

El Anzuelo

EUROPEAN NEWSLETTER ON FISHERIES AND THE ENVIRONMENT

ACHIEVING COMPETITIVENESS



Credit: Malcolm MacGarvin

Support for vessel rebuilding and modernisation can inadvertently make the sector less competitive in the long term.

James Brown
Editor

We would like to welcome readers back to *El Anzuelo* after a one year break since the last edition. We regret that this was because of funding constraints, but are pleased to be back in print, if only in electronic format for this edition. During this gap, it has been encouraging to receive enquiries from readers about the next edition. Looking forward, we hope to secure funds in order to return to the six monthly production of *El Anzuelo* in 2006.

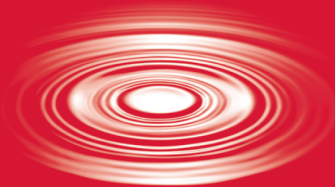
While we would have preferred to avoid this break, it does provide a longer period over which to reflect upon strategic Common Fisheries Policy (CFP) developments. The most significant change over the last year has been the growing prominence of the 'Lisbon' strategy. Dogged by criticism since its adoption in March 2000, the strategy was intended to mark a new direction for EU entrepreneurship and innovation policy with the aim of making the EU 'the most dynamic and competitive knowledge-based economy in world' by 2010. Following a review, in March 2005 Lisbon was relaunched with a focus on economic growth and jobs – a move that has received widespread criticism from the environmental and social sectors.

While the competitiveness and growth agendas are typically perceived as threats to sustainable development, they could in fact support working towards the objective of sustainable fisheries if a long-term approach is taken. Prerequisites for a competitive fishing industry are healthy and abundant resources to which fleet sizes are matched. Instead however, the EU faces depleted fish stocks and over

capacity in the vast majority of fisheries. While there might be steps in the right direction, there are still no signs of the radical changes which are necessary to redress the balance. Instead, the Commission seems, at best, to be window dressing. The recent simplification Action Plan, for example, is a positive initiative (see page 3), but it can only be expected to have a marginal impact on the profitability and competitiveness of the sector.

The shift from managing fishing capacity to fishing effort has only strengthened since Commissioner Borg took up post. Recovery plans, a key mechanism for bringing down capacity, are making slow headway. A Communication is being developed by the Commission fleshing out its thoughts on meeting the 2002 World Summit on Sustainable Development (WSSD) commitment to maintain or restore stocks by 2015. However, a draft circulated to the Advisory Committee for Fisheries and Aquaculture (ACFA) reveals that over capacity receives surprisingly little emphasis. Furthermore, a debate initiated by the Commission on rights based management has been met with much suspicion and/or resistance by some parts of the fishing industry and Member States, even though instruments such as individual transferable quotas have much to offer.

At worst, steps have been taken to make the sector less competitive. Some Member States actively help their industry cope with rising fuel costs through direct and indirect subsidies. Recent industry calls for help on this front highlight the fragile economic state of the industry and the culture of turning to governments for support rather than adjusting in order to survive. There is also the major drive by some Member States to reinstate capacity enhancing subsidies. While perhaps well meaning, such approaches have only served to insulate the industry from competition, real costs, and ultimately the need to adjust, leaving fish stocks and most of the industry in the socially, environmentally and economically undesirable state that it is in today. Moreover, environmentally harmful subsidies can also undermine the job creation objective in the long term. If the fisheries sector is to make any real contribution to turning around the EU's poor progress in meeting the Lisbon Agenda, then there is clearly a need for the Commission and Member States to rethink some of the CFP fundamentals.



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Edited by James Brown of IEEP London

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Contributions from Michael Earle (Fisheries Advisor, Green Group, European Parliament); Dr Moctar BÂ; James Goodman, (Forum for the Future); Jessica Magnus (JNCC); Saskia Richartz (Greenpeace European Unit); and James Brown (IEEP).



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Further CFP reflections

James Brown
IEEP London

The last 12 months has seen a continuation of many ongoing reform processes together with a number of more significant fisheries policy negotiations, some of which demonstrate that the foundations of the CFP are far from untouchable.

Policy processes and governance

A year and a half on since the legal framework was finalised, three of the seven Regional Advisory Councils (RACs) are now formally established: the North Sea, Pelagic and North Western Waters RACs. The first coordination meeting between the established RACs and the Commission was held in October 2005, with the Advisory Committee for Fisheries and Aquaculture (ACFA) invited as observers.

As these institutional linkages begin to crystallise, the Commission has also broadened the breadth and

remit of the Scientific, Technical and Economic Committee for Fisheries (STECF) (Decision 2005/629). The expertise of STECF members is more explicitly defined to include, amongst other areas, nature conservation, aquaculture and fisheries economics, so reflecting the importance of these areas and an ecosystem based approach to the CFP more broadly.

The finalisation of the legal foundations for the Community Fisheries Control Agency (CFCA) in April (Regulation 768/2005) also resulted in a clearer role for RACs than originally proposed. The CFCA's role in combating illegal, unreported and unregulated fishing (IUU) is also further highlighted. While the CFCA will have some immediate enforcement tasks, the extent to which it will be able to address IUU fishing, a significant issue (see *Making IUU Fishing Uneconomical*, page 9), is likely to remain dependant on the political will of Member States as it will primarily coordinate 'control and inspection programmes' in fisheries, with more than one Member State.

● Ecolabelling debate

At the end of June, the European Commission tabled a Communication initiating a debate on eco-labelling of fisheries products (COM(2005)275). The Communication, which was delayed for several years, follows the growing public interest in the area and the recent adoption of the FAO guidelines on eco-labelling (see *International Ecolabelling Guidelines* page 6).

The Commission believes that the EU should have a coherent policy on eco-labelling for fish and fisheries products and regards eco-labelling schemes as a way to integrate environmental protection into the fisheries sector. While the Commission takes the view that voluntary eco-labelling schemes should be encouraged, it is clear in its position that natural resource management is the role of the State and that eco-labels should not replace governmental conservation policy – this being a point of objection to eco-labels by some Member States.

The Communication is limited to capture fisheries and does not touch on aquaculture or the processing sector. It covers a review of eco-labelling initiatives, followed by a discussion of three policy options, identifying advantages and disadvantages in each case:

- 1 retaining the status-quo and leaving private eco-labelling schemes to develop freely;
- 2 creating a single EU eco-labelling scheme; and
- 3 establishing minimum requirements for voluntary eco-labelling schemes.

The Commission favours the third option on the basis that it would allow a gradual approach, be flexible, cost effective and would guarantee consumer protection. Before possibly coming forward with a proposal, the Commission is consulting stakeholders and is inviting the EU institutions to debate the issues raised in the Communication.

Recovery plans in need of revival?

Agreement on the southern hake and lobster recovery plan in October 2005 saw the number of recovery plans agreed upon creep up to three. The fact that it has taken twice as long to agree three recovery plans as it has taken stakeholders to establish the same number of RACs could be interpreted as there being more commitment amongst stakeholders to engage in policy development than there is amongst the EU institutions to stock recovery. While such a comparison may be a little crude, the situation does highlight the poor progress the EU continues to make on establishing recovery plans. Added to this, every plan adopted to date has been weaker than the proposal and the effort control component of the cod recovery plan is acknowledged as being less affective as intended, prompting a review.

While not strictly a recovery plan (its legal basis is the agriculture Article of the Treaty), a Regulation has been proposed by the Commission requiring Member States to establish national eel management plans (COM(2005)472). This is a welcome first step in protecting the seriously depleted European eel stock, but will no doubt need reinforcing with a traceability scheme and trade measures that the Commission is exploring if the level of fishing is to be controlled in what is a highly lucrative industry.

Environmental complexities

Several environmental protection issues have highlighted the complexity of the CFP and, perhaps more worryingly, the apparent reluctance of the Commission and Member States to adopt protective

measures with the swiftness that the precautionary approach arguably warrants. Short-term measures to protect deep-sea corals around the Azores, Madeira and Canary Islands from fishing, previously part of the TAC Regulation (see *El Anzuelo* Vol 14), were adopted on a more permanent basis in September. These measures were necessary after the opening up of the western waters. As well as taking a drawn out and convoluted route in securing the necessary protection, the Commission mismanaged the opening of the western waters area so poorly that it was found guilty of maladministration by the European Ombudsman (1273/2004/GG). While not legally binding, the decision highlights the shortcomings of the Commission's handling of the case and it will be interesting to see the Commission's response to the conclusions.

In attempting to address the bycatch of cetaceans in the English Channel bass pair trawl fishery, the UK prohibited UK vessels from engaging in this fishery in the 0-12nm coastal zone. However, the Commission rejected the request from the UK to extend this ban to foreign vessels in the area (see *An Obligation to overfish?* page 4). As this is believed to be the first such attempt from a Member State to apply this new power stemming from the 2002 CFP reform package, the potential benefits from this provision are yet to be demonstrated.

While subsequent ICES advice on cetacean bycatch supported the Commission decision, in a separate fishery, information on net dumping and excessive soak times in the deepwater fixed net fisheries to the west and north of Great Britain and Ireland was strong enough for the Commission to begin developing emergency measures in May. However, a permanent ban on setting nets at such depths is yet to come into force, only being proposed as part of the 2006 Total Allowable Catch (TAC) proposal. This wait however has been minimal in comparison to that for the ecolabelling Communication tabled in June (see box).

Simplifying the complexities

In response to some of the criticisms of the complexity of the EU policy systems and the CFP more specifically, DG Fisheries and Maritime Affairs is pursuing the simplification agenda. Several initiatives have been laid out in a recent Action Plan (COM(2005)647). Some of these have already been initiated, including the splitting of the Baltic TAC proposal from the rest of the TAC package and the consolidation of the three regional technical Regulations for the Atlantic, the Baltic and the Mediterranean.

Simplifying legislation is a positive step in improving transparency. However, revisiting legislation runs the risk of opening it up to change. This is well illustrated in the case of the Mediterranean Regulation (see *Drifting Back in Time*, page 7). While some technical conservation elements were tightened up in the new Baltic Regulation agreed in November, and the 2008 drift net ban remains intact, the rate of phasing out of vessels using drift nets in the Baltic, as currently set

out in the 2004 cetacean bycatch Regulation, was softened. A proposal for the Atlantic Regulation is yet to be tabled, remaining the subject of discussion.

Financial troubles

As was the case when the last *El Anzuelo* was produced, the European Fisheries Fund (EFF) remains an area of intense negotiations. The use of aid for vessel modernisation and construction remains one of the key sticking points. The financial instrument is always a contentious area, but as the phasing out of subsidies was one of the central tenets of the 2002 CFP reform, it remains an even more fundamental test of Member State's commitments to sustainable fisheries.

It should be noted however that even if provisions are included for such environmentally detrimental subsidies, how the EFF will be used will still depend on the individual Member States (see box).

● Spending the EFF

In order to access EFF funds, Member States will be required to develop and adopt National Strategic Plans (NSPs), setting out a strategy for the sector in relation to the CFP, and National Operational Plans (NOPs) detailing how EFF money is to be spent in line with the NSPs.

The NSPs will present an overall strategic vision with regard to the medium term policy development of the fisheries and aquaculture sector in the Member States. They should identify the most relevant elements of the CFP to the Member States' fisheries and aquaculture sectors, and focus on the prioritised interventions. NSPs are broader than the CFP alone however, and should relate equally to other specific aspects not covered by the CFP (eg environment, regional planning, employment), and the interactions between fishing and other aspects of maritime affairs.

The NSPs will be significant in setting out how Member States will implement the principles of the CFP. Furthermore, the National Operational Programmes (NOPs), that are also required of Member States to set out how EFF funds will be operationalised, must be coherent with the NSP.

The Commission will not play any role in scrutinising the NSPs (contrary to the original EFF proposal). Rather, NSPs should be the 'subject of a dialogue between the Member State and the Commission'. As a result, public scrutiny of the development of the NSPs and NOPs will be particularly important.

Member States are likely to be required to broadly undertake consultations on the NSPs and, more specifically, consult and work with 'partners' in developing and implementing the NOPs. In the proposed EFF Regulation however these partners are not explicitly defined and do not include environmental interest groups. This is a deviation from the European Agricultural Fund for Rural Development (EAFRD) Regulation (1698/2005), (the Agricultural equivalent of the EFF) which includes 'non-governmental organisations, including environmental organisations' (Article 6(1)(c)).

Finally, NSPs should arguably be subject to a Strategic Environmental Assessment (SEA) under the SEA Directive (2001/42/EC), which would open the development process up to the and the public consultation bodies defined in the national implementing Regulations of the SEA Directive.

An obligation to overfish?

Michael Earle, Fisheries Advisor, Green Group in the European Parliament

A few years ago, something rather interesting happened in the world of EU fisheries. A Member State noted that a certain fish stock was depleted and announced that it wanted to stop participating in the fishery. That was unusual enough, but then the European Commission told the country that they were obliged to fish that depleted stock.

The country, of course, was Sweden and the fish in question was cod in the Baltic Sea (see article by Charles Berkow, *El Anzuelo* vol 11 2003). The implications of the Commission's decision for conservation in European fisheries are worrisome.

In 2002, the scientific advice from ICES was that both cod stocks in the Baltic Sea were 'outside safe biological limits' but fishing was still being allowed at much greater levels than was recommended. This prompted Sweden to notify the Commission that it wished to impose a moratorium on cod fishing for the Swedish fishing industry in the Baltic and North Seas. Under the CFP's Basic Regulation (2371/2002 after the reform of the CFP, similar to the previous version 3760/1992), Member States may 'take measures for the conservation and management of stocks in waters under their sovereignty or jurisdiction provided that ... they apply solely to vessels flying the flag of the Member State concerned ... and [are] no less stringent than existing Community legislation' (Article 10).

The response of the Commission was surprising. First, it noted that Sweden was not allowed to impose unilateral measures on Swedish vessels outside Swedish waters (the Swedish EEZ) so they could fish the entire Swedish quota in other waters. Second, since Sweden could not prevent other vessels from fishing in Swedish waters, that would amount to discrimination against Swedish fishermen. Thus, Sweden was not allowed to impose a unilateral moratorium at all.

The Commission went even further – it said that Sweden could not even take emergency measures for a three month period, which is provided for in Article 8 of the Basic Regulation in the case of serious and unforeseen circumstances, since 'We have for all stocks seen a general decline since the 1980s and ICES has recommended significant reductions in fishing mortality and/or fishing effort...' Therefore, in the Commission's eyes, 'the decline in cod stocks has not been unforeseen.' (letter from DG Fish to Sweden, 27 January 2003)

All of this transpired in late 2002 and early 2003, at the time of the reform of the CFP and when the Commission was urging the Council to undertake significant reforms to improve fisheries management in the Community. Though Sweden was one of the most supportive Member States of the reform, when they attempted to fulfil their responsibilities to conserve fish stocks, the Commission used a very legalistic interpretation of the new Basic Regulation to stop them. Yet the objectives of the Basic Regulation include such terms as 'precautionary approach', 'sustainable exploitation', and 'minimising the impact of fishing activities on the marine ecosystem'.

Subsequent events demonstrated that Swedish concerns over the Baltic stocks were fully justified. In April 2003, a few months after refusing the Swedish

request, the Commission imposed its own emergency measure for cod in the Baltic Sea (Commission Regulation 677/2003). Large numbers of juvenile cod were being caught, despite earlier attempts to improve gear selectivity, so the existing summer ban on cod fishing was imposed a month and a half earlier than usual. Additional conservation measures for the Baltic have been adopted in the meantime and the Commission is in the process of developing a recovery plan for the Baltic cod stocks.

More recently, in an attempt to reduce the bycatch of cetaceans, the UK government has applied a ban in its 12 mile zone on the use of pair trawls by UK fishermen for sea bass. The Commission prevented the government from extending the ban to vessels flying other EU flags, even though that is provided for under Article 9 of the Basic Regulation, arguing that without more detailed scientific information of the distribution of cetaceans, such a closed area might actually lead to an increase in bycatches. More recent information from ICES has supported that view. Nonetheless, it is yet another example of how the exclusive competence aspect of the CFP can restrict the ability of Member States to take initiatives in favour of conservation. A more constructive effort by the Commission to find a solution to the problem would have been preferable.

There has long been other means whereby a Member State can impose stricter measures on its fishermen than the CFP. The technical measures Regulation has allowed this since 1983 (most recently in Regulation 850/98), and many Member States have availed themselves of this possibility. In its proposed consolidation of this often-amended regulation, though (COM(2002)672), the Commission did not include that particular provision, claiming that it was redundant given Article 10 in the Basic Regulation. But 850/98 applies to all Community waters, unlike Article 10, so the geographical coverage is quite different. It appears that the Commission is attempting to limit the rights of Member States to strengthen conservation measures for their own fleets.

In these times of depleted fish stocks and the resulting crisis in many fishing communities, one would have thought that the CFP should be a minimum standard for fishing in the EU, and that Member States should be encouraged to apply stricter management measures rather than be forced to abide by the lowest common denominator that is the CFP. The 'exclusive competence' aspect of the CFP has its historical origins in legal battles in which the Commission, quite correctly, insisted on the applicability of Community law to national fleets - a Member State could not legislate more favourable conditions for its own fishermen. The Swedish case was just the opposite, a Member State that wanted to restrict the activities of its fleet.

It would be extremely regrettable if the Commission proved to be more concerned about maintaining its exclusive competence than in conserving fish stocks. In that case, the CFP truly would be a failure.

For further details contact Michael Earle, Fisheries Advisor, Green Group in the European Parliament, LEO 6C99, Rue Wiertz, 1047 Brussels, Belgium
Tel:+32 (2) 284-2849 email mearle@europarl.eu.int

A green Maritime Green Paper?

The Maritime Policy Task Force, housed within DG Fisheries and Maritime Affairs, is working to produce a Maritime Green Paper (MGP) in the first half of 2006. This will set the basis for one year of public consultations, from which a Maritime Policy is expected to result. Based on the various speeches of the Commissioner for Fisheries and Maritime Affairs, Joe Borg, who is chairing the Maritime Policy Task Force, the MGP is expected to cover a range of maritime issues and sectors. These include the marine environment; climate change; spatial planning and integrated coastal zone management; technology; finance; training and employment; industry policy and better regulation; and European ports and competition.

The key driver behind the exercise is the 'Lisbon Strategy'; the drive to make the EU 'the most dynamic and competitive knowledge-based economy in the world' by 2010. Central to this are economic growth, job creation and increased competitiveness. As such, it remains to be seen whether the MGP will result in more legislation or whether it is a



While the MGP will consider the maritime sector broadly, there is potential for environmental benefits for the fisheries sector through clean technologies.

Credit: NOAA

deregulation exercise.

A question on many people's minds is how the MGP, an initiative of José Manuel Barroso (Commission President) and Borg, relates to the Marine Thematic Strategy (MTS) and the proposed Marine Strategy Directive (see page 8), which have their roots in the legislative base of the 6EAP. While there are fears amongst some environmental

interests that the MGP could represent the fast tracking of development at the cost of the environment, and potentially delay the adoption of the Marine Strategy Directive, it does present a number of opportunities. It should develop the governance framework for the implementation of the MTS and so further institutionalise processes such as an ecosystem-based approach and

spatial planning. Links could also be made to the Environmental Technologies Action Plan (ETAP) to support development and uptake of green technologies in the maritime sector.

The work of the Maritime Policy Task Force can be found at http://europa.eu.int/comm/fisheries/maritime/index_en.htm

Bleak global marine outlook – and European fish stocks in most need of recovery

This year there was another string of international reports highlighting the pressures that the marine environment, including fisheries, are facing. The biennial Food and Agriculture Organisation (FAO) report 'The State of World Fisheries and Aquaculture' (SOFIA) warns that 'the world's oceans are close to giving up all they can in marine stocks'. It reports that 24 per cent of the world's fisheries are overexploited, depleted or in recovery from depletion and more than 50 per cent are 'fully exploited' or fished to their maximum capacity to replenish. European regions are

highlighted as those with fish stocks in greatest need of recovery, namely the Northeast Atlantic, the Mediterranean Sea and the Black Sea. These are followed by the Northwest Atlantic, the Southeast Atlantic, the Southeast Pacific and the Southern Ocean.

While European fish production has remained relatively unchanged, global production reached a new high of 133 million in 2002. At the same time, human consumption of fish has increased from 93.6 million tonnes in 1998 to 100.7 in 2002, providing 2.6 billion people with at least 20 per

cent of their average per capita animal protein intake.

These trends were reiterated in the *Millennium Ecosystem Assessment*, launched by the Royal Society in London, which concluded that the human race is living beyond its means and that 'two-thirds of the world's resources are 'used up''. The report, which was backed by 1,360 scientists from 95 countries, warns that an estimated 90 per cent of the total weight of the ocean's large predators - tuna, swordfish and sharks - has disappeared in recent years and that an estimated 12 per cent of bird species, 25 per cent of

mammals and more than 30 per cent of all amphibians are threatened with extinction within the next century.

The Assessment also reported that the Baltic Sea is now home to 100 creatures from other parts of the world, a third of them native to the Great Lakes of America. Conversely, a third of the 170 alien species in the Great Lakes are originally from the Baltic.

The reports are available at: http://www.fao.org/documents/show_cd.asp?url_file=/docrep/007/y5600e/y5600e00.htm and <http://www.millenniumassessment.org/en/index.aspx>

Equality in Access

Dr Moctar BÂ, former Director of the Regional Programme 'Fisheries Information and Analysis System (FIAS)', writes that in order to promote fisheries agreements in West Africa that are equitable and compatible with the sustainable exploitation of resources, it is necessary to guarantee the sustainability of the resources exploited by the low income populations of the Member States of the Sub-Regional Fisheries Commission of West Africa (CSRFP). These principles are equally relevant to other States with which the EU has access agreements.

General principles and current status

The Exclusive Economic Zones (EEZs) of West African countries contain abundant fisheries resources exploited by both small-scale national fleets and foreign fleets from Asia, the former Soviet Union and the EU. Fundamentally, just as is the case for national vessels, awarding of fishing licenses should be conditional upon the availability of an under-exploited resource. There must be a surplus that can be exploited without risk. While States may allow foreign vessels into their EEZs to exploit any surplus, they own the fisheries resources and so have no legal obligation to do this.

However, many stocks fished by foreign fleets are currently fully exploited or even over exploited. The granting of new fishing rights to foreign vessels inevitably results in a lower profitability of national vessels, whether artisanal or industrial in nature. This may lead to the bankruptcy of artisanal fishers, as has occurred in Mauritania. While fishing agreements bring money to the governments granting them, they also have negative impacts on national vessels, which must be accounted for.

The money paid by the EU within the framework of access agreements does not represent development aid, but is the receipt obtained for the sale of access rights to a fisheries resource. Under current arrangements, these payments have particularly perverse effects:

1. they are very attractive for governments facing the need to improve public finances and service national debts. These payments allow them to post-pone the reforms necessary to rationalise their own fisheries;
2. because vessel owners pay nothing or very little, with payment coming from the EU, they do not contribute to resource management and have no interest in the long-term state of stocks;
3. ultimately, the fisheries resources of the CSRFP countries are depleted in exchange for the short-term financial compensations received through the fishing agreements; and
4. moreover, the national fleets are unable to compete with the subsidised foreign vessels.



Credit: James Brown

Local fishermen in many ACP countries are wondering what benefits EU fisheries agreements will bring them.

A strategy for better agreements

The priority should be to develop fisheries development and management plans. Fishing rights should only be granted to national and foreign fishers within the framework of such a plan, taking into account the available resources. Such plans should be made in the context of the Sub-Regional Fisheries Commission of West Africa (CSRFP), under which West African states cooperate. The plans would demonstrate that CSRFP Member States have a great interest in developing a common basis for negotiating fisheries access agreements with foreign countries. This would help address their current political and economic weaknesses. It is also necessary to develop a permanent forum for dialogue between stakeholders of the sub-region and the EU. This should develop a new style of mutually beneficial partnership based on the respect of equality and aiming for the sustainable exploitation of the fisheries resources.

In principle, fisheries agreements should make a clear distinction between the political and commercial aspects. The political aspects would cover the framework of the cooperation modalities between national and regional administration for the management of the agreements, for instance in terms of Monitoring Control and Surveillance. The commercial aspects should cover the allocation by the Member States administrations of fishing rights to EU vessels. These principles are not relevant only to access agreements with west African countries, but should apply to all access agreements. The African, Caribbean, Pacific (ACP) countries should negotiate directly with EU professionals. This would mitigate certain constraints such as pressure from the EU on ACP States, greater payment for fishing rights by vessel owners and the smoother transmission of data.

Contact: Dr Moctar BÂ Mauritania; moctar46@yahoo.fr. Former DG of the National Centre of Oceanographic Research of Nouadhibou (Mauritania), former Director of the Regional Programme 'Fisheries Information and Analysis System (FIAS)'

International ecolabelling guidelines

The FAO Committee on Fisheries (COFI) held its 26th session in Rome in March this year. COFI is a subsidiary body of the FAO Council and currently represents the only global inter-governmental forum where international fisheries and aquaculture issues are discussed. This year's agenda included key issues on marine protected areas, the implementation of the FAO code of conduct for responsible fisheries, deep-sea fisheries, small-scale fisheries and sea turtle conservation.

A notable outcome was the adoption by COFI of a set of voluntary guidelines for the ecolabelling of fish products. The guidelines outline general principles that should govern marine capture fisheries ecolabelling schemes, including the need for reliable, independent auditing, transparency of standard-setting and accountability, and the need for standards to be based on good science.

For further information visit: <http://www.fao.org/fi/body/cofi/cofi.asp>

EU Mediterranean fisheries management risks drifting back in time

Saskia Richartz, EU policy Director, Greenpeace European Unit

Early this year, the newly elected European Parliament revisited the Commission's proposal for a new Mediterranean Regulation. The assembly broadly accepted the terms of the proposal and passed amendments in early June, effectively clearing the draft for consideration in the Council. However, in July and then again in September, Council discussions stalled, with Member States at loggerheads over a number of conservation orientated provisions, in particular new wording to define 'driftnets' in the context of this Regulation.

The discussions expose gaping holes in compliance with the EU driftnet ban established by Regulation 1239/98, and call into question the Member States' commitment to sustainable fisheries in the Mediterranean. Seizing the opportunity of a new debate on driftnets, Italy and France – both charged with exploiting gaps in the current driftnet legislation – are trying to by-pass existing law by gaining an explicit exclusion of the contested gear (notably thonaille and ferrettara) from the driftnet definition.

France argues that its continued use of thonaille, a type of driftnet that is used to catch bluefin tuna and sword fish, is not in breach of the European Union's ban on drift nets. However, just days after French officials argued their case in Brussels in July, the French Administrative Supreme Court (Conseil d'Etat) ruled the use of thonaille illegal. This agrees with the view of the European Commission (Answer to Written Question E-2795/01 and E-1730/05EN), which has taken infringement action against France for not complying with the drift net ban (CFP Compliance Score Board, 2004).

Like France, Italy continues to allow the use of pelagic driftnets (ferrettara), with a mesh of 15 cm and a length of 2 km. Their use is technically legal under Italian law if employed to target certain species within three miles of the Italian coast.

However, Greenpeace and others have always questioned the legality of ferrettara under international and EU rules however. Whilst scrutiny of the letter of the law is a matter for the courts, evidence gathered by Greenpeace and other organisations leaves no doubt about the fact that the resulting fishery is in breach of national, EU and international laws. Italian fishermen use the legal loophole that permits the use of ferrettara in Italian coastal waters to continue driftnetting illegally beyond the coastal limits and/or with prohibited gear. Italy has recently been sent a Reasoned Opinion – the European Commission's second written warning – for failing to satisfactorily control and inspect Community legislation as regards driftnets (Answer to Written Question E-1730/05).



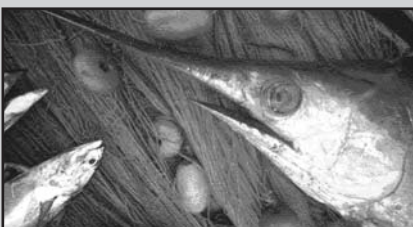
Credit: (c)Greenpeace/Beltrá, 2000.

Unrelated to the driftnet issue, a further breaking point in the discussions seems to relate to the questions of what constitutes 'a traditional gear', and in particular whether such use may be exempt from certain conservation measures. France, for instance, seeks to exempt 'traditional gears' – in particular the gangui, a small trawl net used by French coastal fishers – from prohibitions to fish above protected habitats such as seagrass and maerl beds. Derogation would be given within the context of management plans for certain fisheries and under certain conditions. Malta, Greece and Cyprus, possibly joined by Spain and Italy, are seeking similar exemptions, with conservation concerns clearly taking second place. Key provisions proposing new technical measures to improve the selectivity of the current 40 mm mesh size for towed nets by increasing it to 60 mm over the next six years have also been deleted.

It is disconcerting to see how Member States seek out legal loopholes to continue to permit the use of banned or implicated gear. France and Italy's demands as regards driftnets manifest a serious attack on the existing EU driftnet ban, the 1992 UN ban on large scale driftnets, the ban imposed by the International Commission for the Conservation of Atlantic Tuna (ICCAT), and the ban of the General Fisheries Commission for the Mediterranean (GFCM). This, coupled with the apparent reluctance of some Mediterranean coastal states to protect sensitive habitats from the impact of fishing, whichever gear type may be responsible, and the watering down of the proposal's key technical provisions does not forebode well for the future of sustainable fisheries in the Mediterranean.

Any watering down of existing standards would have implications in the entire region, as others look towards the EU for setting the example in sustainable fisheries management. Only a significant shift in the negotiations towards sustainable solutions will bring Mediterranean fisheries management into the 21 century. Backtracking on existing rules would be negligent towards the environment and the Mediterranean fishing sector, suggesting that the CFP efforts of reform have been little more than a talking shop.

Contact: Saskia Richartz; EU Policy Director, Marine Affairs, Greenpeace European Unit. 199 rue Belliard, B -1040, Brussels, Tel: +32 (0)2 274 19 02 email: saskia.richartz@diala.greenpeace.org



Swordfish recovered from illegal Italian driftnet on the MV GREENPEACE. Sardinian channel, Mediterranean.

Credit: (c)Greenpeace/Newman, 2000.

Making consumption of fish more sustainable

James Goodman, of Forum for the Future, summarises the conclusions of the recent report *Fishing for Good* on how to move fisheries consumption along a more sustainable path.

The reform of the CFP has brought mixed progress. Positive innovations such as Regional Advisory Councils and multi-annual recovery plans constituting more than a cursory nod towards necessary reform. However, the basis of the management system remains much the same, relying on command and control approaches, and in particular TACs and technical measures. If improvements in fisheries management are to have the desired effect, then the approach must be broadened. One example is that the traditional approaches must be backed up with changes in the way that fish are bought and consumed.

Consumption of fish in Europe is unsustainable for two main reasons. Firstly, public awareness of the severity of over-fishing is low. A recent UK opinion poll found that over a third of people never thought about over-fishing when buying fish and 14 per cent said that they consciously bought fish species even though they knew them to be threatened. Another third said they would change their buying patterns but didn't know which species to avoid, leaving only 13 per cent saying that they tried to avoid eating over-fished species.⁽¹⁾

'If improvements in fisheries management are to have the desired effect, then the approach must be broadened.'

The second problem is over-reliance on a small number of species, which places disproportionate pressure on certain stocks. In the UK, decades of marketing messages telling shoppers that cod is a superior – if not the only acceptable – eating fish, has been a major contributory factor to the woeful state of cod stocks in the Atlantic. Hake bears a similar burden of demand in southern Europe. Efforts to shift or broaden demand to alternative species have so far been less than successful.

That's not surprising, given our understanding of why and how people consume in certain ways. According to research for the UK Government's Sustainable Development Commission, people get 'locked in' to patterns of consumption as a result of a complex mix of social, institutional and psychological factors. Purchasing decisions are anything but the simple results of conscious thought processes, and merely telling people to act differently tends only to have a marginal effect.⁽²⁾ Changing consumer behaviour is a holy grail for governments and business alike, requiring a mixture of approaches such as positive marketing and lifestyle messages, pricing incentives, targeted information and attractive product design.

To date, the most effective market intervention in the fish 'value chain' has been the Marine Stewardship Council's (MSC's) certification and eco-labelling scheme. Fish lists and cards have had relatively less market impact, as a recent report from Bridgespan



Credit: James Brown

We are creatures of habit: people get 'locked in' to consumption patterns

has shown⁽³⁾, and other labelling schemes, such as the Dolphin Friendly scheme, are seriously flawed and do not have the breadth of coverage, stakeholder buy-in or ecosystems-based approach that the MSC does.

But without support from across industry, the MSC too risks falling into the trap of other eco-labels, providing static information and a choice that is picked up and acted on only by those who know and care already. That's not a route to market transformation.⁽⁴⁾

If we want consumer demand for fish to become more sustainable and support rather than undermine advances in fisheries management, then the MSC needs to become the focus of a wide range of activity designed to support it. Retailers and food writers can help, as can the environmental NGOs with their enormous membership base. MSC products and the MSC brand must be a vehicle for all the techniques of persuasion – product development, advertising campaigns and so on – that the food and retail sectors have at their command.

Contact: James Goodman, Principal Advisor, Forum for the Future, Tel: +44 (0) 20 7324 3661 email: J.Goodman@forumforthefuture.org.uk; Fishing for Good is available at www.forumforthefuture.org.uk

1 Populus survey data for Unilever. Populus interviewed a sample of 1,010 people in England, Scotland and Wales on June 10 – 12 2005.

2 'Motivating Sustainable Consumption', T. Jackson, SDRN, 2005

3 Seafood Choice Evaluation, *The Bridgespan Group*, February 2005

4 See, for example, 'Carrots, Sticks and Sermons: Influencing Public Behaviour for Environmental Goals', Demos/Green Alliance 2003

Marine Strategy Directive proposed



Credit: Malcolm MacGarvin

The Marine Strategy Directive aims to achieve 'good environmental status' in the marine environment by 2021

On the 24 October, the Commission adopted a Thematic Strategy on the protection and Conservation of the Marine Environment (COM(2005)504). This was the second Thematic Strategy to be adopted, following the provisions of the 6th Environmental Action Programme (6EAP) (see Marine Thematic Strategy Developments, *El Anzuelo* Volume 14). As anticipated, the main component of the Marine Strategy is a proposal for a Framework Directive – a Marine Strategy Directive

(COM(2005)505) with the aim of achieving 'good environmental status' in the marine environment by 2021 at the latest.

The overall objective of the Thematic Strategy is 'to protect and restore Europe's oceans and seas and ensure that human activities are carried out in a sustainable manner so that current and future generations enjoy and benefit from biologically diverse and dynamic oceans and seas that are safe, clean, healthy and productive'.

The Strategy sets the scene for the introduction of a Marine Strategy Directive, by arguing that the existing measures at EU and national levels are inadequate and insufficient to address the threats to the marine environment, such as climate change, overfishing and pollution. In order to address this gap, the Strategy suggests that four different approaches to the design and implementation of EU policy be taken: a dual EU/regional approach; a knowledge-based approach; an eco-system approach; and a

cooperative approach.

The proposed Directive, however, fails to deliver what is needed. An earlier draft would have established criteria to identify good environmental status and required Member States to work together to produce strategies for each marine region (Baltic Sea; North East Atlantic; and Mediterranean Sea). The proposal as it stands leaves the detail of what is good environmental status to be worked out by a Committee and there is no obligation for transboundary co-operation. Any deadlines for delivering environmental outcomes are also so flexible as to be of questionable value. It remains to be seen whether the European Parliament, for example, considers that the Commission has produced a Thematic Strategy which actually delivers the objectives set out in the 6EAP.

The Thematic Strategy and proposed Directive can be accessed at <http://europa.eu.int/comm/environment/water/marine.htm>

Making IUU fishing uneconomical

While there are many national and international laws in place designed to combat illegal, unregulated and unreported (IUU) fishing, in many cases implementation is still lacking. Even where the political will exists, there remains a gap between commitments and action. This is a starting point of a new report on IUU fishing from the Organisation for Economic Cooperation and Development (OECD). The report goes on to examine the

economic and social aspects of fish piracy, identifying the drivers behind high seas IUU fishing and the possible actions against IUU fishing that governments, regional fisheries management organisations and the industry should consider.

The impacts of IUU fishing are significant in many fisheries, and in particular in high value fisheries. IUU fishing comes about because it offers higher profits than working within the law. The analysis suggests that

the two major drivers behind this are the global imbalance between fishing capacity and fishing resources, and the incomplete and inadequately implemented international regulatory framework. While IUU operators may face some extra costs such as bribery, these are offset by the rewards to be reaped from high value fisheries.

In answer to the institutional, economic and social factors that incentivise IUU fishing, a number of combating measures are proposed. These are structured around reducing revenues and increasing operating and capital

costs of IUU fishing activities. At the same time, the costs of such measures are acknowledged, noting that authorities should weight these against the potential benefits, but stressing that while IUU fishing remains profitable, it will be extremely difficult to completely eliminate.

Why Fish Piracy Persists: The Economics of Illegal, Unreported and Unregulated Fishing. OECD, 22 September 2005, ISBN: 532005031P1. http://www.oecd.org/document/43/0,2340,en_2649_33901_35544747_1_1_1_00.htm#HTOI
See also the website of the High Seas Task Force <http://www.high-seas.org/> for further details of work on IUU fishing.

IEEP is an independent body for the analysis and advancement of environmental policies in Europe. While a major focus of work is on the development, implementation and evaluation of the EU's environmental policy, IEEP has also been at the forefront of research and policy development in relation to the integration of environmental considerations into other policy sectors.

This newsletter is part of IEEP's sustainable fisheries programme, which aims to identify, develop and build a consensus around alternative approaches to fisheries management. It is sent free of charge to key practitioners in the Member States of the EU and in acceding countries. If you would like to subscribe to *El Anzuelo* please send your details by mail, fax or email to: Annie Glynn, IEEP, 28 Queen Anne's Gate, London SW1H 9AB, UK. Fax: +44 (0)207 799 2600; email: fisheriesupdates@ieeplondon.org.uk. While production is moving towards an electronic publication, please specify whether you wish to receive *El Anzuelo* by post.

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