.

In addition, the Committee welcomes that, as part of the reform of the CFP, the new EMFF will dedicate funds to support sustainable fishing which should include funding the introduction of gear and trialling measures which will reduce fish discarding.

Relationship between the UK and Scottish Governments
The Committee briefly explored with the Cabinet Secretary and the UK Minister how the two Governments work together to ensure the best outcomes for the UK during European negotiations on the CFP reform, while paying particular interest to Scotland’s fisheries interests.

The UK Minister told the Committee that he acknowledges that Scotland has a large interest and he will work closely with every part of the UK to get the best deal for the UK. He stated that “All I can vouch to this Committee is that I will

Europa press release, 2 December 2011
get on with and work constructively with whoever is in the position that is currently occupied by Richard Lochhead to get the best deal for Britain”.\textsuperscript{16}

Evidence of this close working was confirmation that the UK Minister has invited the Cabinet Secretary to every bilateral discussion with the Commission or another country and on occasion the Cabinet Secretary led the discussion in the Council of Ministers. The UK Minister also confirmed that a protocol has been developed through the joint ministerial committee process.

The Committee acknowledges the desire to have a clear UK agreed position during EU negotiations and is reassured that the Scottish Government is doing all it can to ensure that the UK position reflects the needs of the Scottish fishing industry.

Moreover, the Committee welcomes the UK Minister’s commitment to work with Scottish Ministers and is pleased to hear that the Scottish Government regularly meets with the UK Minister and attends bilateral European discussions, in order to ensure the interests of the Scottish fishing industry are represented. It is essential that this remains the case.

The Committee wishes to express its concerns about the possible consequences of the exercise by the UK Prime Minister of a veto at the European Summit on 9 December 2011. The Committee believes that this potentially undermines the interests of the Scottish and UK fisheries industries and the efforts of the Scottish and UK Governments’ fisheries Ministers to secure a positive outcome in the on-going negotiations.\textsuperscript{17}


\textsuperscript{17} John Lamont MSP dissents from this paragraph.