The SFF welcomes the opportunity to contribute to the Holyrood roundtable on this important issue for the Scottish fishing industry. The reform presents an opportunity to address the problems confronting the sustainable harvesting of food from the sea.

The process
The Common Fisheries Policy is reformed at 10-year intervals. Having started in the spring of 2009, the reform process is underway. Its components are:

- Publication of Commission Green Paper¹ April 2009
- Period of consultation to the end of December 2009
- Publication of an analysis of consultation responses² April 2010
- Publication of Commission first proposals³ for CFP reform July 2011
- “Ordinary procedure” - co-decision between the Council and the European Parliament - to agree the new policy.
- Adoption by the Council and European Parliament of the new CFP 1 January 2013

The CFP was last reformed in 2002, by adoption of a Council Regulation⁴. The present process is significantly different in that the Lisbon Treaty has introduced co-decision between the Council and the European Parliament for almost all matters of fisheries management, including reform of the CFP. Pre-Lisbon, the Parliament was simply consulted by the Council. The requirement to co-legislate has produced a very different and much more complex route for this reform.

Problems with the old
The present CFP, adopted at the end of 2002, has been generally seen as failing to meet its own stated objectives of the conservation and sustainable exploitation of fisheries resources. In the period 2002 until present, some significant progress has been measurable in the overall state of European stock stocks but the variations in perceived success of fisheries between regions and catching sectors are both immense and variable over time. At the root of this, two systemic faults are plainly evident:

- One at the heart of the regulatory structure – overly detailed “one size fits all” management from the centre.
- One in an essential support area – the lack of reliable data to assess (and therefore properly manage) many stocks and fisheries.

Hopes for the new
These conclusions are not new and for much the same reasons as pertaining today a theme of the 2002 reform was increased stakeholder involvement by region (the “Regional Advisory Councils” or RACs were created). The current reform must take the next step in enabling fisheries management to be dealt with at the most appropriate level – referred to in the proposals as regionalisation. In considering CFP reform it is important to separate the levels of detail. In the reform documentation referenced under “Process” above, there are many symptoms described and new measures proposed. All of these are important and each must be attended to, but the core disease is the structural problem of over-centralisation, badly supported in many cases by inadequate scientific assessment. All including the Commission agree that this is fact and the aim – management delegated to the most appropriately local level – seems clear, but a single cure is not easy to design and build. Legal constraints on the delegation of authority and responsibility, embedded in the Treaties, are causing difficulties. Again, one

¹ COM(2009) 163 final of 22 April 2009 “Reform of the Common Fisheries Policy”
² SEC(2010)428 final of 16 April 2010
size will not fit all and management models will be, by necessity if they are to work, different by region. What is important for the UK industry is that regionalisation emerging from the reform works for us.

**Details, details**
From the first reform proposals, the list of problems to be addressed by the reform includes:

- **Top-down micro-management at Union level, lacking flexibility and adaption to local and regional level**
- **Lack of reliable data to assess all stocks and fleets.**
- **Fleet overcapacity, overfishing, total allowable catches (TACs) that are set too high, and low compliance have resulted in a large majority of Union stocks being overexploited.**
- **Unacceptably high levels of discards.**
- **Low profitability and low economic resilience for a significant number of fleets.**
- **Low attractiveness of the fishing activities and decline of some coastal communities dependent on fishing.**

To achieve this, the main proposals from the Commission affecting the catching sector of the UK fishing industry cover the following areas:

**Regionalisation**
Regionalisation is identified as a key aim of the proposal; regrettably, there is little substance within the proposals to translate this into practical reality. “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 should be strengthened. While this sounds logical, it does not define any potential structure. Renationalisation of fisheries management is certainly neither the Union intention nor a workable solution, and the real prize – a practical means of collaboration between Member States accessing the same limited resource, is left undefined. A Commission paper on the art of the possible is expected. There are two very significant Treaty obligations: the exclusive competence of the Union relating to the conservation of marine biological resources, and the Commission’s right of legislative initiative, which appear to be interpreted presently as barriers to delegation of management responsibility.

**Science base for fisheries management**
The proposals recognise the requirement for reliable and complete data as central to well-functioning fisheries management. The focus in the proposals is upon holding Member States to their obligations, including regional coordination of data collection. This is all to the good, but in parallel, several initiatives outside the scope of CFP reform are looking at the fitness for purpose of the present arrangements for data collection and analysis. It must be concluded that if the system is demonstrably inadequate at this stage in its history, then a fresh approach is required. Given the state of public finances throughout the Union more expenditure in this area is unlikely. An underutilised resource is the capture of data from the industry itself and the regulatory outcome should aim to enable and facilitate this.

**Discard ban by 2016**
Fishers would be obliged to land all catches of the main commercial species. The aim is to ban discards by species groups with a full ban for all the main species coming into place by 2016. This issue has become very visible to the public eye, with much of the presentation being oversimplified or hijacked for purposes of specifically beneficial publicity. The UK industry is implacably opposed to discarding, but the regulation must have workable plans associated with blanket bans, to avoid simply building in failure. In the UK much progress has been made in developing area closures to avoid the catching of unwanted fish and also in the development of gears to selectively release them. This will continue, and the regulatory outcome must further enable and facilitate this if the aim of reducing discards to the lowest possible level is to be met. Under the present proposals there is a danger that discards overboard may become discards ashore into non human consumption processes such as fish meal, failing therefore to reap the intended benefit of reducing fishing mortality.

**Maximum Sustainable Yield (MSY) by 2015**
The Commission proposes including the aim to achieve MSY by 2015 in the Regulation. MSY is defined as the highest catch which can be taken consistently and 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”. The aim of getting the maximum output from each and every stock is superficially attractive – “jam tomorrow” - but the theory is oversimplified, ignoring the fact that there is presently no scientific means of properly dealing with the interaction between stocks. Depending on how the regulation is framed and interpreted, there may be a danger that pursuit of a potentially unattainable goal will translate into an unhelpful presumption against fishing.

Multi-annual management plans to replace single stock management
Single species management would be replaced with multi-annual plans. Multi-species plans would also be developed where possible. This is self-evident good sense, but the present inadequacy of the scientific support to make such plans a reality must be addressed in parallel.

Transferable fishing concessions
The Regulation proposes the introduction of Transferable Fishing Concessions (TFCs) and makes the assumption that this will enable fleet consolidation and deal with the issue of overcapacity. The proposals look similar to the system already used in the UK so there should be little threat to us. The clear regulatory intention is that TFCs should be traded permanently only between vessels of the same flag – intra-Member State - but a single clause permits permanent transfer between Member States. This must be very carefully considered to avoid damage to the principle of “Relative Stability” whereby Member States each receive a consistent proportion of the sustainable natural resource. The shares under relative stability were set originally on Member States’ “track record”. Our strong view on the matter of relative stability is that Member State shares should not be regarded simply as a reflection of fish landings over a period of time in the past (and therefore subject to change, possibly as a result of bad behaviour) but more, within reason, as a fixed historical access right.

Communities
The Commission recognises the importance of the small-scale coastal fleets for particular Communities but notes, correctly in our view, that special measures for such fleets and communities are the business of Member States.

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 RFMOs is also promoted. For the UK industry, great care must be taken not to destroy the reasonable and sustainable efforts of those businesses which have used the current arrangements in good faith to invest outside EU waters.

The next steps
As explained in the opening paragraph, the new CFP is due to be agreed under co-decision and enter into force 1 January 2013. Within the European Parliament, each component part of the Commission proposal package (there are six) has had an MEP appointed as rapporteur with the job of drafting amendments. There was competition and dispute between the European Parliament political groups during the selection process. 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, although the December quota negotiations also occur in this time period and will divert effort. Working Groups of Member State representatives will meet during September and October to discuss positions. It is likely the Council will cover the proposals first at their October meeting. When the Parliament has an agreed position, this will be discussed by Council and amended in through the co-decision process. It is as yet unclear how long this could take though final agreement is unlikely to be reached until the middle of 2012 leaving little time for putting in place implementing regulations. Once the package has been agreed between the European institutions, the member states must put in place the necessary rules to implement the policy to meet the 2013 deadline.