

Annex 1: On Regulation of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products (COM(2011)416)

At the upcoming meeting on 19–20 March 2012, the Fisheries Council will discuss a new regulation on the common organisation of the markets, based on the European Commission's proposal (COM(2011)416). The Common Market Organisation (CMO) should contribute to achieving the overarching objectives of the Common Fisheries Policy (CFP), but this new regulation specifically aims to 1) upgrade market incentives in order to support sustainable production practices through a review of the role of the Producer Organisations; 2) improve the market position of EU production by addressing market imperfections and reinforcing the bargaining power of producers; 3) improve the connection between EU production and structural market changes through increasing transparency along the marketing chain; 4) to enhance the market potential of EU products through better information, particularly ensuring that EU consumers have more precise and reliable information when purchasing products; and, finally, 5) support better governance and reduce the administrative burden of Member States (MS) through simplification of the legal framework.

OVERALL COMMENTS ON THE PROPOSAL

While conservation of fish stocks and the wider marine environment is less apparent in the details of the proposed Common Market Organisation, it is at the heart of the overarching objectives of the CFP and several issues in the proposal are important from an environmental perspective.

We welcome the shift in the proposal from the current CMO, where the main focus can be said to be market interventions to support price stability, to a policy where market intervention is reduced to a single main instrument – the storage mechanism. We also support the principles of better marketing standards and particularly improved consumer information. The proposal also contains some measures that could enable greater elements of results-based management, where the catching sector is more involved in devising management solutions.

However, the Commission could have kept a greater focus on the overarching objectives of the CFP, focusing more on supporting best practises and environmentally sustainable ways of production, recognising the seasonality of many fisheries by nature rather than focusing so strongly on market stability. Issues of particular importance from an environmental point of view are the implementation of the discard ban and the handling of the resulting unwanted catches, more detailed mandatory consumer information, as well as the lack of particular measures to support local sustainable production in the vast majority of the EU catching sector – the small-scale and artisanal fisheries.

DETAILED COMMENTS ON THE PROPOSAL

Composition and responsibilities of Producer Organisations

The proposed regulation considers Producer Organisations (POs) the key actors for the application of the CFP and the CMO. Common conditions for recognition of POs are set out; POs can be established if sufficiently active economically, particularly in terms of number of members and volume of marketable production, but they may not hold a dominant position in a given market. Their objectives include promotion of fishing activities fully compliant with the conservation policy of the CFP and wider environmental legislation and/or sustainable aquaculture activities, as well as improving the producer's profitability. Furthermore, the proposed regulation gives POs more responsibilities, including the handling of unwanted catches in light of the forthcoming landing obligation. This increased responsibility will come with more opportunities to design the management of the processing chain.

In light of the new responsibility of POs for the **handling of unwanted catches** (Art. 7b and 8b), it is important to note that any commercialisation of unwanted catches may create financial incentives to target fish which fishers previously had tried to avoid. Therefore, strict conditions are needed for the marketing of unwanted catches (Art. 8b) to rule out that operators yield a profit. Rather it is necessary to incentivise fishers to minimise unwanted catches through use of more selective gear and/or fishing methods. While a small part of the revenues of the sale of unwanted catches could go to the operator to cover for the costs of storage and landing, most of the revenues should be reverted to the authorities and used to contribute to costs of control, enforcement and data collection. Furthermore, even with the restrictions in handling unwanted catches set out in the proposed basic Regulation (COM(2011)425, Art. 15) and the CMO, there is a risk that these catches may provide an underpriced source of feed for the likely expansion of the EU aquaculture industry. In addition, the distribution of landed fishery products free of charge (Art. 40.3) can result in distortion of the market and should not be encouraged.

Taken together, the conditions for recognition and the objectives of the POs (Art. 7, 10 and 17) may turn out to be discriminatory against the small-scale and artisanal sector, and may work against local sustainable production. This possible discrimination is taken even further in Section III (Art. 26), where rules established by a PO representing 65% of the quantities of a particular product may be extended by Member States to all producers. In fact, we question if this is not also contradictory to Article 17 (e), which states "on condition that: (e) they [POs] may not hold a dominant position on a given market unless necessary in pursuance of the goals of article 39 of the Treaty." It is therefore important to ensure that POs represent and support all segments of the industry, from small-scale to large-scale interests; this is currently not always the case.

The proposed concentration of POs might make suppliers of fish products more detached from the local environmental conditions and concerns of the fishery, which would undermine long-term management objectives for the sustainability of stocks. Adding to this, the proposal is lacking a clear commitment to support fishers that have a lower impact on the environment during their fishing operations – often small-scale and artisanal fishers. From an environmental perspective, low impact fisheries and local production are preferable. POs which are active in coastal, inland and freshwater fisheries may be more efficient with fewer members, ensuring a close connection between the producer and the supplier to the market.

Finally, the question remains whether fishers in Member States where currently no POs exist will be obliged to form POs in order to be able to, for example, set trigger prices and create a storage mechanism.

Based on the arguments above, strict conditions for the marketing and use of unwanted catches need to be set, ensuring that they do not become commercialised in a way that would yield financial gain to individual operators as well as hamper efforts to increase selectivity and reduce unwanted catches.

Furthermore, we urge you to ensure that the interests of low impact fisheries (often small-scale) are sufficiently represented, to ensure a level playing field. In particular, any extension of PO rules should not be detrimental for their businesses.

Finally, we propose that rules which may lead to the concentration of POs are applied with caution, due to the risk of disconnecting fish catch and production from local environmental conditions, thereby undermining long-term environmental sustainability.

Labelling and consumer information

The Commission's proposal foresees the provision of mandatory consumer information (Art 42–44) on commercial designation, production method (caught or farmed), geographical area, date of catch, and defrosting status on the retail labels.

We welcome the Commission's ambition to enable consumers to select fish products with a lower impact on the marine environment. Mandatory inclusion of the proposed information would be a first step to facilitate more sustainable consumer choices. The information would also facilitate the usage of fish guides that are increasingly demanded and used by consumers to help them in their decisions. However, more detailed information is needed such as the Latin name of the species sold, the gear type used to catch the fish and greater specificity in terms of the area where the product was caught or farmed.

We are deeply concerned about efforts of other stakeholders and user-groups aiming instead to delete some of this mandatory information, specifically 'date of catch' (Art. 42.1 (d)), 'frozen/defrosted' (Art. 41.1 (e)), and 'catch area' (Art. 44). This would deny consumers the opportunity to make informed choices in their purchases.

Moreover, there is an ongoing debate in the European Parliament about regulating eco-labelling of EU fisheries products, and replacing all current environmental labels with a single EU label. While legitimate questions may be asked about the standards applied by certain companies, a blanket approach ignores the quality of other labels and the trust which they have built up with consumers over a long period of time. The KRAV [organic production] label in Sweden, for example, applies high standards to its environmental certification scheme and is respected by both suppliers and consumers.

We strongly urge you to support as well as expand the proposed mandatory consumer information, adding 'gear type', greater specificity in terms of 'catch area' and the Latin name of the species sold.

Stabilisation of the markets

In Section V of the proposal, the Commission sets out parameters aimed at stabilising the market: a storage mechanism (Art. 35) and linked trigger prices (Art. 36). Essentially, POs may provide and finance storage of fishery products that have been put up for sale but for which there was no buyer at the agreed trigger price. The trigger price has to be set before the beginning of each year, is limited to 80% of the weighted average price for the product in the past three years, and is subject to the Member State's approval.

The storage mechanism enables producers to take products off the market and store them for sale at a later date. It is supported by substantial funding provided under the proposed future European Maritime and Fisheries Fund (EMFF) (COM(2011)804), setting aside 45 million EUR from 2014 to 2018 (Art. 72), including a gradual phase out of aid before 2019. It is what remains of a raft of market interventions currently provided, including a price support system.

We strongly support the Commission's ambition to reduce and finally phase out market interventions, as they are likely to support – directly and/or indirectly – environmentally unsustainable production. Even the remaining storage mechanism and trigger price may contribute to overfishing and poor planning, as they aim to ensure that fishers receive a minimum price for their product, regardless of market demand. Ideally, fish for which there is no market, or for which prices are too low, should not be caught in the first place. It is part of the POs' role to make sure that production planning is in place to avoid such situations.

Mechanisms to stabilise the market may also deceive consumers and indeed decrease their understanding of food production and awareness of the biology of fish species, when products are available all year around at the same price in their supermarket. Certain fisheries are seasonal by nature, and for this to be noticeable for consumers is not necessarily negative. Considering the variability in quality and condition (weight and length) of fish over the year, incentives which may result in [over]fishing during non-peak periods should be avoided. Apart from price, quality and freshness are important to consumers and could be more strongly promoted in the proposal.

Nevertheless, if and when a flooding of the market occurs or prices are exceptionally low, a storage mechanism which ensures that the fish products can be safely kept until a time when they can gainfully be placed on the market again could also be useful. However, it would have been prudent for the storage to be strictly financed by the POs, as it is in their interest. This would also ensure more conservative use of the storage mechanism. In that regard, the proposed storage aid provided under the EMFF could have been phased out sooner.

We ask you to carefully consider the environmental effects of any market interventions, as well as an earlier phase out of storage aid, making the storage mechanism fully a responsibility of the POs. Moreover, we suggest a further reduction of the trigger price (< 80%) in order to recognise the seasonality of many fisheries products and to avoid creating further incentives for overfishing.