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Defra
CFP reform consultation
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Dear Colleagues

Consultation on reform of the CFP and the CMO

Introduction

1. This letter is in response to your consultation. It first makes some general points, moves to the specific questions in the letter to consultees and then addresses some additional areas that we believe to be significant.
2. Seafish is a non-departmental public body that provides support to all sectors of the seafood industry. It has no official mandate for involvement in resource or environmental management but has an obvious interest in the outcomes of the management processes. Seafish has a publicly stated commitment to “the sustainable and efficient harvesting of those resources on which the UK seafood industry depends, the protection of marine ecosystems, and the development of marine aquaculture based on sustainable resource utilisation and best environmental practice”.

General comments

3. A general observation of the process is how time-consuming it has become to work between the various documents. A degree of cross-referencing would make the task substantially easier. As an example, cross-referencing the ‘Summary of new measures’ in COM (2011) 417 final against the text in COM (2011) 425 final would have been very welcome.
4. A theme that runs through our response is the extent to which the proposals leave the detail of many provisions and data requirements to the discretion of member states (MSs). Over many years of collaborative research Seafish and a host of other UK and other bodies have learned the critical importance

establishing common standards for data collection and the inter-compatibility of databases. The Commission's commitment to 'reliable and complete data being central', ensuring 'systematic and harmonised data collection and management', 'avoiding duplication', 'MSs co-ordinating their data collection activities' and so on makes little sense without the establishment of common standards.

5. This principle becomes increasingly important with the introduction of more, and more data-hungry, regulations and directives. Incantation 10 refers to the need for (the CFP's) 'mutual compatibility and consistency with other Union policies'. Delivering this in a cost-effective way that avoids duplication requires that the data sets supporting these other policies be mutually compatible and also allow for co-operation, and for comparisons to be made, between MSs.

Question 1 Are the aims of the CFP set out clearly with the right balance between environmental, social and economic objectives?

6. The aims of the CFP have always been clear, the proposals describe a fair balance between the three objectives and we welcome the emphasis that the social and economic aspects have to be underpinned by effective and appropriate environmental management.

Question 2. The proposed content of multi-annual plans and the process to deliver management measures under them

7. The general provisions in Articles 9-16 are quite comprehensive and give scope for MSs to co-operate in the introduction of multi-annual plans (MAPs). One significant omission however derives from the definition of fishing mortality (F) in Article 5. This refers only to 'the catches of a stock...as a proportion of the average stock available to the fishery'. Catch is not defined and there is no reference to the issue of 'unaccounted mortality' (UM). The proposals under Article 15 to land all catches of prescribed species will probably, assuming that effective monitoring, control and surveillance (MCS) applies, lead to the introduction of many new selectivity devices (covered under Article 14). We already know, for example from research reported through the ICES working group dealing with UM, that very high levels of mortality can occur during the process of escaping from selectivity devices. The mortality rates can vary greatly between species and can also be weather and season-dependent but they can easily be high enough to distort stock assessment estimates.

8. The working group has identified a total of 10 elements that make up total 'F' of which only three are regularly taken into account. We would suggest that more functional definitions of 'F' and 'catch' be considered and that UM be identified as an issue that must be accommodated within management strategies.

9. Related to the point above is that 'catch limit' is defined in terms of 'landings' but this term has no definition.

10. A second omission is in the disconnect between the provisions of Article 15 on landing all prescribed species and the requirement in Incantation 10 for the CFP to have 'mutual compatibility and consistency ...with other Union policies'. On the one hand Incantation 34 notes that 'fisheries management based on the best available scientific advice requires harmonised, reliable and accurate data sets' such that MSs should collect data on catches, including discards'. On the other there is no definition of discards and no reference to the Data Collection Framework. That Framework only provides for the collection of data on commercial species. It may well be that significant quantities of non-prescribed commercial species, or so-called 'trash' species, are discarded that could have significance in respect of the provisions of the Marine Strategy Framework Directive. We suggest that more detail be given to encourage MSs to capture all relevant data that could inform progress with other policies. This could be achieved by a requirement within Article 15 to record discarded fauna that are not of the prescribed species.

Question3. Have the proposals got it right on ending discards?

11. Given what we know about the potential to improve species and size selectivity – in both towed gears and passive gears by technical devices and adaptive fishing strategies – the time scale in Article 15 is reasonable. It should normally make it possible for the unwanted catches of the prescribed species to be at a level that would not be onerous in terms of handling and storage. This general comment has to be caveated however. It is quite possible, for example when strong year classes are being recruited to a fishery, for high levels of unwanted catch to occur. It is then a moot point as to whether this level of biomass should be removed from the system entirely. It may make more biological sense to return it to the sea to support species that can predate upon it and increase their own growth.

12. It is also widely recognised (for example by FAO and the World Bank) that regulatory discards can be triggered by changes in legislation. In this circumstance it would be invidious for fishermen to be required to internalise the costs associated with bringing these unwanted catches ashore.

13. The UK industry generally has a good record in discard reduction. Given the points made above a case could be argued for the targets to be softened and for conditionality to be included. As an example one proposal from World Bank consultant Kieran Kelleher (author of the FAO report on discarding) is that time limits should be set for 5-10 years' ahead when discards should be 'minimal'. The conditionality is that where this isn't possible a convincing case has to be made and supported by approved scientific institutions. The key point is that total catch must be quantified, regardless of its subsequent fate.

Question 4. Do the proposals give sufficient flexibility to manage fisheries on a regional basis, with an appropriate voice for stakeholders?

14. The proposals appear quite comprehensive and flexible, with safeguards built in against failure. It is difficult to comment on whether the proposals are realistic however because of the lack of detail in the proposals. On the one hand the Commission argues that this is a matter for MSs to resolve; on the other some guidance would be welcome, particularly if regional fish stock management is to have coherence with regional environmental monitoring and management under the MSFD. It is also essential, if MSs are to establish joint management arrangements, that their science bases are compatible. This is another argument for the establishment of some common standards for the data that will support marine environmental management in the broader sense.

Question 5. What are your views on the proposal to introduce ‘transferrable fishing concessions’

15. In responding to the consultation we are mindful that we have no competence or interest in matters relating to societal policy. We do not therefore commenting on issues such as proportions of quota allocation to fleet sectors, redistribution or re-alignment. It is for competent authorities and society at large to decide who should benefit from access to our fish stocks.

16. Substantial change in the operation of fishery management is required in order to achieve sustainable, profitable fisheries without excessive and costly ongoing intervention and micro-management by government. Fisheries, and marine environmental, management must be conducted cost-effectively and the means for achieving this have to rest with practitioners. The system therefore has to include incentives to private individuals to maximise their private benefits from fishing, however they define those benefits. Giving a long-term rolling or permanent property right to either the harvest from a fish stock, or to the stock itself, gives rights holders a clear and strong incentive to protect the robustness of the stock. This should give long-term, annually sustainable benefits to rights holders and, through them, to communities and the wider economy.

17. It is inevitable that economic agents within the fishery will act in their own best interests, within the constraints of the management regime. Fisheries managers must take account of all the possible outcomes of these behaviours, designing the regime such that vessel owners’ own best interests are closely aligned to those of the wider community and population, and include the long term health or resilience of the fish stocks being exploited and their habitats.

18. Property rights must be of high quality in order for their trading prices to be a good reflection of the wealth in the fishery. Rights should be:

- permanent (or rolling long term) in order to give owners an incentive to protect the long-term health of stocks and habitat;
- fully and easily tradable within whatever geographical constraints are appropriate. There should be as little bureaucracy as possible to minimise transaction costs;

- exclusive, which means owners have confidence that no other agents will benefit from their rights. This implies effective enforcement of rights which can be difficult with inshore fleets of many smaller vessels. The industry should have a strong input into how effective enforcement can be delivered in specific cases. Once they have rights to protect, owners can be expected to be willing to engage in enforcement regimes to protect their rights; and
- clearly defined to enable owners to make accurate valuation of their worth.

19. In fisheries with mature property rights, groups of owners have been observed to co-operate in order to improve the value of stocks, e.g. by seeding or protecting habitats and nursery areas of their stocks, and ensuring that destructive or non-selective gears are not used.

20. Operating a fishery with tradable property rights does imply that successful fishers must have the ability to trade rights effectively as well as to fish efficiently. Clearly there will be some businesses operated by individuals who are less able, for whatever reason, to trade in rights than they are to catch fish and for these individuals the change of system may put them at a disadvantage compared to others. This is not to suggest that a rights-based system is not adopted, but that this point could be taken account of and perhaps some assistance could be available to such individuals via community rights schemes or other co-operative actions that would enable them to continue to operate within a group ownership situation.

21. If there is concern about the effects of concentration of rights ownership in the hands of a few companies or individuals, then it is possible to impose and enforce limits or caps to the proportion of rights that can be held, as is done in other jurisdictions. These arrangements can be monitored and reviewed over time to ensure that they are effective and continue to deliver the objectives for which they were originally intended.

Question 6. Are the proposals to help develop the aquaculture industry appropriate?

22. The proposals appear appropriate and contain, in part, measures already adopted in the UK.

Question 7. The sustainability of EU fishing activity in non-EU waters

23. We have an interest in this area, but no comment to make.

Question 8. Quota management and marketing responsibilities for POs

24. We have an interest in this area, but no comment to make.

Question 9. Are the proposals consistent with current, wider consumer information and labelling requirements? (If not, how should they be made consistent or will they place additional burdens on the industry?)

25. Consumer information and labelling requirements are already covered by current legislation, or that coming into force shortly:

- Regulation 1224/2009 establishing a community fisheries control system for ensuring compliance with the rules of the common fisheries policy.
- Regulation 404/2011 laying down detailed rules for the implementation of the fisheries control system.
- Draft regulation Sanco/1489/2007 Rev 17 amending the food hygiene regulation 853/2004.
- The recently adopted food information to consumers regulation (FIR).

26. The introduction of this proposal for consumer information within the CMO will add another layer of bureaucracy which seems to make the same requirements but as they stem from different legal regimes can be different in their scope. This will inevitably create additional burdens on industry without necessarily any benefits to the consumer who will not be given any more meaningful information and may in fact be confused by it. One way of achieving consistency therefore is for the consumer information requirements to be left to the existing and more relevant legal regimes and be removed from the CMO proposals altogether.

27. The existing CMO regulations (104/2000 and 2065/2001) include the requirement to provide the consumer with area of production or capture, production method, and approved commercial designation. This currently applies to CN03 customs tariff products only but under the proposals would be extended to include CN16 products. This would effectively apply therefore to all fishery products and potentially place additional financial burden on the industry in trying to achieve this. The Fisheries Control Regulation (1224/2009) replicates these requirements for CN03 products and specifically excludes CN16 products.

28. It is also not clear if this is intended to cover all CN16 products i.e. fish products containing over 20% fish content, and which can contain any number of different fish, production methods and origins. The more complex the product, the more complex the labelling will need to be. The Commission are also proposing to extend the CN03 information to include date of capture or harvest and whether the product is fresh or defrosted.

29. There are requirements under the current and proposed food labelling rules whereby the common names list is applied as the true name of the food, but there is also an option to label as 'fish', to allow for variable supply. A mandatory requirement to declare the common name of the fish in a processed product could cause manufacturing problems and ultimately increase costs.

30. The current optional CMO requirement to provide the consumer with species name has been removed but appears as a requirement under the Fisheries Control Regulations.

31. CN03 products have an additional requirement to be labelled with whether defrosted or not. This additional requirement to declare 'defrosted' is also required by the fisheries control regulation and has the same scope as the proposed CMO. However, there is also a similar 'defrosted' declaration required under FIR and could cause confusion as the scope is slightly different with one applying to CN03 only, but in all forms of presentation to the consumer i.e. loose or pre-packed and the other to all pre-packed products whether CN03 or CN16. The FIR also exempts products which have been frozen under the hygiene regulations to eliminate any nematodes that may be present in products subsequently eaten raw or only partially cooked and raw material that has been frozen prior to processing operations such as smoking.

32. CN03 products will also need to be labelled with the date of catch or harvest. Although also the case under the Fisheries Control Regulations, this has been extended to include several calendar days or period of time corresponding to several dates of catches to allow for the practicality of achieving this. There are implications here at retail as with mixed catch dates all fish would have to be labelled as being the oldest caught.

33. The date of catch is also required by the amendments to the hygiene regulation, Sanco/1489/2007 Rev 17, which for frozen food requires date of freezing and, if different, date of catch or harvest. However, this is a supply chain requirement and is not intended as a consumer information requirement. The scope is also different as the hygiene requirement applies up to processing as defined under the hygiene regulations whereas CMO uses customs codes and may cover very different products.

Question 10. Should additional voluntary information be included in the proposals?

34. No, the requirements for voluntary schemes should not be included in a regulation. If there are concerns that a voluntary scheme is being misused and the consumer is being misled there are Regulations in place that can prevent such practices. Should regulation of a particular 'claim' be needed, this is better achieved using guidance or codes of practice. These are easier to draft and amend to be able to respond quickly to any changes in consumer concerns.

Question 11. Should intervention mechanisms continue?

35. We have an interest in this area, but no comment to make

Question 12. Additional costs

36. We have a significant interest in this area but, given the degree of uncertainty over the details of the proposals, no comments to make at this stage.

Additional comments

37. The proposals make a number of references to achieving MSY for all stocks by 2015 without defining MSY precisely or providing any caveats. The fisheries science community has debated how this term should most effectively be interpreted for many years and come to no universally applicable conclusion. The move to a defined MSY in US federal fisheries has also been plagued by a legal requirement under the re-authorised Magnuson-Stevens Act for all stocks to be at MSY simultaneously. It is also worth reflecting on our experiences with cod recovery plans where it has become apparent that fishing mortality is only one of several factors affecting the recruitment of cod. Three points arise from these observations:

- the term needs a working definition specific to its use within the CFP,
- the definition and targets need to accommodate the natural fluxes inherent in ecosystem dynamics, and
- in this context hard targets are not appropriate because the catching sector may not be responsible for changes in species' abundance.

38. As noted elsewhere, and based on widely established precedents, we have concerns over the coherence of the CFP 'package', particularly in the context of the wider policy and delivery issues relating to marine environmental management. These relate primarily to the science base that will underpin the monitoring and management arrangements that will evolve over the next decade. Many of the most salient points are summarised in a letter recently sent to Commissioner Damanaki by the UK Discard Action Group. It argues for a central (European) function on setting standards for data and proposes that a pilot be run in the UK that includes industry generated data to support sustainable development. Seafish is aligned with these arguments but, than repeat those points here, that letter is appended to this communication

We trust that these comments make a useful contribution to the UK response to the CFP/CMO proposals. As always, further information or clarification is available on request.

Yours sincerely



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Head of Environmental Responsibility