



Consultation

on a

National Policy

on

Fisheries Management

in UK Waters

A Conservative Party Green Paper

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Executive Summary

The Common Fisheries Policy is a biological, environmental, economic and social disaster; it is beyond reform. It is a system that forces fishermen to throw back more fish dead into the sea than they land, it has caused substantial degradation of the marine environment, it has destroyed much of the fishing industry, with compulsory scrapping of modern vessels and has devastated fishing communities.

Fisheries cannot be managed successfully on a continental scale; they need local control. That is the reason why Michael Howard has stated that the Conservatives will return our fisheries to National and Local control. This accords completely with our instinct for small government. Issues should be tackled on an international basis only when justified, at a national level when appropriate and otherwise locally.

The purpose of this Green Paper is to outline our views on how our fisheries policy would work. To produce it, we have built on an earlier visit to the Falklands, visiting numerous British fishing ports and successful fisheries in Norway, the Faeroes, Iceland, Canada and the USA. From that experience, backed by extensive discussions with scientists, experts, fishermen and environmentalists, we have devised a policy framework tailored to suit the specific requirements of the UK. It is based on the following principles:

- Effort control based on “days at sea” instead of fixed quotas
- A ban on discarding commercial species
- Permanent closed areas for conservation
- Provision for temporary closures of fisheries
- Promotion of selective gear and technical controls
- Rigorous definition of minimum commercial sizes
- A ban on industrial fishing
- A prohibition of production subsidies
- Zoning of fisheries
- Registration of fishing vessels, skippers and senior crew members
- Measures to promote profitability rather than volume
- Effective and fair enforcement

However, simply exchanging a bureaucratic system run from Brussels for one run by the bureaucrats in London and national centres is no panacea. It must be accompanied by a local management system, which has the confidence and trust of the nation and the fishermen who work within it.

The essence of our policy, therefore, is National and Local Control. National government will set the strategic framework in which the priorities will be the restoration of the marine environment and rebuilding the fishing industry; new local bodies will take day-to-day responsibility for managing their fisheries.

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1. Introduction

Central to Conservative values is the view that we should have small government. We should tackle issues on an international basis only when justified and at a national level only when this is appropriate. Otherwise, we believe that decisions should be made locally, close to the people most affected by them.

Never has this been more true than in one particular aspect of government activity, our fishing policy which currently is run by the European Union under its Common Fisheries Policy. That is why Michael Howard has committed the Conservatives to returning fishing policy to National and Local control by negotiation if possible and if necessary by national legislation.

The purpose of this Green Paper is to expand on this commitment, outlining the options we are considering in order to develop a fully working and successful policy.

That new policy is tragically necessary. Prior to 1972, when we joined the EEC, British fishing was a model of sustainability. Thirty years on, after decades of the CFP, areas of the most fertile and productive fishing grounds in the world are being threatened with closure. Others are producing yields well short of their potential capacity, while ever increasing restrictions are being imposed on British fishermen.

Even in the relatively short-term, the figures give adequate testimony to this disaster. In 1995, 9,200 fishing vessels landed 912,000 tons of fish. In 2002, there were only 7,003 vessels, which landed 686,000 tons – a 25 percent reduction in catches over eight years.¹

Even more starkly, there is the grotesque nature of a policy which is based on setting fixed quotas of fish, forcing fishermen to throw back into the sea dead those fish which are over-quota. In some fisheries substantially more fish are thrown back into the sea dead than are landed.

Then there is the absurd bureaucratic inflexibility of the system, as I witnessed recently when I spent a night on a Fleetwood trawler, watching thousands of immature plaice being dragged up from the depths, only to be thrown back dead – all because the EU rules penalised fishermen if they used larger mesh sizes that would have allowed these fish to escape. It is hard to believe that sane human beings can defend a system that requires fishermen to scoop up

¹ MAFF/DEFRA statistics.

juvenile fish, accounting for 90 percent of a catch, only to throw them back overboard dead.

It is our view that these are the reasons why the CFP is failing and why our fisheries are being destroyed. There are no good technical reasons why catches should be falling or the national fleet declining. For instance, the Faeroes have enjoyed consistently increasing catches, including cod catches up 38 percent, increased fish stocks and a prospering industry. Neither do we subscribe to the mantra that there are “too many fishermen chasing too few fish”.

Access to fishing grounds is determined by the fisheries management system in place and that system is the CFP. Since its inception, it has been dominated by political considerations that have had little to do with good fisheries management, so the decline and impending collapse of British fisheries has to be laid squarely at the door of the CFP. By any measure, it has failed. An Icelandic bank, which is the largest investor in fisheries around the world, has a company policy not to invest in EU or Russian fishing businesses because of the arbitrary and political nature of the decision-making.

There is now increasing evidence that the reason for the failure is that the core regime applied by the CFP is irredeemably flawed, not least in terms of its appreciation of fish biology, the quality and interpretation of data, as well as the treatment of fishermen. We take the view that these flaws are so fundamental that the policy is beyond reform. The only hope of restoring British fishing grounds to commercial viability in the interests of all fishermen – including those in foreign fleets - lies in returning control to the UK Government and introducing entirely new management regimes.

We agree with many fishermen and their representatives that simply exchanging a bureaucratic system run from Brussels for one run by the bureaucrats of London, Edinburgh, Cardiff and Belfast is a poor bargain. In itself National Control is no panacea. If it is to work, it must be accompanied by genuine devolution, backed by a new, effective and imaginative management system; this must have the trust of the nation and the fishermen who work within it. The essence of our policy is therefore reversion to National and Local Control.

To work up a new policy is not a simple exercise. Not least, we have had to take into account the report of the Royal Commission for Environmental Pollution on fisheries. We are pleased to see that some of its recommendations are identical to ours although we do not agree with some of its conclusions.

For instance, we do not accept its assertion that “overfishing” per se is the central cause of the problem in British fisheries. Rather, as we have earlier discussed, it is the failure of management - which has allowed overfishing - that is the problem. The distinction is crucially important. The one is the cause, the other is the symptom.

Nor indeed do we share the unremittingly gloomy prognosis of the Commission. We can accept that some fisheries have collapsed – for a variety of reasons, of which overfishing is but one and sometimes only a contributory factor – but there have also been some remarkable successes. Currently, herring stocks are extremely healthy. Following careful management after a disastrous collapse in the 1970s, the Norwegian spring spawning herring stock now has a biomass of 16 million tonnes numbering 50 billion individuals. North Sea haddock stocks are at a 30-year high, North-East Atlantic monkfish stocks are healthy and the nephrop stocks off the North-Western coast of Scotland are also in good condition.

We do not accept that what the Commission acknowledges to be its “top down” approach to solving a complex series of problems is appropriate. We remain convinced that an effective policy can only be developed with the full co-operation and assent of fishermen, on the basis of best practice, guided by good science, together with an appreciation of the wider issues affecting fishery policy and the practicalities of good management. To that effect, we started the process of consultation in January with a preliminary document, in which we set out a tentative framework for a policy for managing sea fisheries in UK waters.

In addition to an earlier visit to the Falklands, we have carried out considerable further consultation, augmented by visits to fisheries in Norway, the Faeroes, Iceland, Canada and the USA. We have also been to numerous fishing ports in the UK and following extensive research, we are now in a position to be more definitive than we were in our earlier document. Nevertheless, this Green Paper is still part of a consultative process and we welcome further comments on all the issues raised.

To aid that consultation, we have dealt with the issues in nine parts. Firstly, we look briefly at the background to the issues which underpin our determination to restore our fisheries to UK control. We then define the objectives of our policy and explore the legal framework. We look at the fundamentals of a proposed management system, the management structures and their operations, plus the scientific services which support the management effort and the industry. Then we consider enforcement, monitoring, sanctions, the market and marketing. In the last substantive section, we explore the funding issues.

2. Background

The assumption underlying the whole of our policy is that UK fisheries should revert to exclusive UK control because the CFP has done great damage and cannot be reformed.

Nevertheless, we recognise that some foreign states have acquired “historic” rights to fish in UK waters. Some of these pre-date the CFP and some stretch back as far as the Middle Ages. We intend to honour those rights, although - as with our own fishermen - we will reserve our right to withdraw or modify them.

The CFP is not just a policy, but also a fisheries management system - a very bad system. There is almost universal agreement throughout Europe that it has failed. Elsewhere in the world, there are plenty of examples of successful fisheries, all run on different lines. The one factor common to all of them is National Control. It is this that has given not only the indigenous fishermen stability and prosperity but it has ensured that there are more fish to catch, of higher quality. Returning our fisheries to UK control would do the same for what were once the most prolific fishing waters in the world.

We would be ready to respect the rights of our neighbours to fish in our waters - as indeed they would respect our historic rights to fish in theirs. We would thus present them with two options. We would tell them, either stay with the CFP under the dire management of the EU Commission and we will all continue to suffer declining catches; or they can support us in restoring National Control, working with us in developing local management schemes, tailored to the unique conditions of the distinct fisheries around the UK.

The example of the Falklands shows how imposing National Control brought order and prosperity to a previously chaotic fishery. Until 1986 neither Spanish nor Asian fleets were properly controlled. Since then the Spanish have become the largest purchasers of fishing licences, the most significant investors in joint ventures in the Falklands fishery and Vigo Bay is the largest market in the world for Falkland Island squid.

Argentina and the Falklands now work closely together on research and assessment of stocks. In a dramatic example of international cooperation they decided to enforce an early closure of the *Illex* fishery this year.

Fish know no boundaries

We accept that in certain cases “fish know no boundaries”, so it is essential that we also manage fish stocks on a trans-national basis. Any competent marine biologist will acknowledge that most fish do indeed observe boundaries; those set by the ecosystems in which they inhabit. For instance, the Norwegian Sea, as a “large marine ecosystem” is to a great extent self-contained, with limited fish movement between this and adjoining systems. However it is divided by numerous political boundaries. It would be more accurate to observe that fish know no *man-made* boundaries. Yet the EU, in defining specific policies for the political construct contained by the waters of the EU member-states, creates artificial boundaries which dissect natural ecosystems; the Cod Box and the Irish Box exemplify this. These boundaries inhibit rather than encourage proper fisheries management.

Where there are migratory and straddling stocks, between natural ecosystems rather than across politically-defined boundaries, we agree that these do require a close degree of international co-operation; we disagree that the EU is the appropriate authority to manage this co-operation, not least because of its appalling track record on fisheries management.

Three of our important North Atlantic neighbours with strong interests are Norway, the Faeroes and Iceland; these are not members of the European Union, yet we need to work closely with them.

For example, Norway manages vast areas of the ocean but 80 percent of its fish are taken from stocks which straddle waters managed by the EU, Faeroes, Greenland, Iceland and Russia. There is already a suitable legal framework for dealing with migratory and straddling stock - the United Nations Fish Agreement (UNFA), which was adopted in 1995, known as “the conservation and management of straddling fish stocks and highly migratory fish stocks” agreement. This has an enforcement and dispute settlement mechanism including some important conservation obligations. We are already signatories to this agreement and would expect to build on it as a basis for managing our relations with our international partners, including EU member states.

Our membership of the inwards-focused CFP prevents us from developing the relationships which our Atlantic partners are most enthusiastic to explore. Release from the CFP would allow us to capitalise on this enthusiasm and build firm, co-operative ventures. Only by doing this can we transcend the artificial and restrictive boundaries imposed by the EU and deal with the biological realities of fisheries management.

In developing these relationships, we also have the 1982 Law of the Sea Convention, usually referred to as UNCLOS III, which sets out the international obligations of maritime nations. We intend to work within the framework of this convention with our Atlantic and other partners.

Responsibility for Implementing the Policy

Overall responsibility for the policy should be vested in its entirety to the national authorities. In England and Wales the day-to-day management would be delegated to local organisations.

Although we would encourage all devolved administrations to co-ordinate policies and management systems, in Scotland, the Executive will take overall responsibility for fisheries policy and will be responsible for developing its management systems. It will also make its own decisions on delegation of powers.

The details set out in this document, therefore, apply only to England and Wales, except where otherwise indicated and to Northern Ireland. In respect of Northern Ireland, we would of course follow through the political process and extend to the Province devolved powers in line with the more general devolution of powers. In all respects, therefore, our policy is one of genuine devolution, in accordance with Conservative Party principles of ensuring policy-making and implementation as close to the people affected as possible.

3. Objectives

In this section, we identify the issues that a new Conservative government will address. We also explore the limits of government action. It is no part of our policy to set out parameters or aspirations which cannot be realised. For instance, it is not within the gift of government to guarantee a reasonable standard of living for fishermen, when all the elements which go towards that aspiration are not within its control.

In an earlier discussion document, we set out, as a first attempt, overall objectives of a policy. We received a substantial number of responses with many helpful suggestions. That included support for our policy objectives with one addition, a specific reference to the recreational fishing sector. Although we feel it was covered in the original statement, some felt that it should be specifically mentioned and we agree. Thus, our revised statement is as follows:

Our policy is to manage the sea fisheries in UK waters in such a manner as to safeguard the natural environment; to rebuild and preserve our fish stocks and marine wildlife; to maximise the economic value of exploitable stocks, both in the short and the long term, commensurate with the natural resource available and the environmental impact of so doing; to create a stable, equitable framework within which the fishing and allied industries can operate, including the recreational fishing sector and tourism; generally to protect the interests of the United Kingdom.

We have considered most carefully the report of the Royal Commission on Environmental Pollution, entitled “Turning the Tide: Addressing the Impact of Fisheries on the Marine Environment”. We share completely the Commission’s concern for the environment and agree entirely that the marine environment should be given a higher priority.

However, as a Government, we would regard our duty as being to protect the environment and maintain healthy, viable fisheries; we believe that these two duties are not incompatible. In fact, from our review of fisheries throughout the world, we are convinced that it is necessary to achieve both objectives simultaneously.

In our view, the Commission has failed to give adequate emphasis to the possibility of combining protection of the marine environment with the parallel objective of safeguarding the fishing industry. In particular, it has not sufficiently considered the extent to which proper management of the fisheries can help achieve both objectives

We must stress that our first concern is to protect the environment but we do not believe that this is in any way incompatible with safeguarding the fishing industry. Inevitably, over-fishing and other abuses damage the marine environment and also damage the long-term economic value of a fishery. Therefore we see environmental protection not as an adjunct to a fisheries policy but as an inherent, central part of it.

As a nation we cannot afford to neglect or sacrifice needlessly an important industry or a vital food supply. Fisheries are a commercial resource that should be exploited efficiently in the interests of the nation.

However, we accept entirely that the commercial resource is not necessarily expressed solely in terms of the value of fish landed by the catching fleet. That value can also be expressed in terms of the added value to the nation derived from recreational fishing, tourism and leisure pursuits. A healthy ecosystem has an inherent value which cannot necessarily be expressed in cash terms. This latter aspect should underpin the whole basis of the fishing industry.

Whatever the specific short-term or strategic objectives of specific fishery areas, we maintain our belief that, properly managed, with carefully devised and targeted controls, the resource is constantly renewable. Efforts to rebuild stock can proceed alongside sensible commercial exploitation, as has been proven in the Faeroes, Iceland and in the United States. On this basis, we believe that our fisheries can provide a good living for our hard-working fishermen and the communities which support them and rely on them, without drastic panic measures, while satisfying the entirely valid demands of all those who care for the environment.

We also include the more general and overriding objective of protecting the interests of the United Kingdom. This allows the flexibility to address issues that are not specifically raised in the paper.

4. The Legal Framework

In order to ensure a satisfactory basis for fisheries management, conservation and the protection of the environment, we found considerable agreement with the view that there should be a clear legal framework.

The primary framework, in fact, already exists; it is set by the 1982 Law of the Sea Convention, which sets out the international obligations of maritime nations and defines the areas which come under the sovereign control of those nations. We reaffirm that we intend to work within the framework of this convention, not least in respect of the three maritime zones recognised by it.

1. Territorial waters extending 12 miles from the maritime baseline.
2. An EEZ or exclusive economic zone extending 200 miles from the coastal state's maritime baseline (or to a median line equidistant from it and any neighbouring coastal state less than 400 miles away).
3. The High Seas zone beyond the limits of national EEZs.

In accordance with the provisions of this convention, we intend to declare that the United Kingdom has

1. Full sovereignty over all that is found within its 12 mile territorial sea.

2. Sovereign rights over the natural resources found within its EEZ.
3. Jurisdiction over its own vessels on the High Seas, freedom to fish on the High Seas, subject to certain limitations related to treaty obligations and the duty to cooperate in the conservation of fish stocks.

The fundamental principle on which the whole policy rests is that the fish and other sea creatures, within the UK EEZ, are the property of the nation as a whole. Management of the resource would be the responsibility of the central and devolved governments. If this is taken as a basic premise, fishermen have no inherent rights to fish and no inherent rights to the property so gained.

When we stated this in our original consultation document, we received a number of expressions of concern, some powerfully stated. It was argued that fishermen did, by virtue of their investment and traditions, have rights to fish. We agree. However, we would make the distinction between inherent rights and acquired rights.

We would readily accept that some fishermen have gained acquired rights, which in most respects are as firm as if they were inherent, to the extent that any difference is largely academic. Nevertheless, as a matter of principle, we would retain the position that the inherent rights are vested in the Crown and that under certain, well defined circumstances (which will usually relate to conservation issues) acquired rights may be withdrawn or modified.

We have already stated that we recognise that the owners or operators of fishing vessels from some foreign states have historic rights to fish in UK waters and that we would respect these rights, while reserving our right to withdraw or modify them.

Nevertheless, in respect of both domestic and foreign fishermen, the next essential feature of a legal framework is that our governments, on behalf of the Crown, should have complete authority to decide who will exploit the resource. It will also decide the quantities taken and the conditions under which the resource is exploited. In effect, fishermen who are permitted to exploit the maritime resource will do so under some form of permission or licence.

UK and international coordination

Because of the need to work closely with neighbouring nations and the EU, in addition to the complexities of dealing with devolved governments in the UK, an important part of the overall legal framework will be a statutory body charged with policy harmonisation. It will provide a forum for coordination and the exchange of views, both on a UK and international level.

We anticipate that it will take the form of an advisory committee or council, made up of representatives from England, Wales, Scotland and Northern Ireland. Amongst other things, its function would be to advise the Secretary of State on proposed international agreements and on the functioning of existing agreements.

We would also expect it to assist in coordinating cross-zone access, as in the case of the pelagic fleet which does not operate in any one zone and to advise on establishing cross-border zones. We would expect it to be involved in projects that involve sharing certain functions, such as research and monitoring, between UK zones and with neighbouring governments where appropriate.

Cooperative arrangements would be sought in all areas but particularly in the North Sea, where close cooperation with Norway is both desirable and necessary. In the Atlantic we have been delighted by the enthusiasm with which the prospect of the UK leaving the CFP has been received. We urgently need to improve our cooperation with the Faeroes, Iceland, Greenland, Canada and the United States, from whom we have much to learn.

In the Irish Sea, we would need to work constructively with Ireland; in the Channel and South-Western waters, we would hope to work with France, Belgium, Holland and the EU authorities in a spirit of genuine cooperation.

5. The Fundamentals of the Management System

Whether approached from an environmental or a strictly commercial perspective, we believe that the end result should be the same. Our overriding, strategic national objective of fisheries management will be restoring the marine environment, the rebuilding of stocks and their conservation once restored to healthy levels.

This means limiting fishing effort, in order to rebuild the biomass of pressure stocks. For stocks in general, the priority will be to ensure that biomass is kept buoyant.

This must also take into account the maintenance of wildlife populations, including the seabird colonies which depend on fish for their diets. We will introduce technical measures to minimise damage and disruption to these populations, including special measures to reduce bird losses from long-lining and fish mortality from ghost fishing. However, we take the view that a balance must be kept between commercial interests and wildlife. Seal and other predatory populations must also be managed, not least because they can do more damage to a fishery than commercial exploitation, with knock-on effects which harm the whole ecosystem.

In terms of controlling fishing effort, we have looked carefully at the different management systems throughout the world. After thorough consideration, we are convinced that the system employed by the EU with its Total Allowable Catches (TACs), its national and vessel quotas and the requirement to discard huge volumes of above-quota catches, is totally unacceptable and beyond reform.

We have, nevertheless, looked very carefully at Individual Transferable Quotas and agree with its advocates that there are merits to this system.

However, even its most ardent supporters concede that there are problems in applying it to mixed fisheries of the type that predominate in UK waters. The system still creates problems with by-catch discarding and “high grading” - the practice of throwing back smaller and lower value fish of targeted species, in the hope of catching larger ones.

Efforts have been made, by way of intensive monitoring and stringent penalties, to militate against these problems but the solutions are overly intrusive, bureaucratic and restrictive.

On the other hand, it has been impressed on us that the only way a fishery can be managed successfully is by using good quality, accurate catch data, accessible with minimal delay to fisheries managers. So powerful do we believe this argument to be, that we have concluded that our management system must prioritise data collection. The only successful system which does this is “days at sea” effort control, combined with an absolute prohibition on discarding any commercial species. That which is caught must be landed.

The management framework

Together with our fundamental principles, we propose a system of additional measures and controls, which will form the basis of our management framework. These are:

- Effort control based on “days at sea” instead of fixed quotas
- A ban on discarding commercial species
- Permanent closed areas for conservation
- Provision for temporary closures of fisheries
- Promotion of selective gear and technical controls
- Rigorous definition of minimum commercial sizes
- A ban on industrial fishing
- A prohibition of production subsidies
- Zoning of fisheries
- Registration of fishing vessels, skippers and senior crew members
- Measures to promote profitability rather than volume
- Effective and fair enforcement

In the following passages, we look in a little detail at the controls we have selected and how they will apply within the context of the overall policy. Because of the wide-ranging nature of the enforcement issue, however, we have dealt with this subject in a separate section.

Effort control based on “days at sea” instead of fixed quotas

The immediate effect of adopting an “effort control” system in order to conserve fish stocks is that government bodies, scientists and fishermen are relieved of having to administer the labour intensive and unpopular system of quota control. For many fishermen, this will also relieve them of the double burden of having to deal with the EU imposition of quota controls *and* days at sea restrictions, with a significant reduction in bureaucracy.

We were pleased that the Royal Commission said “We recommend that the UK Government should move towards managing fisheries on the basis of effort controls...”.

We recognise, however, that the allocation of days at sea to vessels can be complex. Thus, we intend to address the problem in two broad stages: the transitional stage and then the ongoing management stage.

In terms of transition, the basis of the allocation would be one of maintaining the *status quo*, for whatever time it takes to introduce a fully working system. This would involve converting existing quota allocations into their equivalent “days at sea”, based on the catching capacity of the vessels to which the quotas were allocated.

We would nevertheless, require a proportion of the allocation to be retained as a “conservation reserve”. This would be held by the devolved fisheries management authorities, then to be distributed - or not - in the light of data on the stock levels of targeted species through the allocation period.

Rules for distribution

Inasmuch as we consider that a CFP for the whole of the waters of EU member states is entirely inappropriate, with its common rules applying across a wide diversity of situations, we do not consider that we can have one formula or a fixed set of rules for defining the allocations of days at sea to vessels.

Generally, we envisage a system whereby, using their local knowledge and experience of local conditions, devolved fisheries authorities should devise their own formulae, specific to their own fisheries, on which basis they will apportion days at sea to the vessels exploiting their fisheries. We see the role of central and devolved governments in terms of setting the basic parameters which should be incorporated into such formulae, of supervising the process of calculation and approving the outcomes.

In the same way that we will respect historic rights of foreign fishermen, we will also respect the rights of Scottish and English pelagic fishermen, whose activities are not restricted to any one small geographical area. We will ensure that management plans recognise this.

For other fleets - although we welcome comments on whether there should be other special provisions - we envisage a system of allocations, defined by zone, types of fishing vessel and gear type. This might be augmented by a system of “incentive days”, allocated to vessels equipped for selective fishing, to encourage operators to invest in new gear and systems. We take the view that fishermen who adopt environmentally friendly fishing methods and suffer lower catch rates as a result should not be penalised.

In setting the basic parameters, it has been suggested that we should also require authorities to take account of vessel manning levels. Under-manning, driven by economic considerations, is a significant factor in causing accidents, in what is an already dangerous occupation; there is sense in awarding vessels which have high levels of manning greater day allocations – again as “incentive days” - than those which work to minimum manning levels. On this and the other issues raised here, we would welcome comment.

In any event, allocations will be species-specific, with permissions granted to target particular species or groups of species. Non-targeted species, when caught, will be classified for management purposes as “by-catch”. Where appropriate and necessary, days at sea allowances will be additionally circumscribed by imposing limits on by-catch of pressure stocks. Thus, fishermen will be required to terminate their activities either when their days at sea allocations are exhausted, or their by-catch allowances for designated species have been reached, whichever occurs first.

By-catch limits would be set by reference to that which is unavoidable when employing best fishing practices and management techniques; they would be expressed in terms of the percentage, by weight of the total catch. Nevertheless, the thrust of our management system is directed towards minimising by-catches, in which context, by-catch limits generally will prove to be of academic importance only. Should by-catch be deemed excessive at any one time, even though totals may be within global limits, the option remains to implement temporary closures of fisheries.

In respect of “days at sea”, we intend that they should be transferable between vessels of a similar grouping, within a single fishery, on which basis they will no doubt attract a significant monetary value. All details of transfers will be publicly available, including names of vendors, prices paid, purchasers, and the vessels to which they are reallocated.

One issue which is of some concern, in this system, is “technology creep”. Where the days at sea are allocated in relation to certain classes of vessel – characterised most usually by engine power and length - it is possible, using a wide range of improvements and refinements, to increase the catching efficiency of such vessels, without increase in length or engine power. By these means, a fleet can increase its capacity without any overall increase in the number of vessels or number of days allocated.

The normal response to that might be to reduce overall the number of days allocated to the fleet, but that penalises the less efficient vessels, where increased efficiency – in terms of capacity – is not necessarily a desirable objective. We have heard many different views as to how this problem might be addressed but there is no consensus on how to deal with it. We would therefore especially welcome comments in this area, in particular as to what research is needed to address this problem.

We will not permit the holding of allocations unless they are being actively exploited and therefore, if allocations are not used, they will revert back to the

allocation authority. Furthermore, when transfers take place, we envisage that a proportion will be held back and aggregated into the “conservation reserve”.

Where foreign companies seek to sell, or otherwise dispose of their allocations, we will require that first refusal is given to British registered operators, at a market value agreed by an independent assessor. In so far as it is technically and legally possible, we will seek to define the nature of a “British operator” to avoid transfer of fishing effort to foreign fleets which have companies registered in the UK. We would welcome views on this.

Equally, we will explore measures to prevent over-large holdings by any one undertaking, in any fisheries area.

An absolute ban on discarding commercial species

The ban on discarding commercial species is a central part of our policy. It is absolutely essential, for the purpose of properly monitoring the fisheries and estimating fishing mortality, that we have accurate records of catches. Where discards are allowed - which in some circumstances exceed by a considerable margin the fish landed - catch data are rendered valueless.

Thus, on this provision, we see no scope for compromise; what is caught must be landed and what is landed must be recorded. This will include both non-targeted species and juvenile (under-sized) fish from targeted species. The Royal Commission is emphatic: “Our view is that a discard ban should be introduced. Under such a scheme, all fish caught should be landed.”

It should be noted, however, that the provision applies to “commercial” species. We would not expect fishermen to retain catches of species outside this category, such as the large numbers of starfish that may be caught up in nets in certain fisheries. Furthermore, we expect the local fisheries management authorities to define for their areas those species which are considered as “commercial”.

Permanent closed areas for conservation

We entirely agree with the Royal Commission that the use of permanent closed areas is a vital tool in the conservation of the environment and the management of fisheries.

Where we disagree is that this “tool” should be the main mechanism of control, which the Commission described as its “crown jewel”. We have seen convincing demonstrations that some of the benefits gained by permanently closing fisheries can be gained by a sensitive and timely programme of temporary or seasonal closures – a technique which is barely explored by the Commission. We are similarly impressed by the impact of selective fishing gear which the Commission only mentions briefly. We deal with both of these issues later in this section.

Furthermore, we are aware that permanent closure can cause considerable environmental problems, which the Commission does not take into account.

For instance, in the North Seas fishery, cod stocks are under pressure but haddock stocks are currently at a 30-year high. Since these related species share the same environment, compete for the same foods and in situations of limited food supplies, the haddock become predators of young cod, closing this mixed fishery would increase rather than reduce the pressure on the cod.

Thus, while the Commission does see permanent closures as the centrepiece of its recommendations, we see them as just one tool in the armoury of fisheries management authorities, albeit an extremely important tool.

With that in mind, we will encourage the establishment of a system of permanent conservation zones, defined as absolute “no-take” areas. These would tend to be spawning and nursery areas which are so biologically sensitive that any damage done by commercial fishing would be unacceptable. They may have special biological or other significance such as in areas where there are cold water coral reefs, or where commercial fishing would be undesirable. Also, we would follow existing practice of designating areas of special importance to wildlife conservation.

However, in contrast to the Commission’s admittedly “top-down” approach, setting what amounts to an arbitrary quota for closures, we believe that any closure policy must be bottom-up, generated locally on the basis of local knowledge backed by the best scientific advice.

Provision for temporary closures of fisheries

As with permanent closures, the temporary closure of fisheries will be a key aspect of our policy. What the Royal Commission seems to have underestimated is that, with accurate, real-time information coming out of a fishery, it is possible to react with extraordinary rapidity even to small-scale changes in a fishery and to initiate closures within a matter of hours.

We have witnessed systems capable of this speed of response, in the Falklands, in Iceland and the Faeroes; we intend to replicate such systems, adopting the best practice and applying it to UK fisheries.

The trigger for temporary closures is usually evidence of excessive catches of juveniles, where continued fishing might cause serious damage to fish stocks. Closures may be on an ad hoc basis, as a result of information gained from ongoing monitoring, or routinely on a seasonal basis, where past experience has shown a high likelihood of excessive by-catch.

We aim to be able to close fisheries in a matter of hours, should the need arise, making a clear break with the EU system of management where closure decisions are taken only once a year, often on the basis of inaccurate information that is sometimes a year out of date.

Promotion of selective gear and technical controls

Throughout the world, we have been highly impressed by recent and continuing developments in the design and use of “selective gear”. This is

fishing equipment which can, in the words of one scientist, “surgically extract” one particular species from a mixed fishery without affecting any others. There are many techniques also for ensuring that under-sized fish are able to escape and survive.

It is one of the many hitherto untold scandals of the CFP that the bureaucracy actively discourages the development of selective gear and either makes its use difficult or in some circumstances actively penalises its use. Thus, in the context of the North Sea where cod remain under pressure while haddock are plentiful, the EU has opted for fisheries closures whereas the use of selective gear would enable haddock to be harvested without affecting the cod, with the beneficial side-effect of relieving the pressure on cod stocks and aiding their recovery.

We will, therefore, actively promote the development and use of selective gear and other technical measures to ensure that, as far as is practicable, only target species, at commercial sizes, in the various fisheries will be harvested. Fisheries management authorities will be required to favour those operators who exploit fully the potential of technical controls; mandatory use of the appropriate gear and correct rigging will be a central part of our control systems.

Rigorous definition of minimum commercial sizes

On the basis that we will be prohibiting the practice of discarding, the concept of Minimum Landing Sizes (MLS), which sets the minimum sizes of various species which can be landed, is no longer appropriate. If they were retained in terms of the designation “landing sizes”, this would run contrary to the “no discards” policy.

However, we accept entirely that there should be a minimum size regime and that fishermen should not derive any commercial value from undersize fish. Therefore, we will substitute a regime, which will have the same objective, by defining minimum commercial sizes (MCS), below which size fish may not be sold for the retail market. In most cases, sizes will be set higher than the current MLS, with a view to ensuring that mature adults are able to survive at least one and preferably two breeding seasons before being caught.

Permitted mesh sizes, in mixed fisheries, will be set to ensure the escape of breeding adults of the least populous stock, unless there are proven methods of pre-catch sorting, using selective gear, to ensure minimal by-catch rates. The use of such gear, in these circumstances, will be compulsory, with the back-up safeguard that fishing will be prohibited in areas where by-catch is in danger of exceeding defined limits.

However, we will allow fisheries management authorities to set MCS with regard to their specific fisheries and vary them up or downwards as the circumstances require. Inasmuch as every fishery has its maximum carrying capacity, which can be highly variable depending on the food availability, it is possible, for instance, to have a large recruitment class which, if allowed to

develop to full maturity, will exceed the capacity of the ecosystem to support it. Under those circumstances, it is more sensible to fish hard for juveniles - in the manner of thinning out an over-crowded seed bed – to ensure that the residual adult population remains healthy.

Unlike the current CFP system, therefore, we intend to allow fisheries management authorities the flexibility to make such decisions, provided they are based on good science.

Banning of industrial fishing

Industrial fishing is the practice of catching large volumes of fish such as sandeels for processing into fish oil and fish meal which are not for direct human consumption. It involves a significant by-catch of juvenile commercial species. We will impose, with only a very few exceptions and then only on exceptional grounds, an outright ban on industrial fishing. An absolute ban will apply to the fishing of sandeels within the North Sea EEZ. By way of compensation, we would seek to encourage the development of collection systems and processing capacity to utilise by-catch of non-commercial species and undersize fish, waste and offal produced by the industry.

A prohibition on production subsidies

This prohibition will apply to the building or refitting of vessels and to any other support measure that might in any way enhance the efficiency of the catching sector. This sector is either economically viable or it is not – we see no role for state intervention; there is no logic in spending public money to increase pressure on fish stocks that we are trying to conserve. If we are able to provide a stable, predictable framework for the industry, we see no bar to the industry attracting investment at favourable rates.

Zoning of fisheries

For the purpose of managing UK sea fisheries, we will create convenient zones, based on ecological divisions that reflect specific habitats and distinct populations of fish species.

For administrative convenience, reflecting fisheries practice and traditional management structures of fisheries in England and Wales, zones may be subdivided into inshore (up to the 12 mile limit) and beyond. However, where the inshore fleet routinely exploits more distant waters – in some cases up to 30 miles from the baseline – inshore zones may be adjusted to reflect this. The English Channel is an example of this. We welcome views on the size of these zones.

In respect of these inshore waters, however defined, we intend that they should be managed by expanded versions of the existing local authority sea fisheries committees, although we intend to build on experience and institute substantial reforms to these committees. Special arrangements will, of course, continue to apply in Scotland.

Offshore fisheries are currently defined by boundaries set by the International Council for the Exploitation of the Sea (ICES), which are largely administrative zones, some of which span national boundaries and none of which properly represent known ecosystems. For management purposes, therefore, they are of little utility.

In England and Wales, therefore, we will redefine the offshore fisheries on the lines suggested above. We welcome views on the extent and delineation of the new FMAs. However, we will respect the boundaries of devolved administrations and adjust the areas accordingly. We anticipate seeing such areas as the English North Sea, the Channel – beyond the 12-mile limit, up to the median line - South Western Waters, the Irish Sea, also split into north and south zones. In accordance with the devolution settlement, the Scottish Executive would be free to define its own areas and we would expect that Northern Ireland will eventually be able to define its own arrangements.

As to the general management of these fisheries, as far as is practicable, we intend to delegate powers to specific management authorities, some of which we will set up. Within an overall framework of national law which defines general responsibilities and basic management principles, we believe that these devolved authorities should be free to adopt systems most appropriate to the needs and circumstances of the fisheries they manage. We deal with the structures and operations of these devolved authorities in a later section.

In certain zones, local fisheries management authorities will be required to prohibit certain types of vessel (classified by size, tonnage and power) from certain waters (e.g., prohibiting certain types of vessel from exploiting most inshore waters – to varying distances from the base line). They will also be expected to ban certain types of gear and rigging from areas, where their use would be inappropriate, either on conservation or economic grounds. We will prohibit fishing methods which give rise to unacceptable by-catch rates for cetaceans and avoidable deaths of seabirds.

Registration of fishing vessels, skippers and senior crew members

Under our regime, no vessel will be permitted to exploit UK waters unless first registered with either the Secretary of State or with the Scottish Executive. Details of permitted vessels will be entered on registers maintained by these authorities. It is anticipated that vessels will be categorised by size, tonnage, horsepower and type of gear used.

The system we propose would limit acceptance onto the register to those vessels which conform with UK standards for seaworthiness, command, crewing and other standards as appropriate. Registration, in itself, would not confer any right, per se, to exploit any fishery. It would simply be a necessary condition, before any vessels could apply for permission to exploit any designated fishery under the control of local fisheries management authorities. The registers would include all vessels, including those registered under foreign flags, the operators of which either have historic rights or otherwise are seeking rights to fish in our waters. Registration should be subject to

payment of a fee, sufficient to ensure cost recovery of the registration authority.

In determining compliance with technical standards, we are aware of instances of malpractice and even fraud, specifically but not exclusively in respect of under-declaration of horsepower and would thus reserve the right to require vessels to be submitted for detailed technical inspection by the authorities before being deemed suitable for acceptance on the register.

In maintaining the register, we would reserve the right to refuse registration or to de-register any vessels that had been involved in any illegal actions or actions in breach of international agreements. This exclusion would apply, whether or not those actions had occurred in British, foreign or international waters.

In view of our commitment to the abolition of production subsidies, we are acutely aware of the “unlevel playing field” in the fishing industry, where foreign operators are able to benefit from often substantial subsidies; they are then able to outbid British operators for quota allocations, paying unrealistically high prices which are unaffordable for our unsubsidised fishermen. To address this problem, we would be willing to consider the idea of excluding from the register any vessel which has been constructed or substantially refitted, the costs of which had been aided by subsidy.

Skippers and senior crew members

As with the vessels register, we will also maintain a register of approved skippers (possibly mates and engineers) who are permitted to command and man vessels in British waters. Their admittance to the register would be subject to their being able to demonstrate a minimum level of competence, experience and familiarity with technical and other provisions of British law relating to the control of fishing effort.

We would reserve the right to refuse registration or to de-register any persons who had committed, or been involved in, any illegal actions - or actions in breach of international agreements - whether or not those actions had occurred in British, foreign or international waters.

Measures to promote profitability rather than volume

A crucial object of our policy will be to promote the profitability of the catching fleet through quality rather than volume of produce delivered. This is a key objective in that there is increasing demand for quality, which can be achieved though improved catching methods, handling and preservation. We will thus encourage technical and marketing measures to promote increase in catch value, thereby increasing the profitability of the catching sector, reducing the need to “chase volume”, thereby relieving the pressure on stocks.

6. Management Structures and Operations

In England, Wales and – where appropriate in Northern Ireland - we intend wherever possible and practicable, to devolve fisheries management to local fisheries management authorities, working within a strategic and legal framework devised by central government, under the supervision and general direction of the fisheries ministry. Direct central government involvement in fisheries management would only be considered on an international level and in the management and supervision of British-registered fishing vessels outside the EEZ.

For inshore waters, Scotland and Northern Ireland have their own arrangements. In England and Wales, the existing local authority based fisheries committees provide a good basis on which to build regulatory structures but we would welcome views on the optimum size.

Nevertheless, there are criticisms of the lack of enforcement powers, inadequate resources for that purpose and a lack of transparency in decision-making. Also, mechanisms are needed to ensure that all interested parties, such as recreational fishermen and tourism bodies, have rights of access and similar rights to have their views taken into account.

We would address these deficiencies by bringing their procedures into line with our proposed, devolved, offshore Fisheries Management Authorities (henceforth, for the sake of convenience, known as FMAs). We would, in effect, have two types of authority, the inshore FMAs, typically out to 12 miles and the offshore FMAs, 12 to 200 miles or the median line.

As to the structures of the FMAs, we envisage that each will have a small executive board, responsible for policy-making, a consultative council and an executive arm, responsible for the public administration of the fishery. There will also be an enforcement agency, responsible for the monitoring of the rules and for carrying out enforcement action. We would especially welcome comments on whether the enforcement agencies should be established on national lines, using the model of the Scottish Fisheries Protection Agency, or whether there should be a separate agency for each FMA.

In suggesting this structure, we anticipate that the majority of functions carried out at present by Defra fisheries staff will be devolved to the local level. The fisheries ministry will maintain only strategic and oversight functions at national level.

Separately, we anticipate the need for a dedicated appeals tribunal, which may also function as a judicial body on enforcement matters, to deal with matters of dispute and if practicable, infringements. These two functions may, however, have to be kept separate and we would welcome views on this.

The composition and role of executive boards

Members of the offshore boards would be appointed independently of the Secretary of State, under Nolan rules. The inshore boards would be appointed by the local authorities of the relevant maritime areas.

Personnel would be chosen for their administrative and managerial skills and their complete independence from the fishing industry related activities and interest groups – including environmental lobbyists. We would expect also that the Secretary of State would appoint directly one member of the ministry staff, an *ex officio* member of each offshore board, to report directly to the Secretary of State on the conduct of the board and to act as liaison between the board and the ministry. Domination of the boards by any particular interest group would be politically unsustainable and such a situation would be unlikely to meet with public approval or retain its trust.

Fisheries councils

In order to advise and inform them, we would require each board to set up a fisheries council, forming a balanced body representing all persons and groups with direct interests in fisheries management in their area.

The council will include representatives from producer organisations, processors, marketeers, maritime local authorities, environmental groups, representatives of recreational fishing interests and others who may be affected by, or who otherwise can contribute usefully to, the development of local policy and the management of the fisheries. Bodies which may be represented, in addition to the above, could include tourist authorities and bodies representing leisure divers.

Each council would be expected to form specialist and sectoral committees to deal with the different aspects of the fishery, the composition of which would vary according to the nature of the fishery. The councils will have statutory recognition, with a right of access to management boards, which shall be obliged to consult with their councils in formulating their annual and multi-annual plans. By this means, these councils will become the formal conduits by which interested parties are able to convey their views to the boards and to the Secretary of State or the devolved Ministers.

We expect that all council and committee meetings will be held in public and that the proceedings of those meetings will be minuted and published.

Responsibilities of the boards

The primary responsibility of the boards will be to determine the policy for the fisheries for which they are responsible and to set out the frameworks for the detailed day-to-day management of the fisheries.

Their main instrument of determining and communicating policy will be a multi-annual fisheries plan and within the framework set by that plan, an

annual plan. Production of such plans, within the timescales specified, will be a statutory requirement.

Annual plans will detail, amongst other things, the current status of the fisheries in terms of biomass, by exploitable species and minimum safe biomass levels for each species. Their duty will then be to devise means by which stocks below minimum safe levels can be restored, to determine what levels of the biomass in stocks above minimum safe levels can be exploited and to allocate that resource to commercial vessels or to recreational fishing interests.

Production of management plans

We will require an absolute commitment to openness and consultation at all stages of the development of management plans. All data, documents, submissions and plans will be published, with particular emphasis on electronic publishing on the internet.

We would expect, in the first instance, that FMAs will take account of all relevant fisheries data and then publish draft management plans on the basis of those data. We would then require them to set up public consultation and to hold public hearings on the draft. This, we anticipate, would also foster considerable local media coverage, which should be encouraged.

To provide specific input, we would expect the council and its committees to undertake specific meetings and as necessary, to hear evidence. All hearings would be in public except for those occasions where matters are considered “commercial in confidence” or for other valid reasons which conform with the letter and the spirit of the Freedom of Information Act.

We can then envisage a system, whereby a provisional final plan would be produced by the board and agreed by the council but we could also see a situation where representations could also be made directly to the Secretary of State, to accompany plans submitted to him. The plans would then require approval by the Secretary of State, who shall determine that it conforms with the statutory framework and is otherwise sound, having listened to any representations made. There may be provision for the Secretary of State to hold an independent public inquiry, if he deems the plan to be substantially deficient, in which case, he may assume default powers for the temporary management of the fishery in order to produce an adequate plan.

Once plans had been agreed and approved, boards would be duty bound to conduct their affairs and manage their fisheries in accordance with their plans, with the proviso that there must be a system for authorising deviations, to take account of unforeseen circumstances.

Recreational Fishing

We fully recognise the economic and social values of this activity. There are one million recreational fishermen who generate £1 billion-worth of economic activity. We will require that full provision must be made to accommodate this

sector where it can be demonstrated that it has significant economic value in any specific fishery. To that effect, we will require that FMAs take full account in their plans of the needs of recreational fishing, limiting commercial fishing activity if necessary, to ensure that those needs are met.

We have taken considerable soundings from recreational fishing interests and on the basis of what we have been told, would introduce provisions for introducing local licensing schemes, with charges imposed for rod licences. Charges would be used to cover administration costs for increased enforcement activity to ensure that their interests were properly safeguarded.

Where necessary for the proper management of fish stocks, we would introduce mandatory registration, in order that fishermen may be identified and contacted where necessary, in order to establish related fishing mortality. Where pressure stocks are involved, we would authorise FMAs to impose “catch and release” schemes, to reduce fishing mortality. In some countries where recreational fishermen are highly regulated, they are not permitted to sell their catches. We would welcome views on whether this should apply to the UK.

7. Scientific Services

We accept without reservation the dictum that accurate, reliable and timely scientific data are critical to the successful management of fisheries. We are also aware that there are two kinds of data available to support fisheries management: fisheries dependent data, collected as part of normal fishing activities and fisheries independent data, often collected through specific surveys conducted by specialised research/survey vessels.

Of the two data sets, we are persuaded that fisheries dependent data are the most valuable and relevant, comprising in the main catch data, augmented by data from samples of catches, examined either on-board catching vessels or at landing ports. To that effect, we have tailored our proposals for the management system to optimise the collection of these data and intend that these should form the basis of stock assessment and effort calculations.

This would immediately make redundant much of the current load on the scientific services, which currently are required to expend considerable resource on routine surveys in an attempt to generate data for use in calculating TACs. We would redirect this resource towards a properly designed, fundamental survey of the marine ecosystems in UK waters, directed at increasing the information available to environment and fisheries managers and thus to improving the decision-making processes. We would expect to provide additional funds for this work, financed partially from savings elsewhere and from the revenue stream generated by the licence/days at sea charging system.

Beyond that, we are aware that there are aspects of fisheries science that are highly contentious and that the recommendations of scientists are disputed, sometimes with good cause, by fishermen and others. Further, there are major

areas of disagreement as to the interpretation of some data in terms of practical fisheries management.

In assessing the relative utility of the scientific approaches to fisheries management, we are highly impressed by scientists who argue that one of the fundamental principles of fisheries management is to keep in balance the food supply and the biomass which relies on it. We accept that the response to falling stock levels – if that fall is the result of a shortage of food – should not necessarily be a cut back in fishing effort. Counter-intuitively, the correct response may be to increase the fishing effort, to the extent even of fishing hard for juvenile classes, in order to restore balance.

We have rehearsed this issue specifically, to illustrate that it is not necessarily sufficient to rely on a single source, or establishment, for scientific advice - especially in areas of contention. We believe that reliance on excessively narrow sources of scientific advice and particularly the advice tendered through ICES, to the exclusion of contrary advice, has been in part responsible for a breakdown in trust between the scientific and fishing communities.

It is essential that scientific advice is not only of good quality but that all parties who are bound or affected by its findings believe in the integrity of that advice, have confidence and trust in it. Accordingly, we see the need to ensure that there is diversity in the provision of scientific information. Monopolies in the scientific arena are rarely healthy and establishment science is not immune from error.

Clearly, government and FMAs need their own sources. It is anticipated that there will be a central scientific resource, available to the Secretary of State and through him, to the FMAs. It would be eminently logical for such scientific services to be pooled with the resource available to SEERAD and to the DANI, through joint management and funding agreements. We will expect also that the FMAs will retain and fund their own local resources.

In order to prevent this “government” science becoming the only advice available on which all parties must rely, we believe there is an urgent need to explore means by which other sources can be fostered. We have seen, in other EU member states, producer organisations having their own access to science and scientific institutes; these are independent of government and funded by the industry sectors themselves. These seem to work effectively and we believe that this type of system could work here, should the industry be willing to fund the provision of scientific data and advice.

As a possible alternative, we have noted systems in the US where government data is subjected to independent review by scientific bodies, which are completely insulated from government agencies and producer organisations; they do not rely on their funding directly from government sources.

We see merit in both approaches and would particularly welcome views on how government science can be “balanced” to ensure that it is objective, impartial and trusted by all parties.

Research

Available to carry out fisheries research in the UK are the government research agency CEFAS, academic institutions and the industry body, Seafish - which we found highly impressive. We would like to see much of the near-market research carried out by bodies financed from industry sources, either by levy, as in the case of Seafish, or through specific contributions from beneficiary producer organisations.

We are prepared to support industry research on specific projects, in the same way that research is supported in other industries and through the normal further education funding system. We would also look to co-operative ventures with fisheries research facilities in other countries throughout the world, including joint financing of expensive assets such as survey vessels.

We have discussed such cooperation with institutions in a wide range of countries, including Norway, Canada and the United States and have been surprised and pleased with the enthusiastic response. Much could be gained from closer working arrangements.

Within that, in addition to our proposed survey of UK marine ecosystems, we will encourage research into the effects of climate change and natural phenomena such as the North Atlantic Oscillation. These affect water temperatures which, in turn, decide the size and distribution of phytoplankton then zooplankton populations; these ultimately determine fish biomass. We will also place far greater emphasis on fish behavioural research, with specific reference to escape strategies and on the design of more advanced selective fishing gear to exploit these strategies, reducing by-catches.

In the latter field, we see considerable scope for involving working fishermen in research projects. We would simplify approval of financial structures to encourage the active participation of fishermen in research and development. Furthermore, we would develop systems to ensure that data generated by fishermen can be formally recognised and integrated into the ongoing monitoring programme.

8. Enforcement, Monitoring and Sanctions

In our earlier consultation document, we discussed the nature of the relationship between the State and fishermen, upon which the legal framework could be constructed.

Decriminalisation of Fishing?

The central feature of the systems currently in place is that they are defined by regulations which form part of the criminal code, underwritten by criminal sanctions.

We believe that the fisheries could be regulated under the civil law, using the law of contract. It should not be part of Conservative policy to criminalise

people trying to make a living under extraordinarily difficult and very often dangerous circumstances.

A possible approach could be for companies or individuals to enter into contractual agreements with the state, or the FMAs acting as agents for the state, which permit them to exploit certain areas of sea, subject to terms and conditions set out in the contracts. Those contracts could then be enforceable in the civil courts or alternatively in special fisheries tribunals. This would not rule out the use of the criminal code, to deal with offences of fraud, deception and theft.

One advantage of the contractual approach would be that it decriminalises the relationship between the fisherman and the state; there are many more possible advantages. In particular, this approach could afford a degree of flexibility which cannot be achieved by the regulatory route. While it can take years to formulate new regulations, contracts and their conditions could be tailored specifically to meet the individual circumstances of fishermen. Contracts could be changed rapidly to meet changing situations.

Further, an annual review facility could be afforded, upon renewal of contracts, which will allow new conditions to be negotiated and agreed in the light of experience, with far greater flexibility than could be undertaken by regulation, thus enabling control regimes to respond to changing circumstances. We would particularly welcome views on these arrangements.

Compliance monitoring

The essential facet of the current monitoring regime is that it is inescapably dual-purpose. The collection of good quality data is an essential part of fisheries management but those same data are also used for monitoring compliance; under the current system they may be used as evidence in criminal proceedings. Therefore there is an inherent conflict in the system, whereby a fisherman who declares catches honestly may expose himself to the risk of prosecution.

By using the “days at sea” system rather than quota allocations, our proposal to detach catch data from effort limits has two major advantages. Firstly, “days at sea” are easily and cheaply measurable, so enforcement difficulties are minimal. Secondly and crucially, there is no structural disincentive to reporting accurate catch data, as there is no risk of penalty attached to the catch levels which are recorded.

In the context of enforcing days at sea, we have been impressed by satellite-based monitoring systems, which can record automatically the event of a vessel leaving port. We intend to make this the keystone of our monitoring system for the offshore fleet, not only in respect of recording time at sea but also for positioning information. This will allow the location of vessels to be recorded, facilitating the enforcement of closed areas and ensuring that vessels fish only in the areas for which they are authorised.

Due to the inherent flexibility in satellite monitoring, for suitably equipped vessels, we do not see the need to adopt a rigid “days” recording system, where any vessel leaving a port on any one day is counted as a full day for recording purposes. We intend to allow a “totting up” system, where the time at sea is recorded in hours, with “days” calculated in blocks of 24 hours.

As to ensuring accurate and comprehensive reporting of catches and notwithstanding the absolute right of the Scottish Executive to determine its own arrangements, our default position is that we would prefer all fish caught in UK waters, irrespective of the nationality of the vessel, to be landed in designated ports. As a concession to operations where this would clearly involve significant extra cost or inconvenience, we would be prepared to allow offshore landings but only if the vessels had on board official observers for the whole time they were in UK waters. Costs would be borne by the vessel operators.

Owing to the vital need to maintain complete records, we would keep a version of the current designated port scheme, requiring vessels to nominate landing ports from the list of designated ports. All catches which are landed in the UK would have to be off-loaded at these designated ports, in their entirety. No part loads will be permitted with catches being split between different ports.

In England, Wales and Northern Ireland, we believe that we can be considerably more flexible in how we designate ports. By co-opting local authority staff, many of whom in any case have port duties, as fisheries inspectors, we believe we can designate a much larger number of ports, giving skippers a much wider choice of locations at which they can land.

Catch records

As with current systems, fisheries operators would be required to keep paper records, using the existing logbook system for recording catch details. Skippers will be required to maintain accurate details and the data recorded will form the basis of mandatory landings declarations. We will, however, encourage the development of electronic record-keeping, with the possibility of enabling real-time satellite transmission of catch data, to assist in stock monitoring and to enable rapid decision-making.

Separately, first purchasers of all catches, including processors who buy direct from vessels, will be required to keep detailed records of fish bought, with such details as their sources, location and timings. Reconciliation of purchase data with landing declarations will form an important part of the monitoring programme. Again, we will seek to develop electronic record-keeping and transmission to enable rapid tracking of fish landings and sales, assisting in the swift detection of possible malpractice.

Monitoring of illegal fishing

As well as monitoring “days at sea” and ensuring that vessels keep to their designated fishing areas, there is also the problem of monitoring illegal

behaviour such as fishermen using the wrong gear - typically with net mesh of the wrong size being used. This task we will perform in the conventional way, with surveillance by our fleets of fisheries patrol vessels, with random boarding and inspection. This would be augmented by use of on-board scientific observers and compliance officers.

There is also the much more difficult task of enforcing the prohibition of discarding and “high grading”. We have been impressed by regimes adopted in the United States and elsewhere, where a statistical model of catch composition for types of vessel and the different fisheries is constructed. In Norway and the Falklands, the data are obtained from a “reference fleet”, selected vessels from which the catch is intensively monitored.

In practice, random samples are then taken of actual catches. Where there is significant divergence from the specific fisheries model in the respect of catch compositions from particular vessels, all catches from those vessels are then monitored. If divergences continue, vessels will be required to carry observers. Costs would, at the discretion of the FMAs, be charged to operators.

Additionally, in the context of the UK repatriating its fishing policy, there is an expectation that some vessel operators will not accept the new regime and some may enter UK waters illegally with the intention of exploiting the fish resource illegally. There is also the problem of vessels partaking in illegal activities, such as using nets with incorrect mesh sizes.

Illegal entry to UK waters

Airborne surveillance will be the obvious and most cost-effective means of detection. With modern technology, just a few aircraft can sweep vast expanses of sea over a short period. Detection rates are therefore likely to be high and inasmuch as the fitting of tamper-proof satellite location beacons will be mandatory for the whole of the offshore fleet, any vessel not sending a transponder signal can be deemed to be fishing illegally.

We would continue to augment the existing, civilian aircraft fleet, currently used for surveillance duties and our surface patrol fleet with military assets. These, in fact, are used routinely to assist in fisheries monitoring.²

We would nevertheless continue to respect existing arrangements in Scotland, where enforcement duties are carried out by the Scottish Fisheries Protection Agency.

Owing to our determination to accommodate foreign fleets on equitable terms and our pledge to honour historic rights, we do not foresee illegal fishing in UK waters being a significant problem. The experience in the Falklands and

² Not least, the military monitor fishing activity in order to notify submarine crews, to avoid risk of collision and gear fouling.

Norway shows that all parties benefit from the imposition of a rigorous and fair management system and readily cooperate with such regimes.

Integrating the system

The crucial element of the enforcement system will be the integration and processing of data to ensure efficient use of resources and to maximise the efficacy of the system. For instance, we would expect to provide an electronic database of vessels, incorporating information on the areas in which they would be permitted. These data can be used to enable real-time analyses of satellite positioning data, to identify those vessels fishing out of area, to which sea patrols can be directed.

Similarly, satellite data can be integrated with on-board data from radar sweeps carried out by surveillance aircraft, to identify vessels which are not equipped with satellite positioning equipment and transponders and thus are presumed to be fishing illegally - again allowing sea assets to be directed to suspicious vessels. Also, boarding frequencies and patterns can be determined by reference to conformity of catches with statistical monitoring, with high priority being given to vessels which produce abnormal yields.

Sanctions

It is self evident that these need to be fair, and proportionate; they also need to bite when the occasion demands. Using the civil code system, a set of penalties from specified breaches can be written in to a standard contract and modified to suit the particular circumstances in which they are to be applied. To be an effective deterrent, however, any penalties must exceed in monetary or equivalent value any gain accrued from breaches.

The most effective sanction, which we intend to employ, is the withdrawal of "days at sea" allocations. This sanction not only has the greatest impact but, as a penalty, is inherently proportional. The loss imposed increases with the size of vessel to which it is applied. On a graduated scale, we can also require observers to be placed aboard vessels, at the operators' cost; for multiple offenders there remains the sanction of licence withdrawal for varying periods, up to a life ban on holding a licence.

9. The Market and Marketing

We would continue to rely on marketing analyses from the Sea Fish Industry Authority (Seafish), which we would maintain as a strategic authority. In general, we support the current activities of Seafish and would ensure the continuance of existing arrangements, in their broad outline. However, we will increase representation of under-represented sectors.

We would need to examine current requirements for promotional activities. As it stands currently, the levy income from imported fish exceeds that generated from domestic-landed produce, to the extent that the bulk of advertising and marketing effort is directed at increasing sales of imported

rather than domestic produce. Marketing needs to reflect current stock levels; haddock are at a 30-year high today.

10. Funding Issues

We estimate that, overall Community and member state financing of the CFP amounts to some €1 billion annually, for production worth €7 billion. The exact mix of funds paid is not known and is very difficult to work out as it includes a mix of structural funds, price support and direct subsidies.

Nevertheless, if the Community contribution of funds paid to fisheries enterprises is taken as 50 percent and the UK contribution to the budget is approximately 13 per cent, the UK financial contribution to the CFP must be in the order of £40 million. In our negotiations we would aim to secure this level of rebate from Community funds to reflect Britain's withdrawal from the CFP.

The outcome of our withdrawal, therefore, would amount to a potential gain to the UK treasury of some £40 million annually, which would more than compensate for any short-term increase in costs arising from implementing our new policy.

In addition, as administration and enforcement progressively become self-funding, we expect there to be significant savings from the public purse. Defra reports costs of administering fisheries as £55 million per year but we have no figures for Scotland. Conversely, we have no specific figures for enforcement in England, Wales and Northern Ireland, as Royal Navy costs are not shown separately. Enforcement costs for Scotland, however, amount to £16.5 million, through the Scottish Fisheries Protection Agency, so we would expect costs for policing the rest of UK waters to be similar. Taking all the cost savings into account, potentially, our policy could provide an annual saving to the Treasury in the order of £130 million.

Industry funding

Existing funding to the strategic functions of the fishing industry is directed mainly through Seafish, which is funded from a statutory levy on all fish, shellfish and seafood products landed, imported or cultivated in the UK. Some 85 per cent of the levy income is obtained from imported products, the total budget amounting to around £11 million, with just under 80 percent of this from levy and the rest from grant funding and consultancy work. We would expect, over time, for the UK derived proportion of this budget to increase.

We intend that the management of the industry, the monitoring and the enforcement, should eventually become entirely self-funding. In addition to the registration fees for vessels and possibly skippers, we intend that there should be an annual, graduated fee for each day allocated, set according to zone and class of vessels - with the exception of "incentive" days, which would be allocated without charge. Similarly, we would devise a rod licensing

scheme for recreational fishermen with charges that reflected administration and enforcement costs.

11. Conclusions

The details of this Green Paper give some indication of the complexity of policy-making and management in modern fisheries. This demonstrates that we do not underestimate the difficulties that we would encounter in bringing a new policy into being.

However, we do stress that the proposals we have made to date are the result of thorough research and consultation and have the potential to transform the fishing industry.

Equally, we must also stress that we consider environmental issues to be of the utmost importance, but we have accepted the challenge of addressing the needs of the environment, while also supporting a viable fishing industry. We do not accept that our care for the environment requires that we should sacrifice the fishing industry or deprive the nation of a valuable source of food.

Nevertheless, much thought, discussion and negotiation will be needed before a final policy can be defined and put in place. We hope that this document provides a starting point, although we conclude with a disclaimer. Nothing here is written in stone except our absolute determination to put in place a regime which will conserve our fisheries and enhance the marine environment. As this document makes clear, we believe that the best way to achieve these objectives is through National and Local Control.

END

Owen Paterson MP. 7 January 2005