

CFP Reform 2002



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ASSESSING THE 2002 CFP REFORMS

Introduction

In December 2002, the Council reached agreement on the three legislative CFP reform proposals, concerning the conservation and sustainable exploitation of fisheries resources (Regulation 2371/2002), structural aid under the Financial Instrument for Fisheries Guidance (Regulation 2369/2002), and emergency aid to support vessel decommissioning (Regulation 2370/2002). The agreement followed several years of consultations with key stakeholders, and several months of intensive discussion and negotiation within the Council.

At the heart of the Commission proposals, issued in May 2002, was the desire to introduce a more coherent fisheries management system, combining traditional fisheries management tools (catch limits, gear restrictions, etc) with a more effective fleet policy to ensure a balance between fishing effort and resource availability, and economic incentives contributing to these aims rather than undermining them. The main instrument for integrating these measures was to be long-term stock management plans. These would also secure greater stability for the sector and reduce the risk of stock collapse, while moving away from the highly political yearly negotiations on catch limits. EU fisheries policy was also to take greater account of the ecosystems of which commercial fish stocks are part.

While the proposals were well received by many, with environmental interests notable amongst them, they did not receive universal support. In order to secure agreement, significant compromises were made in many areas, including fleet policy, the use of subsidies and the introduction of management planning. This briefing assesses the final reform package, indicating the extent of progress made, compared with agreed EU objectives on capacity, subsidies and the ecosystem approach.

A new basic Regulation

From January 2003, Regulation 3760/92, often referred to as the basic CFP Regulation, was replaced by a new Regulation on conservation and sustainable exploitation of fisheries resource (2371/2002). The new Regulation is more comprehensive than its predecessor, covering a larger range of the issues dealt with under the CFP and setting broader objectives. In particular, it aims for sustainable use, more long-term resource management and greater coherence with other EU policies. Having said that, structural policy, markets and international relations are not addressed by the Regulation.

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Conservation and sustainability

There is no doubt that the reform has secured a clearer and stronger commitment to the protection of the marine environment and to the application of an ecosystem approach. Application of the precautionary approach is laid down in the objectives, together with sustainable exploitation, minimising the impacts of fishing on the marine ecosystem, and a progressive implementation of an ecosystem-based approach to management. This provides a clear legal basis for measures intended to reduce negative impacts of fishing on the environment, overall as well as within recovery and management plans.

Long-term management

Among the measures suggested to achieve conservation and sustainability in the sector, are the adoption of recovery plans for already overfished stocks and management plans for other stocks. Both aim to introduce a more long-term approach to resource management, even though the final provisions are somewhat weaker than the Commission's original proposals. Limitation of fishing effort, for example, will be subject to case-by-case scrutiny rather than being an obligatory part of the measures.

The objective of recovery plans is to ensure that stocks recover to within safe biological limits; a time-frame for recovery must be specified as part of the plan. Plans are required to take interactions between different stocks and fisheries into account and may also include targets related to other species or the wider marine environment. The final content of individual recovery plans will depend on the Council's ability to agree on measures proposed by the Commission. The ongoing negotiations over cod and hake recovery plans first suggested in the early spring of 2002 indicate that this may be a significant challenge.

For stocks still within safe biological limits, management plans may be set up. The use and content of these plans are much more vague than the original proposal to introduce multi-annual management plans for all commercial stocks. They are to be adopted by the Council, *if necessary*, to keep stocks within safe biological limits and must include targets to do so. Like recovery plans, they are required to take interactions between different stocks and fisheries into account and may include targets relating to other resources or the conservation of the ecosystem. The management plans will also be multi-annual and must include a timeframe for reaching the established targets.

A major setback, however, is the failure to delegate responsibility for annual adjustments of recovery plans and management plans, including setting subsequent catch limits, from the Council to the Commission. This was intended to put an end to the annual horse-trading over fishing quotas, which is now likely to continue.



Coastal derogation remains

Other areas of progress include inshore fisheries. Although the special inshore regime in waters up to 12 nautical miles is once again time-limited (now until 31 December 2012), Member States have been given greater powers to manage all fishing activities within their territorial or coastal waters. This is a significant improvement. Previously, the fact that a coastal State could not manage foreign vessels fishing in the 12-mile-zone often resulted in reluctance among national fishermen to accept stricter rules. When new inshore measures affecting vessels of other Member States are proposed, these will be subject to consultation with affected countries and any established Regional Advisory Council. After comments have been submitted, it is up to the Commission to confirm, cancel or amend the suggested measures. How this will work if there is disagreement remains to be tested. If an affected Member State disagrees with the Commission's decision, it can refer the issue to the Council, where a final decision will be made acting by qualified majority.

Emergency measures

Member States can also take temporary emergency measures to protect either stocks or other natural assets within their territorial area. The process of consultation described above applies. Member State emergency measures can not exceed three months.

In addition, the Commission's right to take emergency measures if there is evidence of serious threat to the conservation of resources or to the marine ecosystem resulting from fishing activities remains. This can be done on its own initiative or at the request of a Member State. The measures can not last more than six months, unless a new decision is taken by the Commission to extend them for a maximum of another six months. Member States concerned have a right to refer the decision to the Council, where a different decision may be taken.

Adjustment of fishing capacity

In the EU Sustainable Development Strategy (Göteborg 2001) one of the key issues to be addressed under the CFP was to adapt EU fishing effort to the level of available resources. Overcapacity in the EU has been estimated to be as high as 60 per cent in some fisheries, and despite previous fleet policy programmes aimed at bringing capacity down, the issue has yet to be adequately addressed.

Reducing fishing capacity

In the new framework Regulation (2371/2002), the ambition to reduce capacity to bring it into line with available resources remains. But how effective the different measures adopted will be in addressing this key issue remains to be seen. Responsibility for fleet management is brought back to the Member States, but will rely on national fleet reference levels based on the targets under the previous fleet management programme (MAGP IV).



A new approach to fleet adjustment is introduced, depending on the national reference levels - a cap on capacity - in combination with effort limitations under the recovery plans, restrictions in aid and economic incentives to scrap vessels. When capacity is removed with public aid, the reference level is reduced accordingly. Member States choosing to provide aid for new-builds will also see their reference level reduced by a one-off 3 per cent.

Managing fleet entries and exits

An entry/exit ratio for the introduction of new vessels of 1 to 1 still applies, but exits supported by public aid cannot be replaced. For new vessels over 100 GT built with public aid, the entry/exit ratio is 1 to 1.35 - a change that is likely to counter so-called technological creep. There is some scope to increase tonnage levels if this relates to modernisation above the main deck, as long as this does not increase the catching ability of the vessel. The new basic Regulation also provides for more rigorous monitoring through the revision of the EU fishing fleet register.

Securing compliance

Some steps to ensure compliance and reporting have also been put in place. To continue to receive structural aid, with the exception of aid for decommissioning, Member States have to make sure that they follow the measures set out and make their fleet register available to the Commission.

Together, these provisions are intended to lead to a gradual downward revision of the reference levels. However, actual reductions in reference levels will depend on the take up of public aid being offered for scrapping vessels, and this in turn will depend heavily on the effort limitations set out under the recovery plans. Altogether, the new system may prove to be more effective than the last multi-annual guidance programme, but it is difficult to predict whether it will be sufficient to match capacity with the available resources. This area can therefore be considered one of the weaker parts of the reform.

Access to waters and resources

Aside from the inshore regime, other provisions limiting access to resources expired at the end of 2002: the 'Shetland box' and the closure of the North Sea to the Iberian Member States. Beyond 12 nautical miles, restrictions on access to stocks not managed under TACs have not been renewed, with the exception of the Shetland Box. In this area, only a limited number of vessels larger than 26 metres from France, the UK, Germany and Belgium will be authorised to fish for demersal species other than Norway pout and blue whiting. It is yet unclear what will happen with the Western waters and the so called 'Irish Box'. A provisional solution was put in place after concerns were raised by the Irish delegation, but met resistance from Portugal and Spain. The principle of relative stability is to continue, but the Commission is to present a report justifying the rules on access to resources before the end of this year, potentially involving a revision in the longer term.



Control and enforcement

In its proposals, the Commission set out a number of new provisions regarding evaluation and inspection. Many of these suggestions were rejected by the Council in December. The Member States will remain responsible for control and enforcement of the rules in waters under their jurisdiction and must also control the fishing activities of vessels flying their flag outside of Community waters. The new Regulation does stress compliance with the rules of the CFP, however. It will be illegal to engage in activities within the scope of the CFP unless:

- the vessel concerned has a valid licence and authorisation to fish, and a functioning remote vessel monitoring system;
- the master of the vessel records information on fishing activities and accepts inspectors and observers on board (where applicable); and
- the master respects conditions and restrictions on landings, transshipments, joint fishing operations, fishing gear, nets, etc.

Remote monitoring systems will be required on all vessels over 18 metres from the beginning of 2004 and on vessels over 15 metres in 2005. After completing pilot projects to test the technology, the Council is also to consider the possibility of making electronic reporting of the records on board obligatory in 2004.

The marketing of fisheries products is similarly covered by controls, including a requirement that products from a fishing vessel only be sold to registered buyers or at a registered auction.

To increase the effectiveness of enforcement, the Council is to establish a catalogue of measures related to serious infringements to be applied by Member States (what classifies as a serious infringement is listed in Regulation 1447/1999). If a serious infringement has been committed, the Member State has to take immediate measures to prevent the vessel or person caught from continuing to do so.

Every three years, the Commission will draw up a report on its actions to evaluate and control the application of rules under the CFP and on the application of them by the Member States.

Governance issues

Some important improvements regarding governance and consultation are included in the latter part of the new basic Regulation, notably the concept of Regional Advisory Councils (RACs). A RAC must cover a sea area under the jurisdiction of at least two Member States. They are to be established after a decision by the Council. The role of RACs will be to advise the Commission and Member States on fisheries management in a given area; this can be in response to consultation by the Commission or on an own initiative basis. They will be composed of representatives of all parties with an interest in fisheries management in a given sea area or fishing zone, including environment and consumer interests. Representatives of relevant national and regional authorities and of the Commission will also have a right to participate. More detailed arrangements for RACs are expected to be set out in separate legislation.



Reform of aid offered to the fishing sector

In the area of structural aid to the fishing sector several important improvements have been made. The current Regulation on structural assistance (2792/1999) has undergone significant change and an additional emergency measure for scrapping fishing vessels (EC 2370/2002) has also been put in place. Together they redirect funding over the next few years from construction of new vessels and export of capacity to decommissioning and socio-economic measures.

The amendments to the structural aid rules will eliminate some of the most problematic subsidies to the sector, relating to the construction of new vessels and export of capacity (including under joint ventures). However, these subsidies will be available until the end of 2004, potentially enabling Member States to use up all the aid allocated under these headings for the period 2000-2006.

Modernisation projects continue to be eligible for aid, but will be restricted to projects involving equipment, vessel monitoring systems and safety measures. Aid should not increase tonnage, apart from improvements made above the main deck. In all cases of new builds and modernisation projects, eligibility for aid is conditional upon national compliance with fleet reference levels, as well as the correct keeping of a national fleet register.

The additional aid under the new emergency measure, amounting to €32 million, and an increased percentage of EU funding available for decommissioning (20 per cent) are conditional upon recovery plans calling for at least 25 per cent effort reduction. This provides an incentive to encourage adoption of strong recovery plans and to support resulting effort reductions. Hopefully, this new aid and the reallocation of aid from new build and export funds to decommissioning should result in significant increase in aid for decommissioning.

Conclusions

The 2002 reform of the Common Fisheries Policy has, so far, provided us with a more comprehensive legal basis for management of EU fisheries. The greatest improvements have been made in the environmental area, with the new basic regulation providing a clear legal basis for measures intended to reduce the negative impacts of fishing on the marine environment. The precautionary approach is now one of the basic principles of the CFP and the aim has been set for application of ecosystem-based management rather than management on a stock-by-stock basis. Substantial improvements have also been made in the area of subsidies, in particular the end of funding for new builds and export of capacity by 2005, and the additional economic incentives created to bring capacity down by scrapping vessels. However, the issue of overcapacity, by many seen as the key obstacle to any substantial improvements in the state of the resources, has not been resolved in a convincing way. Any real reduction will depend heavily on the content of the future recovery plans and the will of the Council to introduce effort limitations - something that has already proved to be highly contentious. Other important areas, such as fishing agreements with third countries, have yet to be dealt with.