

# CFP Developments

ANALYSIS OF EU FISHERIES POLICY REFORM PROPOSALS AND COMMUNICATIONS



IEEP LONDON

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## *Progress on EU Stock Recovery Plans*

*The Council shall adopt, as a priority, recovery plans for fisheries exploiting stocks which are outside safe biological limits. (Article 5, Regulation 2371/2002)*

*In 2001, out of 113 stocks assessed by ICES [in the Northeast Atlantic], only 18% were inside safe biological limits. (ICES 2003a)*

### **Introduction**

The provisions for stock recovery plans within the 'basic' CFP Regulation (2371/2002) are one of several positive developments that came out of the 2002 CFP reform. Together with provisions for management plans for stocks within safe limits, it was envisaged that this would spell a move away from the annual horse trading over total allowable catches (TACs) in the December Council that has led to fishing limits being set at levels above those recommended by scientists, contributing to depleted stocks.

Strategic fisheries management planning provides opportunities for stabilising management, stakeholder participation, environmental integration, and application of the precautionary approach. Such planning is essentially intended to identify broad long-term objectives for managing fisheries, followed by more specific targets and management measures to achieve the stated objectives. Plans also provide an opportunity to spell out arrangements for implementation, such as describing the respective roles and responsibilities of different stakeholders and the necessary monitoring, research and evaluation arrangements. For these reasons, scientific advisors and environmental groups have been calling for recovery plans for a number of years.

One and half years after the CFP reform there are now two recovery plans in place; one for cod and the other for northern hake. The December 2003 Council saw agreement and adoption of the cod recovery plan (Regulation 423/2004). The northern hake recovery plan (Regulation 811/2004) was also agreed politically in December 2003, but adopted in April 2004 following the opinion of the European Parliament. Now that both plans have been adopted and published in the *Official Journal* it is a prime moment to consider the details of the plans and the extent to which they live up to the new CFP framework Regulation 2371/2002.

### **Legal and Political Context**

The new CFP Regulation is explicit in its requirement that the Council shall adopt, as a priority, recovery plans for fisheries exploiting stocks which are outside safe biological limits (2371/2002, Article 5(1)). There is also increasing political momentum behind the adoption of recovery plans, with growing recognition of the shortcomings of current management systems and the benefits plans provide.

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In the same year that the new basic CFP Regulation was adopted, the EU also committed itself to the Johannesburg World Summit on Sustainable Development Plan of Implementation, including targets to restore depleted fish stocks by 2015. Added to this, the European Community and Member States ratified the 1995 United Nations Agreement on the conservation and management of straddling stocks and highly migratory stocks in 2003. This requires the adoption of stock recovery strategies and plans to ensure the conservation of non-target species and habitats. While the Agreement is targeted ultimately at high seas fish stocks, it has important implications for the management of national stocks since national and high seas management must be 'compatible'.

### Recovery Plan Objectives

As required under the basic Regulation, the objectives of the cod and hake recovery plans are to ensure safe recovery of stocks to sustainable levels. In both plans, this is to be achieved within a time frame of five to ten years by controlling fishing mortality through the setting of low catch quotas within set harvesting rules, and specific control and monitoring rules to ensure implementation.

Conservation reference points and targets are set in both plans, as required under the basic Regulation. Target spawning stock biomasses (SSB) are based on precautionary levels, as advised by ICES and in consultation with the Scientific, Technical and Economic Committee for Fisheries (STECF). Target levels of a given stock have to be maintained for two years before the stock is removed from the recovery plan and subjected to a (normal) multi-annual management plan. In any event, the Commission is required to report on the success of the plans and propose any necessary adjustments by Spring 2007. Minimum stock levels and maximum fishing mortality rates are also set, as summarised in the following table.

<b>Stock</b>	<b>Target levels (tonnes)</b>	<b>Minimum levels (tonnes)</b>	<b>Estimated 2003 SSB (tonnes)</b>	<b>Maximum fishing mortality rate</b>
Cod - Kattegat	10,500	6,400	2,998	0.60
Cod - North Sea, Skagerrak and eastern Channel	150,000	70,000	53,000	0.65
Cod - West of Scotland	22,000	14,000	2,471	0.60
Cod - Irish Sea	10,000	6,000	6,462	0.72
Northern Hake - Kattegat, Skagerrak, North Sea, Channel, West of Scotland, waters around Ireland and Bay of Biscay	140,000	100,000	114,155	0.25

While the basic Regulation states that recovery plans may include targets relating to other aquatic resources and the maintenance or improvement of the conservation status of marine ecosystems, no such targets are included in either plan.



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## TAC rules

TAC rules are defined in both recovery plans, building upon the provisions for harvesting rules in the basic Regulation (Article 5(4)). Where stock levels are at or above the defined minimum level, annual TACs are to be set by the Council subject to a set of constraining rules.

In the case of the cod plan these are as follows:

- TACs will be set so that they result in at least a 30 per cent increase in spawning stock biomass;
- this first rule shall not result in TACs being 15 per cent less or greater than that of the preceding year (except for 2004 ie December 2003 TAC decisions); and
- applying in all cases, and over-riding these two rules, TACs shall not result in mortality rates exceeding set values.

The TAC rules for hake are similar, as follows:

- a TAC shall not result in a decrease in spawning stock biomass;
- a TAC shall not result in mortality rates exceeding the set value (0.25); and
- within these constraints, TACs will not be 15 per cent less or greater than that of the preceding year (except for 2004 ie December 2003 TAC decisions).

The hake plan thus lacks the driver for an increase in stock size between years that features in the cod plan. The original hake plan proposal (COM(2003)374) did include the requirement that TACs be set so that they result in at least a ten per cent increase in stock size, but this was not included in the finally adopted recovery plan.

In both plans, if stocks fall below the minimum levels these TAC rules will still be applied where it is expected that they would result in stocks increasing back above the minimum levels. Where this is not expected to happen, the Council shall decide on a TAC that would be lower than under the application of these rules.

## Effort limitation

Despite their name, TACs do not set limits on fishing mortality but on landings. Even if they did relate to mortality, additional measures would likely be needed to meet these targets. For this reason, the basic Regulation states that effort limitations shall be included 'unless this is not necessary to achieve the objective of the plan'.

A kilowatt-days effort limitation scheme (the engine power of a vessel multiplied by the fishing days) was originally proposed as part of both of recovery plans. The Council changed this to a simpler days-at-sea system in the cod plan and dropped it altogether from the hake plan. This was in contradiction to ICES advice and the Commission proposal which stated that 'limitations of fishing effort are essential to recovery plans, particularly in mixed fisheries'.

Days-at-sea limits have been in place for cod stocks in the North Sea, Kattegat, Skagerrak, and West of Scotland since 1 February 2003 (Regulation 2341/2002). The cod recovery plan extends these to the eastern channel and Irish Sea. Gears subject to limitations include demersal long lines, beam trawls, static demersal nets

(gill nets, trammel nets and tangle nets), demersal trawls, seines and similar towed gears. Only those vessels with a track record of less than five per cent for cod, sole and plaice bycatch will be exempt from the effort limitation scheme in order to provide protection for sole and plaice stocks while recovery plans are negotiated for them.

Effort is to be set in direct proportion to the annual adjustments in fishing mortality. The subsequent effort levels agreed upon, which will change each year as TACs change, are detailed in the 'TAC Regulation' adopted during the December 2003 Council (Annex V, Regulation 2287/2003).

The number of permitted days that may be spent in the areas of coverage each month varies by gear type, ranging from ten to 22 days. Under the cod recovery plan, the Council may in future adjust the number of allocated days-at-sea or adopt alternative effort limitation arrangements based on a Commission proposal. If no decision is taken each year on the adjustment of the days-at-sea, then the existing levels will continue to apply.

Further to the set limits, the Commission may allocate an additional number of days to Member States that have decommissioned part of their fleet since 1 January 2002, receiving a proportionate number of additional days for those vessels remaining. Further to this, there is some flexibility for Member States to manage the day allocations. They may allow vessel owners to aggregate their allocated days and receive an average number of the permitted days when using two gear types. Member States can also increase allocated days for vessels using certain gear types and mesh sizes, and demonstrated 2002 track records of cod bycatches below set limits.

### **Technical measures**

Measures that may be used within recovery plans include catch limits, effort limits, vessel number and type restrictions, area and gear restrictions, minimum landing sizes. Economic incentives can also be used (Regulation 2371/2002, Article 5(4)).

Both of the plans are accompanied by various technical measures. As with the cod effort system, these are not specified within the recovery plans themselves but in separate Regulations. The cod technical measures are contained within Annex IV of the TAC Regulation. New measures adopted were as follows:

- closure of an area west of Scotland to cod fishing until the end of 2004, to gears other than pots and creels and those targeting pelagic species; and
- a richly mixed cod/haddock area in the North Sea designated a 'cod protection area'. Only 35 per cent of the UK haddock quota may be taken in this area. This effectively protects cod in the area from the increased haddock fishing resulting from the restrictions by ensuring cod does not continue to be taken as bycatch after the quota is exhausted. Permits are required to fish outside of the area, subject to stringent control measures such as a five per cent cod bycatch limit and a transshipment prohibition.

These are in addition to the following technical measures already in place:

- exit window requirement for towed nets in the Baltic Sea;
- Baltic gillnet size and soak time limits and cod bycatch limits;



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- Baltic and Bornholm Deep summer ban;
- Irish sea closure to semi-pelagic and demersal trawls, seine nets and static nets, from 14 February to 30 April, with the exception of demersal otter trawls with specific mesh sizes in specified areas (renewal of Regulation 254/2002); and
- prohibition of all methods other than longlining in the Rockall Haddock box.

New hake technical measures were not adopted in addition to those already in place (Regulation 494/2002). These measures apply to waters covered by the recovery plan, with the exception of the Kattegat, Skagerrak, North Sea, and the Channel, as follows:

- hake bycatch limits for beam trawls greater than 12 meters in length operating for more than 24 hours;
- restrictions on mesh and twine sizes; and
- mesh size restrictions for towed and static gears within the two 'hake boxes' in the Celtic Sea and Bay of Biscay.

### **Monitoring, inspection and control**

The effectiveness of the recovery plans, including the technical measures, will depend on how well they are enforced, as well as how appropriate they are. To this end, some specific measures are included in both plans to strengthen monitoring, inspection and control. This includes special reporting requirements, obligations to land larger catches (over two tonnes) in designated ports, and new conditions for the weighing and transport of landed fish. Requirements are slightly tighter in the case of the cod plan, with all catches over one tonne requiring prior notification. This therefore includes landings between one and two tonnes, which may be landed into non-designated ports.

### **Aid to the Cod Fleet**

Given the financial impacts of the plans on the fishing industry, the Commission is promoting the new scrapping measure making it possible for vessel owners to leave the fleet. The permanent removal of vessels significantly affected by recovery plans will be eligible for an additional 20 per cent aid, compared to what is normally available under the Financial Instrument for Fisheries Guidance (FIFG). This additional aid is for vessels that will suffer a 25 per cent or more loss in fishing opportunities as a result of the recovery plans.

The Commission is also encouraging Member States to make better use of funding under FIFG which is available to both vessel owners and crews whose activities have had to be halted temporarily due to 'unforeseen circumstances', as well as for early retirement or retraining (so-called socio-economic measures).

### **New plans - a new approach or business as usual?**

The recovery plans have been hailed as a milestone in the implementation of the new CFP. They are promoted as taking a long-term and precautionary approach to the management of depleted fish stocks, so securing stock recovery while providing industry with some assurance of future management decisions. While it is too early to evaluate the success of the plans it is possible to draw conclusions on how much of a change the plans represent in terms of the management of EU fisheries.



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### *TACs and the precautionary approach*

The TAC rules are central to the recovery plans. They aim to limit fishing mortality rates and TAC changes between years, with a view to maintaining stocks above minimum levels and meeting target stock levels. In the case of the cod plan, the TACs levels, and hence the TAC rules, subsequently determine effort limitations. In effect they constrain the Council in the TACs that it can set to ensure that any gains in stock size are not lost to increased TACs the following year while providing a degree of certainty in the fishing opportunities for the industry.

In principle the system is welcome on the basis that such limit and target points are key instruments in applying the precautionary approach, as laid out in the UN Fish Stocks Agreement (Article 6(3(b)) and Annex II). Further consideration of the TAC rules, however, raises some fundamental questions. Despite the convoluted rules there are no provisions for a zero TAC, even where stocks may be persistently below the minimum levels. This is contrary to ICES advice that it is essential that recovery plans include such a provision. There are also no rules for stocks below minimum levels, except that any TAC should be lower than what it would be if set according to the main rules. Given that this is currently the case for all of the cod stocks, other than the Irish Sea stock, it is particularly disappointing that the rules were not further elaborated. The importance of this is acutely illustrated in the case of the Kattegat cod stock, which is estimated by ICES to be so depleted that even a complete closure would not result in an increase above the minimum level, yet fishing is still continuing.

While the limit on TAC increases is welcome in preventing losses in stock gains, the reduction limitation is arguably an unwelcome constraint given the historic need to cut quotas. Of 96 cod and hake TAC decisions between 1988 and 2003, only eight of them resulted in a more than 15 per cent increase on the previous year (see Annex). Over three times as many decisions (29 ie 30 per cent) were taken however to *reduce* TACs by over fifteen per cent on the previous year.

While ICES considers the agreed reference points to be consistent with the precautionary approach, using the system of TAC rules means that all the limitations of the TAC system itself come into play. This includes the assumption that the TAC level for achieving a given fishing mortality can be predicted. The relationship between TAC levels and fishing mortality is in fact weak, with TACs limiting landings rather than catch. Such limitations are particularly acute for over fished stocks, with the stock and fleet dynamics of heavily depleted stocks being particularly unpredictable.

### *Limiting Fishing Effort*

Effort controls are described by both the Commission and ICES as being central to the success any recovery plan. Conversely, effort limitation is particularly important because recovery plans now provide the main EU mechanism for addressing effort and, indirectly, over capacity. It is therefore particularly disappointing that effort limitation was dropped from the hake plan, leaving it with TACs and technical measures. How effective the plans will be at reducing effort, and more importantly capacity, will depend upon the TAC levels set annually, stringent enforcement of these and the voluntary uptake of available decommissioning aid.

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### *Political commitment, stakeholder buy in and the end of horse trading?*

One of the major criticisms of the CFP is the annual TAC decision making process, with resource intensive lobbying in the run up to and horse trading during the Council. The recovery plans do not appear to spell an end to this. Simply reaching agreement on the plans required significant concessions in other TACs, including those for haddock, nephrops, saithe and Bay of Biscay anchovy. The dropping of the effort limitations and changes to the hake plan TAC rules also indicate a lack of Council commitment to the recovery plan process.

The Council changes also highlight the lack of stakeholder buy-in to the plans, which is disappointing given that improved participation of stakeholders was identified as a requirement during the CFP reform. Such changes also resulted in technical measures and a days-at-sea system being adopted that were considered unpractical and biologically unsuitable in a number of respects by both industry and scientist. Among other things, changes were made in April 2004 to the original days-at-sea system, the cod-protection area boundaries and the amount of haddock quota that could be taken in the area (Regulation 867/2004), with the Scottish industry continuing to lobby the Commission for additional days-at-sea. This illustrates the continuing shortcomings of the decision making process, creating mistrust and wasted and misdirected resources for both industry and managers.

### *Application of the ecosystem-based approach*

The basic Regulation includes a commitment to the application of the ecosystem-based approach (Article 2), together with provisions that recovery plans may cover mixed fisheries and shall ensure that the impact on eco-systems is kept at sustainable levels (Article 5(3)). Despite this, both recovery plans are single species plans. While there is some accounting for bycatch of cod and hake in other fisheries, the impacts of the plans on other fisheries are neither monitored nor addressed. Area restrictions and quota cuts also lead to displacement of effort to other fisheries, as is seen with the diversion of Scottish cod fishing effort to English Channel bass and Namibian fish stocks. Furthermore, in both plans there is also an absence of any technical measures aimed at reducing the impact of the fisheries on the wider ecosystem.

### **Plans under development**

At the December 2003 Council the Commission proposed two new recovery plans, both of which have yet to be adopted. One covers sole stocks in the Western Channel and the Bay of Biscay (COM(2003)819), while the other is for overlapping southern hake and Norway lobster (nephrops) stocks in the Cantabrian Sea and Western Iberian peninsula (COM(2003)818). The Commission is currently in the process of consulting Member States on the development of further recovery plans, which may be incorporated into the existing plans as areas of coverage often overlap.

The two plans are similar to the original cod and northern hake plan proposals. They aim to ensure recovery of the stocks to within safe biological limits within a five to ten year period by setting TACs to meet defined mortality limits for each of

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the stocks. Fishing mortality rates are used as recovery targets instead of stock biomass levels because there are no reliable estimates of absolute stock sizes.

Strengthened monitoring, inspection and control elements are included in both plans, with technical measures, such as closed areas, featuring in the hake and lobster plan. A kilowatt-days effort limitation system was proposed, similar to that originally in the cod recovery plan. However, as this was a major sticking point for the cod and hake recovery plans, it remains to be seen whether the Commission will simply modify the proposed kilowatt-days system or change it to a days-at-sea system similar to that in the cod plan. In either event, the two plans are not expected to be adopted before December 2004.

## Conclusions

The adoption of the cod and hake recovery plans undoubtedly marks a step forward in the management of EU fisheries. Minimum and target stock levels are explicitly defined together with TAC rules and, in the case of the cod plan, an effort limitation scheme is established. However, both the details of the recovery plans and the process of their development means that they arguably fail to live up to the ambitions of the new CFP.

The continued setting of TACs above recommended levels brings into question the effectiveness of the TAC rules and the stock reference points, meaning that the plans and their implementation fall short of the precautionary principle. Removal of the effort limitation system from the hake plan has left it seriously weakened and means that fleet capacity, which is important on a wider level than the plans alone, will not be tackled. Furthermore, both the plans in place and those under development are limited in scope, focusing very much on stock recovery. None of the plans include long-term or broad objectives, despite this being a potentially useful role that strategic management planning can provide, as described earlier. Factors such as research or marketing of catch, which could improve decision making and financial returns, are not addressed.

In addition to the plan details, the political horse-trading entailed in securing adoption, the lack of stakeholder buy-in and the length of time it takes to develop and adopt recovery plans illustrates that the process of their development is also a key weakness of the recovery plans. If future plans are to be effective in addressing stock decline, while avoiding unnecessary restrictions for the industry that result in subsequent amendments, then it is essential that the Commission secures stakeholder participation and support in plan development. While not simple, the establishment of Regional Advisory Councils (RACs) presents perhaps the best opportunity for achieving this.

If the EU is to meet the WSSD target of stock recovery by 2015 then there is an urgent need for more recovery plans, with tighter TAC rules, effort limitations and broader ecosystem perspectives, to be adopted. For the two plans now in place, their success in restoring stock levels will ultimately rest on the Member States who must implement and enforce the measures and the commitment of the Council to set quotas sufficiently low. There is, in other words, much still to do, if the EU is to have any hope of meeting the 2015 target.

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**Annex** 1987-2003 Total Allowable Catch (TAC) and fishing mortality levels (F) for cod and northern hake stocks covered by the recovery plans (Source: ICES 2003b).

Year	North Sea		Skagerrak			Kattegat			W Scotland			Irish Sea			N Hake		
	TAC	% change	Mean F Ages 2-6*	TAC	% change	Mean F Ages 2-6	TAC	% change	Mean F Ages 2-6	TAC	% change	Mean F Ages 2-6	TAC	% change	Mean F Ages 2-6	TAC	% change
1987	175		0.93	22.5		1.42	15.5		0.93	22		0.96	15		0.28	63.5	
1988	160	-9	1.00	21.5	-4	1.03	15	-3	0.89	18.4	-16	0.96	15	0	0.34	66.2	4
1989	124	-23	1.01	20.5	-5	1.31	12.5	-17	0.97	18.4	0	1.19	15	0	0.36	59.7	-10
1990	105	-15	0.91	21	2	1.43	8.5	-32	0.86	16	-13	1.03	15.3	2	0.37	65.1	9
1991	100	-5	0.87	15	-29	1.67	6.65	-22	1.00	16	0	1.03	10	-35	0.30	67	3
1992	100	0	0.87	15	0	1.14	6.65	0	0.98	13.5	-16	1.38	10	0	0.38	69	3
1993	101	1	0.92	15	0	0.93	6.8	2	0.96	14	4	1.42	11	10	0.28	71.5	4
1994	102	1	0.87	15.5	3	0.79	6.7	-1	0.94	13	-7	1.31	6.2	-44	0.36	60	-16
1995	120	18	0.87	20	29	1.22	6.7	0	0.95	13	0	1.02	5.8	-6	0.39	55.1	-8
1996	130	8	0.80	23	15	0.92	7.7	15	1.12	13	0	0.95	6.2	7	0.31	51.1	-7
1997	115	-12	0.85	16.1	-30	1.24	8.5	10	1.15	14	8	1.49	6.2	0	0.28	60.1	18
1998	140	22	1.06	20	24	1.32	7.5	-12	1.09	11	-21	1.27	7.1	15	0.26	59.1	-2
1999	132	-6	1.04	19	-5	1.24	6.3	-16	1.16	11.8	7	1.80	5.5	-23	0.30	55.1	-7
2000	81	-39	1.21	11.6	-39	1.31	7	11	1.14	7.48	-37	1.45	2.1	-62	0.32	42.1	-24
2001	48.6	-40	0.75**	7	-40	1.73	6.2	-11	1.06	3.7	-51	1.72	2.1	0	0.24	22.6	-46
2002	49.3	1	0.61**	7.1	1	1.44	2.8	-55	1.01	4.6	24	1.23	3.2	52	0.24	27	19
2003	27.3	-45		3.9	-45	1.21	2.3	-18		1.81	-61		1.95	-39		30	11

\* Mean F values for cod in North Sea, Eastern Channel and Skagerrak

\*\* Estimates are considered to be uncertain

Red values indicate TAC 15 per cent greater than the previous year

Blue values indicate TAC 15 per cent lower than the previous year

## References

ICES (2003a). Environmental Status of the European Seas. ICES Report Prepared for the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety.

ICES (2003b). Advisory Committee on Fisheries Management (ACFM) October Advice.